

**For discussion
on 14 June 2010**

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

**Advertisement of a Political Nature
and Sponsored Programme on Radio**

Purpose

This paper briefs Members on the current regulatory regime governing advertisement of a political nature and sponsorship of radio programmes on radio and the procedures to be followed by the Broadcasting Authority (BA) in handling relevant complaints.

Regulatory Regime for Sound Broadcasting Services

2. Section 13C(2) of the Telecommunications Ordinance (Cap. 106) states that –

“Having considered the recommendations made under subsection (1) [by the BA] in respect of an application for a licence to establish and maintain a sound broadcasting service, the Chief Executive in Council may grant a licence to the applicant ...”

3. Under section 19(1)(a) of the Broadcasting Authority Ordinance (Cap. 391), the BA may from time to time issue Codes of Practice relating to standards of programmes and advertisements broadcast by a sound broadcasting licensee. Licensees must comply with such Codes of Practices, failing which the BA may impose sanctions. The two codes that relate to sound broadcasting materials are the Radio Code of Practice on Advertising Standards and the Radio Code of Practice on Programme Standards (“Codes”).

Specific Provisions on the Issues under Concern

4. There are specific provisions in the Codes governing political advertising and programme sponsorship. The details are set out in the following paragraphs.

(A) Advertisement of a Political Nature

5. Paragraph 5(a) of the Radio Code of Practice on Advertising Standards defines advertisement or advertising material as any material included in a licensed service which is designed to advance the sale of any particular product or service or to promote the interests of any organisation, commercial concern or individual, whether by means of words and/or sound effects (including music) and whether in the form of direct announcements, slogans, descriptions or otherwise, as well as any promotional reference in the course of a programme to any products or services.

6. Regarding regulation of political advertising, paragraph 28 of the Radio Code of Practice on Advertising Standards stipulates that “no advertisement of a political nature shall be broadcast except with the prior approval of the BA”. The policy consideration of the provision is to avoid the more affluent organisations or individuals from having undue advantage in promoting their political positions through the radio.

(B) Programme Sponsorship

7. The general requirements for programme sponsorship are set out in paragraph 50 of the Radio Code of Practice on Programme Standards. The key parts are extracted below –

- (a) there must be clear distinction between advertisement and programmes. If any programme, or part of a programme, is sponsored, supplied or suggested by an advertiser, clear announcements to this effect should be made;
- (b) the licensee should be responsible for the content of

sponsored programmes or programme segments; and

- (c) mention of a sponsor related product in such programmes may be permitted provided it does not occur frequently and does not obtrude on programme interest or entertainment.

8. There is however no specific provision under the relevant legislation, codes of practice or licence conditions governing programme sponsorship of a political nature or by a political party.

Procedures to be followed by the BA in handling relevant complaints

9. Recently, the BA has received public complaints concerning the sponsorship of a series of radio programmes and a particular radio time-check announcement on the licensed sound broadcasting service of the Hong Kong Commercial Broadcasting Company Limited. The complainants alleged that these materials broadcast on radio amounted to advertisements of a political nature, thus in contravention of the relevant provision in the Codes of Practice issued by the BA. As at 2 June, the BA has received 906 and 322 public complaints against the sponsored programme and the announcement respectively. The BA is dealing with the complaints in accordance with the provisions stipulated in the Broadcasting Authority Ordinance (Cap. 391) and established procedures set out in paragraphs 10 to 12 below.

10. In respect of complaints that concern breach of the Codes¹, the BA will start investigation which involves reviewing the broadcast material, seeking the concerned broadcaster's representations, and inviting expert advice if necessary. There are two types of complaint handling, one by the Commissioner for Television and Entertainment Licensing (CTEL) under delegated authority and one by the Broadcasting Authority Complaints Committee (BACC), as detailed below.

¹ The BA does not deal with personal comments on programmes or complaints that fall outside its jurisdiction. Where appropriate, the subject matter might be referred to the concerned licensee for reference.

(A) 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 BACC and the BA for information.

(B) Complaints referred to the BACC and the BA

12. 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 BACC for deliberation. The BACC will notify the broadcaster concerned of the substance of the complaint and invite its representation. After consideration, the BACC will make recommendations including proposed sanction if applicable, to the BA. If the BA's provisional finding is that there is likely to be a contravention, the broadcaster concerned will be invited to make representation on the provisional findings and the proposed sanction. After consideration of the representation, the BA will come to a final decision and inform the broadcaster of the decision.

**Commerce and Economic Development Bureau /
Television and Entertainment Licensing Authority
June 2010**