

Case 1 – Television Programme “Scoop” (東張西望) broadcast from 7:30pm to 8:00pm on 21 May 2020 on the Jade Channel of Television Broadcasts Limited (TVB)

One complaint was received about the captioned programme. The main allegations were that in the segment on pay television (pay TV) service featured in the programme (the segment) –

- (a) a reasonable viewer could easily identify the pay TV service provider described in the segment from the blurred logo which appeared on a statement and the programme package names and descriptions shown in the extract of the printed subscription details;
- (b) the segment contained unsubstantiated and misleading allegations against the pay TV service provider’s customer services and sales practices, including, among others, that the pay TV service provider’s customer service was not helpful to its customers and shirked its responsibilities in handling customers’ enquiries; and that it engaged in sales malpractices; and
- (c) the segment was unfair to the pay TV service provider through the use of the inaccurate information and distortion which were capable of adversely affecting its reputation, but the pay TV service provider in question was not given an appropriate and timely opportunity to respond.

The Communications Authority (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 was an infotainment programme. The segment was about the dissatisfaction of the interviewee (the interviewee) with the pay TV service and the broadband Internet service provided by the same company. The first half of the segment focused on the interviewee's experience in handling the pay TV service subscription matters on behalf of an elderly family member, who was the registered subscriber of the said service. The remaining part of the segment revolved around the contract of the interviewee's another family member for the provision of broadband Internet service; and
- (b) when the interviewee talked about the details of the pay TV service subscription package, extracts of a broadband television application form including its heading, service plan and commitment period options, and monthly subscription fee were shown on screen, among which some information was blurred with computer effects. There were also separate footage showing a bill and an item referred to as "Total Bill Amount" (including the amount of charge) which was the sum of the items labelled under "Previous Charges" and "Current Charges", and some information thereon, including a graphic located in the upper right corner of the relevant bill which was blurred with computer effects.

Against a few footage of a confirmation document showing the list of subscribed packages under the service plan, some package names partially blurred with computer effects were shown.

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

- (a) paragraph 9 of Chapter 9 – 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;
- (b) 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
- (c) paragraph 16 of Chapter 9 – where a factual programme reveals evidence of inquiry or incompetence, or contains a damaging critique of an individual or organisation, those criticised should be given an appropriate and timely opportunity to respond.

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 mentioned in the segment that the interviewee's family members used the pay TV service and broadband Internet service provided by the same company. Although the logo shown was blurred with computer effects and the programme package names appeared on some of the printed documents might be considered generic, from the material broadcast as a whole, ordinary viewers could reasonably infer the identity of the pay TV service provider referred to in the segment;
- (b) the allegations made against the pay TV service provider in the voice-over and by the interviewee in the segment reflected the interviewee's personal views on the pay TV service provider's customer service and sales practices. Such matters were in essence sales disputes between the interviewee and the pay TV service provider. Under such circumstances, it would be difficult, if not impossible, for the CA to ascertain the details of each and every aspect of the complaint and to come to a definitive view on the authenticity of the relevant information;
- (c) notwithstanding the above, the voice-over concerning the monthly fee and the alleged aggregate amount being not refundable had the effect of misleading the audience in a way which would be unfair to the pay TV service provider. As shown from the extract of the bill, the relevant amount charged, which was referred to as "Total Bill Amount" (consisting of "Previous Charges" and "Current Charges") could not be comprehended as "monthly fee" as presented in the segment. Accordingly, the aggregate amount in question could not be perceived as the aggregate fees for the relevant period. In addition, TVB was unable to provide any evidence in support of the allegation that the relevant monthly fees were debited from the credit card account of the

interviewee's family member by the pay TV service provider for its pay TV service, which was capable of affecting the reputation of the pay TV service provider. Hence, there were reasonable grounds to consider that TVB had not exercised its due diligence in avoiding unfairness to the pay TV service provider referred to in the segment, and had failed to take all reasonable care to satisfy itself that all material facts were so far as possible fairly presented, in breach of paragraphs 9 and 15 of Chapter 9 of the TV Programme Code; and

- (d) the segment (including the relevant remarks presented in the voice-over or made by the interviewee) could be considered as containing a damaging critique of the pay TV service provider's customer service and sales practices. However, based on the information provided by TVB, TVB had not given the pay TV service provider an appropriate opportunity nor provided it with sufficient information for response in relation to the damaging critique, in breach of paragraph 16 of Chapter 9 of the TV Programme Code.

Decision

In view of the above, the CA considered that the complaint was justified and that TVB was in breach of paragraphs 9, 15 and 16 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 **strongly advised** to observe more closely the relevant provisions of the TV Programme Code.

Case 2 – Television Programmes “Headliner” (頭條新聞) respectively broadcast on 28 February 2020 on the RTHK TV 31 Channel of Radio Television Hong Kong (RTHK) from 8:00pm to 8:30pm and the Jade Channel of TVB from 6:00pm to 6:30pm, on 13 March 2020 and 10 April 2020 on the RTHK TV 31 Channel of RTHK from 8:00pm to 8:30pm

A total of 44 complaints were received about three editions of the captioned programme: 34 against the edition broadcast on 28 February 2020 (the “28 February Edition”); six against the edition broadcast on 13 March 2020 (the “13 March Edition”); and four against the edition broadcast on 10 April 2020 (the “10 April Edition”) (collectively, the “Three Editions”). The main allegations were –

- (a) the segment entitled “驚方訊息” / “驚訊” (the segment) in the Three Editions were denigrating to police officers;
- (b) the segment in the 13 March Edition misquoted a police officer and twisted the meaning of his speech, adversely affecting his reputation but did not offer him an opportunity to respond;
- (c) the satirical presentations in the 13 March Edition caused confusion to viewers in particular to children, which were unsuitable for broadcast during the family viewing hours (FVHs);
- (d) the presentation of the death cases in the segment in the 28 February Edition misled viewers into believing that it was an actual news report, giving the impression that the death cases were handled without serious investigation by the police, and that the host’s references therein were

disturbing and of bad taste;

- (e) a footage in the 10 April Edition glorified criminal activities and were in breach of relevant provisions governing reporting of court cases; and
- (f) the Three Editions were partial against the Government and denigrating to the Police. The 28 February Edition and the 13 March Edition were not based on facts.

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) each of the Three Editions was identified as a personal view programme (PVP) and broadcast within the FVHs. Through skits and satirical conversations of the programme hosts, the Three Editions discussed various news topics and social events that were of public importance in Hong Kong at that time;
- (b) each of the Three Editions contained the segment which began with the host, who parodied a police officer, with the neck and hands wrapped with rubbish bags, emerging from a large rubbish bin at the beginning of the segment and retracting into that large rubbish bin at the end;

- (c) the segment in the 28 February Edition revolved around the host's remarks about the investigation of his team into various death cases that happened in the recent past. In the 13 March Edition, the segment featured, among others, the dissemination of fake news/information in society in which footages of a police officer speaking in a District Council meeting were shown, upon which captions including "FAKE NEWS" / "謊言" were superimposed on screen during his respective remarks. In the 10 April Edition, the segment featured, among others, an archive footage of a political figure using a loudspeaker during a protest, and the host standing in front of the court (by computer effect) holding a loudspeaker and making some satirical remarks; and
- (d) the Three Editions also contained costume skits featuring characters played by the programme hosts on various news topics including, among others, the 2020-21 Budget, the COVID-19 epidemic, etc. There were also segments in which pop songs were broadcast together with video clips and media reports about the Government's measures to fight against the COVID-19 epidemic, Government officials and Members of the Legislative Council making speeches about various issues including the 2020-21 Budget, the law enforcement actions of the Police in social events, the work of the World Health Organization, etc.

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

- (a) paragraph 2 of Chapter 2 - the FVHs are determined as the period between the hours of 4:00pm and 8:30pm 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), (b) & (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, among others, social status; or (c) anything which is in contravention of the law;
- (d) paragraph 5 of Chapter 3 - criminal activities, when depicted, must be consistent with and reasonably related to plot and character development. Crime should not be portrayed in a favourable light and criminal activities should not be presented as acceptable behaviour, nor should criminals be glorified. Glamorisation of the lifestyles of criminals should be avoided. The presentation of criminal techniques, or police techniques of crime prevention and detection, in such a way as to be instructional or invite imitation should also be avoided. Scenes containing detailed instructions for, or illustrations of, the use of illegal drugs, harmful devices or weapons are not permitted;
- (e) paragraph 1A of Chapter 9 - licensees shall make reasonable efforts to ensure that the factual contents of PVPs are accurate;

- (f) 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;
- (g) paragraphs 10(a), (b) & (d) of Chapter 9 - programme items which are based on extracts of court proceedings or other matters of public record must be presented fairly and accurately. In particular the reporting of criminal cases for which proceedings have commenced must not be presented in such manner that would be likely to prejudice a fair trial, any pre-judgement of the issues in the case (in particular of the guilt or innocence of the accused), any discussion of the merits or facts of the case which may prejudice the relevant legal proceedings, and any comment or report which tends to impair the impartiality of the court should be avoided;
- (h) 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
- (i) paragraphs 17(b) & (c) 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; and 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.

The CA's Considerations

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

Denigration and Insult

- (a) all the segments in the Three Editions began with the host, who parodied a police officer, with the neck and hands wrapped with rubbish bags, emerging from a large rubbish bin at the beginning of the segment and retracting into that large rubbish bin at the end. Such portrayal 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. Similar portrayal was found in another edition of the same programme series broadcast on 14 February 2020 (the “14 February Edition”), which the CA had, in deliberating the complaints about the 14 February Edition, considered as having the effect of denigrating or insulting to police officers as a social group. There were sufficient grounds to regard the similar portrayals contained in the Three Editions as having the same effect of denigrating or insulting to police officers as a social group. Accordingly, RTHK was in breach of paragraph 2(b) of Chapter 3 of the TV Programme Code;

Suitable Opportunity for Response

- (b) in the 13 March Edition, the relevant captions with phrases of negative connotations were superimposed on the screen in the footages of a police officer's speech in a District Council meeting. Such presentation gave the impression that the police officer was telling lies and making fake news, and had an effect of adversely affecting his reputation. However, the police officer's response was not found in the edition concerned. Also, RTHK did not provide any information as to whether the police officer had been given a suitable opportunity to respond in the same series of programmes or in similar types of programme targeting a like audience within an appropriate period. As such, there were reasonable grounds to consider that the 13 March Edition was in breach of paragraphs 15 and 17(c) of Chapter 9 of the TV Programme Code;

Offensiveness, Disturbing Material, Bad Taste

- (c) no genuine personal information was disclosed in the presentation of death cases in the 28 February Edition. The overall presentation would unlikely to be considered as showing disrespect to the deceased, of bad taste, overly disturbing, or unacceptable for broadcast at the scheduled time;

Family Viewing Hours

- (d) the satirical presentations in the 13 March Edition, such as skits with satirical conversations, were dramatised. Overall speaking, there was nothing that would be considered unsuitable for broadcast in the FVHs;

Glorification of Crimes and Reporting of Court Cases

- (e) nothing on court proceedings was mentioned in the host's satirical remarks in the 10 April Edition. It was unlikely that the host's satirical remarks would be a breach of the provisions governing reporting of court cases, or considered as glorification of crimes;

Accuracy and Misleading Material

- (f) regarding the presentation of the death cases in the 28 February Edition, the depictions were dramatised to create a satirical effect. It was unlikely that an average viewer would be misled into believing that it was a news report or the host's comments were a real reflection of the work of the Police;
- (g) regarding the allegations that the 28 February Edition and the 13 March Edition were not based on facts, the complainants did not pinpoint any specific content in the two editions and hence it was not possible to establish whether there was a breach of any relevant provisions; and

Opinions Expressed in PVPs

- (h) overall speaking, the Three Editions poked fun at Government officials, police officers and political figures through skits with satirical conversations of fictitious characters played by the hosts and through collages of video clips and media reports, accompanied by pop songs. Given that the Three Editions were identified as PVPs, the different views on various issues presented in a sarcastic and jokey manner were

clearly identified as personal views and that the relevant footages shown in the Three Editions were genuine, the broadcast materials concerned would unlikely be considered unacceptable in a PVP.

Decision

In view of the above, the CA considered that the complaints in respect of denigration of and insult to police officers for the Three Editions, and the lack of suitable opportunity for response for the 13 March Edition, were justified. RTHK was in breach of paragraph 2(b) of Chapter 3 of the TV Programme Code regarding the broadcast of the Three Editions, and contravened paragraphs 15 and 17(c) of Chapter 9 of the TV Programme Code for the broadcast of the 13 March Edition. Having regard to the circumstances of the present case, the CA decided that RTHK should be **strongly advised** to observe more closely the relevant provisions.