

### **Details of the Communications Authority's Decisions to Relax the Regulation of Real Property Advertisements, Sponsorship of Sports Events Programmes and Broadcast Hours of Mature Programmes**

In response to the suggestions by broadcasting licensees, the Communications Authority (CA) has reviewed the broadcasting codes of practice to relax the relevant provisions governing real property advertisements, sponsorship of sports events<sup>1</sup> and non-sports live events programmes and broadcast hours of mature (M) programmes. A public consultation exercise was conducted from 23 June to 23 July 2020 to collect views from members of the public and the broadcasting industry on its relaxation proposals. Having considered the views received from the public and the industry/licensees, the CA decided to implement the following relaxation measures.

#### **Relaxation of Real Property Advertisements**

2. Under the Generic Code of Practice on Television Advertising Standards (TV Advertising Code) and the Radio Code of Practice on Advertising Standards (Radio Advertising Code), advertisements of real properties in and outside Hong Kong are subject to provisions on certain substantiation requirements and, in the case of real properties outside Hong Kong, confirmation of the availability of housing loan from a firm of solicitors/attorneys registered and recognised in the country/region where the real property or land is situated. Such requirements on broadcasting licensees were included in early 1990s when there was no regulation on the advertising parties.

3. The CA notes that the sale and advertising of real properties in and outside Hong Kong have in recent years been subject to regulation of other

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<sup>1</sup> Under the revised codes of practice, sports events refer to matches of physical sports in local or international sports games or competitions and related events which include coverage of the marching-in of players, spectators and overview of the venue, prize presentation ceremonies, winners and their celebrations at the venue. Programmes covering sports events include live, delayed live (i.e. an event that is broadcast after its commencement), re-run and highlight programmes on sports events but exclude commentaries and/or other supporting programmes broadcast outside the time when the sports events are taking place.

regulatory regimes<sup>2</sup>. To avoid duplication of regulatory efforts, the CA decided to –

- (a) exempt advertisements of real properties situated in Hong Kong placed by estate agents licensed under the EAO as well as advertisements of local first-hand residential properties governed by the RPO from the substantiation requirements<sup>3</sup> under the TV and Radio Advertising Codes; and
- (b) exempt advertisements of real properties situated outside Hong Kong placed by estate agents licensed under the EAO from the substantiation requirements<sup>4</sup>, and remove the requirement for

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<sup>2</sup> The sale and advertising of real properties by licensed estate agents are regulated under the Estate Agents Ordinance (Cap. 511) (EAO) and/or the guidelines issued by the Estate Agents Authority, whilst local first-hand residential properties are governed by the Residential Properties (First-hand Sales) Ordinance (Cap. 621) (RPO).

<sup>3</sup> Paragraph 36 of Chapter 6 of the TV Advertising Code and paragraph 22 of the Radio Advertising Code provide that no advertisement offering for sale or to let any flat, shop, office or other unit of accommodation in Hong Kong should be accepted –

- (a) in respect of a completed building, unless the advertiser is able to substantiate that the proposed sale or letting does not constitute any breach of the conditions relating to such sale or letting as imposed in the lease conditions affecting the land on which such completed building stands;
- (b) in respect of an uncompleted building:
  - (i) unless the prior consent of the Director of Lands or any other Government authority relating to such sale or letting as required under the lease conditions affecting the land on which such uncompleted building stands has been given; or
  - (ii) unless the developer is able to produce evidence that his solicitor has deposited a statutory declaration under Rule 5C(3) of the Solicitors Practice Rules in regard to the sale and purchase of the affected real property in the relevant Land Registry where consent as mentioned in (b)(i) above is not required for the sale of units in such uncompleted building (a solicitor's letter certifying that the above condition has been met will be regarded as sufficient substantiation).

<sup>4</sup> According to paragraph 37 of Chapter 6 of the TV Advertising Code and paragraph 23 of the Radio Advertising Code, no advertising of properties situated outside Hong Kong is allowed unless the developer or vendor is able to produce the following –

- (a) a letter from a firm of solicitors/attorneys registered and recognised in the country/region where the real property or land is situated confirming that –
  - (i) all the requirements imposed by the local government relating to the development and sale of the real property or land to be advertised have been properly complied with by the developer or vendor;
  - (ii) the developer or vendor has obtained the requisite consent (if necessary under the local laws) from the local government for the sale of the real property or land to non-residents; and
  - (iii) housing loan is available to prospective purchasers from a licensed financial institution, either locally or elsewhere; and
- (b) a letter from a firm of solicitors who are qualified to practise in Hong Kong confirming that, to the best of their knowledge and belief, the local firm of solicitors/attorneys referred to in (a) above is registered in the country/region where the real property or land is situated for the provision of legal advice within that jurisdiction.

confirmation from a firm of solicitors/attorneys registered and recognised in the country/region where the real property or land is situated that housing loan is available to prospective purchasers from a licensed financial institution.

4. For the real property advertisements on television or radio placed by other parties<sup>5</sup> and not regulated under the EAO or RPO, they should continue be subject to the existing substantiation requirements under the Advertising Codes for protection of the interest of the audience.

5. The public and the industry generally consider that the proposals would avoid duplication of regulatory efforts and help improve the business environment of the broadcasting industry without affecting audience's interests. As regards some views calling for more prudent consideration of real property advertisements, the CA decided to impose a requirement that such real property advertisements on television or radio should carry an intelligible visual and/or aural advisory message to remind audience to obtain and review carefully all relevant information relating to the property before making any purchase decisions and seek professional advice if in doubt.

6. The relaxation would help reduce the compliance burden on broadcasting licensees without compromising the interests of the audience who may in any case learn about the information relevant to such properties in other advertising media. Notwithstanding the relaxation, all real property advertisements should continue to comply with the relevant provisions on factual accuracy and truthful presentation of information as well as compliance with all applicable laws.

### **Insertion of Advertising Material in Programmes Covering Sports and Live Events**

7. At present, in-programme advertising material is allowed under the TV Advertising Code by way of product/service sponsorship (also commonly referred to as "product placement"), sponsor identification (for example, sponsorship of the title of a programme) or the CA's approval for the applications by licensees. The CA noted that licensees have to pay considerable fees to acquire the broadcasting right of international sports events

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<sup>5</sup> For example, vendors, developers and agents operating exclusively in relation to properties situated outside Hong Kong who are not required to be licensed under the EAO.

and have to justify its return for the broadcast of such events in Hong Kong. The CA also noted that there are potential difficulties in inserting normal advertisements at regular intervals in such live sports programmes without affecting viewing pleasure. The relaxation of insertion of advertising material for these sports events would help the licensees cover the cost in acquiring the broadcasting right so that they may have more incentive to broadcast popular and prestigious sports events to cater for the audience's needs. On this basis, the CA decided to permit insertion of in-programme advertising material in sports events programmes and exempt such advertising material from being counted towards the aggregate advertising time limit applicable to domestic free television programme service (free TV) <sup>6</sup>, subject to the following conditions/restrictions:

- (a) insertion of such advertising material is allowed for the display of the sponsor's name, his house/trade/brand/product/service name and trademark/logo, advertising slogan and attribute of the sponsor, as well as other sponsor's items such as product image, virtual product and QR Code (collectively referred to as "sponsorship references");
- (b) the display of sponsorship references, including any sponsor identification or other commercial material as allowed under separate provisions in the TV Advertising Code, should be limited to one at any one time;
- (c) the size of sponsorship references should not exceed 5% of the entire television screen;
- (d) the appearance of sponsorship references should not be too frequent to the extent that viewing pleasure would likely be adversely affected;
- (e) for a programme segment or programme without breaks of seven minutes or more in duration, the aggregate duration of sponsorship references should not exceed one minute per every seven minutes calculated on a pro-rata basis, with each appearance not exceeding one minute, and for a programme segment or mini-programme of less than seven minutes in duration, the duration of sponsorship references within each programme segment or mini-programme should not exceed one minute in aggregate, applicable to free TV;

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<sup>6</sup> Section 11(1) of Schedule 4 to the Broadcasting Ordinance (Cap. 562) provides that the aggregate advertising time of a free TV service shall not exceed ten minutes per clock hour between the period from 5 p.m. to 11 p.m. each day and at other times the aggregate advertising time shall not exceed 18% of the total time the service is provided in that period.

and

- (f) sponsorship references should be displayed alongside and/or next to any clock or scoreboard or other information which is relevant to the sports events, or near the margin of the screen in case of showing of such information.

8. The above relaxation would only be applicable when the sports events are taking place and in the delayed live<sup>7</sup>, re-run and highlight programmes<sup>8</sup> which are common in the broadcast of sports events. As for non-sports live events programmes as well as the delayed live, re-run and highlight programmes on such events, given the wide variety of such events and the variable forms and manners for insertion of in-programme materials, the CA decided that such programmes are excluded from the relaxation and should continue to be subject to the CA's approval on a case-by-case basis. The CA may also exempt the in-programme advertising material in such approved programmes from being counted towards the aggregate advertising time limit applicable to free TV.

9. The public and the industry generally consider that the above relaxation should provide sufficient safeguards of viewing interest and give incentives for licensees to broadcast popular and prestigious sports events, especially on free TV, for the benefit of the public.

### **Broadcast Hours of M Programmes**

10. TV viewership among youngsters after 11:00 p.m. is relatively low. In addition, programmes of classified categories are required to broadcast an aural and visual advice on the classification of programmes and description of the principal elements which have contributed to the classification before the start of the programme. To provide licensees with more flexibility in scheduling programmes, the CA decided to advance the start of broadcast hours

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<sup>7</sup> Some sports events may be broadcast after its commencement due to time zone difference, multiple tournaments taking place at the same time or subject to contractual restrictions. The commencement time of the broadcast of a delayed live programme may be before or after the end of the live event.

<sup>8</sup> Sponsorship references in re-run or highlight programmes on sports events must not deviate from the permitted sponsorship references already inserted in the live or delayed live programmes.

for M programmes<sup>9</sup> and certain material of an adult nature (viz. use of language, sex and nudity, and violence)<sup>10</sup> from 11:30 p.m. to 11:00 p.m.

11. The CA noted that the views received on the proposal from the public consultation were diverse. However, following the introduction of digital terrestrial television services, the number of free TV programme channels has increased from four to 12 and it effectively expanded the programme choice of the viewing public of different ages. Together with the availability of a great variety of video content online, there is no lack of infotainment choices for youngsters and children nowadays. The CA therefore considered that slightly advancing the start of broadcast hours for M programmes, with an aural and visual advice before the start of such programme, should not have any material impact upon the younger viewers.

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<sup>9</sup> The Generic Code of Practice on Television Programme Standards (TV Programme Code) provides that programmes not generally suitable for viewing by children must be classified into Parental Guidance Recommended (家長指引)(PG) and Mature (成年觀眾)(M) categories and no PG programmes or M programmes should be included within family viewing hours (4:00 p.m. to 8:30 p.m.). For M programmes, they should only be shown between 11:30 p.m. and 6:00 a.m.

<sup>10</sup> Under the TV Programme Code, the following can only be shown after 11:30 p.m. –

- (a) crude expressions with sexual connotations, more explicit adult jokes and other offensive language where they are used infrequently and are defensible in terms of context (paragraph 5 of Chapter 4);
- (b) depictions of intimate sexual behaviour where they are discreetly implied or simulated and must not be grossly offensive taking into consideration the likely composition of the audience for the time of day at which they are shown (paragraph 5 of Chapter 5); and
- (c) realistically depicted violence where the scenes are justifiable in context and not overly frequent (paragraph 8 of Chapter 6).