

**For discussion
on 10 December 2007**

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

**Survey Results on Broadcasting Services and
Complaint Handling Mechanism
of Television and Entertainment Licensing Authority**

Purpose

This paper briefs Members on the findings of the Broadcasting Services Survey commissioned by the Broadcasting Authority (BA) in 2007 and the complaint handling mechanism of the Television and Entertainment Licensing Authority (TELA), the executive arm of the BA.

Background

2. The BA is the independent statutory regulator of the broadcasting sector established under the Broadcasting Authority Ordinance (BAO) (Cap. 391). The functions of the BA include, among others, securing proper standards with regard to television and sound broadcasting programme contents (including advertisements) that are acceptable to the community, and consideration of complaints in accordance with the relevant provisions in the BAO.

3. To keep abreast of the latest development of the local broadcasting industry and gauge public views on the standards of local broadcasting services, the BA conducts territory-wide opinion surveys on a regular basis. In 2007, the BA commissioned an independent researcher, Consumer Search HK Ltd., to conduct a broadcasting services survey. This is a tracking survey of a similar survey carried out by the BA in 2005.

4. The Broadcasting Services Survey provides useful

information on the use and penetration of various broadcasting services in Hong Kong; the viewing and listening habits of the public; and their attitudes towards matters relating to broadcasting for reference by the BA and the Administration in formulating and implementing broadcasting policy and regulation, thereby facilitating further development of the industry. Details of the survey are given in paragraphs 6 to 8 below.

5. In Hong Kong, the BA and TELA do not pre-censor broadcast content. Instead, we adopt a complaint-driven approach to safeguard broadcasting standards in order to protect public moral and minors. TELA is the executive arm of the BA and is responsible for assisting the BA in dealing with complaints against the service licensees for non-compliance with the Codes of Practice on Programme and Advertising Standards. The mechanism of TELA in dealing with complaints about broadcasting contents is set out in paragraphs 9 to 12.

Survey Results on Broadcasting Services

Objectives, Survey Coverage and Methodology

6. The objectives of the survey are to track the trends in the television viewing and radio listening habits of the Hong Kong population and their views on different types of broadcasting services in Hong Kong. The main fieldwork was conducted from 17 March to 1 June 2007 employing a probability sampling method covering representative households from the entire Hong Kong population in consultation with Census and Statistics Department (C&SD). The target respondents were persons aged 15 or above. A total of 1 625 successful face-to-face interviews were conducted with a response rate of 71.1%. The findings of the survey have been compared with that of the last survey conducted in 2005.

Major Findings

7. The most important findings of the survey are as follows:

- (a) only 6.6% of free TV viewers and 3.4% of radio listeners in the present survey expressed dissatisfaction on programme variety. Respondents with access to pay TV services were inclined to show dissatisfaction on variety of free TV programmes.
- (b) nearly 70% of the free TV and pay TV viewers and 77% of the radio listeners considered the current programme standards appropriate. Of the remainder, more tended to find the current standards lenient. The key concern was related to the use of language.
- (c) 35.8% of free TV viewers, 26.8% of pay TV viewers and 16.7% of radio listeners said they had encountered offensive materials in either programmes or advertisements over the preceding year.
- (d) respondents highly valued the importance of protecting children from unsuitable materials. 93.3% of those respondents living with children who had watched “PG” (Parental Guidance) programmes said that the children were accompanied by adults in the households when watching such programmes.
- (e) 73% of the respondents recognized the BA as an avenue for dealing with complaints on contents broadcast on TV and radio.
- (f) 35.6% of the respondents would not lodge any complaint on broadcasting contents. For the rest of the respondents, 71% would prefer filing complaints to the BA since it is considered as an effective, fair, independent and reliable channel while 24.6% preferred lodging complaints directly to TV and/or radio stations.

A 8. Major findings of the survey are at **Appendix A** and the Executive Summary of the survey report is available at the BA website (www.hkba.hk).

Complaint Handling Mechanism of TELA, the BA's Executive Arm

9. We presented an information paper on BA's mechanism of handling complaints about broadcast contents to the LegCo ITB Panel in August 2006. The Broadcasting Division of TELA is the executive arm of the BA and is responsible for, among other things, assisting the BA in processing complaints about broadcast contents. A copy of the information paper is attached at **Appendix B** for Members' reference.

10. The salient features of the BA's complaint handling mechanism are as follows:

- (a) complaints made to the BA about broadcast contents are investigated by staff of the Broadcasting Division of TELA to establish whether there are any possible breaches of the codes of practice¹ issued by the BA (Codes).

Complaints handled by Commissioner for Television and Entertaining Licensing (CTEL) under Delegated Authority

- (b) If the broadcast contents under complaint are considered by CTEL prima facie not in contravention of the Codes, the complaint will be discharged as unsubstantiated.
- (c) If the complaint is a straightforward case but about trivial breach of the Codes (e.g. occasional wrong usage of Chinese characters in subtitles), CTEL will deal with them as minor breaches under delegated authority and advise the concerned broadcaster to avoid recurrence of the minor lapse.
- (d) A complainant who is aggrieved by CTEL's decision on

¹ Pursuant to the Broadcasting Ordinance (BO) (Cap. 562) and the BAO, the BA promulgated the Codes of Practice on programme and advertising standards for television and sound broadcasting services respectively as guidelines on proper content standards for the industry.

his/her complaint may appeal to the BA for a review of the decision. All appeal cases on CTEL's decisions on public complaints will be referred to the Broadcasting Authority Complaints Committee (BACC) under the BA for review where the broadcaster's representations will be invited and considered.

Complaints referred to the BACC

- (e) If the contents being complained are found to be prima facie a breach of the Codes and not of a trivial nature, the complaint will be referred to the BACC for deliberation. The Committee will notify the concerned broadcaster of the substance of the complaint and invite its representation, either orally or in writing, to the Committee. After consideration, the Committee will make recommendation, and the proposed sanction if applicable, to the BA.
- (f) If the BA's provisional finding is that there is likely to be a contravention, the concerned broadcaster will be invited to make oral/written representation on the provisional finding and the proposed sanction. After deliberation of the representation, the BA will come to a final decision.

Sanctions

- (g) Depending on the severity and nature of the breach and the record of non-compliance of the licensee, the BA may impose appropriate sanctions including advice, warning, correction and/or apology, financial penalty or suspension of licences.

Members may wish to refer to **Appendix B** for further details.

Updated Complaint Figures

11. During the period from 1 September 2006 to 31 August 2007, the BA processed 2 468 complaints relating to 1 039 cases. A

C & D

breakdown of the results and nature of these complaints are at **Appendices C and D**.

12. During the period 1 September 2006 to 31 August 2007, the BA issued eight pieces of advice, four pieces of strong advice and one serious warning to broadcasters for breaches of the Codes.

The Way Forward

13. We note that audience's preference and opinion about broadcasting standards may vary from time to time depending on the prevailing public moral standard and general perception and acceptance towards sensitive broadcast content. The BA and TELA will keep track of community's views on the regulation of broadcasting standards by conducting regular survey and monitoring the complaint situation against broadcast content.

14. To enhance the transparency of the complaint handling procedure of the BA and TELA and gauge the views of the public from all walks of life on broadcasting standards, the BA is now actively recruiting members of the community to join its Television and Radio Consultative Group (TRCG) for the new term starting from January 2008.

15. The TRCG was first established in 1982. It comprises about 540 members with reference to the population profile of age, sex and occupation of different districts in Hong Kong. Through the TRCG, the BA and TELA can receive a continuous flow of public opinion on television and radio broadcast. The BA will strengthen its communication with members of the TRCG and the broadcasting industry so as to keep abreast of the community's perception of the broadcasting standards.

16. In addition, the BA will regularly release complaint statistics and investigation results to increase public understanding of its work on dealing with complaints.

17. In view of the survey respondents' concern on the use of

language in broadcasting services as mentioned in paragraph 7(b) above, the BA is planning to work with a local university to carry out a research study on the benchmarks relating to the use of language in broadcasting.

18. The BA will continue to conduct broadcasting services survey on a regular basis to help keep track of community views over the regulation of broadcasting services in Hong Kong.

Communications and Technology Branch
Commerce and Economic Development Bureau

Television and Entertainment Licensing Authority

December 2007

**Broadcasting Authority
Broadcasting Services Survey 2007
Major Findings**

Major Survey Findings

1. TV Viewing and Radio Listening Habits

- The viewing pattern of free TV viewers peaked from 18:00 to 23:59 in 2007, the same as in 2005. The Pay TV viewing pattern was from 19:00 to 23:59, as compared to 20:00 to 23:59 in 2005. Radio listeners surveyed in 2007 usually listened to radio from 08:00 to 11:59, against 08:00 to 12:59 in 2005.
- TVB Jade continues to be the most often watched free TV channel (84.1% in 2007 versus 90.0% in 2005). More respondents in the current survey mentioned ATV Home (10.9% in 2007 versus 7.1% in 2005) and TVB Pearl (4.6% in 2007 versus 2.5% in 2005) as channels they most watched.
- CR1 (22.4%), RTHK Radio 1 (20.0%) and CR2 (18.1%) were radio channels most listened to. Meanwhile, more mentioned FM104 Metro Finance as the radio channel they most listened to (increased from 3.6% in 2005 to 6.9% in 2007).

2. Programme Variety of Free TV and Radio

- 6.6% of free TV viewers and 3.4% of radio listeners in the present survey expressed dissatisfaction on programme variety. Comparing to the respective figures of 2.0% and 0.5% in 2005, the increase may reflect the growing diversity of tastes and interests of the community.
- The 2007 survey finds that respondents with access to pay TV services were inclined to show dissatisfaction on variety of free TV programmes.

3. *Growth in Pay TV Market*

- 45% of respondents in 2007 had access to pay TV as compared to 33.8% in 2005.

4. *Current Standards and Protection of Children*

- 69.4% of free TV viewers, 69.2% of pay TV viewers and 77.2% of radio listeners in the current survey considered the current standards on programme contents appropriate. The remainder tended to find the current standards lenient. The key concern was related to the use of language.
- 64.2% of free TV viewers, 73.2% of pay TV viewers and 83.3% of radio listeners in the present survey said they had not come across offensive materials on the broadcasting services in the past year, while 35.8% of free TV viewers, 26.8% of pay TV viewers and 16.7% of radio listeners said they had encountered offensive materials in either programmes or advertisements in the past year.
- There was growing recognition amongst those surveyed of the importance of protecting children from unsuitable materials.
 - The awareness of “PG” programmes by those surveyed remained high at 87.2%.
 - In the present survey, 93.3% of respondents who claimed that the young members aged 15 or below in the household had watched “PG” programmes said that the youngsters had been accompanied by adults in the households when watching such programmes. The corresponding percentage in the 2005 survey was 86.2%.
 - 65.0% of respondents with access to pay TV at home were aware of the availability of a locking device to control access to the pay TV service concerned and 69.9% of them considered the device effective in

preventing children from watching adult materials.

5. *Complaint Avenues*

- Filing a complaint with the BA was the most recognized avenue for dealing with complaints on broadcasting contents as the BA was considered as effective, fair, independent and reliable.
 - The awareness of complaint avenues provided by the BA increased from 65.7% in 2005 to 73.1% in 2007.
 - The awareness of complaint avenues provided by the TV and radio stations decreased from 53.4% in 2005 to 43.3% in 2007.
 - 35.6% of the respondents would not lodge any complaint on broadcasting contents. For the rest of the respondents, more of them (71.0%) would prefer filing complaints to the BA while 24.6% preferred lodging complaints directly to TV and/or radio stations.

Observations on the Findings

- Public satisfaction over programme variety on free TV and radio in Hong Kong is in general high.
- The expansion of pay TV services has resulted in more programme choices and varieties for TV viewers in Hong Kong.
- Hong Kong public generally accepts the current TV and radio programme standards. Overall speaking, under the current regulatory regime, the broadcasting services are meeting the aspirations of the community of Hong Kong.
- There is a high awareness of the importance of protecting children from unsuitable materials, which is in line with the objective of the BA's regulatory work.

- The BA is recognized by those surveyed as the most preferred avenue for dealing with broadcasting complaints as it is considered as effective, fair, independent and reliable.

For information

Legislative Council Panel on Information Technology and Broadcasting

Mechanism of Handling Complaints about Broadcast Programme Contents by the Broadcasting Authority

Purpose

This paper informs Members of the mechanism of handling complaints about broadcast programme contents by the Broadcasting Authority (BA).

Background

2. The BA is the statutory independent regulator of the broadcasting sector, established under the Broadcasting Authority Ordinance (BAO) (Cap. 391). One of the functions of the BA is to secure proper standards of television and sound broadcasting programme contents that are acceptable to the community. Pursuant to the Broadcasting Ordinance (BO) (Cap. 562) and the BAO, the BA promulgated the Codes of Practice on programme standards (the Codes) for television and sound broadcasting services respectively¹.

3. According to the BAO, the BA shall appoint a Complaints Committee (Committee) consisting of not less than five members of the Authority and other persons as it deems fit.

4. Pursuant to section 11(1) of the BAO, the BA shall refer complaints about contravention of the programme standards as set out in the Codes to the Committee. Section 11(3) of the BAO provides that the

¹ Broadcasting licensees are required to comply with the Codes. Radio Television Hong Kong (RTHK) has voluntarily agreed to comply with the Codes. However, the BA may not impose financial penalty on RTHK.

BA may refuse to refer to the Committee a complaint that is trivial or frivolous, or not made in writing. Under section 14(1) of the BAO, the BA has delegated the powers to refer complaints to the Committee to the Commissioner for Television and Entertainment Licensing (CTEL), the Principal Executive Officer of the BA.

The Codes

5. There is no pre-censorship of broadcast contents on television and radio. The editorial responsibility lies with broadcasters themselves. Under the complaint-driven approach, the Codes published by the BA serve as guidelines on proper content standards for the industry.

6. The BA updated the Codes in 2000 to 2001 to ensure that they continue to reflect standards accepted by the local community, and keep abreast with international regulatory practices. Before drawing up the existing Codes, the BA had studied similar codes on programme content standards in overseas countries such as the United Kingdom (UK), Canada and Australia. It launched an extensive public consultation exercise between September 2000 to January 2001 to invite comments on the Codes from the public and industry. Based on the submissions received during the consultation exercise, the majority of the public supported the principles stipulated in the Codes. The Administration briefed the Legislative Council Panel on Information Technology and Broadcasting on the Codes before promulgation in mid-2001.

7. The Codes 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.

8. The BA will review the Codes regularly to meet the changing expectation of the community and the operational needs of the industry. To this end, the BA conducted regular public opinion surveys and focus group discussions to gauge public opinion on programme standards.

Mechanism of Handling Complaints

A 9. The BA handles complaints about broadcast programme contents according to the flow chart at **Annex A**. The BA will not deal with personal comments on programmes or complaints that fall outside its jurisdictions. Where appropriate, the subject matter might be referred to the concerned licensee for reference.

10. For complaints that are about breach of the Codes, the BA will start investigation. This involves review of the broadcast material, seeking the concerned broadcaster's representations, and inviting expert advice if necessary.

Complaints handled by CTEL under Delegated Authority

11. If the broadcast contents being complained are not found by CTEL to be prima facie in contravention of the Codes, the complaint will be discharged as unsubstantiated. If the complaint is a straightforward case but about trivial breach of the Codes (e.g. occasional wrong usage of Chinese characters in subtitles), CTEL will deal with them as minor breaches under delegated authority and advise the concerned broadcaster to avoid recurrence of the minor lapse. All complaints dealt with by CTEL are submitted in a monthly report to the Committee and ultimately to the BA for its information.

12. A complainant who is aggrieved by CTEL's decision on his/her complaint may appeal to the BA for a review of the decision. All appeal cases on CTEL's decisions on public complaints will be referred to the Committee for review where the broadcaster's representations will be

invited and considered.

Complaints referred to the Committee

13. If the contents being complained are found to be prima facie a breach of the Codes and not of a trivial nature, the complaint will be referred by CTEL to the Committee for deliberation. The Committee will notify the concerned broadcaster of the substance of the complaint and invite its representation, either orally and/or in writing, to the Committee. After consideration, the Committee will make recommendation, and the proposed sanction if applicable, to the BA.

14. If the BA's provisional finding is that there is likely to be a contravention, the concerned broadcaster will be invited to make oral/written representation on the provisional finding and the proposed sanction. After deliberation of the representation, the BA will come to a final decision.

Sanctions

15. Depending on the severity and nature of the breach and the record of non-compliance of the licensee, the BA may take the following actions:

- (a) to advise or strongly advise the broadcaster to observe more carefully the relevant provisions of the Codes;
- (b) to warn or seriously warn the broadcaster against recurrence of contravention;
- (c) to impose a financial penalty on the broadcaster².

² Under the BO, the financial penalties for television programme service licensees shall not exceed \$200,000 for the first occasion on which a penalty is imposed; \$400,000 for the second occasion and \$1 million for any subsequent occasion on which a penalty is imposed. For sound broadcasting licensees, the financial penalties are prescribed shall not exceed \$80,000 for the first occasion, \$200,000 for the second occasion and \$400,000 for any subsequent occasion on which a penalty is imposed.

- (d) to direct the broadcaster to include in its service a correction and/or apology in such form and manner as specified by the BA; and
- (e) to suspend or revoke a licence (for domestic free television programme service licences, domestic pay television programme service licences and sound broadcasting licences, the BA may recommend the Chief Executive in Council to revoke the licence after an inquiry) having regard to the number of occasions and the gravity of the breach.

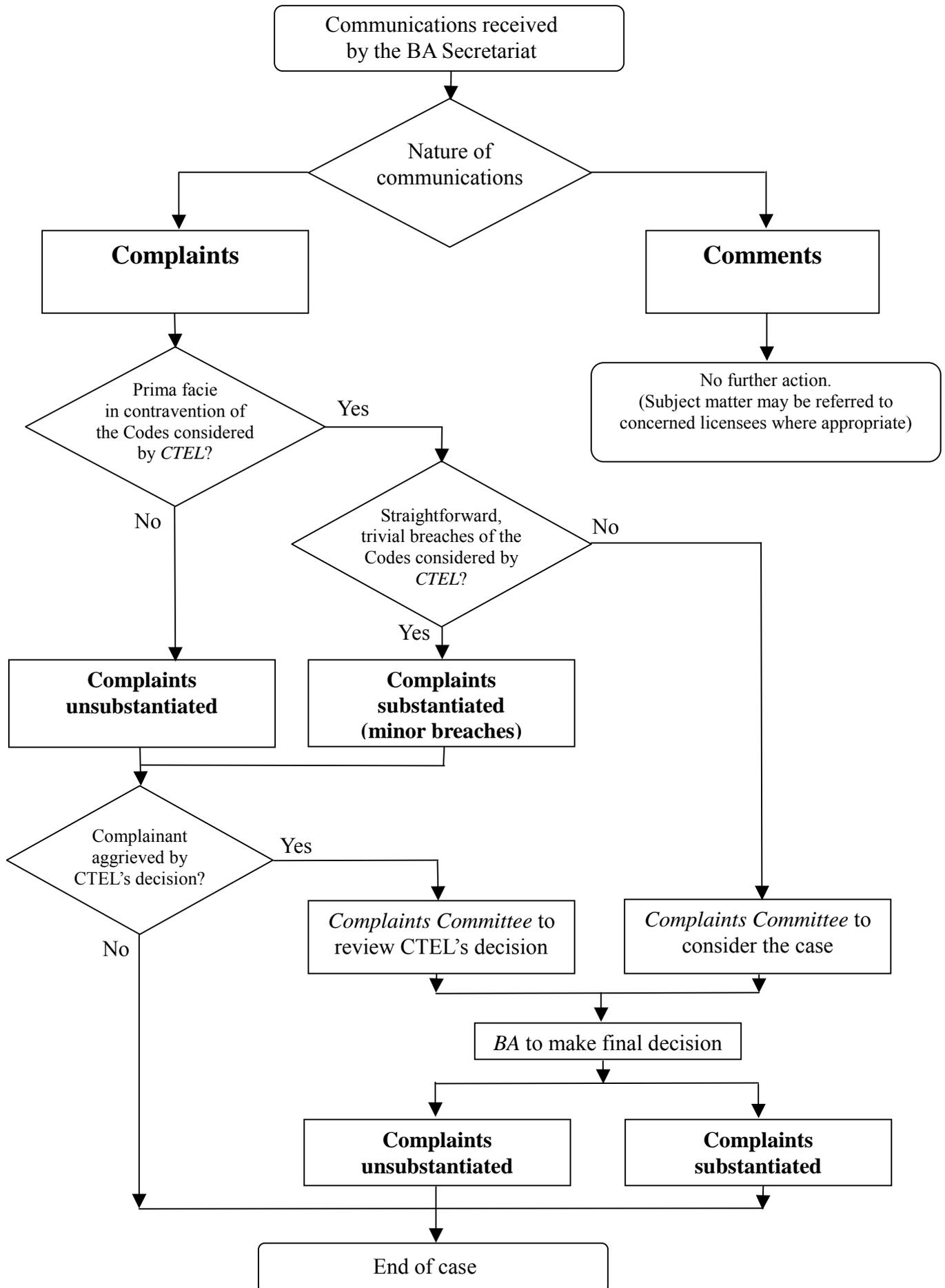
Complaint Figures

B &
C
16. During the period 1 April 2005 to 31 March 2006, the BA has processed 5 590 complaints relating to 1 656 cases. A breakdown of the results and nature of these complaints are at **Annexes B and C**.

17. During the period 1 April 2005 to 31 March 2006, the BA has issued 26 pieces of advice, seven pieces of strong advice, made four warnings and, one serious warning, and imposed five financial penalties on broadcasters for breaches of the licence conditions and Codes.

Television and Entertainment Licensing Authority
August 2006

Flow chart on handling complaints about broadcast programmes



Nature of Complaints

(1 April 2005 to 31 March 2006)

Nature of complaint	Percentage
Inaccurate or misleading messages	13.0%
Unsuitable for children	11.0%
Disturbing or horrifying materials	7.8%
Denigrating or insulting others	6.7%
Indecency	6.5%
Use of language	5.8%
Biased views	5.7%
Broadcasting at inappropriate time	3.9%
Violence	3.3%
Bad theme	2.8%
Bad taste	1.9%
Programme change/scheduling	1.6%
Indirect advertising	1.2%
Others	28.8%

Appendix C

**Complaint cases processed by
the Broadcasting Authority (BA) and
Commissioner for Television and Entertainment Licensing (CTEL)
under delegated authority**

(1 September 2006 to 31 August 2007)

	Within Section (11)1 of BAO				Outside Section (11)1 of BAO	Total
	Substantiated		Unsubstantiated			
	BA	CTEL	BA	CTEL	CTEL	
No of Cases	13	53	8	745	220	1 039
No. of Complaints	44	69	79	1 997	279	2 468

Total : BA 21 cases / 123 Complaints
CTEL 1 018 cases / 2 345 Complaints

Appendix D

Nature of Complaint cases

(1 September 2006 to 31 August 2007)

Complaint Nature	%
Unsuitable for children and youth	17.1%
Family viewing hours or prime time	12.4%
Indecent material	10.6%
Denigrating or insulting others	10.0%
Inaccurate or misleading factual material	6.2%
Disturbing or annoying material	5.7%
Bad theme	5.2%
Use of language	5.0%
Bad taste	3.1%
Others (e.g. Partiality, violence, horror, sex and etc.)	24.7%