

Case – Television Programmes “TVB 2018 All Star FILMART” (TVB 2018 影視展星勢), “Scoop” (東張西望) and “Lo and Behold” (愛·回家之開心速遞) broadcast on the Jade Channel of Television Broadcasts Limited (“TVB”) in March and May 2018

The Communications Authority (“CA”) received 13 complaints about indirect advertising for, among others, an online shopping platform “Big Big Shop” (the “Platform”) on the mobile app “Big Big Channel” (the “Service”) in the captioned television programmes. Apart from the Platform, some of the complainants alleged that the programmes contained advertising materials for the Service, a brand of electric cooker, health drink, mattress and knives.

The CA’s Findings

In line with the established practice, the CA considered the complaints 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 Platform is available on the Service and both are provided by Big Big Channel Limited (“BBCL”) (formerly known as “TVB Network Vision Limited”), an indirectly owned subsidiary of TVB. BBCL is hence a corporate entity separate from TVB;
- (b) according to TVB’s Annual Report 2017, the development of the

Service would include “expansion into e-commerce business, particularly in collaboration with clients”. Also, as mentioned in TVB’s Interim Report 2018, the Service was further extended to e-commerce business by opening the Platform in July 2018 and the “new platform adopts a ‘Show-and-Sell’ model to achieve a highly effective one-stop marketing solution to advertisers”;

- (c) according to two television advertisements for the Platform broadcast on the Jade Channel of TVB on 6 and 7 May 2018, the Platform, a new function on the Service for online shopping, would be/had been launched on a trial basis on 7 May 2018 and a variety of commercial products of different brands were available for sale on the Platform;
- (d) except for “Lo and Behold”, the Platform was not identified as a sponsor of the programmes under complaint; and
- (e) TVB submitted, among others, that the Platform and the Service were extension of its station’s domestic free television programme services (“free TV services”), which was equivalent to a website, and served as a tool in disseminating useful information of interest and promoting the station, its artistes and programmes.

Relevant Provisions in the version of the Generic Code of Practice on Television Programme Standards and the Generic Code of Practice on Television Advertising Standards in force before 27 July 2018 (hereafter referred to as “the then version of the TV Programme Code” and “the then version of the TV Advertising Code” respectively)

The then version of the TV Programme Code

- (f) paragraph 1 of Chapter 11 – indirect advertising in television programmes which refers to the mingling of programme and advertising material or the embedding of advertising material within programme content, whether inadvertently or by design, is prohibited;
- (g) paragraph 3 of Chapter 11 – 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 of the programme itself, or of an incidental nature; and

The then version of the TV Advertising Code

- (h) paragraph 1 of Chapter 2 – advertisement or advertising material means any material included in a television programme service which is designed to advance the sale of any particular product or service or to promote the interests of any organization, commercial concern or individual;
- (i) paragraph 2(c) of Chapter 2 – for the purpose of the TV Advertising Code, the term advertisement or advertising material does not include material for the promotion of the licensee’s station and/or programme services; and
- (j) paragraph 10(a) of Chapter 9 – the exposure or use of sponsor’s products and/or services within programmes 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) in determining whether the programmes under complaint were in breach of the relevant provisions, the CA had carefully considered whether the reference(s) to and/or exposure of the Platform/the Service/other products in each of the programmes constituted “advertising material” within the meaning of the then version of the TV Advertising Code; and whether the reference(s) to and/or exposure of the Platform and/or the Service in each of the programmes was/were “for the promotion of TVB’s station and/or programme services” (and hence could be excluded from the definition of “advertisement or advertising material” pursuant to paragraph 2(c) of Chapter 2 of the then version of the TV Advertising Code);
- (b) the CA noted that the Platform was an e-commerce business which was an extension of the Service. Both the Platform and the Service were provided by BBCL, a corporate entity separate from TVB. The relevant television advertisements for the Platform also referred to it as a new function of the Service on which a variety of commercial products of different brands were available for sale. In addition, the Platform was identified as a sponsor in one of the programmes under complaint (i.e. “Lo and Behold”); and
- (c) the CA had given careful consideration as to whether the reference(s) to and/or exposure of the Platform/the Service/other products in the

programmes concerned was/were in breach of the relevant provisions governing indirect advertising or product/service sponsorship. The CA's assessments of the three programmes under complaint are set out at [Attachment](#).

Decision

Having considered carefully the facts and circumstances of the complaints (including the assessments as set out at [Attachment](#)), the CA considered that the complaints concerning indirect advertising for the Platform in the programmes "TVB 2018 All Star FILMART" and "Scoop" and indirect advertising for a brand of electric cooker in the programme "Lo and Behold" were justified, and paragraphs 1 and 3 of Chapter 11 of the then version of the TV Programme Code were breached.

Taking into account the specific circumstances of the case and balancing all relevant considerations (including the licensee's record of non-compliance with the provisions on indirect advertising and the severity of the breaches), the CA decided that a **warning** should be given to TVB.

Attachment

(1) “TVB 2018 All Star FILMART” (TVB 2018影視展星勢) broadcast on TVB Jade on 25 March 2018 at 10:30pm to 11:30pm

The programme was a one-hour programme featuring the Hong Kong International Film & TV Market, an annual event of the film and TV industry during which exhibitors showcased their entertainment productions and other initiatives. Neither the Service nor the Platform was identified as a sponsor of the programme.

On the complainant’s allegation concerning the reference(s) to and/or exposure of the Platform, the CA noted that relatively detailed remarks were made by the artistes about the various types of products available on the Platform and how they would collaborate with the Platform in the promotion/sale of the products in the third part of the programme. While the Platform might be considered as one of the business initiatives showcased by TVB, it was not clear how the references to it could be linked directly to TVB’s station and/or its programme service. Nor were such references to the Platform of an incidental nature. In view of the above, the CA considered that in respect of the exposure of and/or reference(s) to the Platform in the programme, there was mingling of programme and advertising material or the embedding of advertising material within programme content, and that undue prominence was given to the Platform.

With regard to the complainant’s allegation concerning the references to the Service, the CA noted that the artistes’ sharing of the experience of selling their own products at a bazaar event held by the Service was made in the

context of introducing an upcoming programme of TVB. The incidental references to the Service could be considered relevant to TVB's station and/or programme service and were contextually justified. Similarly, it was arguable that the references to the Service in the chit-chats amongst artistes during the introduction of the upcoming variety programmes of TVB and the celebration of the Service's anniversary by TVB's artistes were related to the programmes to be broadcast on TVB. As for other contents relating to the Service, the CA noted that such references were made in the context of highlighting TVB's exhibition and development into a cross-media platform and could be considered justified contextually having regard to the nature of the programme. Given the foregoing, the CA considered that the complaint about the reference(s) to and/or exposure of the Service in the programme was unsubstantiated.

(2) "Scoop" (東張西望) broadcast on TVB Jade on 17 May 2018 at 7:30pm to 8:00pm

The programme was a half-hour infotainment programme on social issues and showbiz gossip. The Platform was not identified as a sponsor of the programme.

The CA noted that the programme contained a segment, which lasted for two and a half minutes, about a bazaar held by the Platform at the canteen of TVB. While verbal reference to the Platform was made only once in the voice-over, there were prominent exposures of its name and logo throughout the segment. The interviews with artistes focused mainly on the Platform, such as their experiences in selling products online and at the bazaar, or how they would use the products bought. In particular, an actress emphasised the

convenience of surfing the shopping platform with mobile phone. While it was common for an infotainment programme to feature artistes or celebrities and the activities in which they participated, the segment concerned focused primarily on the Platform rather than the artistes or their activities. The CA considered that the contents of the segment carried strong advertising elements for the Platform and gave undue prominence to it.

(3) “Lo and Behold” (愛·回家之開心速遞) broadcast on TVB Jade on 17 May 2018 at 8:00pm to 8:30pm

The programme was a half-hour situation drama revolving around a family. The Platform, a brand of mattress and a health drink were identified as the product sponsors of the programme, while the brand of electric cooker (the “Cooker”) and knife set mentioned in the complaints were not.

The CA noted that although there was no verbal reference to the brand concerned, the name of the Cooker was mentioned in a kitchen scene. Also, there were various positive remarks made by the characters about the Cooker and close-up shots of the brand name on the Cooker in a dining scene. The CA considered that the way in which the Cooker was featured, coupled with the positive remarks made by the characters, gave undue prominence to the Cooker, the effect of which amounted to advertising. As for the knife set, the CA considered that the shot of the logo was fleeting and the relevant remarks were brief, both of which were of an incidental nature. Given the foregoing, the CA considered that in respect of the exposure of the Cooker in the programme, there was mingling of programme and advertising material or the embedding of advertising material within programme content, and that undue prominence was given to the Cooker.

The CA considered it arguable that both the kitchen and dining scenes contained in the programme, which contained exposure of and reference to the Platform, were contextually justified in a situation drama revolving around a family. Having regard to the nature of the programme and the overall way in which the Platform was featured, the CA considered that the exposure of and reference to the Platform in the two scenes concerned could be considered to be editorially justified, not obtrusive to viewing pleasure and not gratuitous.

As regards the exposure of the products of the other two sponsors (viz. mattress and health drink), the CA noted that the brand names and/or logo of these two sponsors were either briefly shown or hardly discernible. The exposures of the products concerned in two separate scenes were fleeting and could be considered to be justified editorially. Given the foregoing, the CA considered that the complaints about the exposure of the sponsored products in the programme were unsubstantiated.