

**Complaints dealt with by the Communications Authority (“CA”) (released on 22 December 2021)**

The CA has considered the following complaint cases –

1. [Television Programmes “NNC Simulcast News” \(新聞報道\) broadcast by HK Television Entertainment Company Limited \(“HKTVE”\) and “now Late News” \(now深宵新聞\) broadcast by PCCW Media Limited \(“now TV”\)](#)
2. [Radio Programme “Circles” \(1 圈 圈\) broadcast by Hong Kong Commercial Broadcasting Company Limited \(“CRHK”\)](#)

The CA also reviewed the decision of the Director-General of Communications (“DG Com”) on a complaint case.

Having considered the recommendations of the Broadcast Complaints Committee, the CA decided that –

1. an **advice** should be given to each of HKTVE and now TV on the complaints against the television programmes “NNC Simulcast News” (新聞報道) and “now Late News” (now深宵新聞);
2. an **advice** should be given to CRHK on the complaint against the radio programme “Circles” (1 圈 圈); and
3. the decision of the DG Com on the complaint case should be upheld. Details of the case are set out in the [Appendix](#).

22 December 2021

**Case 1 – Television Programmes “NNC Simulcast News” (新聞報道) broadcast from 11:00pm to 11:30pm on 8 August 2021 on the ViuTV Channel of HK Television Entertainment Company Limited (HKTVE) and “now Late News” (now 深宵新聞) broadcast from 11:00pm to 11:19pm on 8 August 2021 on the now News Channel of PCCW Media Limited (now TV)**

A member of the public lodged two complaints about the captioned news programmes. The substance of the complaints was that advertising materials were displayed during the programme.

**The Communications Authority (CA)’s Findings**

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

*Details of the Case*

- (a) in a news item about a rainstorm in Taiwan broadcast in the programmes concerned at 11:15pm and 11:18pm respectively, footages produced by a non-local broadcaster which lasted for about 57 seconds (the Footages) were broadcast;
- (b) in the Footages, certain information at the bottom of the screen was blurred, while (i) captions about a number of health supplements were recurrently displayed along the right margin of the screen; and (ii) messages about an online news channel of a non-local media were occasionally displayed along the left margin of the screen; and
- (c) HKTVE and now TV submitted, among others, that they did not receive any valuable consideration or commercial gain from the exposure of the commercial messages concerned and that the omission to blur the captions/messages concerned was inadvertent.

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

- (a) paragraph 7(f) of Chapter 9 – no advertising matter should be offered as news or included in the contents of a news programme or newsreel;
- (b) paragraph 1 of Chapter 11 – indirect advertising in television programmes refers to the mingling of programme and advertising material or the embedding of advertising material within programme content, whether inadvertently or by design. Indirect advertising may or may not involve a payment or transfer of valuable consideration to a licensee;
- (c) paragraph 1A of Chapter 11 – as a general rule, with the exception of news programmes, current affairs programmes, children’s programmes, educational programmes, religious service and other devotional programmes, indirect advertising in programmes is permitted; and

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

- (d) paragraph 1 of Chapter 2 – advertisement or advertising material means any material included in a television programme service which is designed to advance the sale of any particular product or service or to promote the interests of any organisation, commercial concern or individual; whether by means of words, sound effects (including music) and/or of visual presentation and whether in the form of direct announcements, slogans, descriptions or otherwise, as well as any promotional reference in the course of a programme to any products or services.

**The CA’s Considerations**

The CA, having regard to the relevant facts of the case including the information submitted by HKTVE and now TV, considered that the captions/messages concerned clearly constituted “advertising material” within the meaning of paragraph 1 of Chapter 2 of the TV Advertising Code. Accordingly, the inclusion of these advertising materials in the captioned news programmes was in breach of paragraph 7(f) of Chapter 9 of the TV Programme Code and paragraph 1A of Chapter 11 of the TV Programme Code.

**Decision**

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

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**Case 2 – Radio Programme “Circles” (1囀囀) broadcast from 3:00pm to 5:00pm on 10 August 2021 on CR 1 Channel of CRHK**

A member of the public complained about the captioned programme. The substance of the complaint was that a foul expression was uttered by one of the guests (the Guest).

**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 programme under complaint was a programme on entertainment news broadcast live between 3:00pm and 5:00pm on the day concerned;

- (b) at around 3:38pm, the alleged foul expression was uttered once by the Guest; and
- (c) CRHK submitted, among others, that the Guest claimed that he was saying an expression which rhymed with but is not the same as the alleged foul expression.

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

- (a) paragraph 15 – expressions considered vulgar or unacceptable by an average person are to be avoided. Expressions that are definitely offensive are prohibited from use on radio.

**The CA's Considerations**

The CA, having regard to the relevant facts of the case including the information submitted by CRHK, considered that in the programme the Guest did actually say the alleged foul expression, which was blatantly offensive and unacceptable for broadcast at all times, thereby constituted a clear breach of paragraph 15 of the Radio Programme Code.

**Decision**

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

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## Appendix

### Review of the Director-General of Communications' Decision on Complaint Case by the Communications Authority

<b>Title</b>	<b>Broadcast Channel</b>	<b>Broadcast Date</b>	<b>Substance of Complaint</b>	<b>Decision Upheld</b>
TV Programme “Futurescope” (看出個 未來)	TVB Finance & Information	30.7.2020	Misleading & Indirect Advertising	Unsubstantiated