

Appendix

Case – Television Programme “Forced Confession” (瀛事滾女科：強迫學生白書) broadcast on the Channel Adult of PCCW Media Limited (“now TV”) at 8:00 pm to 9:00 pm on 7 March 2017

A member of the public complained that the programme broadcast footage of authentic rape; that its contents were overly violent, unnerving and pornographic and would invite imitation; and that it should be banned from broadcast.

The Communications Authority (“CA”)’s Findings

In line with the established practice, the CA considered the complaint and the representations of now TV 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 Japanese adult film about a female character dressed in school uniform being kidnapped on a street, pushed into a van and taken to an open worksite in a remote area where she was raped repeatedly. At the beginning of the programme, there were texts indicating that all performers were over 18 years old and their roles in the programme were over 16 years of age. A caption to remind viewers to activate the parental locking device was superimposed from time to time on the screen during its broadcast;

- (b) there were portrayals of the female character being threatened to strip and forced to engage in sex, etc. She was crying and sometimes being threatened by the assailant during the process of being sexually assaulted;
- (c) though computer masking effects had been used, the sexual acts and the male and female genitals were discernible in most of the medium to close-up shots. Also, there were detailed depictions of the raping acts and the assailant was portrayed as getting great pleasure from his sexual assault on the female character; and
- (d) now TV submitted, among other things, that rape and explicit sex scenes were not prohibited on a domestic pay television programme (“pay TV”) adult channel; that the degree of violence was not excessive and the sexual violence was not explicitly or gratuitously depicted in the context of an adult programme broadcast on a channel restricted for adults; and that the close-up shots of sexual acts were blurred by computer masking to the degree that no reasonable viewers could distinguish whether real genitals, special effects or genital props were shown.

Relevant Provisions in the Generic Code of Practice on Television Programme Standards (“TV Programme Code”)

- (a) paragraph 17 of Chapter 3 – no obscene material may be included in the television programme service. Obscenity includes also violence, depravity and repulsiveness;

- (b) paragraph 2 of Chapter 5 – the portrayal of sex and nudity on television needs to be defensible in context and presented with tact and discretion. Explicit or gratuitous depiction of sexual violence is prohibited;
- (c) paragraph 6 of Chapter 5 (as referred to in paragraph 4 of Chapter 6) – of the greatest concern are scenes of non-consensual sexual behaviour. When a scene involves rape or indecent assault, strong consideration must be given to minimizing the depiction of the details of the crime. Non-consenting sexual relations should not be presented as desirable. Rape should be portrayed as an act of violence subject to the stringent rules on violence in this code, not a sexual act;
- (d) paragraph 8 of Chapter 5 – depictions of hard core material, or sexual acts with offensive perversion, are not permitted;
- (e) paragraph 4 of Chapter 6 (as referred to in paragraph 9 of Chapter 6) – extreme caution must be exercised in any themes, plots or scenes which mix sex and violence, including rape and other sexual assaults. On the treatment of non-consensual sexual behaviour, see paragraph 6 in Chapter 5;
- (f) paragraph 9 of Chapter 6 – the portrayal of sexual violence and the treatment of specific groups must conform with the rules set out in paragraphs 4 to 5 of this chapter;
- (g) paragraph 10 of Chapter 6 – realistic depictions of violence must be appropriate to the programme context when they are shown in programmes or on channels which are not targeting children or young

viewers. In any programmes or on any channels restricted for adults, violence with a higher degree of realism or impact may be depicted when justified by the context; and

- (h) paragraph 11 of Chapter 6 – sustained or excessively detailed acts of violence are not permitted.

The CA's Considerations

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

- (a) although the programme concerned was broadcast on an acquired pay channel restricted for adults and locked at default of a pay TV service, which was subject to less stringent content control, pay TV licensees were still required to comply with the relevant provisions in the TV Programme Code;
- (b) the CA noted that the plot of the programme under complaint was all about rape, which was a distinct form of violence. There are no provisions prohibiting television programmes from portraying rape. Nevertheless, to provide necessary guidance, the TV Programme Code sets out the principles for the treatment of any themes, plots or scenes which mix sex and violence, including rape and other sexual assaults, and provisions for non-consensual sexual behaviour. Given that repeated detailed non-consensual sexual behaviour was depicted throughout the programme, and the assailant was portrayed as getting great pleasure from his sexual assault on the female character, the CA considered that there was a breach of paragraph 6 of Chapter 5 of the TV

Programme Code, which was referred to in paragraphs 4 and 9 of Chapter 6;

- (c) the CA also noted that paragraphs 10 and 11 of Chapter 6 of the TV Programme Code, which governed portrayals of violence on pay TV services, should apply to the present case. While noting that the programme under complaint was restricted to adults, the CA considered that the depictions of violence therein were presented in a realistic and impactful manner which was not justified by the context; and that there were portrayals of sustained and excessively detailed acts of violence. Hence, there was a breach of paragraphs 10 and 11 of Chapter 6 regarding the portrayals of violence in the programme;
- (d) the CA also considered that the depictions of the relevant sexual acts and the male and female genitals shown during such acts, which were discernible in medium to close-up shots with computer masking, were obscene and of a hard core nature. Thus, there was a breach of paragraph 17 of Chapter 3 and paragraph 8 of Chapter 5 of the TV Programme Code;
- (e) the CA further noted that paragraph 2 of Chapter 5 set out the general principles for portrayals of sex and nudity on all categories of TV services. As the programme was in breach of paragraphs 6 and 8 of the same chapter (please see (b) and (d) above) concerning the depiction of rape and hard core material, the explicit or gratuitous depiction of sexual violence also rendered the programme in breach of paragraph 2 of Chapter 5 of the TV Programme Code; and

- (f) on the allegations about whether the programme contained footage of authentic rape and the broadcast of the programme on an adult channel would invite imitation, there is no specific provision in the TV Programme Code governing such matters.

Decision

In view of the above, the CA considered that the complaint was justified and there was a breach of paragraph 17 of Chapter 3; paragraphs 2, 6 and 8 of Chapter 5; and paragraphs 4, 9, 10 and 11 of Chapter 6 of the TV Programme Code. Having taken into consideration the specific facts and circumstances of the case, including that now TV's last lapse of a similar nature happened in 2006, the CA decided that now TV should be **seriously warned** to observe more closely the relevant provisions of the TV Programme Code.