

Case 5 – Radio Programme “On A Clear Day” (在晴朗的一天出發) broadcast from 8:00am to 10:00am on 10 September 2019 on CR 2 Channel of Hong Kong Commercial Broadcasting Company Limited (“CRHK”)

659 complaints about the captioned programme were received. The main allegations were –

- (a) in response to the remarks made by the management of MTR Corporation Limited (“MTRC”), a programme host (“Alleged Host”) questioned why they could not vandalise the MTRC station facilities as they had paid the train fares (我們有畀錢坐地鐵的，點解唔可以破壞) and said that it was free to take the MTR train by jumping over the entry-exit gates (坐地鐵可以跳閘，免費搭地鐵) (“Alleged Remarks”), and blamed MTRC for being the cause of the vandalism of MTRC station facilities. Such remarks instigated listeners to vandalise MTRC station facilities and evade fares by jumping over the entry-exit gates, and were irresponsible, offensive, disturbing, partial, promoted illegal acts and violence, disseminated hatred and misleading values, destroyed the rule of law and social order, and exerted a bad influence on children and youth;
- (b) a few complainants alleged that the Alleged Host said that they had to pay for the train service (唔駛畀錢㗎) immediately after the remark of the MTRC management that members of the public should cherish its service (你哋要珍惜我哋提供的服務) was mentioned in the programme, in effect condoning the vandalism of MTRC station facilities. Such remarks were misleading to the public, exerted a bad influence on youth, and a misuse of broadcasting time; and
- (c) some alleged that the programme contained other remarks which were irresponsible, partial, and exerted a bad influence on youth, including –
 - (i) the hosts’ remarks that a broken machine showed more empathy towards another broken machine (一部壞機器對另一部壞機器更加同情) and that the “surname” of the entry-exit gate was “Xi” (閘機姓習) which were made during the discussion on the Chief Executive (“CE”)’s inspection of entry-exit gates at the MTRC Central Station (“Central Station”);
 - (ii) the hosts’ comments that the damages arising from the arson at the entrance/exit of the Central Station were exaggerated, with the Alleged Host adding that some people had suggested that such damages were made to delay the arrest operation of the Police, and that there was no mention of such acts being offences; and
 - (iii) the criticisms against the CE that she did not send regards to an injured student, while the role of that student in recent social events was not mentioned.

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 programme under complaint, a talk show, was identified as a personal view programme (“PVP”);
- (b) in the first segment of the programme, all the three programme hosts commented on the CE’s inspection of the Central Station where some of the station facilities were vandalised during the protests on the previous day, including some entry-exit gates which were damaged and an entrance/exit which was set on fire. The Alleged Host remarked that there was a saying that the acts of vandalism and arson were aimed at postponing the arrest operation of the Police. The hosts wondered sarcastically whether the CE cared for a machine more than she would for a human being, since she had not visited the students injured in recent protests. A host jokingly said that the CE was more empathetic towards machines because a machine should understand machines better (多數機器比較明白機器嘅應該), while another host supplemented sarcastically that a broken machine would probably have more empathy towards another broken machine (一部壞嘅機器呢更加同理一部壞嘅機器嘞), followed by a joking remark that some listeners had commented that the “surname” of the entry-exit gate was “閘”/“習”¹ (佢(聽眾)話閘機係姓[閘]/[習]嘅). When the hosts cited the appeal of the MTRC management to the public to cherish its service (你哋要珍惜我哋提供嘅服務), the Alleged Host commented that “we have to pay for the train service, don’t we?” (唔駛畀錢㗎?), followed by another host’s elaboration that MTRC’s remarks sounded as if it were offering services to the public free of charge when in fact it was not. The Alleged Host then expressed his views that the fare-setting mechanism of MTRC was unfair;
- (c) in the last segment of the programme, there were sound clips of the CE’s conversation with a passer-by she met during her visit to the Central Station, in which the CE expressed sorrow for the damages of MTRC station facilities; the comments of the Secretary for Transport and Housing that the destruction of MTRC station facilities had deprived members of the public of their right to use public service; and the appeal of the MTRC management to the public to cherish its service. The hosts opined that the quality of the train services of MTRC had been declining over the last two decades, which might explain what they perceived to be public anger towards MTRC. One of the hosts noted with approval the speedy recovery of the train services of MTRC the next day after the station was vandalised. During the discussion, the hosts stressed that they did not support the use of violence;

¹ The Cantonese pronunciation of the first word, which means a “gate”, is the same as the second word, which is a Chinese surname “Xi”.

- (d) the Alleged Remarks were not found throughout the programme; and
- (e) CRHK submitted, among others, that the sarcastic comments expressed by the hosts did not amount to the promotion or endorsement of illegal acts such as vandalism of MTRC station facilities or evasion of fares by jumping over the entry-exit gates.

Relevant Provisions in the Radio Code of Practice on Programme Standards

- (a) paragraph 6 – licensees should ensure that their programmes are handled in a responsible manner and should avoid needlessly offending audiences by what they broadcast;
- (b) paragraph 7(c) – licensees should not include in its programmes anything which is in contravention of the law;
- (c) 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;
- (d) paragraph 17 – the licensee should be aware of circumstances such that large numbers of children and young persons might be expected to be listening; and
- (e) paragraph 36 (b) & (d) – 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; and licensees should be mindful of the need for a sufficiently broad range of views to be expressed in any series of PVPs.

The CA's Considerations

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

- (a) the programme under complaint was identified as a PVP and the topics discussed therein concerned matters/issues of public importance in Hong Kong. Therefore, the relevant rules governing PVPs are applicable to the present case;
- (b) the programme did not contain the Alleged Remarks, hence the allegations (a) raised by complainants were unfounded;
- (c) regarding the Alleged Host's remark that "we have to pay for the train service, don't we?" (唔駛畀錢㗎?) made in response to the appeal of the MTRC management to the public to cherish its service, it could arguably be interpreted as a rhetorical question suggesting that the public had to pay for MTRC's service and thus not encourage the evasion of fares. As for the allegation that the hosts did not mention that the vandalism of MTRC station facilities was wrong, the programme included the concerns of Government officials and MTRC

management over the impact of such vandalism. Also, the hosts expressed in the programme that they did not support violence and illegal behaviours. There was insufficient evidence to conclude that these remarks had the effect of endorsing illegal acts or could be considered misleading, exerting a bad influence on youth or unacceptable for broadcast in a PVP;

- (d) regarding other remarks in the programme such as a broken machine showed more empathy towards another broken machine (一部壞機器對另一部壞機器更加同情) and the “surname” of the entry-exit gate was “閘”/“習” (閘機姓[閘]/[習]), they were sarcastic remarks expressed in a jokey manner in a light-hearted talk show. Regarding the allegation against the hosts’ comments concerning the damages at the Central Station, the host(s) apparently repeated a hearsay and mentioned that violence and illegal behaviours should not be condoned. Regarding the allegation concerning the hosts’ criticisms against the CE, those criticisms were presented as personal opinions. It was unlikely that the above remarks could be considered as irresponsible, partial or exerted a bad influence on youth; and
- (e) on the basis of the above, there was insufficient evidence to conclude that the programme had breached the relevant provisions including those governing PVPs.

Decision

In view of the above, the CA considered the complaints **unsubstantiated** and decided that **no further action** should be taken against CRHK.