

Appendix

Case 1 – Television Programme “6:00 News” (六點鐘新聞) broadcast on 25 September 2013 on Home & Asia Channels of ATV at 6:00pm – 6:45pm

A member of the public complained that the remarks in the relevant news item that children and elderly persons could receive influenza vaccination at \$130 under the new government subsidy scheme were inaccurate and misleading.

The CA’s Findings

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

Details of the Case

- (a) the alleged remarks were found in the news item about the Vaccination Programme 2013/14 (“VP 2013/14”) introduced by the Government;
- (b) according to the VP 2013/14, eligible children and elderly persons were entitled to a subsidy of \$130 for each dose of seasonal influenza vaccine, instead of being eligible to receive the vaccination at \$130 as reported in the news item; and
- (c) ATV admitted and apologised for the unintentional lapse.

Relevant Provisions in the TV Programme Code

- (a) paragraph 1A of Chapter 9 – licensees should make reasonable efforts

to ensure factual contents of news to be accurate; and

- (b) paragraph 7(e) of Chapter 9 – correction of factual errors in news should be made as soon as practicable.

The CA's Considerations

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

- (a) the erroneous report on the Government subsidy level might cause confusion to the eligible persons and affect their comprehension of the VP 2013/14; and
- (b) although details of the VP 2013/14 had been widely reported by media, ATV failed to spot the obvious factual error and did not make a timely rectification.

Decision

In view of the above and taking into account the relevant precedents, the CA decided that ATV should be **seriously warned** to observe more closely the relevant provisions of the TV Programme Code.

Case 2 – Television Programme “Will Power” (法外風雲) broadcast on the Jade and HD Jade Channels of TVB on 25 October 2013 at 9:30pm – 10:30pm

A member of the public complained that the repeated portrayals of a brand of sports drink, including the placement of a vending machine of that sports drink in the court scenes (which was alleged to be illogical) and its close-up shots, gave undue prominence to the product and mingled programme with advertising materials.

The CA's Findings

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

Details of the case

- (a) the programme was a fictitious law drama. The concerned branded sports drink was identified as one of the product sponsors of the programme; and
- (b) the alleged vending machine was found in the background of three scenes in the setting of a hallway and a corridor outside the court room where different groups of characters were shown discussing the court hearings.

Relevant Provision in the TV Programme Code

- (a) paragraph 1 of Chapter 11 – indirect advertising in television programmes is prohibited.

Relevant Provision in the TV Advertising Code

- (a) paragraph 10(a) of Chapter 9 – the exposure or use of the sponsors'

products and/or services within a programme should be clearly justified editorially, not obtrusive to viewing pleasure and not gratuitous.

The CA's Considerations

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

- (a) there was insufficient evidence to conclude that the use or exposure of the concerned vending machine as a prop in the concerned scenes of a fictitious drama was not editorially justified; and
- (b) the first scene which showed the vending machine briefly was acceptable. In the second scene, a lawyer was seen purchasing the concerned product from the vending machine. A close-up shot of the lawyer's hand getting the concerned product from the machine and a wide shot of the hallway showing the side panel of the machine with the brand name and the enlarged product image were clearly shown. When two lawyers sat beside the machine with the drinks in hand to discuss a court case, the side panel of the machine was prominently shown. In the third scene, there were four wide shots of the hallway showing the side panel of the machine with the brand name and the enlarged product image while people discussing a court case. The last two scenes (particularly the second scene which showed the side panel of the vending machine with the brand name and the product image in full thrice) were gratuitous and obtrusive to viewing pleasure, and therefore amounted to advertising material for the sports drink.

Decision

In view of the above and taking into account the relevant precedents, the CA decided that TVB should be **seriously warned** to observe more closely the relevant provisions of the TV Programme Code and TV Advertising Code.

Case 3 – Television Programme “German Soccer League 2013/14: Dortmund vs Braunschweig” (德國足球聯賽：多蒙特對布倫瑞克) broadcast on the Soccer Betting Channel of HKCTV on 18 August 2013 at about 11:25pm – 1:30am

A member of the public complained that a host uttered a foul expression.

The CA’s Findings

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

Details of the Case

- (a) the programme was a live telecast of the concerned soccer match and was available for viewing by the general audience, not restricted for adults;
- (b) during the broadcast of the title sequence of the programme which incorporated shots of soccer match highlights, the conversation among the programme hosts which contained a Cantonese foul expression was heard; and

- (c) HKCTV admitted the lapse and submitted that the live conversation among the hosts was not supposed to be on air in the concerned taped segment.

Relevant Provisions in the TV Programme Code

- (a) paragraph 7 of Chapter 4 - for domestic pay television programme services, the use of downright offensive language may only be permitted in programmes or on channels restricted for adults provided it is appropriate to the programme context and not overly frequent and impactful; and
- (b) paragraph 8 of Chapter 4 - obscene or profane language that is likely to offend a substantial portion of the audience is prohibited.

The CA's Considerations

The CA, having regard to the relevant facts of the case, considered that although it appeared to be a technical fault that caused the private conversation among the programme hosts to be played out, the broadcast of the foul expression on the concerned channel, which was not restricted to adults, could offend viewers in general.

Decision

In view of the above and taking into account the relevant precedents, the CA decided that HKCTV should be **warned** to observe more closely the relevant provisions of the TV Programme Code.

Case 4 – Television Advertisement for “Abbott Eye-Q Plus” (“雅培Eye-Q Plus”) broadcast on 4 September 2013 on Jade Channel of TVB at 10:03pm

A member of the public complained that the claim “美國雅培，美國銷量No.1” (Abbott No. 1 selling brand in the United States (“US”)) in the advertisement misled viewers that –

- (a) the advertised infant formula sold in Hong Kong was produced in the US;
- (b) the advertised infant formula was the same as that produced in the US;
- (c) the advertised infant formula was allowed to be sold in the US and was the No.1 selling product in the US; and
- (d) the standards of the factory producing the advertised infant formula were the same as that in the US.

The CA’s Findings

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

Details of the Case

- (a) the 30-second advertisement for a brand of infant formula had two versions, both in Cantonese, with one provided with English subtitles

for English service channel. In the advertisement, a female singer talked about why she chose the infant formula of the concerned brand for her baby;

- (b) at the ending part of the advertisement, three cans of the advertised products bearing the product names in Chinese were prominently displayed when the best-selling claim for the US products was made in the voice-over. In the version for English service channel, the English subtitles “Abbott No. 1 selling brand in the US” were shown throughout the ending part;
- (c) a caption specifying the time period of a survey report was shown when the best-selling claim was made; and
- (d) the aforesaid best-selling claim did not refer to the advertised products sold in Hong Kong which were imported from Europe.

Relevant Provisions in the TV Advertising Code

- (a) paragraph 6 of Chapter 4 – references to the results of research surveys should be presented carefully, so as not to mislead viewers; and
- (b) paragraph 7 of Chapter 4 – information conveyed must be accurate and not misleading by concealing or failing to make clear significant facts.

The CA’s Considerations

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

- (a) there was no claim in the advertisement that the advertised products were produced in the US or that the production standards of the advertised products were the same as those in the US as alleged by the complainant;
- (b) however, the best-selling claim for the US products of the brand appeared at the ending frame with three cans of the advertised products sold in Hong Kong prominently displayed would mislead viewers that the advertised products sold in Hong Kong were the same as the No.1 selling products in the US. There was no clear-cut audio-visual separation for the two messages (i.e. the promotion of the advertised products sold in Hong Kong and the best-selling claim for the brand's US products);
- (c) TVB should, with reasonable diligence, have ascertained that the presentation of the advertisement must not be misleading by concealing or failing to make clear significant facts as required in paragraph 7 of Chapter 4 of the TV Advertising Code; and
- (d) the CA noted that the references to the results of a survey in relation to the best-selling claim was not presented carefully and could mislead viewers regarding the concerned best-selling claim, which was in breach of paragraph 6 of Chapter 4 of the TV Advertising Code.

Decision

In view of the above, the CA considered the complaint justified in respect of the misleading presentation that the advertised products were the same as

those mentioned in the best-selling claim for the brand's US products and the references made in the advertisement regarding the concerned survey, and decided that TVB should be **warned** to observe more closely the relevant provisions of the TV Advertising Code.

Case 5 – Television Programme “A-League: 2013/14: Newcastle Jets vs Central Coast Mariners” (澳洲職業聯賽：紐卡素噴射機對中岸水手) broadcast on the Soccer Betting Channel of HKCTV on 2 November 2013 at 4:30pm – 6:48pm

A member of the public complained that a host uttered a foul expression.

The CA's Findings

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

Details of the Case

- (a) the programme was a live telecast of the concerned soccer match and was available for viewing by the general audience, not restricted for adults; and
- (b) when a player of the Central Coast Mariners passed the ball to his team mate, a host passed a commentary with a Cantonese foul expression in it.

Relevant Provisions in the TV Programme Code

- (a) paragraph 7 of Chapter 4 - for domestic pay television programme services, the use of downright offensive language may only be permitted in programmes or on channels restricted for adults provided it is appropriate to the programme context and not overly frequent and impactful; and
- (b) paragraph 8 of Chapter 4 - obscene or profane language that is likely to offend a substantial portion of the audience is prohibited.

The CA's Considerations

The CA, having regard to the relevant facts of the case, considered that although the lapse appeared to be a slip of tongue, the concerned expression could not be justified amid the commentaries of a soccer match and was likely to offend the audience of the channel which was for general viewing.

Decision

In view of the above and taking into account the relevant precedents, the CA decided that HKCTV should be **warned** to observe more closely the relevant provisions of the TV Programme Code.

Case 6 – Television Programme “12:30 News” (十二點半新聞) broadcast on the Home Channel of ATV on 4 December 2013 at 12:30pm – 1:00pm

A member of the public lodged the complaint. The main allegation was that

the remarks in a news item that Hong Kong maintained the red Outbound Travel Alert (“OTA”) for Thailand were inaccurate as the red OTA in force then was for Bangkok only.

The CA’s Findings

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

Details of the Case

- (a) the alleged remarks were found in the news item about the Legislative Council (“LegCo”) Members enquiring the Secretary for Security in a LegCo meeting on whether the OTA issued for Thailand was appropriate to reflect the level of risk; and
- (b) ATV admitted the lapse that the red OTA was issued for Bangkok only and the OTA for other parts of Thailand remained at amber.

Relevant Provisions in the TV Programme Code

- (a) paragraph 1A of Chapter 9 – licensees shall make reasonable efforts to ensure that factual contents of news to be accurate; and
- (b) paragraph 7 (e) of Chapter 9 – correction of factual errors in news should be made as soon as practicable.

The CA’s Considerations

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

- (a) although the specific place in Thailand for which the red OTA was issued was not the focus of the concerned news item, the misstating of the OTA for other parts of Thailand would cause confusion to travellers, in particular those who planned to travel to Thailand; and
- (b) it was a clear factual error in a news report. Nonetheless, ATV did not notice the error and had not made any correction.

Decision

In view of the above and taking into account the relevant precedents, the CA decided that ATV should be **warned** to observe more closely the relevant provisions of the TV Programme Code.

Case 7 – Television Programme “Q & A Lessons” (通識小學堂) broadcast on the Home Channel of ATV on 1 May 2013 at 9:15am – 9:45am

A member of the public complained that a guest teacher’s remarks that the first day of May had been made the Labour Day public holiday in China since 1999, and that the former U.S. President Roosevelt confirmed the eight-hour working day standard in 1935 were incorrect. The complainant alleged that the former should be in place since 1949, whereas the latter, in 1938, and the working hour standard then should be 40 hours per week.

The CA’s Findings

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

Details of the Case

- (a) the concerned programme was a children’s programme with educational purposes;
- (b) the alleged remarks were given by a guest teacher when he explained the origin of the Labour Day; and
- (c) ATV admitted and apologised for the unintentional fault. It explained that the first of May had been made the Labour Day public holiday in China since 1949. The guest teacher’s remarks in fact referred to the making of the first of May a general holiday in Hong Kong from 1999 onwards.

Relevant Provision in the TV Programme Code

- (a) paragraph 1A of Chapter 9 – licensees shall make reasonable efforts to ensure that factual contents of children’s programmes with educational purposes are accurate.

The CA’s Considerations

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

- (a) the erroneous remarks were presented by a guest teacher; and

- (b) ATV was not aware of the alleged errors and no rectification was thus made.

Decision

In view of the above and taking into account the relevant precedents, the CA decided that ATV should be **advised** to observe more closely the relevant provision of the TV Programme Code.

Case 8 – Television Programme “Miss Hong Kong Pageant 2013 – Semi Final” (2013 香港小姐競選準決賽) broadcast on the Jade Channel of TVB on 25 August 2013 at 9:00pm – 10:30pm

A member of the public complained that the programme, with a majority part of it being pre-recorded, was broadcast without subtitles and in contravention of the subtitling requirement.

The CA’s Findings

In line with the established practice, the CA considered the complaint case and the representations of TVB 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 was indicated as a live broadcast in TVB’s official publication and was broadcast without subtitles

throughout. However, according to some media reports, the part of the programme broadcast from 9:00pm to 10:00pm was recorded the night before, and only the part from 10:00pm to 10:30pm was broadcast live.

Relevant Provisions in TVB's Domestic Free Television Programme Service Licence ("Licence")

- (a) Condition 3.1 of the First Schedule – the Licensee shall provide subtitling for its Service, as may be directed by the Broadcasting Authority ("BA"); and
- (b) Condition 3.2 of the First Schedule – the Licensee may, with the prior approval of the BA and subject to such conditions as may be imposed by it, deviate from the requirements in Condition 3.1 of this Schedule.

The CA's Consideration

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

- (a) pursuant to Condition 3.1 of the First Schedule of TVB's Licence, the former BA directed TVB to, among others, provide on its Cantonese channel Chinese subtitles for all programmes shown between 7:00pm and 11:00pm. Pursuant to Condition 3.2 of the Licence, the former BA also granted a blanket approval to exempt TVB from the above subtitling requirement where the provision of subtitling was not practicable, including in the case of live broadcasts. For other technical constraints not covered in the blanket approval, TVB was required to apply to the CA for exemption on a case-by-case basis

justifying the constraint in question;

- (b) the pre-recorded segments, which amounted to about two-thirds of the programme and the filming of which started on the day before the programme was on air, should not be regarded as “live broadcasts” or falling within the scope of the former BA’s blanket approval; and
- (c) while TVB submitted that the main reason for not being able to provide subtitles for the pre-recorded segments was due to time and technical constraints, as an experienced licensee, TVB should be well aware of the time required for the filming and other post-production work including subtitling for similar shows, and should have applied to the CA for an exemption if it was not able to prepare subtitles for the pre-recorded segments of the programme.

Decision

In view of the above, the CA considered the complaint in respect of TVB’s failure to provide subtitles for the pre-recorded parts of the programme without applying for the CA’s exemption justified and decided that TVB should be **advised** to observe more closely the relevant conditions in its Licence.

Case 9 – Television Programme “M. I. Challenge” (智激校園) broadcast on the Jade Channel of TVB on 6 October 2013 at 4:30pm – 5:00pm

A member of the public complained that when a teacher character gave the

answer to a question, his reference to “Rio de Janeiro” as the capital of Brazil was inaccurate. The capital of Brazil should be Brasília instead.

The CA’s Findings

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

Details of the Case

- (a) the concerned programme was a children’s programme with educational purposes; and
- (b) the alleged mistake was found in a quiz participated by students.

Relevant Provision in the TV Programme Code

- (a) paragraph 1A of Chapter 9 – licensees shall make reasonable efforts to ensure that factual contents of children’s programmes with educational purposes are accurate.

The CA’s Considerations

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

- (a) it was a clear factual error which might mislead some children viewers of the programme; and
- (b) TVB had taken remedial actions to lessen the adverse effect of the lapse,

including rectifying the recordings of the programme on its website promptly and arranging to ask a similar question in the same programme to convey the accurate information.

Decision

In view of the above and the relevant precedents, the CA decided to classify the lapse as a **minor breach** of the relevant provision.

Case 10 – Television Programme “ATV Focus” (ATV焦點) broadcast on the Home and Asia Channels of ATV on 7 November 2013 at 6:35pm – 6:45pm

A member of the public complained that the remarks “日前，香港考試及評核局出版了2013中學文憑試的考試報告，被喻為「死亡之卷」、有接近一半考生「肥佬」的中文科，不少考生表現差劣...” (English Translation: The Hong Kong Examinations and Assessment Authority (“HKEAA”) published the 2013 Examination Report of the Hong Kong Diploma of Secondary Education (“HKDSE”) recently. About half of the candidates “failed” in the subject of Chinese Language which was referred to as the “paper of death” and many of the candidates performed poorly in the subject...) (“First Remark”) and “香港考試及評核局日前發表了第二屆中學文憑試《考試報告及試題專輯》，稱考生中文科成績欠佳，達標率只有五成二...” (English Translation: The HKEAA released the second HKDSE “Examination Report and Question Papers” (“ERQP”) recently, which stated that the candidates did not perform well in the subject of Chinese Language with an attainment rate of only 52%) (“Second Remark”) were inaccurate. It was unfair to infer,

with the inaccurate remarks, that Hong Kong students were poor in Chinese.

The CA's Findings

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

Details of the Case

- (a) the programme was identified as a personal view programme (“PVP”). The host and a media worker made the concerned remarks respectively and opined that the Chinese standard of Hong Kong students was poor;
- (b) ATV submitted that the host and the media worker referred to candidates who did not attain “Level 3” or above in the subject of Chinese Language in the HKDSE examination as being failed and not attaining the required standard, since such candidates did not meet the minimum entrance requirements of the 4-year undergraduate degree programmes in local universities; and
- (c) investigation revealed that standard-referenced reporting was adopted to assess candidates’ performance in the subject of Chinese Language in the HKDSE examination, in which candidates’ performance was reported at Levels 1 to 5 and there was no general attainment level for the subject. Education institutions could set their own requirements for different selection purposes. However, the 2013 ERQP never mentioned or implied that the candidates did not perform well in the subject and that the attainment rate was only 52%.

Relevant Provisions in the TV Programme Code

- (a) paragraph 1A of Chapter 9 – the licensees shall make reasonable efforts to ensure that the factual contents of PVPs are accurate;
- (b) paragraph 9 of Chapter 9 – the licensees have a responsibility to avoid unfairness to individuals or organisations featured in factual programmes; and
- (c) paragraph 17(b) of Chapter 9 – for PVPs, 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, considered that –

- (a) the First Remark was made in a relatively general context and could be perceived as the host's own views on the examination results and performance of the candidates in the relevant subject;
- (b) although ATV submitted that the Second Remark only represented the views of the media worker, the use of the word “稱” (states) in the Remark suggested that such Remark was quoted from the 2013 ERQP published by the HKEAA. This was a breach of the relevant provisions which required the factual contents of PVPs to be accurate; and
- (c) despite the inaccuracy in the Second Remark, there was insufficient

evidence that the concerned remarks had the effect of misleading audience, which would render the programme unfair to any individuals or organisations.

Decision

In view of the above, the CA considered the complaint in respect of the Second Remark being factually inaccurate justified and decided to classify the lapse as a **minor breach** of paragraphs 1A and 17(b) of Chapter 9 of the TV Programme Code.