

Summary of Responses from the Public to the Public Consultation
on the Review of the Regulation of Indirect Advertising

I. WRITTEN SUBMISSIONS

(A) Lifting the General Prohibition on Indirect Advertising Except for Certain Types of Programmes

Question 1: Do you consider that the general prohibition on indirect advertising should be lifted except for certain types of programmes (viz. news programmes, current affairs programmes, children's programmes, educational programmes, religious service and other devotional programmes)?

Support	Not Support	No Views	Total
155 (63%)	40 (16%)	52 (21%)	247

A majority of the respondents (63%) agree that the general prohibition on indirect advertising should be lifted

- Free TV licensees face keen competition. Suitable relaxation of the regulation will help increase the revenue of licensees, facilitate production of programmes of higher quality and promote development of the industry.
- TV stations require resources to operate. The public will suffer if their services cannot be sustained.
- More room for creative expression should be given to TV stations in programme production and inclusion of indirect advertising in programmes.
- The proposed exclusion of certain types of programmes from the relaxation enables the objectivity of informative content to be upheld. Broadcast of indirect advertising in entertainment programmes should not cause much concern.
- If indirect advertising does not affect programme quality, it would not have a negative impact on the public.
- Indirect advertising which is editorially justified and provides information on products can enhance programme standards and viewing pleasure.
- Product placement is more effective in promoting products and enhancing local consumption.
- There has been a lot of product information available on the Internet. As such, TV stations should not be subject to too many restrictions.

- Removal of the prohibition is in line with international trend.

A minority of the respondents (16%) disagree that the general prohibition on indirect advertising should be lifted

- The current prohibition should not be lifted right away. It should be suitably relaxed according to the situation.
- Should the prohibition be lifted, the Communications Authority (CA) should still monitor whether the flow of the programme as a whole is affected.
- The licensees which have accepted the conditions of their free TV licences and use spectrum, a precious resource, should be regulated. Otherwise, programme quality and content would be affected, viewers would be misled and there would be anti-competitive behaviour.
- TV stations already have sufficient advertising time and stable income and viewers should not be disturbed by more advertising.
- There has been indirect advertising in many TV programmes (such as travelogues, gourmet programmes, dramas). Further relaxation will make programmes too commercialised, and is against viewers' wish to enjoy watching programmes.

Views on the proposed types of programmes in which indirect advertising will be prohibited

- Most of the respondents support the proposal as the credibility, integrity and impartiality of the programmes would not be affected by advertisers. In addition, such programmes are of a serious nature, educational or contain factual information. Inclusion of commercial information is inappropriate as viewers, especially children, might be misled.
- There are comments that consideration should be given to prohibiting product placement in current affairs programmes in order to preserve their impartiality. If product placement continues to be allowed in such programmes, what "exercise care in the choice of sponsors" means should be clearly defined.
- There is suggestion for prohibiting product placement in travelogues in order to avoid misleading viewers to buy products.
- TV stations should be allowed to apply, on a need basis, for including product placement in the specific types of programmes in which indirect advertising is prohibited.
- Exemption should be given to large-scale exhibitions and events such that indirect advertising for them can be shown in the specific programme types.

- There is no need to impose the regulation since it is at viewers' discretion to watch programmes containing indirect advertising.
- It is difficult to classify programme types clearly. TV stations may specify other programme types to evade the rules.

(B) Indirect Advertising where Payment or Other Valuable Consideration is Received by Licensees (commonly known as “Product Placement”)

Question 2: Do you consider it appropriate to maintain the current practice of adopting general principles instead of imposing detailed guidelines for regulating product placement? Please give reasons for your response.

Yes	No	No Views	Total
156 (63%)	36 (15%)	55 (22%)	247

A majority of the respondents (63%) agree that the current practice of adopting general principles should be maintained

- The adoption of general principles has been functioning well and can impose appropriate regulation.
- The adoption of general principles provides more room for creative expression and flexibility to licensees to produce different types of programmes. Adoption of detailed guidelines may affect the natural flow of programme contents.
- The execution of detailed guidelines involves high administrative costs. It is also difficult to set a uniform standard.
- Given that TV stations have to inform viewers of the inclusion of indirect advertising in programmes, regulation by general principles is sufficient to safeguard viewers' interests.
- The CA may provide examples for the general principles to provide guidance to TV stations.

A minority of the respondents (15%) disagree that the current practice of adopting general principles should be maintained

- Different people have different views towards general principles.

- Detailed restrictions (e.g. number and duration of product placements, proportion of screen occupied, number and frequency of close-up shots of products) should be imposed to prevent TV stations from misusing general principles.
- Only the proportion of screen for product placement should be specified and mentioning of product brand should be prohibited. Detailed regulation of other aspects is not necessary.

Question 3: Do you have any views on the general principles for regulating product placement as proposed in the consultation document (i.e. (i) presented in a natural and unobtrusive manner having regard to the programme context and genres; (ii) no direct encouragement of purchase or use of products/services)?

Support	Not Support	No Views	Total
156 (63%)	13 (5%)	78 (32%)	247

A majority of the respondents (63%) agree with the proposed general principles for regulating product placement

- The proposed general principles are reasonable.
- The requirement for “natural and unobtrusive presentation” can ensure that programme contents and quality are not affected by product placement.
- Product placement which integrates naturally into programme contents will not constitute obtrusive presentation.
- Exposure of products/services should be natural and relevant to the programme context, and should not affect the continuity of the programme contents.
- “No direct encouragement of purchase or use of products/services” is an important regulatory principle to avoid too many commercial contents in programmes.
- Direct encouragement of purchase should be prohibited as it is like brainwashing to encourage consumers to buy the products.

A minority of the respondents (5%) disagree with the proposed general principles for regulating product placement

- “No direct encouragement of purchase or use of products/service” is contrary to the purpose of relaxation. Encouragement of use of products should be allowed in programmes provided that a notification is made to viewers.

- Product placement “presented in a natural and unobtrusive manner” would exert influence on children and young people subconsciously.

Other comments

- Whether a product placement is natural and unobtrusive involves subjective judgement. Detailed elaboration should be provided to avoid disputes.
- Clear guidance should be given as regards how different programme genres can comply with the rule of “no direct encouragement of purchase or use of products/services”.
- “No close-up shots of product packaging or name/trademark of service” should be added to the general principles.
- It is acceptable to broadcast how a product is used but its brand and name should not be mentioned.
- The same product placement should not be shown for a long time to avoid affecting viewers’ impression of the programme.

Question 4: Do you have any views on the forms of presenting products/services (viz. forms of presentation in (i) to (iv) below) which would likely be considered as direct encouragement of purchase or use of products/services as stated in the consultation document?

Support	Not Support	No Views	Total
143 (58%)	26 (11%)	78 (31%)	247

More than half of the respondents (58%) agree that product placement should not be presented in a manner which would likely be considered as direct encouragement of purchase or use of products/services as stated in the consultation document

- The guidance on the forms of presentation is clear and reasonable.
- Statements or slogans with promotional contents should be prohibited.
- Frequent emphases on and excessive recognition of the products constitute direct encouragement and would affect viewers’ pleasure of watching programmes.
- Endorsing and promoting products within programmes, or even providing prices, constitute strong encouragement of purchase and significantly jeopardise the programme essence.

- Direct encouragement of purchase or use of products/services misleads people about the effectiveness of the products. Patients may as a result use the products claimed to be effective and delay treatment.

A minority of the respondents (11%) disagree that the forms of presenting products/services which would likely be considered as direct encouragement of purchase or use of products/services as stated in the consultation document should not be used in product placement

- The proposed restrictions will hinder the creativity and entertaining effect of product placements.
- The restrictions are not recommended. TV stations should be given the biggest possible room for operation and viewers could choose whether to watch programmes with product placement therein.

Views on (i) referring to the products/services by frequent use of favourable or superlative language, or containing remarks that the products/services should be purchased/owned/used

- Frequent use of superlative language is objectionable and could be misleading.
- The use of superlative language or frequent use of favourable language constitutes promotion rather than merely introduces the products. It is also partial and may lead to anti-competitive behaviour among products.
- There is suggestion that use of comparative language about merits of products should be avoided.
- If evaluation of products is relevant to the programme context and will not divert viewers' attention to the products, it should be acceptable.

Views on (ii) containing advertising claims (i.e. statements about the benefits, characteristics and/or performance of products/services which strongly persuade the customer to make a purchase) or promotional slogans associated with the products/services/trademarks

- There is suggestion for prohibiting repeated mentioning of promotional slogans in order to avoid the effect of brainwashing.
- The advertising claims should not be continuously exaggerated or repeated in the programme.
- Promotional slogans are usually brief and easy to understand as daily expressions. Such restriction will hinder the development of the TV industry.

- Infotainment programmes, travelogues and food programmes often introduce products/services, and include mentioning of their merits, characteristics, effects, etc. The proposal may reduce this type of programmes, thereby affecting programme diversity.
- Sponsors would like to impress customers about their products. Direct encouragement of purchase should not be a problem.

Views on (iii) mentioning the price and availability of the products/services

- It is suggested that the mentioning of means of purchase should also be prohibited.
- It is better to include product prices in programmes for consumers' reference.
- "Mentioning the price and availability of the products/services" should be acceptable and should not be considered as direct encouragement of purchase or use of products/services.

Views on (iv) excessively highlighting or exposing the products/services

- The word "excessively" should be deleted and a cap of the time exposing or referring to the product, as well as an accumulated time limit for exposure of all the products, should be set.
- The word "excessively" should be well defined.
- "Excessive use of the products/services", expressions of artistes that they always use a certain product, etc. should be subject to restriction.

Other comments on the regulation of product placement

- Stringent rules should be imposed to ensure accuracy of product placements, including personal views of hosts on the products, in order to avoid misleading the public.
- Shortcomings of the products should be mentioned where appropriate and possible, with contents teaching consumers how to make a good choice in that category of products.
- Time of the day during which product placement is allowed should be restricted, e.g. duration and frequency of product placement during prime time.
- Hope that advertising time could be reduced. Product placement is acceptable as it does not affect the viewing time of a programme.
- Regular reviews should be conducted on the guidance for general principles.

(C) Indirect Advertising where No Payment or Other Valuable Consideration is Received by Licensees

Question 5: Do you have any views on the proposal to remove the prohibition of undue prominence regarding unpaid commercial references within a programme?

Support	Not Support	No Views	Total
105 (43%)	63 (25%)	79 (32%)	247

Slightly less than half of the respondents (43%) agree with removing the prohibition

- Hong Kong, being an international metropolis, should adopt an approach in line with the international trend.
- Agree that regulation in this aspect should not be too stringent.
- Programmes would not give undue prominence to products where no payment is involved and thus the regulation can be relaxed. If TV stations have to cover or blur the trademarks, it would be obtrusive and would affect the aesthetics of the programme.

A quarter of the respondents (25%) disagree with removing the prohibition

- It is hard to determine whether the relevant indirect advertising is paid or unpaid and there may be loopholes. For example, TV stations may have deferred or indirect benefits.
- Upon removal of the prohibition, a large number of programmes may be filled with prominent advertising, thereby affecting viewers' interests.
- There are commercial interests involved in products. Under no circumstances should there be undue prominence or it would be contrary to the objective of regulation and affect viewing interest.
- Viewers are unable to determine whether the relevant indirect advertising is paid or unpaid. Removing the prohibition of undue prominence would give rise to more complaints to the CA.

Other comments

- “Unpaid commercial references” should be clearly defined.

- It is necessary to list out the names of all companies and brands at the end of a programme to deter licensees from abusing this relaxation proposal.

Question 6: Do you have any views on the proposal that a licensee should be deemed to have received payment or other valuable consideration for including in its programmes products/services of another company in the group of companies of which the licensee is a member? Do you agree that such a situation should be subject to rules governing product placement?

Support	Not Support	No Views	Total
167 (68%)	20 (8%)	60 (24%)	247

A majority of the respondents (68%) agree that such contents should be subject to the rules governing product placement

- Licensees may bring profit to the group by promoting the products/services of associated companies. Licensees should be deemed to have received payment and such a situation should be subject to regulation.
- Unfair competition may result if such a situation is not regulated. The proposal can avoid loopholes.
- Licensees may, for the purpose of promoting the products/services of associated companies, frequently and excessively expose or deliberately promote the relevant products/services to maximise their own benefits. This will lower programme quality and viewers will find it objectionable.
- Broadcasting spectrum used by broadcasters is a precious resource, which should not be misused for transferring benefits to other organisations.

A minority of the respondents (8%) disagree that such contents should be subject to the rules governing product placement

- It should be regarded as efficient use of resources for a licensee to include in its programmes the products/services of another company in the licensee's group of companies.
- There are many different businesses in the same group of companies and it is difficult to determine whether payment is involved or not. As long as it is unpaid, it should not be subject to the product placement rules.

(D) Notification Requirement for Product Placement

Question 7: Do you have any views on the proposed requirement under which licensees should give an aural and visual statement to clearly inform viewers of the inclusion of product placement at the start of a programme?

Support	Not Support	No Views	Total
177 (72%)	15 (6%)	55 (22%)	247

A majority of the respondents (72%) agree with the requirement of prior notification

- A prior notification can safeguard viewers' right to know.
- It can be deemed as declaration of interests. Product placement may as a result be more acceptable to viewers and be less objectionable.
- It can safeguard viewers' interests by preventing viewers from being influenced by the product placement in programmes to buy products/services blindly.
- With the prior notification, viewers can choose whether to watch the programme or not. Parents can also decide whether to let children watch the programme or to provide appropriate guidance.
- This requirement can also protect TV stations by expressly stating that the relevant contents are not suggestions. In case there are problems with the products, TV stations would not bear any responsibility.
- Reference may be made to the use of the “PG 家長指引” symbol as notification and duration of displaying the symbol should be stipulated.

A minority of the respondents (6%) disagree with the requirement of prior notification

- End credits are sufficient for the purpose of clearly informing viewers.
- The existing front/end sponsor credits are suggested to be revised to make their notification effects more noticeable rather than adding a new notification requirement.
- Viewers may not be aware of this notification and it may not be that effective.
- Prior notification is not essential, nor will it make viewers favour the programme more.

- Promotion in a natural manner is the best. Prior notification cannot attract viewers and is contrary to the principle of natural presentation of product placement.
- Prior notification with an aural and visual statement will make viewers pay more attention to the broadcast of the product placement, thus increasing the advertising effect.
- In case the prior notification is added to all programmes, viewers will feel annoyed and will not watch the relevant programmes.

Other comments

- The notification should be provided before the start, in the middle as well as at the end of the programme, so that viewers starting to watch the programme at different points of time can also get the same information.
- The relevant contents should be continuously labelled as product placement on screen.
- It may be combined with other notifications to avoid too many notifications.
- There are studies that such notification cannot protect viewers, but can safeguard viewers' right to know and does not have any negative influence on the brand placed in the programme. Simple statements like "the following programme contains product placement" may be considered.
- Some programme types like dramas should be exempted, while the notification requirement should apply to informative programmes.

(E) Acquired Programmes

Question 8: Do you have any views on the proposal to allow acquired programmes to be exempted from compliance with the rules governing indirect advertising and product placement provided that the inclusion of indirect advertising within a programme does not contribute to any payment or other valuable consideration to the licensee?

Support	Not Support	No Views	Total
139 (56%)	34 (14%)	74 (30%)	247

More than half of the respondents (56%) agree with the exemption for acquired programmes

- It is difficult for TV stations to control the form of presentation of product placement in acquired programmes. Viewers may not mind the product placement therein either, and it is hard for TV stations to get benefits from there. Exempting acquired programmes from compliance with the relevant rules is reasonable.
- The compliance costs of TV stations and administrative costs of the regulator can be reduced. Otherwise, TV stations may buy fewer acquired programmes and programme choices may be reduced.
- The regulation of the original jurisdiction of the acquired programmes should be respected and more relaxed regulation should be imposed.
- The brands shown in acquired programmes may not provide services or products in Hong Kong, thus the regulation can be more relaxed.
- Currently, some acquired programmes, like sports events, often contain advertising contents. Exemption should be given.
- Only acquired programmes in foreign languages produced overseas, or non-local productions, should be exempted.

A minority of the respondents (14%) disagree with the exemption for acquired programmes

- On equity grounds, the same regulation should apply to overseas and local programmes.
- Regardless of being acquired or locally produced, programmes containing a lot of product placements will affect viewers and thus should be subject to the same regulation. Whether the licensee receives payment or not should not be the factor to determine whether regulation should be in place.
- TV stations may bypass all the rules by acquiring programmes produced by their subsidiaries.
- Licensees may tend to broadcast acquired programmes as a result of the exemption.
- The product placements in overseas programmes may promote international brands, and local agents may benefit.
- Product placements in acquired programmes can be removed, for example, by post-production to edit or blur the relevant brand.
- The relevant contents may not give rise to direct payment, but may bring indirect benefits to licensees by other means. There should be a rule prohibiting licensees from benefitting through other means.

Question 9: Do you have any views on the proposal that licensees should make an aural and visual statement to clearly inform viewers of the inclusion of indirect advertising in an acquired programme at the start of such a programme?

Support	Not Support	No Views	Total
162 (66%)	18 (7%)	67 (27%)	247

A majority of the respondents (66%) agree with the requirement of prior notification

- A prior notification can clearly inform viewers of the inclusion of indirect advertising in the programme and heighten their alertness.
- If the notification requirement applies to local programmes, it should be applicable to acquired programmes as well even though the products are not sold in Hong Kong.
- It is equivalent to declaration of interests to let viewers know the programme contents more clearly and to avoid misunderstanding.
- It can help viewers understand the nature of the programme to avoid misunderstanding and negative feelings, and viewers can choose whether to continue watching or not.

A minority of the respondents (7%) disagree with the requirement of prior notification

- The products promoted are not local products. The notification requirement is not necessary.
- The new requirement would take up programme time and reduce the broadcast duration of acquired programmes.
- Notification at the start of a programme will make viewers pay too much attention to the indirect advertising therein.
- Too many notifications will impact on viewers' desire to watch the programme.

Question 10: Do you have any views on the proposal that the same prohibition of indirect advertising in respect of specific programme genres (viz. news programmes, current affairs programmes, children's programmes, educational programmes, religious service and other devotional programmes) should apply to acquired programmes?

Support	Not Support	No Views	Total
161 (65%)	16 (7%)	70 (28%)	247

A majority of the respondents (65%) agree that the same prohibition of indirect advertising in respect of specific programme genres should apply to acquired programmes

- The same regulation should apply on grounds of equity.
- This can ensure the independence, credibility and impartiality of news or current affairs programmes, and protect children from being influenced by indirect advertising.
- The regulation of acquired programmes should be the same as that of local programmes in order to uphold characteristics of programmes of specific genres. The same standards should apply to programmes of a serious nature and informative programmes.
- Indirect advertising must be prohibited in news, current affairs, medical, legal and religious programmes and the like.

A minority of the respondents (7%) disagree that the same prohibition of indirect advertising in respect of specific programme genres should apply to acquired programmes

- Acquired programmes should be exempted as licensees have to respect contents of acquired programmes and they do not get any advertising benefits from the programmes.
- Decisions should be made on a case-by-case basis, having regard to the type of indirect advertising and its relevance to the programme context, when TV stations make an application on a need basis.
- A relaxed approach can be applied to children's and educational programmes, provided that the indirect advertising is credible. It is better to use the approach of comparing different products.

Question 11: Do you have any views on the proposal that the exemption from compliance with the indirect advertising and sponsorship rules should be extended to cover direct re-transmission channels produced primarily for reception in Hong Kong on a pay TV service (which do not contribute to any advertising revenue of the licensee) subject to the notification requirement in its programme schedules?

Support	Not Support	No Views	Total
149 (60%)	19 (8%)	79 (32%)	247

A majority of the respondents (60%) agree that the exemption should be extended

- Pay TV has been making a loss for many years and the relaxation is acceptable.
- This can help pay TV licensees increase their revenue, thereby having more resources to improve the quality of their programmes.
- The continuity and viewing pleasure of the programme can be maintained.
- This can address the technical difficulties of licensees in direct re-transmission and protect viewers' right to know and to choose whether to continue watching.
- The notification is necessary as the programme may contain contents of products targeting at local viewers.

A minority of the respondents (8%) disagree that the exemption should be extended

- There should not be any exemption on grounds of equity.
- Total exemption is inappropriate as TV stations may have benefits other than advertising revenue.

Question 12: Do you have any other comments on the review of the regulation of indirect advertising and product placement?

Whether product placement should be regulated

- There are some opinions that unless product placements contain misleading or illegal contents, they should not be regulated. Hong Kong, being a free market, should allow the market to operate by itself. The industry can develop and innovate only when it is less regulated.

- Some consider that product placement should be regulated as it may affect viewers subconsciously. Programme contents could be affected and viewers could be misled.
- The subconscious effect of product placement on young people, the elderly, etc. should not be neglected. Stringent regulation should be in force or else these viewers may be brainwashed.
- There should be guidance and mechanism for monitoring the regulation of product placement on free TV.

Comments on the types of products/services to be placed

- Product placement of products unsuitable for children should only be broadcast from 11 p.m. to 6 a.m.
- Political contents should be prohibited from indirect advertising.
- Product placement of money lending services should not be allowed in order to avoid creating social problems.
- Some respondents suggest that indirect advertising for health-related products should be prohibited.
- Some respondents suggest that indirect advertising for alcoholic beverages should be prohibited in accordance with the Government's policy to reduce the harm brought by alcohol.
- Some respondents suggest prohibiting indirect advertising for formula milk for infants and young children and its related products in line with the direction for breastfeeding advocated by the Government and the Hong Kong Code of Marketing of Formula Milk and Related Products and Food Products for Infants & Young Children.
- Some respondents suggest prohibiting indirect advertising for unhealthy products (including "junk food" and food high in fat/sugar/salt) in line with the direction for healthy lifestyle advocated by the medical field.

Other comments

- Product placement can improve programme quality as no advertisers would like to place products in programmes of low quality. As long as the programme as a whole is attractive, product placement will not affect viewers' impression towards the programme.
- Health issues have not been mentioned in the relevant survey or public consultation. If the potential impact on health is mentioned, the public views might have been

very different. Health-related parties should have been involved in the planning stage for the survey and public consultation. Indirect advertising with potential impact on health should not be relaxed and regulation of the relevant direct advertising should even be tightened.

- More consultations and researches should be conducted to provide credible and representative data for the industry's reference. Currently there are gaps between the industry's understanding of the benefits brought by product placement and the results from researches. Many advertisers/producers still believe that the longer the time of exposure, the more effective the product placement. Media literacy talks at schools may help people know more about product placement.

II. FOCUS GROUP DISCUSSIONS

Focus Group Discussions (19 and 23 April 2018)

Summary of Views

(Participants included members of the Television and Radio Consultative Scheme¹
(TRCS))

- (1) Lifting the prohibition on indirect advertising except for certain types of programmes (viz. news programmes, current affairs programmes, children’s programmes, educational programmes, religious service and other devotional programmes)**
 - 1.1 Some participants agree that TV stations, being commercial organisations, are unlikely to promote commercial products for free. Therefore, the proposal of lifting the prohibition on indirect advertising is acceptable.
 - 1.2 Some consider that the relaxation of existing rules would provide TV stations with more flexibility in production and alleviate their concern about non-compliance with the Codes when commercial references are included in programmes. It can also bring additional income to TV stations. On the other hand, viewers are concerned about programme quality. Excessive product placement in TV programmes would be objectionable to viewers. They might spend less time watching TV, thus resulting in a lower viewership and gloomier outlook for the TV industry.
 - 1.3 There are views against the proposal of lifting the prohibition on indirect advertising as viewers want to watch TV programmes, not product placement. The survey found no strong objection to the proposal because the viewers accept the current situation under the existing regulatory approach. However, it does not necessarily mean that viewers would accept the regulatory approach after relaxation.
 - 1.4 Some suggest changing the wording to “relaxing the regulation of indirect advertising” instead of “lifting the prohibition on indirect advertising” since permitting indirect advertising across-the-board would compromise the

¹ The TRCS, administered by the Office of the Communications Authority, is aimed at gathering public opinions on broadcasting issues so as to assist the CA in formulating broadcasting regulations that reflect community standards. Members of the public join the TRCS on a voluntary basis. The TRCS currently comprises about 540 members of the public to form a mix that mirrors the population profile of Hong Kong by age, sex and occupation.

safeguard for viewers' interest and might backfire. The CA should relax the regulation gradually to better control the situation.

1.5 Some participants agree that indirect advertising should be prohibited in news programmes and current affairs programmes, etc. since they are more serious and authoritative in nature. On the other hand, there are views that indirect advertising should be allowed in all types of programmes except for children's programmes as adults are able to analyse the programme content. They can choose not to watch the programme if they are dissatisfied with its content.

(2) To maintain the current practice of adopting general principles for regulating product placement (i.e. inclusion of indirect advertising in return for payment being received by a licensee); and to revise the general principles as follows: (i) the exposure or use of products/services within a programme is presented in a natural and unobtrusive manner having regard to the programme context and genre; and (ii) there is no direct encouragement of purchase or use of products/services

2.1 Participants generally agree with the proposed general principles and the forms of presentation which would be considered as "direct encouragement of purchase or use of products/services". However, some consider that the proposed general principles involve subjective judgement. Different viewers might have different perceptions towards the same product placement.

2.2 There are views that the CA could consider regulating the duration of product placement within programmes, while the presentation should not be regulated. Some however consider that it would be difficult to decide how long would be considered reasonable and arguments might likely arise.

2.3 There are views that TV stations which frequently broadcast obtrusive product placements or employ product placement in a hard-sell manner would cause concerns and objections from viewers, thus affecting their viewership. In that case, the TV stations would learn the lesson and manage product placement properly.

2.4 Nowadays, when watching TV, viewers would choose programmes that are attractive to them, without considering whether there is any product placement in the programmes. The quality of the programme matters the most. Viewers might not necessarily find product placement objectionable and the focus of regulation should be placed on whether a product placement is misleading, exaggerating, inaccurate, etc.

- 2.5 In imposing regulations, consideration should be given to protect different audience groups. For example, TV might be the primary source of entertainment for the elderly. Any improper product placement should be subject to sanction or reprimand.
- 2.6 Viewers have got used to positive remarks towards the products/food etc. within travelogues and gourmet programmes. They might even want to receive further information such as the price and location. However, there are views that contents about foreign products are less relevant to local viewers and it is acceptable not to subject such product placements to regulation, whereas placement of local products should be subject to regulation.
- 2.7 Owing to the light-handed regulatory approach in their places of production, some foreign programmes contain product placements in a hard-sell manner which are repulsive to viewers. Hong Kong should not follow suit. Nor does the industry need to take such a step to survive.
- 2.8 After revision of the regulations, TV stations may try various forms of presentation of product placement to test the reaction of viewers. If no complaint is lodged, similar forms will be used. The CA should enforce the rules more proactively rather than take actions only upon receipt of complaints.
- 2.9 Currently, TV stations might place products of a certain brand in a programme prior to an advertising break without revealing the brand name. However, the advertisement for that brand would be broadcast immediately during the ensuing advertising break. Such an arrangement amounts to an extension of the advertising time. This kind of product placement should count towards the aggregate advertising time.

Views on “presentation of product placement in a natural and unobtrusive manner”

- 2.10 In considering the acceptability of a product placement, considerations should be given to the number of times and frequency of the exposure of the products, shooting angles, use of camera shots, etc.

Views on acceptable forms of presentation

- 2.11 If props placed in programmes are not too conspicuous, not taking up too large a proportion of the screen and the natural flow of programmes is not affected, viewers might not mind watching the product placement.

- 2.12 If the programme is fast-paced and the exposure of the products is fast and brief, viewers might not necessarily notice and care about such kind of product placement.
- 2.13 It is acceptable for trademarks to appear in the background of interviews as viewers would focus on the interview rather than the trademarks in the background.
- 2.14 Product placements which are relevant to the plots would be considered contextually justified and viewers would find them acceptable. If trademarks are blurred intentionally, viewers might, on the contrary, pay more attention to them or even find them objectionable.
- 2.15 TV stations should present product placement in a subtle way that is hardly noticeable to viewers and maintain the natural flow of the programmes.
- 2.16 The expectation of viewers is an important factor. Viewers would not care about the product placement so long as the content of the product placement fits in with the programme nature and viewers' expectations.
- 2.17 For programme content that is informative in nature, viewers would not mind watching them so long as they are not presented in a hard-sell manner.
- 2.18 Viewers who are interested in the products placed in a programme may want to receive detailed information about the products, whereas those who are not interested would feel repulsive. Different viewers may feel differently towards the detailed information featured in product placements.
- 2.19 Viewers' attitude towards travelogues are different from that towards other types of programmes. They would like to find out more about the products featured in travelogues. Therefore, their acceptance of product placement in travelogues is relatively higher.
- 2.20 Programmes such as variety shows are mainly entertaining in nature. They are relatively light-hearted and it is easier to place products within these programmes. Viewers would find such product placement more acceptable.

Views on unacceptable forms of presentation

- 2.21 A product placement which is too conspicuous and gives detailed description of the products or services would be considered too commercialised and unnatural. Viewers would find it unacceptable.

- 2.22 In dramas, close-up shots for the purpose of promoting products, and prolonged and continuous display of brands would be objectionable to viewers. Frequent appearances of such scenes would obtrude on viewing pleasure.
 - 2.23 If the display of trademarks is irrelevant to programme content and is deliberately arranged for the purpose of promoting certain brands, it would seem unnatural and obtrusive to viewers. Some participants suggest that regulation should be put in place to prohibit the inclusion of product placement which is irrelevant to the programme.
 - 2.24 Even if close-up shots are not used to display the products placed in a programme, it would still be unnatural if such display is irrelevant to the plots or overly highlighted.
 - 2.25 It is acceptable to highlight the products but not the brands in product placement. When products are introduced in a programme, viewers generally find excessive favourable remarks on the products or references to the brands unacceptable.
 - 2.26 If a plot is deliberately arranged to display a product but does not fit in with the programme type, viewers would find it strange.
 - 2.27 If too many trademarks and products are placed in one scene with lengthy elaborations, viewers would find the presentation very unnatural.
 - 2.28 It is an untactful form of presentation for the host to hard-sell the products placed in a programme.
 - 2.29 Viewers in general would find product placement concerning high-end products more acceptable. For product placement concerning lower-end products or products easily accessible to the general public, even if it is only slightly excessive, viewers would feel annoyed.
- (3) Indirect advertising where no payment or other valuable consideration is received by a licensee**
- 3.1 There are views that the prohibition on undue prominence regarding unpaid commercial references can be lifted.
 - 3.2 There are views opposing the lifting of regulation of unpaid indirect advertising since viewers have no way to know whether TV stations have received payment for inclusion of the indirect advertising.

- 3.3 There are views that TV stations may not receive monetary benefits, but producers may have received other benefits for including product placement in programmes. TV stations may also accept other forms of benefits (such as free products from a certain company on a long term basis) or deferred benefits (for example, to provide product placement for free but receive payment for broadcasting advertisements of the products/services concerned at a later stage).
- 3.4 The proposal might create a loophole whereby TV stations might provide unpaid advertising for their friendly companies without being subject to any regulation.
- 3.5 Guests invited for TV interviews might promote their products/services in the interviews even though TV stations are not paid.
- 3.6 Some suggest that the CA could implement the proposed relaxation for a period of time on a trial basis and then consider whether the relevant requirements should be lifted. Theoretically, TV stations would not give undue prominence to a product without receiving payment in return. However, the case might not be so in reality.
- 3.7 A majority of participants agree that a TV station should be deemed to have received payment or other valuable consideration for including in its programmes products/services of another company in the group of companies of which the TV station is a member, and hence should be subject to the rules governing product placement. If no regulation is imposed, a lot of indirect advertising of this type will be included in TV programmes.

(4) Requirement for licensees to inform viewers of the inclusion of product placement at the start of the programme

- 4.1 A majority of participants support the proposed requirement because viewers have the right to know and the new requirement would prepare the viewers to make a decision about viewing.
- 4.2 Some consider that an aural and visual notification might not be necessary. The use of symbol could serve the same purpose.
- 4.3 The new notification requirement only informs viewers of the inclusion of product placement in a programme without stating when it will appear, or what products will be placed. It might make viewers pay more attention to the

products placed in the programme and would, on the contrary, enhance the advertising effect.

- 4.4 Some consider that there are already many statements and reminders at the start of a programme. The new requirement would further complicate the situation.

(5) Acquired programmes

5.1 There are technical limitations for editing the content of acquired programmes and channels acquired for direct re-transmission. Producers might not be willing to sell their programmes to TV stations which would edit the content of their programmes. Therefore, it is acceptable to adopt a more relaxed approach on the regulation of these programmes and channels.

5.2 Hong Kong viewers might not view local productions and acquired programmes in the same light. For example, there are generally more product placements in the Mainland programmes and viewers have got used to them. Therefore, when Mainland programmes are broadcast on local TV stations, product placements presented in a relatively obtrusive manner are more acceptable to viewers. However, viewers have higher expectation for locally produced programmes and might not find the same form of presentation therein acceptable.

(6) Other comments

6.1 There are already other codes of practice or legislation (such as legislation or codes of practice on prevention of bribery, supervision of companies and professionals, etc.) in place to regulate issues such as whether indirect advertising contains inaccurate information, whether staff of TV stations accept advantages, whether TV stations surreptitiously employ product placements, whether professionals invited as guests of programmes indirectly advertise the products of their companies, etc.

6.2 No matter how clearly the rules are written, it is impossible to cover all circumstances. There would always be loopholes.

6.3 The number of TV stations should not be limited. Licences should be granted to as many applicants as possible. Increasing the number of TV stations will provide more options for viewers and bring about competition and progress for the industry.

Focus Group Discussion
(25 April 2018)

Summary of Views

(Participants included representatives of free and pay TV licensees, Radio Television Hong Kong (RTHK), TV production veterans, advertisers association and academics)

(1) Prohibition on Indirect Advertising

- 1.1 The CA's initiative to relax the current provisions on indirect advertising and product placement is welcomed. However, the CA should go for a substantial relaxation to help increase the revenue of licensees.
- 1.2 As a result of the different sets of standards for paid and unpaid indirect advertising, advertisers will tend to advertise in local productions of production houses and other media instead of programmes produced by licensees. As such, licensees would not benefit.
- 1.3 The proposals clearly set out the programme types in which indirect advertising would be prohibited and are easy for licensees to follow.
- 1.4 Some suggest that the CA should consider relaxing the prohibition of indirect advertising within children's programmes. As free TV licensees are required under the licence to broadcast a significant amount of children's programmes, relaxing the prohibition of indirect advertising within children's programmes, such as those targeting children above a certain age, can create more business opportunities for licensees.. However, some consider that licensees already receive advertising revenue from broadcast of advertisements during commercial breaks of children's programmes. It is not preferable to further relax the prohibition of indirect advertising within children's programmes, as children may not be able to differentiate between programme materials and the indirect advertising therein. Should children's programmes contain product placement, parents may not let their children watch such programmes, and licensees would not be benefitted. Research studies show that children under the age of six may not be able to distinguish advertisements from programmes. Even for children who are more mature, they still may not be able to identify product placement within programmes.

(2) Indirect Advertising where Payment or Other Valuable Consideration is Received by Licensees (commonly known as Product Placement)

- 2.1 The proposed general principles (viz. presented in a natural and unobtrusive manner) are subjective. It involves merely a change of wording of the existing subjective rules, and will give the CA even more room for interpretation. The arguments over whether the presentation is “natural and unobtrusive” would continue between licensees and the CA.
- 2.2 The CA should use substantiated complaints in the past as examples to indicate whether those cases would or would not be caught under the proposed general principles.
- 2.3 The culture of lodging complaints is widespread in Hong Kong. Using subjective principles would only encourage more hostile complaints.
- 2.4 The consultation document mentions that examples would be given to illustrate what is acceptable and unacceptable under the proposed general principles. Examples could not be exhaustive. On the other hand, too many examples will limit the creativity of licensees and affect their editorial control. What is natural or not should be left to licensees’ editorial decisions, rather than being regulated by the CA.
- 2.5 It seems that the proposed wording of “natural and unobtrusive” has the effect of tightening rather than relaxing the regulation of product placement. The CA should consider using the wording of “natural or editorially justified” to give latitude to licensees.
- 2.6 The wording of the proposed general principles is problematic. More time should be given for consultation.
- 2.7 There are comments that the CA should consider adopting specific guidelines to regulate product placement, such as specifying the duration or number of products allowed to be placed in a programme. However, some consider it impracticable. For instance, a programme about a theme park may feature the logo of the theme park and the facilities in the park, and it would be very difficult to determine the duration of product placement in that case. Limiting the number of products allowed to be placed within a programme is also infeasible as this would give rise to the question of how the exposure of product/service should be counted.
- 2.8 The consultation document suggests that “mentioning the price and availability of the products/services” would be regarded as “direct encouragement of

purchase or use of products/services”. This is stricter than the current regime as the mention of price and availability is not strictly prohibited under the prevailing Codes.

- 2.9 The consultation document suggests that frequent use of favourable language would be regarded as “direct encouragement of purchase or use of products/services”. However, frequent use of favourable language is inevitable in specific context of some programme genres (for example, tasting food in a gourmet programme) and such presentation is acceptable to viewers.
- 2.10 Advertising agencies are reluctant to advertise products/services through product placement as the rules are subjective and unclear. Advertisers are concerned that if the product placement of a brand is found incompliant with the rules, the brand’s image would be damaged.
- 2.11 Under the proposals, product placement in station-produced programmes is subject to more stringent restriction than acquired programmes which are produced by external parties/production houses. The production houses would be able to generate revenue from indirect advertising incorporated in their productions while free TV licensees which buy such programmes will not get any benefit from the indirect advertising contained therein. The interests of free TV will be harmed, which is contradictory to the intention of the CA to help increase the revenue of licensees.
- 2.12 The CA should not presume that product placement is unappealing to viewers.
- 2.13 Some suggest that the CA may consider issuing guidelines for licensees’ reference and drawing up some concrete rules to facilitate compliance by licensees.
- 2.14 Some consider that the CA should adhere to the principle of striking a balance between protection of viewers’ interests and provision of a more conducive business environment for television stations. While the regulation of product placement would be relaxed, there is still a need to regulate the presentation of product placement.
- 2.15 There are three free TV licensees, RTHK and many other media platforms on the Internet. In case the audience is not content with programmes with product placement, they can always opt for programmes on other free TV channels or the Internet.

2.16 The CA should be more lenient and should welcome product placement. The rules to be included in the Codes should be relaxed and measurable. The CA should facilitate the operation of licensees.

2.17 Some advertisers turn to other media platforms on the Internet when they are told that certain types of product placement are not acceptable in licensed TV services. If the CA continues to impose strict rules on product placement, revenue will continue to flow from TV licensees to new media.

(3) Indirect Advertising where No Payment or Other Valuable Consideration is Received by Licensees

3.1 The deeming provision (i.e. a licensee is deemed to have received payment or other valuable consideration for including within that programme products or services of another company in the group of companies of which the licensee is a member) should only apply when there is promotional effect, as some consumer advice programmes may include the exposure of associate companies' products/services.

(4) Notification Requirement for Product Placement

4.1 The CA should make reference to the practice in the United Kingdom of using a designated symbol for notification purposes. Under normal circumstances, there should be no verbal mention of brands in product placements in both locally produced and acquired programmes that would affect visually-impaired audience.

4.2 There are already many advisories at the start of the programmes, and viewers will not pay attention to the new notification regarding product placement. The first few minutes of a programme are important. If there are too many notifications at the start of a programme, it would ruin viewers' mood to continue watching the programme.

4.3 The CA requires product placement to be natural. A prior notification is not natural and would discourage advertisers to use product placement as a means to promote products/services, which would be contradictory to the CA's intention to provide a more conducive business environment for TV licensees.

4.4 According to the CA, more product placements are expected to appear in various programmes following relaxation of the rules. If product placement

would become the norm, it would be superfluous to give prior notification to inform viewers.

- 4.5 Contrary to some views that prior notification will give viewers an impression that product placement is something undesirable, certain research studies indicate that viewers would have a better impression on the brand with a prior notification. Nevertheless, research studies also indicate that prior notification may not serve the purpose of protecting viewers from the influence of product placement.
- 4.6 Viewers are usually adults who are knowledgeable and such notification requirement achieves no purpose but warns viewers of product placement. The CA should not be paternalistic.
- 4.7 The consultation document seeks views on whether a prior notification should be added. The public may agree with the proposal without realizing that there are already many other advisories, e.g. parental guidance, programme classification, etc. Should they know the full picture, they may consider the prior notification obtrusive.

(5) Acquired Programmes

- 5.1 It is difficult for licensees to clarify with the producers whether there is product placement in acquired programmes.
- 5.2 Under the proposals, unpaid indirect advertising in station-produced programmes is not subject to any restriction but acquired programmes are subject to notification requirement even if they are unpaid. There seems to be no relaxation with regard to acquired programmes.
- 5.3 The potential cost saving arising from the proposed exemption for acquired programmes (as a result of which the licensees would no longer have to edit or blur the unpaid indirect advertising therein) is insignificant. There should be a big leap forward in the relaxation of paid indirect advertising in station-produced programmes so as to help the licensees generate revenue.
- 5.4 Nowadays very few people read programme schedules. For direct re-transmission channels for reception in Hong Kong on a pay TV service, the requirement that licensee should indicate in its publicly announced or published programme schedules that such channels may contain indirect advertising is redundant.

(6) Other Comments

- 6.1 The regulatory regime of the CA is too stringent. Viewership has been declining considerably, especially among young people. The proposed relaxation with so many limitations would in effect tighten rather than relax the regulation. After all, viewership will determine whether a product placement is acceptable or not.
- 6.2 The TV industry is declining. The CA should do more to relax the regulation or young people will not pursue career in the TV industry.
- 6.3 Advertisers are shifting their marketing budget to Internet and other media platforms because they are not subject to the rules applicable to TV licensees. Advertisers would not like to see the TV industry decline because of various regulations.
- 6.4 The CA should take the lead to educate the public that the source of revenue of free TV comes from advertising and product placement is not a “monster”. The CA should also clearly convey to the public that the aim of the current review is to relax the regulation of product placement so as to increase the revenue of free TV services. Otherwise, owing to the complaint culture, the public will continue to lodge complaints and advertisers will hesitate to advertise through product placement within programmes.
- 6.5 When enforcing the proposed Codes, the regulator should always note that the direction is to relax. In the past, the enforcement was sometimes lenient and sometimes strict.
- 6.6 The CA should bear in mind that it should make the business environment more conducive for licensees, rather than removing some existing rules but introducing new ones.
- 6.7 The allowed advertising time should be increased and more flexibility should be allowed to let licensees increase revenue.
- 6.8 English channels are not profitable and the English channel requirement should be reviewed.
- 6.9 The requirements for licensees to broadcast certain types of programmes (such as programmes for children, elderly etc.) under the TV licence should be more flexible.

- 6.10 The CA should regulate the quality of TV programmes and encourage licensees to broadcast different types of programmes for the sake of raising the quality of citizens.
- 6.11 Analogue television should be switched off to relieve the technical burden of licensees. The Government may make use of the Community Care Fund to provide subsidy to those who need to buy new television sets.