

**For Information
on 21 July 2005**

**Legislative Council
Panel on Information Technology and Broadcasting**

**Freedom of expression and other issues related to
Personal view programmes of sound broadcasting licensees**

Purpose

This paper sets out the position of the Broadcasting Authority (BA) on freedom of expression, regulation of sound broadcasting content and information related to the renewal of sound broadcasting licences.

Background

2. Arising from the Hong Kong Commercial Broadcasting Company Limited (CRHK)'s decision to terminate its contract with Mr Wong Yuk-man, the LegCo Panel on Information Technology and Broadcasting has expressed concern about the incident's implications, if any, for freedom of expression in the broadcasting industry. The BA was invited to give its views on the matter from the regulatory perspective.

Role and Functions of the BA

3. The BA is an independent statutory body established under the Broadcasting Authority Ordinance (Cap. 391) for the regulation of the broadcasting industry. One of its main functions is to secure the proper broadcast content standards to ensure that the services of licensed broadcasters respect public tastes and decency.

BA's position on freedom of expression

4. The BA is committed to upholding freedom of expression. There should be no interference with the right of the broadcasters to impart information and ideas and the right of the public to receive information and ideas of all kinds. As such, the BA does not preview or censor any broadcast materials. The editorial responsibility lies with the broadcasters. They are however required to observe the relevant legislation, licence conditions and the BA's codes of practice on programme and advertising standards.

Regulation of radio programme contents

5. The regulation of radio programme contents is enforced mainly through the BA's Radio Code of Practice on Programme Standards. Apart from the requirements governing good taste and decency, there are also provisions safeguarding accuracy, impartiality and fairness in news, current affairs and factual programmes.

6. On impartiality and fairness, the licensees must ensure that due impartiality is preserved in respect of news programmes and any factual programmes dealing with matters of public policy. The licensees have a responsibility to avoid unfairness to individuals or organisations featured in factual programmes, in particular, through the use of inaccurate information or distortion. They should also avoid misleading the audience in a way which would be unfair to those featured in the programme.

7. "Personal view programmes" are programmes in which the programme hosts and, sometimes, individual contributors put forward their own views. While the BA accepts that personal view programmes may not measure up to the impartiality requirement in the strictest sense, it lays down certain safeguards for such programmes. 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.

8. Members of the public may lodge a complaint against the concerned broadcaster with the BA if he/she finds that the programme content contravenes the Code.

Termination of contract of Mr Wong Yuk-man

9. Freedom of speech in Hong Kong is guaranteed under Article 27 of the Basic Law. The BA respects the independent operation and editorial freedom of licensed broadcasters. The BA acts within the regulatory framework. The relevant broadcasting laws, licence conditions or the Code do not govern the hire and fire of programme hosts. The BA will not interfere with the licensee’s decision in the selection of programme hosts and is not in a position to make conjectural comments on whether the hire and fire of a programme host amounts to self-censorship, or has any bearing on freedom of expression. Otherwise, it may be perceived by the public that the industry regulator is exerting pressure on a broadcaster on the selection of a particular programme host.

Licence renewal

10. Section 13E(1) of the Telecommunications Ordinance (Cap. 106) requires the BA to submit recommendations to the Chief Executive in Council concerning the renewal of a sound broadcasting service licence and the terms and conditions to be imposed. The BA will recommend the renewal of a sound broadcasting licence if it is satisfied with the licensee's future investment commitment, compliance with the relevant licence conditions and codes of practice, and past performance in terms of the quality of service (after taking into account public views). The existing mechanism ensures that the service provided by the licensees live up to the standards and expectations of the community.

Television and Entertainment Licensing Authority
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