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**工商及科技局
通訊及科技科**

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26 June 2006

Clerk to Panel on
Information Technology and Broadcasting
3/F, Citibank Tower
3 Garden Road
Hong Kong

Attn: Mr Paul Woo

Dear Mr Woo,

**Panel on Information Technology and Broadcasting
Regulation of contents of radio programmes**

I refer to your letter dated 13 June 2006. The letter has asked for the Administration's view, from the policy perspective and having regard to the Broadcasting Authority (BA)'s investigation and the concern of the community, on whether there is a need to tighten up the existing monitoring mechanism for radio programmes in order to guard against the recurrence of incidents similar to the promotion of an objectionable web poll in the radio programme "So Fab" of the Hong Kong Commercial Broadcasting Company Limited (Commercial Radio).

Facts

The promotion of the objectionable web poll on "the top ten Hong Kong female artiste whom I most want to indecently assault" was broadcast in the radio programme "So Fab" on CR2 channel on 3 June 2006 from midnight to 2:00 a.m.

The BA received 189 complaints against the content of the radio programme. On 15 June, the BA announced that Commercial Radio had breached several clauses in the Radio Code of Practice on Programme Standard. The Code is promulgated by the BA with which a sound broadcasting licensee is required to comply. The BA decided to impose a financial penalty of \$140,000 on Commercial Radio, direct it to include an apology in its service, and require it to submit a progress report on remedial measures taken within three months. The press release on the BA's findings and decision is at Annex. Commercial Radio has accepted BA's decision and has made a public apology as required by the BA. It will submit a report in due course.

Policy on Regulating Broadcast Contents

Our policy is that there is no pre-censorship of broadcast contents on television and radio. The editorial responsibility lies with the television and radio licensees themselves. Members of the public who find that broadcast contents may have contravened the Codes of Practice published by the BA may lodge with it a complaint against the concerned broadcaster.

The BA is an independent statutory body established under the Broadcasting Authority Ordinance (Cap. 391). One of its statutory functions is to secure proper standards of television and radio programme contents. The BA's Codes of Practice serve as guidelines on proper content standards for the industry. The BA has studied the relevant codes on content standards in overseas countries such as the UK, Canada and Australia when drawing up the existing Codes of Practice, and extensively consulted the public on them in 2000-01. The Codes of Practice reflect the following commonly accepted principles of broadcasting:

- (a) decency and good taste;
- (b) impartiality and fairness;
- (c) right of reply be offered;
- (d) accuracy in news;
- (e) protection of minors from inappropriate depiction of violence and sex; and
- (f) prohibition of incitement to hatred and content that may result in general breakdown of law and order or gravely damage public health and morals.

A radio licensee who has breached any provision of the Codes of Practice will be subject to sanctions by the BA. Depending on the seriousness of the breach, the BA may advise the licensee to observe the Codes more closely; issue an administrative warning; or impose statutory sanctions including the inclusion of a correction or apology in the licensed service, financial penalty or suspension of licence according to the relevant provisions of the Broadcasting Authority Ordinance and conditions of the sound broadcasting licence held by the licensee.

The BA acts on public complaints on breaches of Codes of Practice. Except for trivial and frivolous complaints, the Television and Entertainment Licensing Authority, the executive arm of the BA, will investigate complaints received and refer to the Complaints Committee, which comprise non-official members only, of the BA for consideration and recommendation to the BA. Licensees and any other concerned parties will have the right to make representations, either orally or in writing or both, to the Complaints Committee before the Committee considers the complaints in question. Having considered the recommendation from the Complaints Committee, the BA will notify the licensees concerned of its provisional findings in writing. The licensees will be invited to submit further representation (if any) before the BA makes its final decisions.

Need for change

The existing complaint-driven content regulatory system relying on self-compliance and adjudication by an independent authority is in line with international best practice. The procedures described in the preceding paragraph also ensure a due process in which there is fair hearing in adjudication. We consider that the existing system works well in serving the policy objective of securing proper standards on broadcast contents.

Yours sincerely,



(Eddie Cheung)

for Secretary for Commerce, Industry and Technology

c.c.

Secretary, Broadcasting Authority
AA/SCIT

Press Release

Commercial Radio fined \$140,000

The following is issued on behalf of the Broadcasting Authority:

The Broadcasting Authority today (June 15) announced that a financial penalty of \$140,000 would be imposed on Hong Kong Commercial Broadcasting Company Limited (CR) for its contravention of the Radio Code of Practice on Programme Standards in regards to its radio programme "So Fab".

In view of the seriousness of the case and wide public concern about the programme, the authority invoked section 25A of the Broadcasting Authority Ordinance (Cap. 391) for the first time to direct Commercial Radio to include in its sound broadcasting service an apology regarding the complaints. The apology should be broadcast once in all three channels of Commercial Radio during prime time by a senior member of Commercial Radio's management.

To prevent the occurrence of incidents of similar nature, the authority has also directed Commercial Radio to submit, within three months of the final decision of the authority and to the satisfaction of the authority, a progress report on their remedial measures taken. The authority will scrutinise the report carefully to ensure that Commercial Radio will adopt a more proactive and tighter monitoring system for its programmes in future.

The Broadcasting Authority has so far received 189 complaints against the promotion of an Internet poll "the Hong Kong female artiste whom I most want to indecently assault" in the radio programme "So Fab" broadcast on the CR2 channel of Commercial Radio on June 3, 2006, from midnight to 2am. The authority has carefully considered the content of the programme concerned and decided that the complaints were substantiated.

The authority considered that the programme concerned was found to be in breach of paragraphs 6, 7(a) and (b), 8, 9, 16, 17 and 19 of the authority's Radio Programme Code. In coming to this decision, the authority considered that the programme presenters concerned were experienced programme hosts and the promotion of the poll in Commercial Radio's programme was not a matter of inadvertence. The authority was of the

view that as indecent assault involved sexual violence and was a criminal offence by nature, the programme hosts' remarks to ask listeners to vote for the female artistes they most wanted to indecently assault was of bad taste.

Moreover, the light-hearted manner in which the hosts dealt with the subject gave listeners the wrong impression that the act of indecent assault was trivial and could be made fun of. The frivolous and insensitive treatment of such improper conduct and of what could amount to a criminal act could well be considered as denigrating and insulting to women. The programme also gave listeners the incorrect impression that it was acceptable behaviour to contemplate the idea of indecently assaulting a woman.

The authority was of the view that CR2 was a channel targeting teenagers and young people and as such there might be teenagers staying up late at night listening to the programme. The invitation made by the programme hosts to listeners to vote on such an improper subject could not be considered as appropriate even if the programme was broadcast at midnight.

As this is the second occasion which a financial penalty is imposed on Commercial Radio and having regard to the proposed remedial measures to be taken by Commercial Radio, including training sessions for their staff to enhance their professionalism and sense of responsibility towards the society, the authority decided to impose a financial penalty of \$140,000.

Ends/Thursday, June 15, 2006
Issued at HKT 10:22

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