

## Appendix

### **Case 1 – Television Programmes “News Roundup” (晚間新聞) and “Late News” (晚間新聞) broadcast at 11:30pm on 17 February 2018 on the Jade Channel and the News Channel of Television Broadcasts Limited (“TVB”) respectively**

The Communications Authority (“CA”) received a total of eight public complaints against the two captioned programmes. The main allegations were that the news reports regarding the termination of the investigation into the case concerning the former Chief Executive, Mr Leung Chun-ying, and the Australian firm UGL (hereafter referred to as the “UGL Case”) were inaccurate and that the station failed to rectify the inaccurate reports.

#### **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 two news programmes under complaint reported that according to source(s), the Queen’s Counsel engaged by the Department of Justice (“DoJ”) had advised against taking prosecution action over the UGL Case and that the Independent Commission Against Corruption (“ICAC”) had also terminated its investigation in light of DoJ’s

decision (the relevant remarks were “...廉署亦因應律政司的決定...”);

- (b) in reply to media enquiries on the above news reports, DoJ issued the following response to the media on 18 February 2018 (hereafter referred to as “DoJ’s Response”):

“就有傳媒指有關UGL案件，律政司已決定不作檢控的報道，律政司發言人今天(二月十八日)澄清，有關報導並不正確，律政司並未就該案件是否提出檢控作出決定。發言人重申，由於案件尚未完結，不會就案件透露任何內容。”;

- (c) in the news programme “News Report” subsequently broadcast on the News Channel from 10:30am to mid-afternoon on 18 February 2018, there were reports that DoJ had issued a statement clarifying that it had not yet decided on whether to institute any prosecution in the UGL Case, with the related message recurrently teloped at the bottom of the screen;
- (d) according to DoJ, the Department had not been approached by TVB before the reports under complaint were broadcast on 17 February 2018 or after the issue of DoJ’s Response on 18 February 2018; and
- (e) TVB submitted, among others, that it believed the relevant reports were accurate at the time of broadcast and that there was no evidence to suggest that its reporters had made a mistake in reporting the news at the time.

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

- (a) paragraph 1 of Chapter 9 - news programmes should offer viewers an intelligent and informed account of issues that enables them to form their own views. The licensees should ensure that news is presented with accuracy and due impartiality;
- (b) paragraph 1A of Chapter 9 - the licensee shall make reasonable efforts to ensure that the factual contents of, among others, news are accurate; and
- (c) paragraph 7(e) of Chapter 9 - correction of factual errors should be made as soon as practicable after the original error.

**The CA’s Consideration**

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

- (a) it was clear that the reference to DoJ’s decision (viz. “... 因應律政司的決定”) was inaccurate given DoJ’s Response (which clarified that “律政司並未就該案件是否提出檢控作出決定”) as cited above. Although TVB had asserted that the relevant reports were accurate at the time of broadcast, it did not submit any information to substantiate such an assertion. Hence, there was a breach of paragraph 1 of Chapter 9 of the TV Programme Code;

- (b) while TVB is under no duty to disclose any source of information it may have, the onus is on TVB to demonstrate that it has made reasonable efforts to ensure accuracy of the factual contents of its news reports. However, TVB did not provide any information on the efforts made by it to ensure the accuracy of the news reports under complaint. Hence, there was a breach of paragraph 1A of Chapter 9 of the TV Programme Code; and
- (c) the reporting of DoJ's Response in TVB's news programmes broadcast from 10:30am to mid-afternoon on 18 February 2018 served the purpose of correcting as soon as practicable the factual error in the news reports under complaint which were broadcast in the late night on the preceding day. Given this, the CA considered that there was no breach of paragraph 7(e) of Chapter 9 of the TV Programme Code.

## **Decision**

In view of the above, the CA considered that the complaints about inaccuracy were justified and that TVB was in breach of paragraphs 1 and 1A of Chapter 9 of the TV Programme Code in respect of the two programmes under complaint. Having taken into consideration the specific facts and circumstances of the case and other relevant factors (including the severity of the breach and the licensee's records of non-compliance in relation to the provisions governing accuracy in news), the CA decided that TVB should be **warned** to observe more closely the relevant provisions.

**Case 2 – Television Programme “Change The World” (換了人間)  
broadcast from 7:40pm to 9:15pm on 30 January 2018 on the TV 33  
Channel of Radio Television Hong Kong (“RTHK”)**

A member of the public complained about the captioned programme. The substance of the complaint was that the drama series, which was broadcast during the family viewing hours (“FVH”), was sponsored by a liquor product.

**The CA’s Findings**

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

*Details of the Case*

- (a) two episodes of the drama series under complaint were broadcast on the TV 33 Channel of RTHK, which relayed the live feed of China Central Television Channel 1 (“CCTV-1”), from 7:40pm to 9:15pm, straddling the FVH;
- (b) at 7:40pm, a recap of the previous episode (“前情提要”) of the drama series was shown, with the sponsor title incorporating the name of the liquor product superimposed on the bottom part of the screen for 14 seconds, then on the lower right corner of the screen for 10 seconds. The same presentation of the sponsor title was found at 8:27pm again when the following episode of the drama series was broadcast;

- (c) there was no product shot or logo of the sponsor shown in the programmes, nor was there any other reference to the sponsor; and
- (d) RTHK submitted, among others, that the typeface in question was superimposed by CCTV which explained that its staff failed to blur the typeface concerned in the preview footage of the programme unintentionally.

***Relevant Provisions in Generic Code of Practice on Television Advertising Standards (“TV Advertising Code”)***

- (a) paragraph 2(c) of Chapter 6 – for domestic free television programme (“free TV”) services, the licensee should not include in its licensed service between the hours of 4:00pm and 8:30pm each day any liquor advertising or include in its licensed service between these hours any material in respect of which the licensee has invited, offered or accepted sponsorship or any form of commercial promotion for any liquor product.

**The CA’s Consideration**

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

- (a) paragraph 2(c) of Chapter 6 of the TV Advertising Code expressly prohibits the broadcast of materials sponsored by liquor products on free TV services during the FVH, viz. 4:00pm to 8:30pm, each day. The superimposition of the title of the sponsor, which was a liquor brand, in the two episodes of the drama series under complaint

constituted a clear breach of the aforementioned provision;

- (b) while the drama series was relayed and re-transmitted live on RTHK's TV 33 Channel, RTHK had to ensure that the broadcast materials comply with the applicable provisions in the codes of practice issued by the CA, including paragraph 2(c) of Chapter 6 of the TV Advertising Code, at all times; and
- (c) the CA noted that RTHK had immediately followed up with CCTV, which had undertaken to edit the footage under complaint out of the drama series in future.

### **Decision**

In view of the above, the CA considered that the complaint was justified and that RTHK was in breach of paragraph 2(c) of Chapter 6 of the TV Advertising Code. Having taken into account the specific facts and circumstances of the present complaint and other relevant factors (including the fact that RTHK had no record of breaching the relevant provisions governing the broadcast of materials sponsored by liquor products), the CA decided that RTHK should be **advised** to observe more closely the relevant provision.