

Letterhead of Hong Kong Commercial Broadcasting Co., Ltd

The Broadcasting Authority Secretariat,
Television and Entertainment Licensing Authority,
39/F, Revenue Tower,
5 Gloucester Road,
Wanchai,
Hong Kong

1st November, 2000

Re: Draft Generic Codes of Practice for Television and
Draft Radio Codes of Practice

Dear Sir,

Upon reviewing the draft Codes of Practice, we are pleased to support the intention behind the revisions to the current Codes of Practice, but we would also like to take this opportunity to provide some comments which we trust will further clarify the issues raised.

Naturally, in reviewing the draft Codes of Practice, we have focused on the section on radio broadcasting, even though a substantial part of the draft Radio Codes of Practice appears to have been taken from the draft Generic Codes of Practice for Television. For the avoidance of doubt, the paragraph numbers mentioned in the rest of this letter refer to the paragraph numbers contained in the chapter on "Draft Radio Codes of Practice":

Firstly, confirming our discussion with Mr. Eddy Chan, we understand that the intention of the draft Radio Codes of Practice is to follow the draft Generic Codes of Practice for Television in that paragraphs 21 to 41 should all come under the broad topic of "impartiality". We would suggest that the way the draft Radio Code of Practice is written should reflect this understanding.

Secondly, one of the most significant areas where the draft Codes of Practice differs from the existing Codes of Practice is the introduction of a new category of "factual programmes" called "Personal View Programmes". We would like to go into this issue in greater detail.

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Personal View Programmes

Para. 21 says:

"The licensees must ensure that due impartiality is preserved as respects news programmes and any factual programmes dealing with matters of public policy of controversial issues of public importance. Factual programmes are non-fiction programmes which are based on material facts. They can take the form of news, current affairs programmes, personal view programmes, phone-in programmes, documentaries and programmes adopting an investigative style of reporting."

This paragraph appears to require due impartiality to apply to all factual programmes, including personal view programmes, and appears to be inconsistent with Paragraph 28 (b) under "Personal View Programmes" which implies that partiality is acceptable for such programmes:

(b) *Facts must be respected and the opinion expressed, however partial, should not rest upon false evidence.*

This apparent inconsistency should be removed. One example of how this inconsistency can be removed is to revise para. 21 as follows:

"The licensees must ensure that due impartiality is preserved as respects news programmes and any factual programmes (except personal view programmes, which are dealt with under Para. 28 below) dealing with matters of public policy of controversial issues of public importance. Factual programmes are non-fiction programmes which are based on material facts. They can take the form of news, current affairs programmes, personal view programmes, phone-in programmes, documentaries and programmes adopting an investigative style of reporting."

Secondly, under the draft Radio Codes of Practice, the nature of a personal view programme must be identified clearly at the start of the programme. Where a personal view programme is over half an hour in duration, such identification must be made *at least once during each half hour or part thereof* of the transmission of the programme. However, it is our belief that the average listener should be able to tell, even without any such reminder, that the views expressed by the presenters should only reflect their own personal views. Hence frequent reminders of this fact are superfluous. Moreover, we believe that such frequent reminders are unnecessarily intrusive to the listener. We therefore propose that this requirement is to be dropped. Instead, the licensee will maintain a list of personal view programmes which will be made available to the public on demand or whenever an enquiry is received.

Potential Conflict of Interest of Programme Presenters

This is an issue which has drawn much debate. We strongly support the principle that all potential conflicts of interest by the presenters should be declared. However, we also believe that the implementation of this principle, and the manner in which this principle is put in the form of a Code of Practice, could be improved upon. In summary, our position is that:

- (a) The licensee has a responsibility to set up a mechanism for declaration of interest by the presenters, and to ensure that the presenters are aware of such a mechanism.
- (b) The presenters have a responsibility to comply with the requirement of the licensee to report any potential conflict of interest.
- (c) If the presenters choose not to declare their interest to the licensee, they must refrain from discussing any issue which concerns the interest of the party with whom they are involved, or they may face disciplinary action by the licensee.
- (d) If a presenter should decide to declare his interest to the licensee, the licensee must either instruct him not to discuss any subject which may concern the party with whom he is involved, or to disclose his interest to the listeners.

We also believe that maintaining the public's trust and its own credibility are constantly at the top of a licensee's priority. Accordingly, any potential conflict of interest by its presenters will be a cause of grave concern to the licensees. So this is probably an issue which can be left to the licensee to self-regulate, and any complaints regarding possible conflicts of interest should, in the first instance, be referred to the licensee for investigation, rather than the BA. If this is not the case, we have a number of concerns about the ease with which complainants could use this mechanism to disrupt the licensees' operations for their own benefit. In short, if 'conflict of interest' is to become an issue which requires stricter safeguards, we would request that such safeguards are also directed towards potential complainants. Increasing the individual responsibilities of the programme presenters offers individuals with some sort of ulterior motive the opportunity to use those responsibilities against the presenter. We would like to see some increase therefore in the steps taken by the BA to ensure that complaints against presenters are launched for genuine reasons, and that such complaints are not launched primarily for the personal gain of the complainant.

Interviews:

Fourthly, according to para. 35:

"Licensees should ensure that the views expressed by the interviewees in recorded interviews are still valid when they are broadcast. Listeners should be informed of the date the interviews were conducted where necessary."

The intention of this paragraph is that licensees should be fair to the interviewees and may not use the interviewee's former views to misrepresent them as his current views. However, the wording of this paragraph may pose a problem if the intent of playing back an earlier interview is either to show the fact that the interviewee concerned has changed his mind, or to show that two parties may be saying something which is in conflict. Moreover, as interviewees are always free to change their views, it is not always possible to ensure that someone's views are still valid, even though the interview was recorded only a very short period of time ago. One suggestion to revise this paragraph is as follows:

"Licensees should not knowingly misrepresent the views of interviewees by broadcasting a previously recorded interview and presenting it as the interviewee's current views. Listeners should be informed of the date the interviews were conducted where necessary."

Should you require any further explanations, please do not hesitate to contact the undersigned.

Yours Sincerely,

Pearl Wong
General Manager