

Appendix

Case 1 – Television Programme “Headliner” (頭條新聞) broadcast from 8:00pm to 8:30pm on 14 February 2020 on RTHK TV 31 and RTHK TV 31A Channels of Radio Television Hong Kong (RTHK) and from 11:50pm to 12:20am on the Jade Channel of Television Broadcasts Limited

Over 3 300 members of the public complained about the captioned programme. The main allegations¹ were –

- (a) by way of satirical presentations, the programme repeatedly and maliciously smeared, denigrated, insulted, defamed and mocked the Police and the efforts of the Government / the Police in fighting COVID-19, and incited hatred against the Police, by, among others, including incomplete, inaccurate, untruthful, misleading and biased contents, and exaggerating messages which prejudiced and were unfair to the Government / Police;
- (b) the programme was one-sided and partial against the Government / government officials / the Police and the pro-establishment camp, and biased towards the pan-democratic camp, medical staff taking industrial action, and people involved in recent protests. It had not presented the views of those supporting the Government and the Police, and failed to present different viewpoints in a balanced way;
- (c) the programme did not provide a suitable and timely opportunity to the Police for response in respect of the criticisms made against the Police;
- (d) the programme repeatedly made groundless references and suggestions that the Police were hoarding personal protective equipment (PPE) (including surgical masks), depriving other government departments and medical staff of access to such equipment; and
- (e) the programme contained a segment in which the host was dressed in a style similar to a police officer, with the neck and hands wrapped with rubbish bags. He emerged from a large rubbish bin at the beginning of the segment, spoke while standing inside of it, and retracted into the large rubbish bin and closed the lid at the end of the segment. The portrayal

¹ The other allegations included that the programme smeared some members of the Legislative Council (LegCo) and those from the pro-establishment camp, exerted bad influence on children, was unsuitable for broadcast in the family viewing hours (FVH), endorsed illegal behaviour, contained materials which were offensive, disturbing or of bad taste, was in contravention of various legislation, the Charter and Producers' Guidelines of RTHK and amounted to libel and defamation etc.

smeared the Police by suggesting that the Police were trash, worthless and revolutive. The host's appeal to viewers to join his profession satirised the Police's recruitment as refuse collection, in effect ridiculing those who aspired to join the Police.

The Communications Authority (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) the programme under complaint was identified as a personal view programme (PVP). Through skits and satirical conversation of the programme hosts, the programme discussed various recent news topics relating to the fight against COVID-19. The relevant details of the programme are set out as follow;
- (b) in a segment named “驚方訊息”, the host, who was named “忠勇毅” appeared to dress in police uniform with the neck and hands wrapped with rubbish bags, emerged from a large rubbish bin on the rooftop of a building. Among other things, the host remarked “依家仲取消徒步巡邏，唔駛行嘍，將當值時暴露喺空氣之中嘅機會，減到近乎零呀！” (“Beat patrols have now been abolished, reducing the chance for us to be exposed in the air while on duty to practically zero!”). After making more remarks, several images of the host appeared on screen (by computer effect) and remarked “仲唔快啲加入我哋” (“Join us quickly”) and “趕緊加入我們 (in Putonghua)” (“Join us now”), and then the host retracted into the large rubbish bin;
- (c) in a segment named “無品芝麻官”, a number of skits with the characters played by the programme hosts were featured. In one of the skits, a doctor debated with another character who complained about the medical staff who had taken industrial action. Among other things, the doctor remarked that the reason for the medical staff to take industrial action was that the medical staff lacked protective equipment, and another character responded “醫生呀，你唔夠口罩就早啲出聲吖嘛，衙差就大把有得剩” (“Doctor, you should voice out your concern early if you do not have enough face masks, as there is a lot of surplus stock for constables”); and

- (d) there were also two segments, in which pop songs were played together with video and media reports about the fight against COVID-19, footages of the Chief Executive (CE), government officials, LegCo Members and members of the public, etc. making public speeches on related policies and public concerns were found. Also, a footage of a LegCo Member from the pro-establishment camp making suggestions on the use of face masks and responding to queries on her suggestion on the social media was shown.

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

- (a) paragraph 2 of Chapter 2 – the FVH are determined as the period between the hours of 4:00p.m. and 8:30p.m. on any day, during which time nothing which is unsuitable for children should be shown;
- (b) paragraph 1 of Chapter 3 – licensees should ensure that their programmes are handled in a responsible manner and should avoid needlessly offending audiences by what they broadcast;
- (c) paragraphs 2(a), 2(b) and 2(c) of Chapter 3 – a licensee should not include in its programmes (a) any material which is indecent, obscene, or of bad taste which is not ordinarily acceptable to the viewers taking into consideration the circumstances in which the programme is shown; (b) any material which is likely to encourage hatred against or fear of, and / or considered to be denigrating or insulting to any person(s) or group(s) on the basis of social status; or (c) anything which is in contravention of the law;
- (d) paragraph 1A of Chapter 9 – licensees shall make reasonable efforts to ensure that the factual contents of PVPs are accurate;
- (e) paragraph 9 of Chapter 9 – licensees have a responsibility to avoid unfairness to individuals or organisations featured in factual programmes, in particular through the use of inaccurate information or distortion. They should also avoid misleading the audience in a way which would be unfair to those featured in the programme;
- (f) paragraph 15 of Chapter 9 – licensees should take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations. Licensees should take

all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented; and

- (g) paragraphs 17(b), (c) & (d) of Chapter 9 – for all PVPs on matters of public policy or controversial issues of public importance in Hong Kong, facts must be respected and the opinion expressed, however partial, should not rest upon false evidence; a suitable opportunity for response to the programme should be provided in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period; and licensees should be mindful of the need for a sufficiently broad range of views to be expressed in any series of PVPs.

The CA's Considerations

The CA, having regard to the relevant facts of the case including the information submitted by RTHK, considered that –

Classification of the Programme as a PVP

- (a) RTHK had clearly identified “Headliner”, including the edition under complaint, at the opening of the programme as a PVP for years. It reflected the personal views of the script writer through what a character said about a subject or in the depiction of an event. Having taken into account the classification of the programme in processing complaints against the programme in the past, that RTHK had not raised any objection to the decisions of the former Broadcasting Authority / the CA in classifying “Headliner” as a PVP, and that the nature, content and overall presentation of the edition under complaint was not much different from other editions of “Headliner”, **the CA considered that “Headliner” should be subject to the relevant provisions in the TV Programme Code including those applicable to PVPs (viz. facts must be respected when expressing opinions, and the need for a sufficiently broad range of views to be expressed);**
- (b) in analysing the compliance with the provisions in the TV Programme Code relevant to PVPs by the edition of the programme under complaint, the CA had given due consideration to the general principles of the TV Programme Code set out in the Preamble, i.e. the nature of the programme, the likely audience and their expectations, and the type of programmes and programme context;

Factual Contents of PVPs

- (c) RTHK submitted that the satirical remarks made in the programme were based on established facts and / or information reported in the media and provided media reports to support the remarks;
- (d) **the CA noted that RTHK was not able to substantiate the following remarks, or demonstrate that it had made reasonable efforts to ensure that they were factually accurate –**
- (i) with regard to the remark “醫生呀，你唔夠口罩就早啲出聲吖嘛，衙差大把有得剩” (“Doctor, you should voice out your concern early if you do not have enough face masks, as there is a lot of surplus stock for constables”), RTHK cited the report of a media organisation which indicated that the Police were / would be allocated larger quantities of PPE, such as surgical masks, N95 masks, protective gowns and protective coverall suit, among all government departments. **However, as the media report was published on the day after the programme was broadcast, it would not be possible for RTHK to know the details of such report when producing the programme. RTHK had also not indicated in its representations to the CA that it was aware of and had relied on the content of the media report before the programme was broadcast. Furthermore, this media report did not contain any reference nor provide any information or evidence to support that the Police had a surplus stock of surgical masks. Even if the relevant content had been available to RTHK beforehand, the surplus stock of PPE in the Police, as alleged in the concerned remark, could not be inferred simply from the quantity of PPE supplied to the Police without knowing the Police’s demand for and usage level of PPE.** In addition, the remark concerned implied that the Government made an unfair or inappropriate allocation in distributing PPE among the Police and medical staff, resulting in medical staff with stronger needs of PPE facing shortages while the Police had an excessive allocation, thereby showing the Government’s bias towards the Police and neglected the needs of medical staff. However, the Hospital Authority sources PPE for its medical staff in public hospitals separately. Hence, PPE for medical staff in public hospitals and the Police were, as a matter of fact, not centrally allocated by the

Government ; and

- (ii) with regard to the remark “依家仲取消徒步巡邏，唔駛行嘍...” (“Beat patrols have now been abolished...”), **the media reports provided by RTHK**, which indicated that the Police had adjusted the patrolling arrangements in certain districts due to the changing circumstances brought about by the recent social events during some particular periods, **could not be relied on to ascertain that there was a full suspension of foot patrols;**

Denigration and Insult

- (e) overall speaking, the CA accepted that the programme concerned was a light-hearted PVP on current affairs that reviewed major recent news. As a political satire, it would *ipso facto* poke fun at political or public figures, including those who hold positions of authority, in a tone or manner which was imprudent, satirical and at times critical;
- (f) the CA noted that the segment “驚方訊息” began with the host, who parodied a police officer, with the neck and hands wrapped with rubbish bags, and emerging from a large rubbish bin and ended with him retracting into that large rubbish bin. Similar portrayal was found in the subsequent six editions of the same segment. In the edition under complaint, the host had also appealed to the audience to join his profession. **The segment’s mean characterisation of the Police was deliberate with the intention, obvious to general viewers, to insult and to convey the prejudice hinting that police officers were a group of people who were seen as trash, were revulsive and spurned. Such characterisation also suggested that only worthless people would join the Police, possibly ridiculing those serving in or aspiring to join the Police. The portrayal had nothing to do with any particular conduct or the work of the Police, or public concerns on the way the Police exercised their authority, but with an intention of denigrating the Police as a social group, and was also a gratuitous attack on that entire group. Furthermore, the same portrayal was repeatedly used in the same segment of subsequent editions for other contents related to the Police, showing that the denigration and insult was not inadvertent or incidental to a single plot or skit but an attempt to persistently promote the underlying insult and prejudice. Notwithstanding the fact that the programme was a political satire, the CA took the view that the portrayal of the host as such had**

denigrated and insulted the Police as a whole;

Broad Range of Views in PVPs

- (g) the CA considered that although the programme as a political satire might have greater latitude in the views it chose to reflect than in other serious current affairs types of PVPs, **it was still expected to reflect a certain amount of different viewpoints so that the views presented in the programme would not be slanted or lopsided. In this connection, the TV Programme Code did not mandate broadcasters to devote equal times for different views to be expressed, to present different views in the same edition of the programme, or to require different viewpoints to be presented in any particular form. The broadcasters were also allowed to present a broad range of views in the same series of PVPs;**
- (h) RTHK submitted that the editions of “Headliner” broadcast on 6 and 13 March and 10 April 2020 had included the views expressed by the Commissioner of Police, the CE, some police officers and LegCo Members of different political camps by showing news footages of them accompanied by music videos. **Nevertheless, questions on whether the obligation to provide a sufficiently broad range of views had been genuinely fulfilled would arise if the different viewpoints were apparently broadcast for the reason of poking fun at the people making such viewpoints and thus used to entrench the viewpoints on one side already made by the hosts;**
- (i) the CA noted that when commenting on the Police in the edition under complaint, the focus was on the efforts by the Police in the fight against COVID-19. However, the editions broadcast on 6 and 13 March and 10 April 2020 mainly incorporated the response of the Police in relation to the recent social events and protests. Although these editions had apparently included the response of the Police, the footages concerned were not related to the work of the Police in fighting COVID-19. **Accordingly, RTHK had not included in the programme a sufficiently broad range of views vis-à-vis the criticisms on the Police’s efforts in the fight against COVID-19, whether considered on its own merits in that edition or as a series.**

Other Allegations

- (j) regarding the allegation on the provision of a suitable and timely

opportunity to the Police for response, the CA noted RTHK's submission that it had made attempts to invite the Police to an interview to explain its position. There was insufficient evidence that RTHK had breached paragraph 17(c) of Chapter 9 of the TV Programme Code; and

- (k) regarding the other allegations set out in Footnote 1, the CA considered that they were either unjustified or outside the jurisdiction of the CA.

Decision

In view of the above, **the CA considered that the complaints in respect of accuracy of factual contents in the programme, denigration and insult on the Police, and expression of a sufficiently broad range of views in PVPs were justified. Taking into account the specific facts and circumstances of the case, the CA decided that RTHK should be warned** to observe more closely paragraph 2(b) of Chapter 3, paragraph 1A of Chapter 9, paragraphs 17(b) and (d) of Chapter 9 of the Television Programme Code.

Case 2 – Television Programme “UEFA Champions League” (歐聯最精彩) broadcast from 5:55pm to 7:00pm on 22 September 2019 on Hong Kong Open TV of Fantastic Television Limited (Fantastic TV)

A member of the public complained about the captioned programme. The substance of the complaint was that a sponsorship reference to a beer brand was shown at the end of the programme, which amounted to the broadcast of liquor advertising during the FVH (viz. 4:00pm – 8:30pm).

The CA’s Findings

In line with the established practice, the CA considered the complaint case and the representations of Fantastic TV 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 a programme acquired from a sports channel featuring highlights of the matches of UEFA Champions League, which was broadcast from 5:55pm to 7:00pm within the FVH on the day concerned. At the beginning and the end of the programme, there was a footage containing the sponsorship reference to a beer brand, alongside the display of the products, logo and website address thereof. Also, advertising materials for the beer brand concerned, which lasted for about 10 seconds, were broadcast thrice within the programme. The products, logo and website address of the beer brand concerned were featured in those advertising materials; and
- (b) Fantastic TV submitted, among others, that there was a technical error in handling the edition concerned which should not be broadcast during the FVH. Fantastic TV did not receive any payment or other valuable consideration for including the beer brand’s materials in the programme and that it had adopted the necessary procedures to prevent similar incident from happening again.

Relevant Provision in the Generic Code of Practice on Television Advertising Standards (TV Advertising Code)

- (a) paragraph 2(c) of Chapter 6 - for **domestic free television programme 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 Considerations

The CA, having regard to the relevant facts of the case including the information submitted by Fantastic TV, considered that the programme under complaint, which contained promotional and advertising materials for the beer brand and was broadcast during the FVH, constituted a clear breach of the relevant provision.

Decision

In view of the above, the CA considered that the complaint was justified and that Fantastic TV was in breach of paragraph 2(c) of Chapter 6 of the TV Advertising Code. Having taken into account the specific facts, the circumstances of the case and other relevant factors, the CA decided that Fantastic TV should be **advised** to observe more closely the relevant provision of the TV Advertising Code.