

**Case 16 – Radio Programmes “Clearday Breakfast” (晴朗早晨全餐) broadcast from 6:30am to 8:00am, 8 July 2019 on CR 1 Channel (CR 1) of Hong Kong Commercial Broadcasting Company Limited (CRHK), and “On a Clear Day” (在晴朗的一天出發) broadcast from 8:00am to 10:00am on 8 July and 12 August 2019 on CR 2 Channel (CR 2) of CRHK**

One complaint was received about two editions of a segment titled “萬佛朝中” contained in the captioned programmes. The main allegations were –

- (a) the remarks made by the host in the segment broadcast on 8 July 2019 (the “8 July Edition”), in relation to the events in Mong Kok on 7 July 2019, distorted facts, damaged the reputation of and denigrated the Police, glorified criminal activities and presented criminal activities as an acceptable behaviour; and
- (b) the remarks made by the host in the segment broadcast on 12 August 2019 (the “12 August Edition”) concerning the events in various districts on 11 August 2019, amounted to unverified accusations, which were misleading and damaged the reputation of the Police.

**The CA’s Findings**

In line with the established practice, the CA considered the complaint case and the representations of CRHK in detail. The CA took into account the relevant aspects of the case, including the following –

*Details of the Case*

- (a) the programmes concerned were identified as personal view programmes (PVPs). The segment in question, which was 3-minute in duration, was presented by the host;
- (b) the 8 July Edition was broadcast at around 7:38am in “Clearday Breakfast” on CR 1 and at around 9:54am in “On a Clear Day” on CR 2. In the segment, the host commented on the events in Mong Kok on 7 July 2019. The relevant remarks included –

“示威者尋晚雖然佔據咗道路，但係佢哋都係手無寸鐵，甚至連保鮮紙、眼罩等所謂嘅「武器」都無㗎” (“Protesters who occupied the roads last night were unarmed, not even possessing so-called “weapons” like cling wrap and goggles, etc.”);

“警察一方面虛稱話群眾係非法集結，呼籲市民離開，但係另一方面呢任意封鎖道路，當群眾想離開嘅時候，警方喺多條嘅路線，三面包抄市民，並且主動用警棍攻擊佢哋，以致佢哋無法離開。警方成晚都有唔少主動攻擊市民嘅鏡頭㗎” (“While the Police urged people at the scene to leave under the false pretext that those people were involved in an unlawful assembly, the Police also arbitrarily cordoned off streets, outflanking from three sides those people who wished to leave the scene, and proactively attacking them with batons, such that they were unable to leave. There were numerous footages recorded throughout the night showing the Police proactively attacking the people”);

- (c) the 12 August Edition was broadcast at around 9:55am in “On A Clear Day” on CR 2. In the segment, the host commented on the events in various districts on 11 August 2019. Relevant remarks included –

“尋晚佢哋兩度近距離向示威者開槍，有女仔被射中頭部，眼罩被射穿，子彈更加射入眼睛射爆眼球添” (“The Police shot at protesters at close range twice the night before. A young woman was shot at the head and the bullet went through her goggles into her eye, rupturing the eyeball”); and

- (d) CRHK submitted, among others, that the material under complaint was the host’s personal views based on various media reports, and that the host’s comments did not involve false evidence, amount to libel, or be considered as inciting hatred and/or abetting others to commit crimes.

***Relevant Provisions in the Radio Code of Practice on Programme Standards (Radio Programme Code)***

- (a) Paragraph 7(b) – a licensee should not include in its programmes any material which is likely to encourage hatred against or fear of, and/or considered to be denigrating or insulting to any person(s) or group(s) on the basis of, among others, social status;
- (b) Paragraph 9 – crime should not be portrayed in a favourable light and criminal activities should not be presented as acceptable behaviour, nor should criminals be glorified;
- (c) Paragraph 20A – the licensees shall make reasonable efforts to ensure that the factual contents of PVPs are accurate;
- (d) Paragraph 28 – the licensees have a responsibility to avoid unfairness to individuals or organisations featured in factual programmes, in particular through the use of inaccurate information or distortion. They should also avoid misleading the audience in a way which would be unfair to those featured in the programme;
- (e) Paragraph 34 – licensees should take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations. Licensees should take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented; and
- (f) Paragraph 36(b) – for all PVPs on matters of public policy or controversial issues of public importance in Hong Kong, facts must be respected and the opinion expressed, however partial, should not rest upon false evidence.

## **The CA's Considerations**

The CA, having regard to the relevant facts of the case including the representations of CRHK, considered that –

- (a) the two editions of the segment were broadcast in programmes identified as PVPs and the topics discussed therein concerned matters/issues of public importance in Hong Kong. The comments of the host in the two editions of the segment were presented and identified as his personal opinions;

### ***Factual Contents of PVPs***

- (b) CRHK only submitted that in the two editions of the segment, the host's remarks under complaint were based on different media reports on the incidents concerned. CRHK did not provide specific information in support of the host's remarks. Having examined the relevant remarks and media reports/footages, the CA took the view that the three remarks cited above were not factually accurate, were misleading, distorting or contradicted by other media reports/footages covering the same incidents. Also, CRHK did not provide concrete information to demonstrate that it had made reasonable efforts to ensure that these remarks were factually accurate;

### ***Unfairness, Incitement of Hatred and Denigration***

- (c) CRHK had not provided information to support the accuracy of the three remarks cited above, which contained serious criticisms and were unfair and palpably capable of adversely affecting the reputation of the target of the criticism;
- (d) regarding the allegation concerning incitement of hatred and denigration, the CA noted that the host indeed made harsh criticisms in his remarks, although nothing therein appeared to seek to denigrate or incite hatred, such that it might not be considered unacceptable in the context of the discussion in a PVP; and

### ***Glorification of Criminal Activities***

- (e) in the 8 July Edition, the host mentioned that the occupation of roads by protesters was unlawful. There was insufficient evidence that his remarks in the edition had promoted, endorsed or glorified any criminal activities.

## **Decision**

In view of the above, the CA considered that the complaint in respect of accuracy, fairness and factual contents of PVPs was justified and that CRHK was in breach of paragraphs 20A, 28, 34 and 36(b) of the Radio Programme Code for the broadcast of the programmes concerned. Taking into consideration the specific facts of the present complaint and other relevant factors, the CA decided that CRHK should be **strongly advised** to observe more closely the relevant provisions of the Radio Programme Code.