

For information
on 27 June 2003

Legislative Council
Panel on Information Technology and Broadcasting

Complaint Handling Procedure of the Broadcasting Authority

Purpose

This paper informs Members of the complaint handling procedure of the Broadcasting Authority (BA).

Complaint Handling Procedure

2. All complaints made to the BA are dealt with in accordance with the provisions stipulated in the Broadcasting Authority Ordinance (BAO).
3. Complaints received are carefully investigated to establish the facts and to examine whether there are any possible breaches of the legislation, licence conditions or Codes of Practice. If there is prima facie evidence of a breach, the complaint will be referred to the Broadcasting Authority Complaints Committee (BACC) for consideration.
4. The licensee will be notified of the substance of complaint and the relevant provisions that may have been contravened in a letter inviting representation, either orally and/or in writing, to the BACC.
5. The BACC will consider each complaint and the representation from the licensee carefully before making recommendations to the BA and the proposed sanction if applicable.
6. Before BACC's recommendations are submitted to the BA for approval, the licensee concerned will be notified in confidence of the BACC's recommendation in writing, including the provisions breached and, if applicable, the proposed sanction. The licensee will be invited to submit *further representations* either orally and/or in writing to the BA on the BACC's recommendations.

7. The BA will consider the recommendation of the BACC and all representations submitted by the licensee before making a decision. The BA may accept or vary the BACC's recommendation.

8. Depending on the severity and nature of the breach, the BA may take the following actions:

- (a) Issue "Advice" or "Strong Advice" – the licensee is advised or strongly advised to observe more carefully the relevant provisions;
- (b) Issue "Warning" or "Serious Warning" – the BA takes a serious view of the contravention and the licensee is warned or seriously warned against further contraventions and is urged to observe more carefully the relevant provisions;
- (c) Impose Financial Penalty – for a breach which the BA considers to be of a serious nature, a financial penalty may be imposed on the licensee. The maximum financial penalty that the BA may impose on a television programme service licensee is \$1 million and that on a sound broadcasting licensee is \$400,000; and
- (d) Suspend the Licence – for a very serious breach which has occurred on a number of occasions, or failure to pay licence fee or failure to pay financial penalty, the licence may be suspended.

9. A licensee who is aggrieved by the decision of the BA may appeal by way of petition to the Chief Executive in Council within 30 days of the notification to him of the decision, pursuant to section 26 of the BAO.

10. Over the past three years, the BA has issued 13 "serious warnings", 31 "warnings", 46 "strong advice" and 41 "advice" to television and radio licensees for breaches of licence conditions and codes of practices.

“Tea Cup in the Storm” broadcast on 24 and 25 April 2003

11. During the period around end of April, the BA received public complaints against the editions of the programme broadcast on 24 and 25 April. The substance of the complaints was that the programme host –

- (a) was abusive, rude, and disrespectful to the representatives of the Housing Department and the Hospital Authority;
- (b) used offensive and insulting language to make personal attacks on the representatives;
- (c) exerted a bad influence on society, young persons and children; and
- (d) did not give the representatives suitable opportunity to respond to his accusations.

12. According to the complaint handling procedure as outlined above, the BA, having considered the two representations from Commercial Radio and the recommendation of the BACC, considered that both editions of the programme broadcast on 24 and 25 April 2003 were in breach of paragraphs 34 and 36(c) of the Radio Code of Practice on Programme Standards (relevant extract from the Radio Code of Practice on Programme Standards at **Annex**) and that CRHK be given a warning for each edition.

Annex

Advice Sought

13. Members are invited to note the content of this paper.

Television and Entertainment Licensing Authority

27 June 2003

Extract from the Radio Code of Practice on Programme Standards

Right of Reply

34. Licensees should take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organizations. Licensees should take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented.

35. Where a factual programme reveals evidence of iniquity or incompetence, or contains a damaging critique of an individual or organization, those criticized should be given an appropriate and timely opportunity to respond.

Personal View Programmes

36. “Personal view programmes” are programmes in which the programme hosts and, sometimes, individual contributors put forward their own views. The following rules apply to all personal view programmes on matters of public policy or controversial issues of public importance in Hong Kong:

- (a) The nature of a personal view programme must be identified clearly at the start of the programme, for example, by an announcement in the following terms, “This programme only reflects the personal views of the programme host(s) and/or the individual contributor(s).”
- (b) Facts must be respected and the opinion expressed, however partial, should not rest upon false evidence.
- (c) A suitable opportunity for response to the programme should be provided.
- (d) Licensees should be mindful of the need for a sufficiently broad range of views to be expressed in any series of personal view programmes.