

Frequently Asked Questions (FAQs) on Indirect Advertising and Product Placement

The following frequently asked questions (“FAQs”) are designed to help licensees and the public understand provisions relating to the regulation of indirect advertising and product placement in the Generic Code of Practice on Television Programme Standards (“TV Programme Code”) and the Generic Code of Practice on Television Advertising Standards (“TV Advertising Code”) (together the “Codes”). Licensees should always refer to the rules in the Codes when considering whether or not indirect advertising or product placement complies with the relevant rules. The following FAQs are not substitutes for the relevant rules in the Codes. If there is any discrepancy between the FAQs and the relevant rules, the relevant rules in the Codes prevail.

The examples referred to in the FAQs have been simplified for easy reference and they are not exhaustive. Real life examples are likely to be more complicated and to have relevant features that cannot be captured in examples of this kind. The Communications Authority’s (“CA”) approach is to consider complaints of breaches of the rules on a case by case basis having regard to the particular facts and context.

Part 1: Product Placement

(A) Presentation of Product Placement

Q1: What are the general principles for regulating product placement?

A1: The general principles for regulating product placement are as follows:

- (1) the exposure or use of products/services within a programme should be **presented in a natural and unobtrusive manner having regard to the programme context and genre**; and
- (2) there should be **no direct encouragement of purchase or use of products/services**.

Q2: What are the factors for consideration when determining whether the presentation of a product placement is natural or not?

A2: Factors which are likely to be relevant when determining whether presentation of a product placement is natural include whether:

- (1) the product placement is relevant to the genre and context of the programme;
- (2) the integrity and natural flow of the programme is impacted;
- (3) the use or exposure of products/services is naturally integrated into the programme;
- (4) there is excessive exposure or highlighting of the products/services (e.g. frequent and/or lingering close-up shots of products/services, excessively detailed description of the characteristics of products/services); and
- (5) there are overwhelming references to the products/services.

Q3: What forms of presentation would be considered to be direct encouragement of purchase or use of products/services?

A3: Generally speaking, a “hard-sell” approach is unacceptable. The following are examples of what are likely to be considered to be unacceptable forms of presentation:

- (1) referring to the products/services by frequent use of favourable or superlative language;
- (2) explicit and prominent remarks that the products/services should be purchased, owned or used;
- (3) the inclusion of advertising claims (i.e. emphasising the benefits, characteristics and/or performance of products/services which amount to strong persuasion for viewers to make a purchase) associated with particular products/services/trademarks;
- (4) references to promotional slogans associated with particular products/services/trademarks;
- (5) repeatedly mentioning the price, retail outlets and availability of the products/services.

Q4: Are there any restrictions on the size/proportion of screen, frequency, duration, etc. for exposure of the products/services?

A4: We do not intend to impose hard and fast restrictions on these aspects to avoid hindering creativity.

Q5: When considering whether a form of presentation is acceptable, will different standards be applied to local and foreign products/services?

A5: The CA would in general apply the same standard when considering whether product placements of local and foreign products/services are acceptable given the availability nowadays, particularly online, of foreign products and services.

The examples in Sections B and C below serve to illustrate the application of the two general principles which regulate product placement: (1) the presentation of product placement must be in a natural and unobtrusive manner having regard to the programme context and genre; (2) there must be no direct encouragement to purchase or use them. Whether a product placement is acceptable will depend on whether it complies with both principles at the same time.

(B) Presentation in a Natural and Unobtrusive Manner

Q6: When products are used as props in programmes, what forms of presentation would be considered as natural and unobtrusive?

A6: Consideration should be given to the factors set out in A2 above. The following are some examples which would likely be considered as natural and unobtrusive presentation:

- (1) in a talk show, coffee and snacks of a particular chain store are placed on the table in front of the host and the guest speakers. The chain store's brand name and trademark can be seen on the coffee cup and packaging of the snacks respectively. However, there are no lingering or frequent close-up shots of the brand name or trademark of the store on the products, and there are no other displays of the brand/trademark (such as that shown on a placard) visible on the screen;
- (2) in a drama, there is exposure of the brands, trademarks and models of the cars during a car chase scene, but the exposure does not involve lingering or frequent close-up shots of them;
- (3) in a drama, a character gives his mother a piece of jewellery as a gift. The brand and trademark can be seen on the gift box and inside the gift box. However, there are no lingering or frequent close-up shots of the brand or trademark, and there is no

excessively detailed description of the jewellery in the dialogue which interrupts the natural flow of the plot;

- (4) in a drama, a character always uses a mobile phone of a particular brand. The brand and trademark of the mobile phone can be seen when the character uses the phone for conversation. However, there are no lingering or frequent close-up shots of its brand or trademark;
- (5) in a drama, a character works overtime and his friend brings him some food, remarking that the food has different flavours and ingredients and is good for health. The brand name and trademark on the food packaging can be seen. However, there are no lingering or frequent close-up shots of the brand or trademark of the food, and there is no description of the characteristics of the food in excessive details;
- (6) in a drama, a character who is an artist builds a huge artwork with colourful canned foods for exhibition in a shopping mall. However, there are no lingering or frequent close-up shots of the trademark on the canned foods.

Q7: When the host of a programme uses certain products for demonstration, or introduces/tries certain products/services, what forms of presentation would be considered as natural and unobtrusive?

A7: Consideration should be given to the factors set out in A2 above. The following are some examples which would likely be considered as natural and unobtrusive presentation:

- (1) in a cookery programme, an artiste demonstrates preparation of food with the use of kitchenware of a particular brand. The brand and trademark on the kitchenware can be seen during the demonstration. However, there are no lingering or frequent close-up shots of the brand or trademark. As it is a cookery programme, this sort of presentation would be more likely to be considered natural and unobtrusive (please refer to A9(3)(ii) for an example of unacceptable form of presentation in cookery programmes);
- (2) in a travelogue or gourmet programme, the host introduces an eatery and tries the food. The name and trademark of the eatery can be seen and the host endorses the food quality while eating. As the form of presentation is relevant in the context of a travelogue

or gourmet programme, it would be considered natural and unobtrusive;

- (3) in a lifestyle programme, the host introduces trendy timepieces and there is exposure of the brand and trademark on the face of the timepieces. The host also introduces the functions, models and design, etc. of the timepieces. As the introduction is relevant in the context of a lifestyle programme, it would be considered natural and unobtrusive (similar content in the context of a drama is more likely to be considered obtrusive, please refer to A10(1));
- (4) in a programme about successful businesses, the host interviews the founder/management of a particular organisation/brand, with footage showing products and trademark of the organisation/brand. As the introduction and exposure of the organisation/brand is relevant to the content of the interview, such form of presentation would be considered natural and unobtrusive;
- (5) in an infotainment programme, the host introduces various festive foods including the food products of a sponsor during a festival period. There are shots showing the sponsor's food products and the brand name and trademark on the packaging. However, there are no lingering or frequent close-up shots of the brand name or trademark, and there is no excessively detailed introduction of the products. As this form of presentation is relevant in the context of an infotainment programme, it would be considered natural and unobtrusive.

Q8: When references to products/services appear in the background of a programme, what forms of presentation would be considered as natural and unobtrusive?

A8: Consideration should be given to the factors set out in A2 above. The following are some examples which would likely be considered as acceptable forms of presentation:

- (1) in a drama, a character passes by a fast food chain store when heading to a conference and there is brief exposure of the brand name of the fast food chain store;
- (2) in a drama, a character who is a tour guide waits for a group of tourists in front of a coach imprinted with the name and trademark of a travel agency. The name of the hotel can also be seen during shots of the tourists leaving the hotel. There are no lingering or frequent close-up shots exposing the names and trademarks;

- (3) in an infotainment programme, the host interviews a guest artiste during a product release event. There is natural exposure of the brand name and trademark on the backdrop and in the event venue during the interview;
- (4) in a drama, several characters buy drinks from a vending machine beside a football pitch during the halftime of a football match. They hold the drinks in their hands while chatting beside the vending machine. There is exposure of the drinks inside the vending machine and the brand, trademark and images of the drinks are imprinted on the vending machine. However, there are no lingering or frequent close-up shots of the brand or trademark of the drinks.

Q9: What forms of presentation would be considered unnatural and obtrusive?

A9: Consideration should be given to the factors set out in A2 above. The following examples would likely be considered as unnatural and obtrusive and thus unacceptable:

- (1) products/services which are placed in an unnatural and obtrusive manner -
 - (i) in a glamorous performance show, the host suddenly distributes some foods which would not appear in such setting under normal circumstances (e.g. foods to be torn apart by hands when eating them) to dressed-up guests during the break between performances. The guests are asked to eat the food on the spot and viewers can clearly see the brand and trademark of the foods in the scene. In addition, the host makes repeated positive remarks about the quality of the food;
 - (ii) in a gourmet programme introducing delicacies, the host suddenly takes out some newly-released beauty products with close-up shots of the brand name, and seeks to persuade the viewers to try the relevant products;
- (2) products/services are placed in an improbable or contrived plot development -

in a historical period costume drama, a character shows his friend some modern health products with close-up shots of the brand name, and there are favourable remarks about the

quality and characteristics of the products and exposure of the brand name of the products;

- (3) the presentation of the products/services is overwhelming -
 - (i) in a drama sponsored by a bank, a character with financial difficulties goes to the bank for a loan. Upon arrival, there are many close-up shots of the signs and logos of the bank. The bank staff also introduces in detail various banking services and their merits, and makes frequent favourable remarks about the services of the bank;
 - (ii) in a cookery programme, the chef uses the sauce of a particular brand when preparing food, during which there are close-up shots of the brand of the sauce, frequent favourable remarks about the quality of the sauce, as well as repetitive mentioning of the brand name and prices, but the cooking process itself is very brief;
- (4) products/services are excessively highlighted -
 - (i) in a drama, a character goes to a car dealer. Upon arrival at the showroom, the salesperson describes in detail the functions and characteristics of a car while frequent and steady close-up shots of the brand and model number of the car are shown;
 - (ii) in a drama, a male character buys bread for his girlfriend at a fast food shop. In his dialogue with the cashier, there is mention of various kinds of bread, the special fillings for the bread and sauces. At the same time, there are close-up shots of the menu and a placard with the shop's name and trademark placed next to the cashier.

(C) Direct Encouragement of Purchase or Use of Products/Services

Q10: What forms of presentation would constitute direct encouragement of purchase and be considered unacceptable?

A10: Whether a form of presentation is acceptable would be judged against the context and genre of the programme. The following are some examples of what would likely be considered unacceptable:

- (1) in a drama, a character gives his friend a timepiece as a gift. In addition to the exposure of the brand and design of the timepiece,

the features, functions and other models of the same brand are described in detail. In the context of a drama, this content would be regarded as unacceptable direct encouragement to purchase a product.

However, in the context of a lifestyle programme, the same content would be more likely to be considered as acceptable provision of information about the products having regard to the nature of the programme. Nonetheless, a “hard-sell” approach involving a strong attempt to persuade the viewers to buy the timepiece and mentioning of the promotional slogans of the brand would still be unacceptable even in that context;

- (2) in an infotainment programme, the host introduces gifts of a particular brand, making frequent favourable remarks about the quality of the gifts and repeatedly mentioning their price and retail outlets for them. Such presentation constitutes direct encouragement to purchase and is unacceptable.

If the same information appears in a lifestyle programme and the references to the price and retail outlets are relatively brief, it may be considered acceptable having regard to the context of the programme. Nonetheless, a “hard-sell” approach which involves contents seeking to strongly persuade viewers to buy the gifts and mentioning promotional slogans of the brand is still unacceptable;

- (3) it is usual for the host of travelogues to make favourable remarks about certain products, for example, a host introducing the apparel in a shop with exposure of the brand names and brief favourable remarks about the quality and unique design of the clothes. Such presentation would be considered acceptable.

However, in the same scenario, if there is excessive highlighting of the relevant products, for example, the host mentions the brand name of the clothes, remarks several times that viewers should not miss buying the clothes in the shop during their travel to that place and mentions the address of the shop. Such presentation would be regarded as a “hard-sell” and would be considered unacceptable.

Q11: As regards product placement, is it acceptable if a programme is entirely or mainly filmed on location at an attraction or amusement park that charges for entrance?

A11: The answer to this depends on the context and the nature of the programme. Regard should be paid to the factors referred to in A2 and

A3 above. The following are some examples which would likely be considered as unacceptable product placement:

- (1) in a programme featuring a group of artistes visiting a theme park, the artistes mention the location of the park, the various means of transport from Hong Kong and praise the convenient transportation link of the park at the beginning. They then explore different facilities of the park one by one (including hotel, zoo, circus show, water slide, surfing zone, etc.). The dialogue contains a lot of favourable remarks (e.g. “The world-class performance is so impressive”, “It is so exciting that all would like to stay in the park for longer”, “Bring tourists the sky-high waves experience”, etc.) and contains remarks that some of the park’s facilities are the best in Asia, in the country or in the province, accompanied with frequent and prominent shots of the name/logo both inside and outside the park. This content excessively highlights the merits of the park and involves a strong promotional effect, which amounts to a “hard-sell” approach that is unacceptable;
- (2) in the context of a drama with a plot concerning a family’s trip to a theme park, the programme flow is similar to example (1) above. However, there are only occasional scenes showing the name/logo inside and outside the park. When exploring the park, the family make positive remarks about the animals, scenery and performances, yet the dialogue is comparatively brief and natural (e.g. “quite precious”, “quite special”, etc.). There are brief references to the transport information of the park. Although most of the programme is filmed on location at the theme park, there is no excessive highlight of the merits of the park and such form of presentation is considered acceptable.

Q12: What are the factors for consideration when determining whether a verbal reference to the brand name of the products/services is acceptable as a form of product placement?

A12: Consideration should be given to the factors referred to in A2 and A3 above. For example, incidental references to the brand name where there is no excessive highlighting of it are likely to be considered as acceptable product placement.

(D) Other Rules for Product Placement

Q13: Can product placement be included in all genres of programmes so long as its presentation complies with the general principles?

A13: No, there are restrictions, as follows:

- (1) product placement is not allowed in children's programmes, educational programmes, news programmes, religious service or other devotional programmes;
- (2) product placement is allowed in current affairs programmes on the condition that licensees should exercise care in the choice of sponsor so as to safeguard the credibility and integrity of such programmes.

Q14: Are there any restrictions on the types of products/services for which product placement is permitted?

A14: Yes. The restrictions are as follows:

- (1) the product or service featured in a programme must not be unacceptable for advertising under the TV Advertising Code (e.g. firearms and associated equipment);
- (2) the advertising standards set out in other chapters of the TV Advertising Code shall apply to product placement within programmes where appropriate. These include but are not limited to the provisions governing substantiation of factual claims and disparagement of competitors.

Q15: A programme will be treated as sponsored and product placement will be treated as occurring if within that programme there is promotion for commercial purposes of the products or services of another company in the group of companies of which the licensee is a member. How will the CA determine whether an organisation is a company in the group of companies of which the licensee is a member?

A15: The CA will determine whether an organisation is a company in the group of companies of which the licensee is a member using the definition of "group of companies" in section 2(1) of the Companies Ordinance (Cap. 622), i.e. "any 2 or more bodies corporate one of which is the holding company of the other or others".

Part 2: Acquired Programmes

Q16: Some acquired programmes contain indirect advertising. Are such programmes not subject to any regulation?

A16: If the licensee does not receive any payment or other valuable consideration in return for the inclusion of indirect advertising in the acquired programme, the acquired programme is exempted from compliance with the rules governing product placement (including the two general principles mentioned in A1), but it is still subject to the following rules:

- (1) indirect advertising is not allowed in acquired news programmes, current affairs programmes (please refer to A13(2) above), children's programmes, educational programmes, religious service or other devotional programmes;
- (2) an announcement containing the wording "The following programme contains indirect advertising" should be made to clearly inform viewers of the inclusion of indirect advertising in the acquired programme before the programme starts.

Indirect advertising in all programmes must comply with the Codes; the licence conditions and the laws of Hong Kong (including the restrictions as mentioned in A14).

Q17: How will the CA determine whether a programme is an acquired programme or not? Is the coverage limited to overseas productions only?

A17: Acquired programmes mean programmes which are not produced by the licensees. They can be produced locally or overseas.

Q18: In case a programme is produced by another company in the group of companies of which the licensee is a member, would it be considered as a self-produced or acquired programme?

A18: If a programme is produced by another company in the group of companies of which the licensee is a member, it would be considered as an acquired programme.

Part 3: Notification Requirement in Relation to Product Placement

Q19: What are the sponsor identification and notification requirements in relation to product placement?

A19: The relevant requirements are as follows:

- (1) the sponsor for the product or service featured must be clearly identified in the front and/or end sponsor credits of the programme. The content of the front and/or end sponsor credits must comply with the rules set out in the TV Advertising Code;
- (2) an announcement containing the wording “The following programme contains indirect advertising” is made to clearly inform viewers of the inclusion of product placement in the programme before the programme starts.

If front sponsor credits are made before a programme starts, licensees may include the announcement containing the wording “The following programme contains indirect advertising” in the front sponsor credits, or separately make such an announcement before the programme starts.

July 2018