

## Appendix

### **Case – Television Advertisement for “Vita Green Lingzhi” (維特健靈 五色靈芝) broadcast at 7:31pm, 11 May 2023 on the Jade Channel of Television Broadcasts Limited (TVB)**

A member of the public complained that the captioned advertisement encouraged indiscriminate consumption of medicine through sales promotion and gifts, which was unacceptable for broadcast.

#### **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 advertisement under complaint promoted a lingzhi product, which featured the remarks “每朝兩粒” (two capsules every morning) and the caption “需配合均衡飲食” (needs to be combined with a balanced diet”) at the bottom of the screen. The advertisement ended with still images of two boxes of the product concerned together with three other items. The promotional wordings “送” (free) and “買孖裝送” (free offer for buying in twin packs) were superimposed on screen;

- (b) the product concerned was a proprietary Chinese medicine (pCm) registered under the Chinese Medicine Ordinance (Cap. 549); and
- (c) TVB submitted that the product concerned should not be taken as medical preparation because pCm was not covered under the definition of medical preparation in the Generic Code of Practice on Television Advertising Standards (TV Advertising Code). Besides, the advertisement clearly indicated that the product concerned was intended for daily consumption as health supplement instead of medicine for the prevention or treatment of specific disease. Hence, the factual reference to the promotional offer was deemed acceptable.

***Relevant Provisions in the TV Advertising Code<sup>1</sup>***

- (a) paragraph 8 of Chapter 6 – the term “medical preparation” means any kind of medicament or other curative or preventive substance and whether a proprietary medicine, a patent medicine or purported natural remedy;
- (b) paragraph 14 of Chapter 6 – no advertisement may directly or indirectly encourage indiscriminate, unnecessary or excessive use of any medical preparation or treatment; and

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<sup>1</sup> On 15 December 2023, the CA published in the Gazette the revised television and radio codes of practice on programme and advertising standards, which took effect on the same day. The relevant provisions in the TV Advertising Code cited above were in effect at the time the advertisement under complaint was broadcast (i.e. 11 May 2023).

- (c) paragraph 20 of Chapter 6 – no advertisement for a medical preparation or treatment may contain any reference to a prize competition or promotional scheme such as gifts, premium offers and samples.

### **The CA's Consideration**

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

- (a) under the TV Advertising Code, the term “proprietary medicine” was generic and broad and could reasonably be understood to cover all Chinese and western proprietary medicine. As such, the CA considered that there were reasonable grounds to take the view that the registered pCm product concerned could be considered as a medical preparation;
- (b) as the product concerned/pCm should fall within the definition of medical preparation under the TV Advertising Code, and TVB admitted that the advertisement contained factual reference to promotional offer of the product concerned, TVB had clearly breached paragraph 20 of Chapter 6 of the TV Advertising Code; and
- (c) since the advertisement clearly presented the suggested dosage of the product concerned, there was no evidence suggesting that the advertisement encouraged excessive use of medical preparation.

## **Decision**

In view of the above, the CA considered that the complaint in respect of sales promotion in advertisement for medical preparation was justified. 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 provision of the TV Advertising Code.