

SUBMISSION ON BROADCASTING AUTHORITY ACTION ON GAY LOVERS PROGRAMME

1. The Hong Kong Journalists Association (HKJA) is seriously concerned about a serious advice issued by the Broadcasting Authority (BA) to Radio Television Hong Kong (RTHK) on January 20th 2007. The serious advice related to an RTHK programme on gay lovers, which the BA considered to be "unfair, partial and biased towards homosexuality and having the effect of promoting the acceptance of homosexual marriage".

2. The HKJA is concerned that a programme which presents in a neutral manner the views of homosexual couples and individuals should be considered to be biased towards homosexuality. Indeed, the authority ruled that the programme violated paragraphs 2 and 3 of chapter 9 of the Generic Code of Practice on Television Programme Standards.

3. Chapter 9 deals with accuracy, impartiality and fairness. It requires reporting to be "dispassionate and give viewers an even-handed account of events". It also notes that due impartiality "requires the licensees to deal even-handedly when opposing points of view are presented in a programme or programme segment."

4. However, at the same time the code does not require "absolute neutrality" on every controversial issue (paragraph 4). It also notes that "it is not always possible for principal opposing viewpoints to be reflected in a single programme or programme segment" and that "it is not always necessary to ensure that in a single programme or programme segment all sides have an opportunity to speak" (paragraph 6).

5. What is far more important is that impartiality and fairness take place over a period of time, as reflected in paragraph 6. The HKJA therefore considers that the BA has adopted an overly narrow interpretation of the code and has thereby exerted undue pressure on RTHK's editorial independence - a right which should lie with the broadcaster if media freedom is to be upheld.

6. We also ask whether the BA has misunderstood the nature of the programme, which focused on the concerns of homosexual people. It was meant to bring to light their concerns, not to advocate their views. This is a common documentary technique, which would be destroyed if rigid adherence to impartiality was imposed. We question what the public reaction would be if RTHK broadcast a programme focusing on heterosexual couples, and the broadcaster sought a comment from homosexuals. Programming does not work that way.

7. The HKJA is also seriously concerned about the intervention of the Secretary for Commerce, Industry and Technology, Joseph Wong, in the controversy. The policy bureau issued a press release on January 21st giving the impression that Mr. Wong was summoning the Director of Broadcasting, Chu Pui-hing, to explain himself after RTHK issued a statement on the issue. We

believe that RTHK has every right to express its views, and that there was no intention on its part not to comply with the BA's ruling.

8. This case also highlights the issue of whether the BA - as it is now constituted - can faithfully reflect the range of views within society. It consists of 12 members, including three from government. It includes only one member who has worked previously in the broadcasting industry. The complaints committee, which considered the complaint against RTHK, consists of six Broadcasting Authority members and five co-opted members. The authority refuses to reveal anything about the co-opted members, citing privacy concerns.

9. We believe it is time for the government to rethink how it constitutes the Broadcasting Authority and its committees and whether they should continue to operate behind closed doors on issues which are clearly in the public interest.

10. We therefore call on the government to take the opportunity, as is likely when a new Communications Authority is formed, to ensure that a full range of Hong Kong viewpoints is included on the body. This can be achieved by allowing community organisations to nominate representatives - for confirmation by the Legislative Council.

11. The government should also open up all meetings of the authority and its committees, with closure only allowed if commercial secrets are being discussed. In such cases, the authority should give valid reasons for the need to go into closed session.

12. The democratisation of the broadcasting oversight system should go ahead, to ensure that the full spectrum of views in Hong Kong is represented, and to ensure that the authority no longer goes down the road it has just taken - of interfering in the editorial independence of broadcasters.