

Appendix B

Case 1 – Television Programmes “Pentaprism” (左右紅藍綠) broadcast from 2:00pm to 2:05pm on 4 September, 7 & 15 October and 13 November 2019 on RTHK TV 31 and RTHK TV 31A Channels of Radio Television Hong Kong (RTHK)

One complaint was received about four editions of the captioned programme, namely the editions broadcast on 4 September 2019 (the “4 September Edition”), 7 October 2019 (the “7 October Edition”), 15 October 2019 (the “15 October Edition”) and 13 November 2019 (the “13 November Edition”) (collectively, “the Four Editions”). The main allegations were that the remarks of the hosts of the Four Editions on the Police’s enforcement actions in recent social events were partial, one-sided and made sweeping generalisations, and the Police had not been given a suitable opportunity to respond in the programme or at other times.

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) each of the Four Editions was five minutes in duration, and was identified as a personal view programme (PVP);
- (b) the 4 September Edition revolved around the incident in the MTR Prince Edward Station on 31 August 2019. Against news clips, photos and

footages from the Internet, the host recounted the incident and commented on the Police's enforcement actions in the incident and other recent social events;

- (c) the 7 October Edition revolved around the incident in Tsuen Wan on 1 October 2019. The host briefly recounted the incident, accompanied by relevant footages, and commented on the Police's response to the incident and the Police's enforcement actions in the incident and other recent social events;
- (d) the 15 October Edition revolved around the incident in Ma On Shan and the arrests made by the Police on 7 and 9 October 2019 respectively. The host recounted the incident, expressed her anger at and commented on the arrests made by the Police;
- (e) the 13 November Edition revolved around the incidents in Sai Wan Ho and Kwai Fong on 11 November 2019. Accompanied by relevant footages, the host recounted the incidents and commented on the Police's enforcement actions in the incidents; and
- (f) the Four Editions did not contain any responses from the Police with regard to the comments or views of the host concerned on the issues / events under discussion.

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

- (a) 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 and take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented;

- (b) Paragraph 16 of Chapter 9 – where a factual programme reveals evidence of iniquity or incompetence, or contains a damaging critique of an individual or organisation, those criticised should be given an appropriate and timely opportunity to respond; and
- (c) Paragraphs 17(c) and (d) of Chapter 9 – for all PVPs on matters of public policy or controversial issues of public importance in Hong Kong, 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 Consideration

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

- (a) each of the Four Editions was identified as a PVP and the topic discussed therein concerned matters/issues of public importance in Hong Kong. The Four Editions contained comments/criticisms made by the hosts concerned on the Police's enforcement actions in recent social events, which were presented and identified as his/her personal opinions;

Suitable Opportunity for Response

- (b) although RTHK submitted that its current affairs programmes had separately invited the Police for interview or response, RTHK did not state whether it had approached the Police for response to the particular comments made by the hosts of the Four Editions. As regards RTHK's submission that "Pentaprisism" was produced under a tight schedule, meeting any production deadlines self-imposed by RTHK itself could not serve as a justification for the breach of the provision of giving a suitable opportunity for response in the TV Programme Code;
- (c) RTHK submitted that it had broadcast the Police's response on the incidents concerned in similar types of programmes targeting a like audience within an appropriate period of time on the RTHK TV 31 Channel. However, the broadcast of the Police's statements or replies to media enquiries before the broadcast of the Four Editions cannot be treated as giving the Police a chance to respond to the specific comments raised by the hosts of the Four Editions nor regarded as fulfilling the requirement in paragraph 17(c) of Chapter 9 of the TV Programme Code;
- (d) given the above, the CA considered that RTHK failed to provide a suitable opportunity for response to the comments made by the hosts of the Four Editions on the specific incidents discussed in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period, as required under paragraph 17(c) of Chapter 9 of the TV Programme Code;

Broad Range of Views in PVPs

- (e) RTHK submitted that a number of its other programmes contained the

Police's factual account or response to media enquiries on the events/issues mentioned by the hosts of the Four Editions. However, none of these programmes cited by RTHK were identified as a PVP. Also, while RTHK submitted that from June 2019 onwards, opinion leaders from opposing camps had been invited to give comments on various issues, no broad range of views on the particular events/issues discussed in the Four Editions were expressed. RTHK accordingly failed to fulfil the requirement under paragraph 17(d) of Chapter 9 of the TV Programme Code;

Right of Reply

The 4 September Edition

- (f) while the host's criticism of the Police's enforcement actions might affect reputation, the relevant material facts were generally not unfairly presented. Nonetheless, while the edition contained a damaging critique, there was no evidence suggesting that the criticised party had been given an appropriate and timely opportunity to respond;

The 7 October Edition

- (g) the host made criticisms on the Police's explanation on its enforcement actions which might affect reputation. However, a basic and crucial material fact in relation to the Police's explanation was omitted in the edition. Hence, the relevant material facts were not fairly presented. Also, while the edition contained a damaging critique, there was no evidence suggesting that the criticised party had been given an appropriate and timely opportunity to respond;

The 15 October Edition

- (h) the host made accusations on the Police's enforcement actions and impugned the motive of the operations which could affect reputation. However, the brief footage broadcast in the edition did not actually show anything which could support the accusation, and a crucial material fact was omitted. Also, while the edition contained a damaging critique, there was no evidence suggesting that the criticised party had been given an appropriate and timely opportunity to respond;

The 13 November Edition

- (i) the host made serious accusations against two police officers capable of affecting reputation. However, no material facts were presented to support the accusations. Also, while the edition contained a damaging critique, there was no evidence suggesting that the criticised party had been given an appropriate and timely opportunity to respond.

Decision

In view of the above, the CA considered that the complaint was **justified**. RTHK was in breach of paragraphs 16, 17(c) and 17(d) of Chapter 9 of the TV Programme Code for the broadcast of the 4 September Edition, and was in breach of paragraphs 15, 16, 17(c) and 17(d) of Chapter 9 of the TV Programme Code for the broadcast of the other three editions under complaint. Taking into consideration the specific facts of the present complaint and other relevant factors, the CA decided that RTHK should be **warned** to observe more closely the relevant provisions of the TV Programme Code.

Case 2 – Radio Programmes “Clearday Breakfast” (晴朗早晨全餐) broadcast from 6:30am to 8:00am, 8 July 2019 on CR 1 Channel (CR 1) of Hong Kong Commercial Broadcasting Company Limited (CRHK), and “On a Clear Day” (在晴朗的一天出發) broadcast from 8:00am to 10:00am on 8 July and 12 August 2019 on CR 2 Channel (CR 2) of CRHK

One complaint was received about two editions of a segment titled “萬佛朝中” contained in the captioned programmes. The main allegations were –

- (a) the remarks made by the host in the segment broadcast on 8 July 2019 (the “8 July Edition”), in relation to the events in Mong Kok on 7 July 2019, distorted facts, damaged the reputation of and denigrated the Police, glorified criminal activities and presented criminal activities as an acceptable behaviour; and
- (b) the remarks made by the host in the segment broadcast on 12 August 2019 (the “12 August Edition”) concerning the events in various districts on 11 August 2019, amounted to unverified accusations, which were misleading and damaged the reputation of the Police.

The CA’s Findings

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

Details of the Case

- (a) the programmes concerned were identified as personal view programmes (PVPs). The segment in question, which was 3-minute in duration, was presented by the host;
- (b) the 8 July Edition was broadcast at around 7:38am in “Clearday Breakfast” on CR 1 and at around 9:54am in “On a Clear Day” on CR 2. In the segment, the host commented on the events in Mong Kok on 7 July 2019. The relevant remarks included –

“示威者尋晚雖然佔據咗道路，但係佢哋都係手無寸鐵，甚至連保鮮紙、眼罩等所謂嘅「武器」都無㗎” (“Protesters who occupied the roads last night were unarmed, not even possessing so-called “weapons” like cling wrap and goggles, etc.”);

“警察一方面虛稱話群眾係非法集結，呼籲市民離開，但係另一方面呢任意封鎖道路，當群眾想離開嘅時候，警方喺多條嘅路線，三面包抄市民，並且主動用警棍攻擊佢哋，以致佢哋無法離開。警方成晚都有唔少主動攻擊市民嘅鏡頭㗎” (“While the Police urged people at the scene to leave under the false pretext that those people were involved in an unlawful assembly, the Police also arbitrarily cordoned off streets, outflanking from three sides those people who wished to leave the scene, and proactively attacking them with batons, such that they were unable to leave. There were numerous footages recorded throughout the night showing the Police proactively attacking the people”);

- (c) the 12 August Edition was broadcast at around 9:55am in “On A Clear Day” on CR 2. In the segment, the host commented on the events in

various districts on 11 August 2019. Relevant remarks included –

“尋晚佢哋兩度近距離向示威者開槍，有女仔被射中頭部，眼罩被射穿，子彈更加射入眼睛射爆眼球添” (“The Police shot at protesters at close range twice the night before. A young woman was shot at the head and the bullet went through her goggles into her eye, rupturing the eyeball”); and

- (d) CRHK submitted, among others, that the material under complaint was the host’s personal views based on various media reports, and that the host’s comments did not involve false evidence, amount to libel, or be considered as inciting hatred and/or abetting others to commit crimes.

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

- (a) Paragraph 7(b) – a licensee should not include in its programmes 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, among others, social status;
- (b) Paragraph 9 – crime should not be portrayed in a favourable light and criminal activities should not be presented as acceptable behaviour, nor should criminals be glorified;
- (c) Paragraph 20A – the licensees shall make reasonable efforts to ensure that the factual contents of PVPs are accurate;
- (d) Paragraph 28 – the 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;

- (e) Paragraph 34 – 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
- (f) Paragraph 36(b) – 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.

The CA's Considerations

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

- (a) the two editions of the segment were broadcast in programmes identified as PVPs and the topics discussed therein concerned matters/issues of public importance in Hong Kong. The comments of the host in the two editions of the segment were presented and identified as his personal opinions;

Factual Contents of PVPs

- (b) CRHK only submitted that in the two editions of the segment, the host's remarks under complaint were based on different media reports on the incidents concerned. CRHK did not provide specific information in support of the host's remarks. Having examined the relevant remarks and media reports/footages, the CA took the view that the three remarks cited above were not factually accurate, were misleading, distorting or contradicted by other media reports/footages covering the same incidents. Also, CRHK did not provide concrete information to demonstrate that it had made reasonable efforts to ensure that these remarks were factually accurate;

Unfairness, Incitement of Hatred and Denigration

- (c) CRHK had not provided information to support the accuracy of the three remarks cited above, which contained serious criticisms and were unfair and palpably capable of adversely affecting the reputation of the target of the criticism;
- (d) regarding the allegation concerning incitement of hatred and denigration, the CA noted that the host indeed made harsh criticisms in his remarks, although nothing therein appeared to seek to denigrate or incite hatred, such that it might not be considered unacceptable in the context of the discussion in a PVP; and

Glorification of Criminal Activities

- (e) in the 8 July Edition, the host mentioned that the occupation of roads by protesters was unlawful. There was insufficient evidence that his

remarks in the edition had promoted, endorsed or glorified any criminal activities.

Decision

In view of the above, the CA considered that the complaint in respect of accuracy, fairness and factual contents of PVPs was justified and that CRHK was in breach of paragraphs 20A, 28, 34 and 36(b) of the Radio Programme Code for the broadcast of the programmes concerned. Taking into consideration the specific facts of the present complaint and other relevant factors, the CA decided that CRHK should be **strongly advised** to observe more closely the relevant provisions of the Radio Programme Code.

Case 3 – Television Programmes “News Report” (新聞報道) broadcast from 8:30pm to 11:30pm on 7 June 2020 on the TVB News Channel of Television Broadcasts Limited (TVB)

Thirteen complaints were received on the captioned programmes. The substance of the complaints was that the news reports in various news programmes concerned described that members of the public who had not registered on the relevant website for collection of reusable face masks distributed by the Government could collect it at post offices, but in fact the reusable face masks were not ready for collection until 15 June 2020. Hence, the news reports had misled viewers into believing that the reusable face masks were already available for collection at post offices at the time of the news 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) according to various news reports before 7 June 2020, members of the public who had not registered online could collect the reusable face masks at post offices at a later date, details of which would be released later;

- (b) the message “**新冠肺炎疫情 / 政府派發可重用口罩 / 未有網上登記市民 / 可到郵局領取**” (“COVID-19 Situation / Government to distribute reusable face masks / Citizens who have not registered online / may collect at post offices”) (the Message) was intermittently displayed in the top left corner of the screen in the news programmes broadcast on TVB News Channel throughout the whole day of 7 June 2020. The Message was also intermittently displayed in the news programmes of the same channel until 4:36pm on 12 June 2020 when the Message was updated to “**新冠肺炎疫情 / 政府派發可重用口罩 / 未有網上登記市民 / 6 月 15 日起可到郵局領取**” (“COVID-19 Situation / Government to distribute reusable face masks / Citizens who have not registered online / may collect at post offices from 15 June 2020”); and
- (c) TVB submitted that, owing to an unintentional oversight, the information about the collection of the reusable face masks at post offices was not precisely presented in the news programmes under complaint.

Relevant Provisions in the TV Programme Code

- (a) paragraph 1 of Chapter 9 – the licensees should ensure that news is presented with accuracy; and
- (b) paragraph 1A of Chapter 9 – the licensees shall make reasonable efforts to ensure that the factual contents of news are accurate.

The CA's Considerations

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

- (a) the wording of the Message was capable of misleading some viewers into believing that the reusable face masks were available for collection at the time it was broadcast (i.e. 7 to 12 June 2020). As face masks play an important role in the fight against the COVID-19 epidemic, the distribution of the reusable face masks by the Government was a matter of public importance. It was therefore all the more important that every reasonable effort should be made to avoid misunderstanding. The dissemination of ambiguous information on this matter might create confusion for viewers, potentially leading to unnecessary trips to post offices for enquiry or collection of face masks. There were reasonable grounds to consider that the Message has breached paragraph 1 of Chapter 9 of the TV Programme Code; and
- (b) the prolonged display of the Message in the news programmes broadcast on the channel concerned (i.e. six consecutive days) suggested that TVB failed to make reasonable efforts to ensure that the factual contents of news were correct, in breach of paragraph 1A of Chapter 9 of the TV Programme Code.

Decision

In view of the above, the CA considered that the complaints were justified and that TVB was in breach of paragraphs 1 and 1A of Chapter 9 of the TV Programme Code. Having taken into account the specific facts, the

circumstances of the case and other relevant factors, the CA decided that TVB should be **advised** to observe more closely the relevant provisions of the TV Programme Code.

Case 4 – Television Programmes “Good Morning Hong Kong” (香港早晨) broadcast from 6:00am to 9:00am on 29 and 30 October 2019 on the Jade and TVB News Channels of TVB

One complaint was received about the captioned programmes. The substance of the complaint was that the American Depositary Receipt (ADR) (美國預託證券) prices of two companies displayed on screen and reported by the anchor were swapped in the financial news report sessions throughout the two editions of the programme.

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 programme concerned was simulcast on the Jade and TVB News Channels of TVB. In the two editions of the programme under complaint, the alleged financial news reports were broadcast six times on 29 October 2019, and five times on 30 October 2019, in which the information on the ADR closing prices of the two concerned companies displayed on screen and reported by the anchor in both editions were swapped and thus inaccurate; and
- (b) TVB submitted that the lapse was caused by an operational fault.

Relevant Provisions in the TV Programme Code

- (a) paragraph 1 of Chapter 9 – the licensees should ensure that news is presented with accuracy; and
- (b) paragraph 1A of Chapter 9 – the licensees shall make reasonable efforts to ensure that the factual contents of news are accurate.

The CA’s Considerations

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

- (a) it was clear that the two editions of programme under complaint contained factual errors which could cause confusion to viewers, in breach of paragraph 1 of Chapter 9 of the TV Programme Code; and
- (b) the inaccurate financial information was broadcast in the mornings of two consecutive trading days. TVB had failed to make reasonable efforts to ensure that the factual contents of news were correct, in breach of paragraph 1A of Chapter 9 of the TV Programme code.

Decision

In view of the above, the CA considered that the complaint was justified. Having taken into account the specific facts, the circumstances of the present complaint and other relevant factors, the CA decided that TVB should be **advised** to observe more closely the relevant provisions of the TV Programme Code.