

Public Consultation on Review of Television and Radio Codes of Practice

PURPOSE

The Communications Authority (“CA”) is considering proposals for relaxing or updating, wherever appropriate, the codes of practice (“CoPs”) relating to programme and advertising standards of television and sound broadcasting services having regard to the suggestions from the broadcasting licensees and the CA’s operational experiences. Members of the public are invited to give written views and comments on the proposals.

BACKGROUND

2. Pursuant to section 3 of the Broadcasting Ordinance (Cap. 562) (“BO”) and section 19 of the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391) (“B(MP)O”), the CA has issued CoPs which set out standards of the materials included in a licensed television programme service and a licensed sound broadcasting service. These CoPs set out clear standards relating to, among others, programme and advertising standards applicable to the licensed services¹.

3. In the context of the mid-term review of the domestic free television programme service (“free TV”) licences and sound broadcasting licences, in the face of a more challenging business environment and the intensifying competition from Internet-based media, the licensees submitted proposals for relaxation of the CoPs to help improve their operation and reduce their compliance costs. Noting that the proposals relating to the CoPs are outside the scope of the mid-term review, the CA decided to commence a separate review of CoPs to consider those views collected after the completion of the mid-term review.

4. In the handling of broadcast complaints, the Broadcast Complaints Committee noted that amendments to some of the provisions of the CoPs may be required in order to enhance enforcement effectiveness and meet the changing needs of the community and the broadcasting industry.

¹ They are the Generic Code of Practice on Television Programme Standards (“TV Programme Code”), the Generic Code of Practice on Television Advertising Standards (“TV Advertising Code”), the Radio Code of Practice on Programme Standards (“Radio Programme Code”) and the Radio Code of Practice on Advertising Standards (“Radio Advertising Code”).

5. In view of the foregoing, the CA has formulated the following proposals for public consultation.

THE REVIEW

General Direction of the Review

6. As the regulator of the broadcasting industry in Hong Kong, the CA respects the creative expression and editorial independence of broadcasters, subject to their compliance with the laws of Hong Kong and the CoPs issued by the CA. The CA is well aware that broadcasting licensees face a challenging business environment, including intensifying competition from Internet-based media services. The CA has always adopted a market-driven and light handed regulatory approach to facilitate the sustainable development of the industry. The CA also considers that the degree of restriction applied in the CoPs should be commensurate with the nature of the issues in question and should be related to the likely audience and their expectations.

7. Having regard to the views of the licensees and the public received in the mid-term review as mentioned above, the current review seeks to identify areas where the existing regulatory controls on licensees can be relaxed and updated with a view to providing a more conducive and sustainable operating environment for licensees while protecting the interests of the community at large.

Areas under Review

8. Following the considerations mentioned above, the CA proposes to review the following areas –

- (A) sponsorship and indirect advertising (paragraphs 9 to 20);
- (B) applicability of the impartiality requirement for programmes relating to national education, national identity and the National Security Law (“NSL”) (paragraphs 21 to 24);
- (C) applicability of CoPs to programmes/channels acquired from reputable sources on the Mainland for direct re-transmission (paragraphs 25 to 29);
- (D) claims relating to nutrition or dietary effect of products and services (paragraphs 30 to 35);

- (E) repeat of children's programmes (paragraphs 36 to 38);
- (F) classification of promotional material (paragraphs 39 to 42);
- (G) factual claims substantiated by research/testing (paragraphs 43 to 46); and
- (H) advisory message requirement for real property advertising on radio (paragraphs 47 to 51).

(A) Sponsorship and Indirect Advertising

(1) Relaxing regulation of TV Programme Services

Background

Regulation of in-programme sponsorship and advertising material

9. At present, in-programme sponsorship and advertising material are allowed under the TV Programme and Advertising Codes² through the following ways –

- (a) product/service sponsorship³ (also commonly referred to as “product placement”), provided that it is presented in a natural and unobtrusive manner without direct encouragement of purchase and use of product or service and with prior notification to viewers⁴;
- (b) in-programme sponsor identifications for sponsored programme title/programme segment title/programme feature title, or alongside sponsorable material (e.g. local date, time and weather,

² According to paragraph 1A of Chapter 11 of the TV Programme Code, as a general rule, with the exception of news programmes, current affairs programmes, children's programmes, educational programmes, religious service and other devotional programmes, indirect advertising in programmes is permitted. Notwithstanding the general rule, title sponsorship, display of sponsorship references within programmes and product/service sponsorship are allowed in current affairs programmes provided that the licensee should exercise care in the choice of sponsor so as to safeguard the credibility and integrity of such programme (Paragraph 14 of Chapter 9 of the TV Advertising code).

³ According to paragraph 1 of Chapter 11 of the TV Programme Code, product/service sponsorship refers to the type of indirect advertising (defined as the mingling of programme and advertising material or the embedding of advertising material within programme content) where licensees receive payment or valuable consideration.

⁴ Paragraph 2A of Chapter 9 of the TV Advertising Code.

in-programme promotions)⁵, provided that the display of references to sponsor and related material complies with basic ground rules⁶ and specific conditions on number, size, frequency, duration and position⁷; or

- (c) in-programme sponsorship references for programmes covering sports events⁸, provided that the display of references to sponsor and related material (including product image, virtual product and Quick Response (“QR”) code) complies with specific conditions on number, size, frequency, duration and position⁹.

For (a) to (c) above, such material are not counted towards the advertising time allowed for free TV¹⁰.

10. The insertion of the in-programme advertising material as product placement in (a) is only governed by general and overarching principles¹¹, as it is difficult, if not impossible, to prescribe detailed restrictions on in-programme

⁵ Paragraphs 2B and 2C of Chapter 9 of the TV Advertising Code relate to title sponsorship and sponsorable materials within programmes.

⁶ Paragraph 3 of Chapter 9 of the TV Advertising Code provides that sponsor identifications other than in the form of advertisements are subject to the following ground rules –

- (a) sponsor identifications must be distinguishable from advertisements and should not contain superlative claims, price information and direct exhortations to the viewing public to purchase or rent the sponsor’s product or services;
- (b) viewers should not be subject to hidden editorial influence; and
- (c) sponsor identification within a programme should not be overtly distracting and obtrude on viewing pleasure or entertainment.

⁷ Paragraph 8B of Chapter 9 of the TV Advertising Code.

⁸ Paragraph 2D of Chapter 9 of the TV Advertising Code. Programmes covering sports events include live, delayed live (i.e. an event that is broadcast after its commencement), re-run and highlight programmes on sports events but exclude commentaries and/or other supporting programmes broadcast outside the time when the sports events are taking place.

⁹ Paragraph 8B of Chapter 9 of the TV Advertising Code.

¹⁰ Paragraph 20B of Chapter 9 of the TV Advertising Code provides that the programme sponsorship (including product placement), sponsor identifications, references to sponsors and sponsorship references within sports events programmes permitted under that chapter will not count towards the aggregate advertising time allowed for free TV under section 11(1) of Schedule 4 to the BO.

Section 11(1) of Schedule 4 to the BO provides that the aggregate advertising time of a free TV service shall not exceed ten minutes per clock hour between the period from 5 p.m. to 11 p.m. each day and at other times the aggregate advertising time shall not exceed 18% of the total time the service is provided in that period.

¹¹ According to paragraph 2A of Chapter 9 of the TV Advertising Code, product placement is allowed provided that it is presented in a natural and unobtrusive manner and there is no direct encouragement of purchase, that the sponsor is clearly identified at the front/end of programme, and that there is announcement clearly informing viewers of the inclusion of product placement before the programme starts.

product placement. For in-programme sponsorship and advertising material in (b) and (c), detailed conditions/restrictions in terms of number, size, frequency, duration, and position of display have been imposed.

11. The CA notes that the advertising practices of sponsorship and indirect advertising are already commonplace in the Internet-based infotainment and streaming services. There is a case to further relax the regulation in this area for television and sound broadcasting services as the general public should be quite familiar with this category of advertising, with a view to providing room for licensees to generate additional revenue through sponsorship and the exposure of sponsored products/services within the programmes. As mentioned above, the existing regulation of the manner and form of sponsor identifications within programmes is rigid and prescriptive, with detailed restrictions on the number, size, frequency, duration and position of display. There is a case to revise the approach to regulating sponsor identifications within programmes by general, overarching principles, instead of by detailed prescriptions.

12. The CA also notes that the TV Advertising Code currently regulates the inclusion of product/service in programmes (i.e. product placement) by means of basic ground rules only. Such approach has been functioning effectively and has not resulted in a substantial surge in the number of complaints received by the CA in recent years. The proposed relaxation for sponsor identifications within programmes should be in line with the approach for the regulation of product placement currently in force locally and in some overseas jurisdictions¹².

Sponsorship of children's programmes

13. Under the TV Advertising Code¹³, sponsorship of children's programmes requires special caution. While sponsorship of the title of a programme or a programme segment/programme feature is allowed for children's programme (save and except for attributes and advertising slogans of the sponsor), the display of sponsorship references alongside sponsorable material and other sponsor's items (e.g. product image, virtual product and QR code) and/or accepting product/service sponsorship is currently not allowed in children's programmes. There are concerns that children may not yet be able to exercise sound judgement and are likely to be more susceptible to the influence of sponsored product/service. Notwithstanding the above, to facilitate the operation of licensees and broaden their revenue streams, the CA

¹² In the United Kingdom, United States and Singapore, there are no specific rules on size and duration of the sponsorship credits.

¹³ Paragraph 12 of Chapter 9 of the TV Advertising Code.

considers that while product placement should continue to be prohibited in children's programmes, there is room to relax the current restrictions on the display of sponsor references in children's programmes.

Promotional materials for sponsored programmes

14. Regarding promotional materials ("promos") for sponsored programmes, the TV Advertising Code¹⁴ stipulates that reference to sponsors in promos is not allowed except when they form an integral part of the station's official programme title subject to certain rules in the same chapter. To reduce the licensees' compliance burden to edit out reference to sponsors in the promos, the CA suggests that the regulation should be relaxed.

Proposed Changes

15. Having regard to the above, the CA proposes that –

- (a) **the detailed prescriptions of sponsor identifications¹⁵ within programmes should be replaced by general, overarching principles** (e.g. the sponsor identifications appearing in the programme should not be too frequent and distracting as to affect the viewing pleasure of an average viewer, sponsor identifications must be distinguishable from advertisements and should not contain superlative claims unless they are capable of substantiation, price information and direct exhortations to the viewing public to purchase or rent the sponsor's products or services, and viewers should not be subject to hidden editorial influence, etc.);
- (b) **the display of sponsorship references (including attributes and advertising slogans of the sponsor) alongside sponsorable material and other sponsor's items (e.g. product image, virtual product and QR code), in the form of superimposed text or visual objects, should be allowed in children's programmes** provided that they are acceptable for advertising in children's programmes and such references/announcements are **clearly distinguishable** as such and **comprehensible to a child viewer**; and
- (c) **the regulation of product/service sponsorship for promos should be relaxed** on the condition that some general, overarching

¹⁴ Paragraph 16 of Chapter 9 of the TV Advertising Code.

¹⁵ They refer to the display of the sponsor's name, product/service name, trademark/logo, advertising slogan, and attribute to the sponsor, as well as other sponsor's items (such as product image, virtual product and QR code) in television programmes.

principles (as suggested in subparagraph (a) above) are complied with.

Question 1: Do you consider it appropriate to regulate the form of presenting sponsor identifications within television programmes by general, overarching principles, instead of by detailed prescriptions?

Question 2: Do you have any views on the proposal to relax the current restrictions on the display of sponsor references in children's programmes provided that they are acceptable for advertising in children's programmes and such references/announcements are clearly distinguishable as such and comprehensible to a child viewer?

Question 3: Do you have any views on the proposal to relax the regulation of product/service sponsorship for promos on the condition that some general, overarching principles are complied with?

Applicability

16. Currently, the rules on sponsorship and indirect advertising applicable to free TV are largely the same as those for domestic pay television programme service ("pay TV") and other licensable television programme service ("other licensable TV"). In line with existing practice, any proposals would, where appropriate, apply to all these services.

(2) Relaxing Regulation of Indirect Advertising for Sound Broadcasting Services

Background

17. At present, the Radio Programme Code¹⁶ provides that no undue prominence may be given in any programme to a product, service, trademark, brand name or logo of a commercial nature or a person identified with the above so that the effect of such reference amounts to advertising. Such references must be limited to what can clearly be justified by the editorial requirements, or of an incidental nature.

18. The CA notes that the CoPs for sound broadcasting services do not contain specific provision permitting indirect advertising in radio programmes. With a view to providing a level-playing field for all television and sound broadcasting licensees in relation to the regulation of indirect advertising, the

¹⁶ Paragraph 41 of the Radio Programme Code.

CA considers that there is a need to relax the regulation of indirect advertising on sound broadcasting services (similar to that of television programme services). It is worth noting that relaxation of the restriction would be conducive to the sustainable development of the industry. It is expected that the majority of listening public would unlikely consider the inclusion of product/service placement in programmes unacceptable.

Proposed Changes

19. Given the above, the CA proposes to spell out clearly in the CoPs that **indirect advertising is permitted in radio programmes**, subject to **basic ground rules** similar to those currently applicable to television programme services. The CA also proposes to **lift** the requirement on undue prominence to product/service described in paragraph 17 above, except for some programmes such as news, children's programmes, educational programmes, religious service and other devotional programmes.

***Question 4:** Do you consider it appropriate to lift the general prohibition on indirect advertising in radio programmes except for certain types programmes (viz. news, children, educational and religious service programmes)?*

***Question 5:** Do you have any views on the proposal for adopting general, overarching principles instead of imposing detailed guidelines for regulating indirect advertising in radio programmes?*

Applicability

20. The existing provisions under review apply to sound broadcasting services. The proposal, if accepted, would accordingly apply to sound broadcasting services only.

(B) Applicability of the Impartiality Requirement on TV and Radio for Programmes Relating to National Education, National Identity and NSL

Background

21. Under the TV Programme Code and Radio Programme Code¹⁷, a licensee must ensure due impartiality is preserved as respects news and factual

¹⁷ Paragraphs 2 to 6 of Chapter 9 of the TV Programme Code. Paragraphs 21 to 25 of the Radio Programme Code.

programmes or segments thereof dealing with matters of public policy or controversial issues of public importance in Hong Kong, and factual programmes include, among others, current affairs programmes. In particular, due impartiality requires the licensees to deal even-handedly when opposing points of view are presented and judgement will always be called for by the licensees, including where necessary, the programme host should correct the factual errors to the best of his/her knowledge.

22. Following the completion of the mid-term review of the free TV and sound broadcasting licences in February 2023, the CA issued directions to free TV licensees under Condition 3.1 of the First Schedule to the free TV licences and Condition 25.1 of the sound broadcasting licences¹⁸ requiring them to broadcast, as part of the positive programme requirements (“PPR”), no less than 30 minutes of programmes each week on national education, national identity and NSL under the category “current affairs”¹⁹. Specifically, “national education, national identity and NSL” means programmes which are intended and suitable for (a) promoting the correct understanding of our nation and our community, of the Constitution, the Basic Law, NSL and the concept of “One Country, Two Systems” and its implementation in Hong Kong; and (b) engendering a correct sense of national identity.

23. Programmes on “national education, national identity and NSL” are intended to provide information on, and promote the correct understanding of our nation which is conducive to the building of national identity and protection of national security. However, in view of the licensees’ concern that programmes of this category might give rise to complaints that no opposing views are included in the programmes, whereas the inclusion of objection to NSL just for the sake of observing the impartiality requirement might risk the licensees of breaching the relevant law, the CA considers that there is a case to stipulate explicitly in the TV Programme Code and Radio Programme Code that the impartiality requirement is not applicable to such programmes to facilitate the operation of the licensees.

¹⁸ Under the free TV and sound broadcasting licences, free TV and sound broadcasting licensees are required to provide certain categories of programmes that are intended and suitable for fulfilment of the needs of the general public in Hong Kong (collectively referred to as “positive programmes”).

¹⁹ In the context of the mid-term review, the Government provided its policy views that it considered that additional PPR should be imposed on the free TV and sound broadcasting licensees, as part of the mid-term review exercise, to strengthen production/broadcasting of programmes on national education, national identity and the NSL as well as nurturing of young people. Following the completion of the mid-term review in February 2023, free TV and sound broadcasting licensees were directed to broadcast, among others, programmes on national education, national identity and NSL starting from 14 May 2023.

Proposed Changes

24. In view of the above, the CA proposes that **the impartiality requirement under the CoPs is not applicable to the programmes on national education, national identity and NSL.**

Question 6: Do you have any views on the proposal to stipulate explicitly in the CoPs that the impartiality requirement is not applicable to programmes on national education, national identity and NSL?

(C) Applicability of CoPs to Programmes/Channels Acquired from Reputable Sources on Mainland for Direct Re-transmission on TV and Radio

Background

25. Under the TV Programme Code and Radio Programme Code, there are provisions governing general programme standards, accuracy, impartiality and fairness. The CA notes that licensees usually have little, if any, control over the content of acquired programmes/channels, particularly so if the acquired programmes/channels are for direct re-transmission. For acquired programmes, the degree of control will depend on the level of right granted to the licensees for editing the content. It may not be practicable to require broadcasters to ensure compliance of acquired programmes/channels with the regulatory requirements in Hong Kong as those locally produced by them as they may have difficulties in making substantive editing to the content or to provide substantiations for the factual content of factual programmes.

26. Given the increasing economic integration with the Mainland and particularly the Greater Bay Area, there is merit in giving licensees more flexibility in direct re-transmitting or broadcasting acquired programmes from reputable sources on the Mainland with a view to offering more programme choices and promoting the understanding of the Mainland²⁰.

²⁰ In addition to the direct re-transmission of CCTV-1 by RTHK TV 33, to mark the 25th anniversary of the establishment of the Hong Kong Special Administrative Region, CGTN Documentary and Radio The Greater Bay under China Media Group were launched in Hong Kong on 1 July 2022 through the television and radio channels as well as the online platform of Radio Television Hong Kong, with a view to enabling Hong Kong people to understand the country and enhance their sense of national identity, and promoting Hong Kong's proactive integration into the overall development of the country.

Proposed Changes

27. Given the above, the CA proposes that **programmes/channels acquired from reputable sources on the Mainland for direct re-transmission** should be generally **exempt** from complying with the CoPs.

28. In determining whether an acquired programme/channel from reputable sources on the Mainland should be exempt from the CoPs, the contents of the programme/channel in its totality and the factors set out below are proposed to be relevant considerations –

- (a) whether the programme/channel promotes positive societal values and virtues;
- (b) whether the licensee does not have editorial control over programming (e.g. a programme/channel acquired for direct re-transmission without delay and alteration by the licensee);
- (c) whether the licensee does not receive any payment or other valuable consideration in relation to the inclusion of advertising material in the programme/channel; and
- (d) whether the source of the programme/channel is identified clearly by means of an announcement at the beginning of the programme so that the viewers/listeners could make their own assessment of the information and messages conveyed therein.

***Question 7:** Do you have any views on the proposal to exempt programmes/channels acquired from reputable sources on the Mainland for direct re-transmission from complying with the CoPs?*

***Question 8:** Do you have any comments on the factors set out in paragraph 28 above for determination of whether an acquired programme/channel from reputable sources on the Mainland should be exempt from the CoPs?*

Applicability

29. The existing provisions under sections (B) and (C) apply to free TV, pay TV, other licensable TV and non-domestic TV, as well as sound broadcasting services. In line with existing practice, the proposals if accepted, would apply to all these services.

(D) Claims Relating to Nutrition or Dietary Effect of Products and Services on TV and Radio

Background

30. The TV Advertising Code²¹ stipulates that advertisements for products and services containing claims relating to nutrition or dietary effects of products or services must not suggest or imply that to be underweight is acceptable or desirable. Those giving testimonials must neither be nor appear to be underweight. The Body Mass Index (“BMI”) for a normal person is between 18.5 and 25 kilograms/meter² as recommended by the World Health Organisation. The BMI over or under this range would be considered as obese or underweight. A similar provision is also set out in the Radio Advertising Code²².

31. The CA notes that the relevant provisions were first introduced in 1996 and the inclusion of BMI in the provisions was in response to the licensees’ comments that the words “obese” and “underweight” under the relevant provisions were not clear. However, the requirement that “those giving testimonials must neither be nor appear to be underweight” has rendered enforcement difficult, if not impracticable. Specifically, it is noted that whether the person giving testimonial appears to be underweight is a subjective perception that may vary from person to person and that the licensee/advertiser could easily get around the requirement by refusing to provide the BMI information of the person giving the testimonial.

32. The key principle of the relevant provisions governing advertisements related to weight loss or reduction of body fat are to avoid giving the impression that to be underweight is desirable, as well as to avoid misleading, exaggerated or incomplete claims of the effectiveness or undue prominence of such products/services as weight loss or body fat reduction hinges on a host of factors, instead of a single product/service. It is also important that such advertisements should not be addressed to persons under the age of 18. While the appearance of the person giving testimonial may have some impact on the overall perception of the advertisement, its impact is relatively small and very subjective, and the appearance of the person giving testimonial is also affected by many factors such as costume, make up, lighting portrayal, etc.

33. Given the above, and enforcement difficulty in verifying whether the person giving testimonial is or appear to be underweight, the CA considers

²¹ Paragraph 21(g)(iv) of Chapter 6 of the TV Advertising Code.

²² Paragraph 27(g)(iv) of the Radio Advertising Code.

that there is a case to remove the relevant requirements under the TV Advertising Code and the Radio Advertising Code respectively.

Proposed Changes

34. The CA proposes **removing the provisions governing the appearance of the person giving testimonial in the advertisements related to weight loss or reduction of body fat** under the TV Advertising Code (viz. “those giving testimonials must neither be nor appear to be underweight”) and under the Radio Advertising Code (“Those giving testimonials should not be underweight”), which are considered to be unnecessary.

Question 9: Do you consider it appropriate to remove the requirements governing the appearance of the person giving testimonial in an advertisement related to weight loss or reduction of body fat?

Applicability

35. Currently, the existing provisions under review apply to free TV, pay TV and other licensable TV, as well as sound broadcasting services. In line with existing practice, the proposal if accepted, would apply to all these services.

(E) Repeat of Children’s Programmes on Free TV

Background

36. According to Condition 5.2 of the First Schedule to the free TV licence, all types of positive programmes²³ including children’s programmes shall be fulfilled only by first-run programmes. Paragraph 13 of Chapter 7 of the TV Programme Code stipulates that a children’s programme provided for the fulfilment of the relevant licence conditions shall not be shown more than twice within any period of 24 months.

37. Free TV remains a major entertainment source for some children, especially those from less privileged background and their viewing interest should be protected. Nevertheless, the CA considers that licensees may wish to use good quality re-run programmes to attract more children viewers. The CA considers that there is a case to relax the requirement on repeated children’s programmes while preserving the programming choice and viewing interest of children viewers.

²³ Except news programmes.

Proposed Changes

38. Having regard to the above, the CA proposes a **relaxation** of the requirement on repeated children's programmes to not more than **four times in 24 months**.

Question 10: Do you have any views on the proposal to relax the requirement on repeated children's programmes to not more than four times in 24 months?

(F) Classification of Promotional Material on Free TV

Background

39. Under the TV Programme Code²⁴, programmes broadcast by free TV licensees which are not generally suitable for viewing by children must be classified, according to the standards on programme classification specified therein, into Parental Guidance Recommended ("PG") and Mature ("M") categories²⁵. A free TV licensee should make reasonable efforts to carry the appropriate classification symbols in the promos for its classified programmes and to include advice or the classification symbols in the licensee's programme guide, whether in printed or electronic form, and the programme schedule it sends out for publication.

40. Noting that promos may contain excerpts of programme episodes of different programme classifications and promos are usually completed (and broadcast) well ahead of the classification (and broadcast) of the related programme episodes, the CA recognises that there may be operational difficulty for licensees in providing classification symbol in programme promos. The existing requirement on the display of classification symbol before the start of and within programmes, as well as in the television programme guide²⁶, will have reasonably enabled the viewers to make informed choice about suitable television programmes for themselves and their children.

²⁴ Paragraphs 3 and 7 of Chapter 8 of the TV Programme Code.

²⁵ Programmes classified "PG" may contain adult themes or concepts but must remain suitable for children to watch under the guidance of a parent or guardian while programmes classified "M" are recommended for viewing by grown-up members of the family only.

²⁶ Under paragraph 6 of Chapter 8 of the TV Programme Code, aural and visual advice on the classification of programmes should be given before the start of the programme. In addition, a classification symbol as approved by the CA signifying the classified category of the programme should be superimposed on the screen for four seconds after the programme begins. It should be displayed immediately, or as soon as is practicable, when the programme recommences after each break.

Proposed Changes

41. Given the above, the CA proposes **removing** the requirement for free TV licensees to **provide classification symbols in programme promos**.

Question 11: Do you have any views on the proposal to remove the requirement for free TV licensees to provide classification symbols in programme promos?

Applicability of the Proposal

42. The existing provisions under sections (E) and (F) apply to free TV. The proposals, if accepted, would accordingly apply to free TV only.

(G) Factual Claim Substantiated by Research or Testing in TV Advertising

Background

43. The TV Advertising Code²⁷ stipulates that where a factual claim is substantiated by research or testing based on the advertiser's own assessment or work done at his request, the source and date of the assessment or research should be indicated in the advertisement.

44. The existing provision in the TV Advertising Code aims to require advertisers/broadcasters to provide substantiation for a factual claim where it is supported by research or testing based on the advertiser's own assessment or his request in the advertisement. It does not specify the form by which the substantiation should be made (i.e. text, website or QR code) although it specifically required that the source and date of a factual claim should be indicated. Nor does it cater for new methods of delivering information (e.g. QR code) in advertisements where source and date of assessment or research for substantiation of claim are required and viewers may wish to have access to information on products or services which may not be able to be fully displayed with adequate time duration in a short advertisement. Given the increasing popularity of the use of QR code nowadays as a means of providing consumers with more detailed information, the CA considers that there is a case to review the relevant provision to cater for new methods of delivering information in advertisements.

²⁷ Paragraph 2 of Chapter 4 of the TV Advertising Code.

Proposed Changes

45. In view of the above, the CA suggests to spell out clearly in the TV Advertising Code that as an alternative to the existing requirement (i.e. on-screen display of text), the **use of QR code for directing interested viewers to the webpage** for indicating the source and date of a factual claim is also **acceptable** for substantiation of factual claims on the condition that the QR code would provide **direct and unfettered access** to the relevant research/testing webpage to obviate the need for consumers to make further efforts (e.g. to further browse layers of webpages) to find the relevant research/testing, and that the QR code should be displayed on screen for a **sufficiently long duration** to enable viewers to have sufficient time to scan the code during the advertisements. The CA considers that a **general, overarching requirement** for the display of QR code should suffice. The licensees will also be required to **ensure the validity of the relevant QR code and the accessibility to the relevant website** for a period of **at least 120 days** after the broadcast of the advertisement in order to facilitate the CA in retrieving and examining the information in processing a complaint.

Question 12: Do you have any views on the proposal to provide flexibility for TV broadcasters to use QR code as an alternative method of providing access to detailed information on products/services in advertisements where substantiation of factual claims is required?

Question 13: Do you have any views on the proposal for adopting general principles instead of imposing detailed guidelines for regulating the display of QR code (if accepted) in TV advertisements?

Applicability

46. Currently, the existing provisions under review apply to free TV, pay TV and other licensable TV. In line with existing practice, the proposals would apply to all these services.

(H) Advisory Message Requirement for Real Property Advertising on Radio

Background

47. Under the Radio Advertising Code²⁸, real property advertisements

²⁸ Paragraph 22 of the Radio Advertising Code.

should carry an intelligible advisory message or to that effect that listeners should obtain and review carefully all relevant information relating to property before making any purchase decisions and seek professional advice if in doubt.

48. Noting that the advisory message required to be broadcast at the end of real property advertisements (including requirements from other laws) requires a relatively large amount of airtime²⁹ and is arguably difficult for listeners to understand, the CA considers that there may be a case to allow more flexibility for sound broadcasting licensees to provide a shorter/simpler aural message under the Radio Advertising Code.

49. The CA considers that a shorter version to a similar effect should be acceptable and indeed could be clearer to listeners if articulated in normal pace. As for the suggestion to direct listeners to an online version of the full advisory message, it may not be practical on radio as the amount of airtime for an aural message to direct listeners to online information in an advertisement may be similar to, if not longer than, that of the stipulated advisory message.

Proposed Changes

50. Given the above, the CA proposes that the advisory message requirement should be **retained** but that a **shorter version** of the message could be allowed for use on radio.

***Question 14:** Do you have any views on the proposal to retain the advisory message requirement but allow a shorter version of the message be used on radio?*

Applicability of the Proposal

51. The existing provision under review applies to sound broadcasting services. The proposal, if accepted, would accordingly apply to sound broadcasting services only.

²⁹ A sample checking of real property advertisements broadcast on radio shows that most of the advertisements (about 60 seconds in duration) were for sale of first-hand residential properties. The advertisements of first-hand residential properties situated in Hong Kong are regulated under the Residential Properties (First-hand Sales) Ordinance (Cap.621) ("RPO"). Pursuant to the Radio Advertising Code and RPO, the aural advisory messages contained in real property advertisements usually take an average of 6 and 10 seconds respectively when read out quickly.

INVITATION OF VIEWS AND COMMENTS

52. The CA would like to invite views and comments from members of the public on the proposals in this Consultation Document. Any person wishing to respond to this Consultation Document should submit in writing to the CA on or before **16 August 2023** through any of the following means –

By post: The Communications Authority
20/F, Wu Chung House
213 Queen's Road East
Wan Chai, Hong Kong
(Attn: Broadcasting Section 23 – Consultation on Codes Review)

By fax: 2507 2219
(Attn: Broadcasting Section 23 – Consultation on Codes Review)

By e-mail: consultation-cop@ofca.gov.hk

53. The CA and its Broadcast Codes of Practice Committee will consider all the views and comments submitted in writing on or before the deadline, may publish all or part of such views and comments received, and disclose the identity of the source as deemed necessary. Any material in the submission considered as confidential information should be clearly marked. The CA would take such marking into account in making the decision as to whether or not to disclose such information. Please note that late submissions would not be considered.

54. For enquiries, please send e-mail to consultation-cop@ofca.gov.hk or call the Broadcasting Section 23 at 2961 6593 or 2961 6442.

55. For the avoidance of doubt, all the views expressed in this Consultation Document are for the purpose of discussion and consultation only. Nothing in this Consultation Document represents or constitutes any decision made by the CA. The consultation contemplated by this Consultation Document is without prejudice to the exercise of the powers by the CA under the Communications Authority Ordinance (Cap. 616), the BO, the BMPO and/or any subsidiary legislation.