

**For discussion
on 10 February 2014**

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

**Public Consultation on the Review of the
Regulation of Editorial Programmes and Personal View Programmes**

PURPOSE

The Communications Authority (“CA”) has conducted a review of the relevant provisions of its Codes of Practice governing editorial programmes and personal view programmes (“PVPs”) and is collecting public views on the proposed amendments. This paper briefs Members on the background of the public consultation.

BACKGROUND

2. Pursuant to section 3 of the Broadcasting Ordinance (Cap. 562) and section 19 of the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391), the CA may issue and revise Codes of Practice to provide practical guidance for licensees relating to standards of programmes. The existing Generic Code of Practice on Television Programme Standards, Radio Code of Practice on Programme Standards and Radio Code of Practice on Ancillary Visual Service Standards (collectively referred to as the “Programme Codes”) set out the requirements on accuracy, impartiality and fairness in factual programmes, which include PVPs.

3. The CA received a large number of complaints about editorial-like programmes and PVPs broadcast by a domestic free television programme service licensee between September 2012 and January 2013. In considering the complaints, the CA noted that the way and manner in which the relevant programme was broadcast gave viewers a strong impression that it was an editorial representing the stance of the licensee. Despite strong public concerns on the broadcast of editorial-like programmes in such a format, the CA also noted that the existing Programme Codes did not expressly prohibit a licensee from expressing its

views in a PVP. In order to address the public concerns over programmes presenting a licensee's views in the form of a PVP, the CA has conducted a review to examine whether the regulation of editorial-like programmes and PVPs under the existing Programme Codes meets public expectation.

PROPOSED AMENDMENTS TO THE PROGRAMME CODES

4. The CA all along attaches paramount importance to freedom of expression and respects the editorial independence of licensees. In principle, licensees should have the right to express their own views through any platforms, including on their service. However, there should be sufficient safeguards to ensure that a suitable opportunity for response and a sufficiently broad range of views is provided and that the audience is adequately informed of the nature of the programmes so as to enable them to form their own assessment of the views expressed. The current review of the CA seeks to identify how the Programme Codes can be amended so as to strike a proper balance between licensees' right to freedom of expression and a more responsible use of their broadcast right which meets the aspiration of the community as a whole.

5. The major proposals of the CA in the current review are as follows –

- (a) editorial programmes, being programmes which contain a broadcasting licensee's views or perspective on matters of public policy or controversial issues of public importance in Hong Kong, should be regarded as one type of PVPs. It follows that the existing ground rules on PVPs viz. accuracy, fairness, suitable opportunity for response and sufficiently broad range of views should apply to editorial programmes;
- (b) the views of the "person providing the service" would be regarded as the views of the licensees. The "person providing the service" is proposed to be defined as the licensee and the persons exercising control of the licensee such as directors, principal officers and major voting controllers of a licensee;
- (c) for a programme containing the views of the person providing the service, a suitable announcement should be made at the start of the programme to identify clearly that the views expressed

therein are or include those of the person providing the service;
and

- (d) a suitable opportunity for response to a PVP should be provided on the same platform and target a like audience within an appropriate period.

PUBLIC CONSULTATION

6. The CA has launched a two-month public consultation from 17 December 2013 to 17 February 2014 to collect views from the public on the proposed amendments. The consultation document is at **Annex**.

WAY FORWARD

7. The Broadcast Codes of Practice Committee (“BCPC”) of the CA will consider all the views collected during the public consultation and formulate its recommendation on the proposed amendments to the Codes of Practice to the CA. The CA will make a final decision on the proposed amendments taking into account the recommendations of the BCPC.

ADVICE SOUGHT

8. Members are invited to note the contents of this paper.

Office of the Communications Authority
January 2014

Public Consultation on the Review of the Regulation of Editorial Programmes and Personal View Programmes

PURPOSE

Pursuant to section 3 of the Broadcasting Ordinance (Cap. 562) (“BO”) and section 19 of the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391) (“B(MP)O”), the Communications Authority (“CA”) may issue and revise Codes of Practice to provide practical guidance for licensees relating to standards of programmes. The CA is currently conducting a review of the relevant provisions of its Codes of Practice governing the regulation of editorial programmes¹ and personal view programmes (“PVPs”). Members of the public are invited to give written views and comments on the issues.

BACKGROUND

Need for the Review

Complaints against an editorial-like programme

2. In September 2012, the CA received over 42,000 public complaints about various episodes of the television programme “ATV Focus” (ATV 焦點) broadcast by a domestic free television programme service licensee (“free TV licensee”) from 3 to 7 September 2012. The main allegations were that the programmes, presenting the views of a person who was not present and identifiable, with the programme title incorporating the name of the free TV licensee, were presented like an editorial of the licensee setting out its own views on a controversial issue of public importance in Hong Kong and that the programmes were presented as news or current affairs programmes and should not be treated as a PVP.

3. In considering the complaints in December 2012, the CA noted that the five episodes of the programme were characterised by the free TV licensee as a PVP but there was no “person” present in the programme putting forward his or her own views on the issues being considered. The way and manner in which the programme was broadcast gave viewers a strong

¹ In the context of the current review exercise, “editorial programmes” refer to programmes which contain a licensee’s views on matters of public policy or controversial issues of public importance in Hong Kong.

impression that it was an editorial representing the stance of the licensee. Despite the strong public concerns on the free TV licensee's broadcast of editorial-like programmes in such a format, the CA noted that the existing Generic Code of Practice on Television Programme Standards ("TV Programme Code") did not expressly prohibit a licensee from expressing its views in a PVP and was silent on the format and the presentation of a PVP. Accordingly, the CA accepted that the five episodes could be regarded as a PVP, albeit a marginal case, and thus would not be subject to the rule of due impartiality applicable to news or other factual programmes. The above notwithstanding, the CA found that the free TV licensee had contravened the TV Programme Code governing PVPs for, among others, failing to provide a suitable opportunity for response and failing to allow a broad range of views to be expressed. Details of the case are at the CA's website (<http://www.coms-auth.hk/filemanager/listarticle/en/upload/235/20121205en.pdf>).

Complaints against Personal View Programmes

4. In November 2012, the CA received close to 2,200 complaints from members of the public against the television programme "Caring Hong Kong's Future" (關注香港未來) broadcast by the free TV licensee on 11 November 2012. The programme, identified as a PVP, livecast a gathering outside the Central Government Office against the issuance of new free TV licences, which were organised by an organisation supported by the free TV licensee. The main allegations in the complaints were that the programme included one-sided views against the issuance of new free TV licences and criticisms against a Legislative Council Member, but did not provide suitable opportunities for responses.

5. In considering the complaints in February 2013, notwithstanding the lack of express prohibition on expression of licensee's views in a PVP, the CA considered that the programme was in breach of the basic rules governing PVPs including the requirements that a suitable opportunity for response to the programme should be provided and that a sufficiently broad range of views should be expressed. Details of the case are at the CA's website (http://www.coms-auth.hk/filemanager/listarticle/en/upload/318/20130228ca_en.pdf).

6. In addition to the above cases, the CA processed four more complaint cases of similar nature, viz. broadcasting one-sided views against the issuance of new free TV licences and/or criticism against a potential competitor and a media owner in various programmes in February and March 2013. Details of these complaints are at the CA's website

(http://www.coms-auth.hk/filemanager/listarticle/en/upload/318/20130228ca_en.pdf and http://www.coms-auth.hk/filemanager/listarticle/en/upload/353/20130407ca_en.pdf).

Issues Under Review

7. The above-mentioned series of complaints, which involve a large number of cases, call into question the adequacy of the current regulation in particular those rules governing PVPs. The CA therefore considers that there is a need to review the following issues in the current exercise –

- (a) whether it is appropriate for a broadcasting licensee² to express its views in programmes (including through an unidentified contributor) on its own service, and if so, how to regulate such programmes;
- (b) whether editorial type of programmes should be subject to the existing provisions governing PVPs; and
- (c) whether the existing provisions governing PVPs should be revised to provide more guidance to licensees on the standards expected thereof.

Existing Provisions of the Programme Codes

8. The relevant provisions under the TV Programme Code, the Radio Code of Practice on Programme Standards (“Radio Programme Code”) and the Radio Code of Practice on Ancillary Visual Service Standards (“AVS Code”) (collectively referred to as the “Programme Codes”) governing accuracy, impartiality and fairness in PVPs as well as factual programmes are summarised below.

Definitions of “Factual Programme” and “Personal View Programme”

9. Factual programmes are non-fiction programmes which are based on material facts. They can take the form of news, current affairs programmes, PVPs, documentaries and programmes adopting an investigative

² “Licensee” means the holder of a licence granted under the Broadcasting Ordinance (Cap. 562) to provide a domestic free television programme service, a domestic pay television programme service, a non-domestic television programme service or an other licensable television programme service, or the holder of a sound broadcasting licence granted under the Telecommunications Ordinance (Cap. 106).

style of reporting on television, as well as phone-in programmes on radio³.

10. PVPs are one type of factual programmes and are defined as programmes in which the programme hosts and, sometimes, individual contributors put forward their own views⁴.

Requirement on Accuracy

11. Under the existing Programme Codes, licensees shall make reasonable efforts to ensure that the factual contents of, among others, news, current affairs programmes, financial programmes, PVPs, documentaries and programmes adopting an investigative style of reporting are accurate⁵ & ⁶. For PVPs dealing with matters of public policy or controversial issues of public importance in Hong Kong, it is further required that facts must be respected and the opinion expressed, however partial, should not rest upon false evidence.

Requirement on Impartiality

12. Under the existing Programme Codes, licensees must ensure that due impartiality is preserved as regards news programmes and any factual programmes or segments thereof dealing with “matters of public policy or controversial issues of public importance in Hong Kong” (excluding PVPs). Due impartiality requires the licensees to deal even-handedly when opposing points of view are presented in a programme or programme segment. In achieving due impartiality, the term “due” is to be interpreted as meaning adequate or appropriate to the nature of the subject and the type of programme or programme segment⁷.

13. For PVPs on matters of public policy or controversial issues of public importance in Hong Kong, they shall comply with the following rules in respect of impartiality⁸ –

³ TV Programme Code, Chapter 9, para. 2; and Radio Programme Code and AVS Code, para. 21.

⁴ TV Programme Code, Chapter 9, para. 17; Radio Programme Code, para. 36; and AVS Code, para. 35.

⁵ The AVS Code requires that the licensees shall make reasonable efforts to ensure that AVS with factual contents of, among others, current affairs, financial information, and any other information are accurate.

⁶ TV Programme Code, Chapter 9, para. 1A; Radio Programme Code, para. 20A; and AVS Code, para. 20.

⁷ TV Programme Code, Chapter 9, paras. 2 - 6; and Radio Programme Code and AVS Code, paras. 21 - 25.

⁸ TV Programme Code, Chapter 9, para. 17; Radio Programme Code, para. 36; and AVS Code, para. 35.

- (a) a suitable opportunity for response to the programme should be provided; and
- (b) licensees should be mindful of the need for a sufficiently broad range of views to be expressed in any series of PVPs.

For PVPs, the relevant provisions in the Programme Codes further provide that the nature of a PVP 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).”

Requirement on Fairness

14. Under the existing Programme Codes, licensees have a responsibility to avoid unfairness to individuals or organisations featured in factual programmes (including PVPs), in particular through the use of inaccurate information or distortion. They should also avoid misleading audience in a way which would be unfair to those featured in the programme⁹.

15. Licensees should take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organisations. Licensees should take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented. Where a factual programme reveals evidence of iniquity or incompetence, or contains a damaging critique of an individual or organisation, those criticised should be given an appropriate and timely opportunity to respond¹⁰.

16. Extracts of all of the above provisions are at **Appendix A**.

VIEWS SOUGHT

Guiding Principles

17. The CA all along attaches paramount importance to freedom of expression and respects the editorial independence of licensees. In principle, licensees should have the right to hold their own views and express them

⁹ TV Programme Code, Chapter 9, para. 9; Radio Programme Code, para. 28; and AVS Code, para. 27.

¹⁰ TV Programme Code, Chapter 9, paras. 15 and 16; Radio Programme Code, paras. 34 and 35; and AVS Code, paras. 33 and 34.

through any platforms, including on their service. The CA does not consider that an outright ban on programmes expressing a broadcaster's views on matters of public policy or controversial issues suits the circumstances in Hong Kong.

18. However, as recognised and reflected in the existing Programme Codes, licensees' right to freedom of expression is not absolute. The earlier spate of complaints highlights the public expectation on a more responsible use of a licensee's service to air its views, as well as the need to provide a suitable opportunity for response and a sufficiently broad range of views. The current review seeks to identify how the Programme Codes can be amended so as to strike a proper balance between licensees' right to freedom of expression and a more responsible use of their broadcast right.

Editorial Programmes

19. In the context of the current review exercise, an "editorial programme" refers to a programme which contains, among others, a licensee's views on matters of public policy or controversial issues of public importance in Hong Kong. Under the existing Programme Codes, a licensee is not prohibited from expressing its views in its programmes and there are no provisions governing this particular category of programmes. As noted from the complaint cases mentioned in paragraph 2 above, currently licensees can classify an editorial programme as a PVP which is subject to less stringent rules on impartiality. While the way and manner in which the programme under complaint was broadcast gave viewers a strong impression that it was the editorial representing the stance of the licensee, there is no requirement that the contributors of views expressed in a PVP must be clearly identified. Also, the existing Programme Codes do not require that the views in a PVP must come from an individual instead of a corporate entity.

20. The CA fully respects the right of licensees to express their own views through any platform, including on their service. However, there should be sufficient safeguards to ensure that a suitable opportunity for response and a sufficiently broad range of views is provided and the audience is adequately informed of the nature of the programmes so as to enable them to form their own assessment of the views expressed therein. Accordingly, the CA sees the need to put in place a set of clearer rules governing editorial-type programmes. In this regard, it is proposed that editorial programmes should be subject to the following rules –

- (a) Currently PVPs can encompass the views of an individual or an organisation. Editorial programmes, being programmes which

contain a licensee's views or perspective on matters of public policy or controversial issues of public importance in Hong Kong, should be regarded as one type of PVPs. To improve clarity of the existing Programme Codes, we propose to amend the definition of PVP (i.e. programmes in which the programme host and, sometimes, individual contributors put forward their own views) to make it clear that personal views cover the views of the licensees among others.

- (b) A broadcaster is a corporate entity and its views may be expressed through other persons or entities. In considering "whose views" should be regarded as "editorial" of a licensee, we suggest modeling on the concept of "person providing the service" as adopted in the Broadcasting Code issued by the Office of Communications ("Ofcom") in the United Kingdom dealing with views expressed by licensees¹¹. By making reference to the regulatory framework of the BO and the Telecommunications Ordinance (Cap. 106) ("TO")¹², we suggest that "person providing the service" should be defined as "a licensee and persons exercising control of a licensee" which includes –
- (i) directors, principal officers, beneficial and voting controllers of specified thresholds of voting shares in the licensees (in the case of television licensees); and
 - (ii) persons holding offices and beneficial owners of the specified threshold of voting shares in the licensees (in the case of radio licensees).
- (c) If editorial programmes are to be regarded as one type of PVPs, it follows that the existing ground rules on PVPs viz. accuracy, fairness, opportunity for response, sufficiently broad range of views should apply to editorial programmes (paragraphs 8 to 11 and 13 to 15 above refer).

¹¹ Under the Ofcom rules, "persons providing the service" refers to the licensee, the company officers and those persons with an editorial responsibility for the service or part of the service rather than, for example, the programme presenter.

¹² Definitions of "persons exercising control of a licensee" applicable to TV and radio are different. Under section 1(6) of Schedule 1 to the BO, which governs TV licensees, "persons exercising control" include (a) a director or principal officer of the licensee; (b) a beneficial owner of more than 15% of the voting shares in the licensee; or (c) a voting controller of more than 15% of the voting shares in the licensee. Under section 13A(2) of the TO, which governs radio licensees, a person exercises control of a licensee if he (a) holds office in the licensee; or (b) is a beneficial owner of more than 15% of the voting shares in the licensee.

- (d) The existing PVP rules provide that the nature of a PVP 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)*”. Such an announcement would be inadequate in the case of an editorial programme which contains the views of licensee only or the views of licensee among others. In fact, the earlier complaint cases show that there is a strong public demand that views of a licensee on policy or controversial issues in Hong Kong should be clearly identified as such in a PVP.

To better inform the public of the nature of an editorial programme so that they can make their own assessment on the views expressed therein, we propose to supplement the current PVP rules by requiring that, for a programme containing the views of a licensee, a suitable announcement should be made at the start of the programme, to identify clearly that the views expressed therein are or include those of the person providing the service. The announcement should identify the source of the views expressed in the programmes. Three examples of such announcement are set out below for illustration purposes –

- (i) Example A: for a PVP containing only the views of the host(s) and/or individual contributor(s), an announcement that “This programme only reflects the personal views of the programme host(s) and/or the individual contributor(s).”
- (ii) Example B: for a PVP containing only the views of the person providing the service, an announcement that “This programme reflects the views of the station.”
- (iii) Example C: for a PVP containing the views of the person providing the service and the programme host(s) and/or the individual contributor(s), an announcement that “This programme contains the views of the station and programme host(s) and/or individual contributor(s).”

We note that a similar rule of “clear identification” on broadcasters’ editorial opinion is also found in the Code of Ethics promulgated by the Canadian Broadcast Standards Council

(“CBCS”)¹³.

- (e) At present, the application of the impartiality rules to factual programme and the PVPs rules under the Programme Codes are confined to programmes “dealing with matters of public policy or controversial issues of public importance in Hong Kong”. This seeks to strike a right balance between freedom of expression and the need to ensure that the public is adequately informed of the debates concerning major and controversial issues in Hong Kong. In our views, the same consideration also applies to the regulation of editorial programmes. We therefore propose that only those editorial programmes dealing with matters of public policy or controversial issues of public importance in Hong Kong should be regulated.

21. For illustrative purposes, we have marked up at **Appendix B** the relevant proposed rules above on top of the existing PVP provisions.

Question 1: Do you think that the public should be clearly informed if a programme contains the views of, among others, a licensee? If yes, do you consider that the existing Programme Codes have served such a purpose? Please give reasons for your response.

Question 2: Do you have any views on the proposal to regard views of “person providing the service” as editorials of a licensee and the proposed definition of “person providing the service” as set out in paragraph 20(b) above?

Question 3: Do you have any views on the identification requirement as proposed in paragraph 20(d) above?

Question 4: Do you have any other comments on the proposals concerning the regulation of editorial programmes?

Personal View Programmes

22. Having regard to the series of complaint cases concerning PVPs, the CA has examined whether improvements should be made to the existing PVP rules on the following aspects which will apply to all PVPs across the board including editorial-type programmes –

¹³ Under the CBSC Code of Ethics, radio and television broadcasters’ editorial opinions are required to be clearly labelled as such and kept entirely distinct from regular broadcasts of news or analysis.

- (a) requiring the opportunity for response to be provided on the same platform; and
- (b) extending the PVP provisions to “personal view” segments.

Opportunity for response

23. Under the existing PVP rules, a suitable opportunity for response to a PVP should be provided. The CA has ruled in four earlier complaint cases¹⁴ that a channel of response through only a different platform (i.e. forum on the licensee’s website) was not appropriate. The channel of response should be provided on the same platform and targeting the like audience within an appropriate period if it could not be provided within the same programme. This notwithstanding, it does not preclude licensees from providing additional platforms for the audience or relevant parties to respond to the views expressed in a PVP.

24. In the light of the rulings of the CA as mentioned in paragraphs 2 to 6 above, there seems to be a need to provide further guidance under the Programme Codes to make it clear that a “suitable” opportunity for response refers to a channel provided on the same platform and targeting a like audience within an appropriate period. In this connection, it is proposed that the relevant provision under the PVP rules should be amended to specify that a suitable opportunity for response to a programme should be provided either in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period.

Personal view segments

25. Under the existing Programme Codes, the due impartiality requirement applies to any factual programmes or segments thereof dealing with matters of public policy or controversial issues of public importance in Hong Kong (except PVPs) (paragraph 12 above refers). The current PVP provisions do not contain similar wordings to cover segments with personal view contents. Hence, the PVP rules apply to a PVP as a whole but not a segment with such content in a programme. Hence, segments of factual programmes with personal view contents dealing with matters of public policy

¹⁴ Please refer to the CA’s decisions on the complaints against the programme “ATV Focus” (ATV 焦點) broadcast from 3 to 7 September 2012, between September and October 2012 and between November and December 2012; and against the programme “Blog the World” (微播天下) broadcast between November 2012 and January 2013. The decisions are available at the CA’s website (http://www.coms-auth.hk/en/complaints/handle/broadcasting_services/complaints_ca/index_yr_2013-p_1.html).

or controversial issues of public importance in Hong Kong are subject to the impartiality standards governing segments of factual programmes under the existing Programme Codes. As PVP content may be presented in the form of a segment in a programme with mixed content (e.g. magazine shows), it is more appropriate to subject the segments concerned to the same requirements applicable to a full PVP for consistency. We therefore propose that amendments be made to extend the PVP rules to segments of a factual programme containing personal view content.

26. For illustrative purposes, the relevant proposed changes to the existing PVP provisions are set out in **Appendix B**.

Question 5: Do you have any views on the proposed amendment which aims to make it clear that a suitable opportunity for response to a PVP should be provided either in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period?

Question 6: Do you have any views on the proposal to extend the PVP rules to segments of factual programmes containing personal view content?

Question 7: Do you have any other comments on the proposed amendments to the PVP provisions in the Programme Codes?

Applicability of the Proposal

27. The existing PVP rules apply to all television and radio licensees¹⁵. We consider that it is a fundamental duty of every licensee providing its services to the general households in Hong Kong to exercise its broadcast rights in a responsible manner. This fundamental duty shall apply to all licensees irrespective of the category of their programme services as well as the transmission modes. The application of the same set of PVP rules to free TV, pay TV and sound broadcasting service licensees has been adopted since the TV Programme Code and Radio Programme Code were promulgated in 2001 after a territory-wide public consultation. There have not been calls from members of the public for a change to the current approach.

28. In addition, we have considered whether any unique feature of specific types of licences would warrant a departure from the universal application of the proposed rules. After careful consideration, we are of the view that the proposed amendments, which mainly seek to clarify the existing

¹⁵ Except non-domestic television programme services and other licensable television programme services intended for hotel guests and other special interest groups.

PVP rules, should not give rise to serious operational or other difficulties to licensees. Therefore, we do not propose any changes to the current approach. The proposed amendments above, if approved by the CA, should apply to all applicable television and sound broadcasting licensees.

INVITATION FOR VIEWS AND COMMENTS

29. The CA invites views and comments from members of the public on the questions raised in this consultation document. All views and comments should be made in writing and should reach the CA Secretariat on or before **17 February 2014** through any of the following means –

By Post: Communications Authority Secretariat
20/F, Wu Chung House
213 Queen's Road East
Wanchai, Hong Kong
(Attn: Licence Administration Section 21 – Consultation on Codes Review)

By Fax: 2507 2219
(Attn: Licence Administration Section 21 – Consultation on Codes Review)

By e-mail: consultation-cop@ofca.gov.hk

The written views and comments submitted will be referred to the CA and its Broadcast Codes of Practice Committee for consideration during the review of the relevant Codes. The CA and its Broadcast Codes of Practice Committee reserve the right to make public all, or parts, of any submissions made in response to this consultation document and reveal the identity of source. Any material claimed to be commercially confidential would need to be clearly marked. The CA would take such marking into account in making its decision on whether to release the material or not.

For enquiries, please send e-mail to <consultation-cop@ofca.gov.hk> or call the Licence Administration Section 21 at 2961 6456 or 2961 6309.

30. For the avoidance of doubt, all the views expressed in this Consultation Document are for the purpose of discussion and consultation

only. Nothing in this Consultation Document represents or constitutes any decision made by the CA. The consultation contemplated by this Consultation Document is without prejudice to the exercise of the powers by the CA under the Communications Authority Ordinance (Cap. 616), the BO, the B(MP)O or any subsidiary legislation.

Communications Authority Secretariat

17 December 2013

**Relevant Provisions on Factual Programmes and
Personal View Programmes Extracted from the Codes of Practice**

1. Generic Code of Practice on Television Programme Standards

Chapter 9 Accuracy, Impartiality and Fairness

DOMESTIC FREE AND DOMESTIC PAY TELEVISION PROGRAMME SERVICES

Accuracy

1A. The licensees shall make reasonable efforts to ensure that the factual contents of news, current affairs programmes, financial programmes, personal view programmes, documentaries, programmes adopting an investigative style of reporting, children's programmes with educational purpose, programmes dealing with medical and health issues, and contests are accurate.

Impartiality

General

2. The licensees must ensure that due impartiality is preserved as respects news programmes and any factual programmes or segments thereof dealing with matters of public policy or controversial issues of public importance in Hong Kong (except personal view programmes which are dealt with separately under paragraph 17 below). Factual programmes are non-fiction programmes which are based on material facts. They can take the form of news, current affairs programmes, personal view programmes, documentaries and programmes adopting an investigative style of reporting.

3. Due impartiality requires the licensees to deal even-handedly when opposing points of view are presented in a programme or programme segment. Balance should be sought through the presentation, as far as possible, of principal relevant viewpoints on matters of public importance. Programmes or programme segments under concern should not be slanted by the concealment of facts or by misleading emphasis.

4. In achieving due impartiality, the term "due" is to be interpreted as meaning adequate or appropriate to the nature of the subject and the type of programme or programme segment. Due impartiality does not mean that "balance" is required in the sense of equal time or an equal number of lines in the script being devoted to each view, nor does it require absolute neutrality on every controversial issue. Judgement will always be called for by the licensees.

5. A programme host should encourage the widest possible airing of views. He/She should also be alert to the danger of unsubstantiated allegations being made by participants in live programmes. Where necessary, the programme host should correct the factual errors to the best of his/her knowledge.

Impartiality Over Time

6. Although it is desirable, it is not always possible for principal opposing viewpoints to be reflected in a single programme or programme segment. Sometimes a series of programmes or programme segments may be considered as a whole. At other times, a narrower range of views may be appropriate within individual programmes or programme segments. This is an issue which calls for editorial judgement based on particular circumstances. In achieving impartiality over time, it is not always necessary to ensure that in a single programme or programme segment all sides have an opportunity to speak.

...

Fairness

General

9. 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.

...

Right of Reply

15. Licensees should take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organizations. Licensees should take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented.

16. Where a factual programme reveals evidence of iniquity or incompetence, or contains a damaging critique of an individual or organization, those criticized should be given an appropriate and timely opportunity to respond.

Personal View Programmes

17. "Personal view programmes" are programmes in which the programme hosts and, sometimes, individual contributors put forward their own views. 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.

2. Radio Code of Practice on Programme Standards

Accuracy

20A. The licensees shall make reasonable efforts to ensure that the factual contents of news, current affairs programmes, financial programmes, personal view programmes, documentaries, programmes adopting an investigative style of reporting, children's programmes with educational purpose, programmes dealing with medical and health issues, and contests are accurate.

Impartiality

General

21. The licensees must ensure that due impartiality is preserved as respects news programmes and any factual programmes or segments thereof dealing with matters of public policy or controversial issues of public importance in Hong Kong (except personal view programmes which are dealt with separately under paragraph 36 below). Factual programmes are non-fiction programmes which are based on material facts. They can take the form of news, current affairs programmes, personal view programmes, phone-in programmes, documentaries and programmes adopting an investigative style of reporting.

22. Due impartiality requires the licensees to deal even-handedly when opposing points of view are presented in a programme or programme segment. Balance should be sought through the presentation, as far as possible, of principal relevant viewpoints on matters of public importance. Programmes or programme segments under concern should not be slanted by the concealment of facts or by misleading emphasis.

23. In achieving due impartiality, the term "due" is to be interpreted as meaning adequate or appropriate to the nature of the subject and the type of programme or programme segment. Due impartiality does not mean that "balance" is required in the sense of equal time or an equal number of lines in the script being devoted to each view, nor does it require absolute neutrality on every controversial issue. Judgement will always be called for by the licensees.

24. A programme host should encourage the widest possible airing of views. He/She should also be alert to the danger of unsubstantiated allegations being made by participants in live programmes. Where necessary, the programme host should correct the factual errors to the best of his/her knowledge.

Impartiality Over Time

25. Although it is desirable, it is not always possible for principal opposing viewpoints to be reflected in a single programme or programme segment. Sometimes a series of programmes or programme segments may be considered as a whole. At other times, a narrower range of views may be appropriate within individual programmes or programme segments. This is an issue which calls for editorial judgement based on particular circumstances. In achieving impartiality over time, it is not always necessary to ensure that in a single programme or programme segment all sides have an opportunity to speak.

...

Fairness

General

28. 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.

...

Right of Reply

34. Licensees should take special care when their programmes are capable of adversely affecting the reputation of individuals, companies or other organizations. Licensees should take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented.

35. Where a factual programme reveals evidence of iniquity or incompetence, or contains a damaging critique of an individual or organization, those criticized should be given an appropriate and timely opportunity to respond.

Personal View Programmes

36. "Personal view programmes" are programmes in which the programme hosts and, sometimes, individual contributors put forward their own views. 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.

3. Radio Code of Practice on Ancillary Visual Service Standards

Accuracy

20. The licensees shall make reasonable efforts to ensure that AVS with factual contents of news, weather, current affairs, financial information, and any other information are accurate.

Impartiality

General

21. The licensees must ensure that due impartiality is preserved in respect of AVS of news programmes and any factual programmes or segments thereof dealing with matters of public policy or controversial issues of public importance in Hong Kong (except those of personal view programmes which are dealt with separately under paragraph 35 below). Factual programmes are non-fiction programmes which are based on material facts. They can take the form of news, current affairs programmes, personal view programmes, phone-in programmes, documentaries and programmes adopting an investigative style of reporting.

22. Due impartiality requires the licensees to deal even-handedly when opposing points of view are presented. Balance should be sought through the presentation, as far as possible, of principal relevant viewpoints on matters of public importance. AVS under concern should not be slanted by the concealment of facts or by misleading emphasis.

23. In achieving due impartiality, the term “due” is to be interpreted as meaning adequate or appropriate to the nature of the subject and the type of programme or programme segment. Due impartiality does not mean that “balance” is required in the sense of equal time, an equal number of lines in the script, or an equal amount of AVS being devoted to each view, nor does it require absolute neutrality on every controversial issue. Judgement will always be called for by the licensees.

24. The licensee should be alert to the danger of unsubstantiated allegations being made by participants in live transmission of AVS. Where necessary, the staff of the licensee should correct the factual errors to the best of their knowledge.

Impartiality Over Time

25. Although it is desirable, it is not always possible for principal opposing viewpoints to be reflected in the AVS of a single programme or programme segment. Sometimes a series of programmes or programme segments may be considered as a whole. At other times, a narrower range of views may be appropriate within individual programmes or programme segments. This is an issue which calls for editorial judgement based on particular circumstances. In achieving impartiality over time, it is not always necessary to ensure that in the AVS of a single programme or programme segment all sides have an opportunity to present their views.

...

Fairness

General

27. The licensees have a responsibility to avoid unfairness to individuals or organisations featured in AVS, 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 AVS.

...

Right of Reply

33. Licensees should take special care when their AVS is capable of adversely affecting the reputation of individuals, companies or other organizations. Licensees should take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented.

34. Where a factual AVS reveals evidence of iniquity or incompetence, or contains a damaging critique of an individual or organization, those criticized should be given an appropriate and timely opportunity to respond.

Personal View Programmes

35. “Personal view programmes” are programmes in which the programme hosts and, sometimes, individual contributors put forward their own views. The following rules apply to AVS of all personal view programmes on matters of public policy or controversial issues of public importance in Hong Kong:

- (a) The nature of such personal views must be identified clearly.
- (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 personal views should be provided.
- (d) Licensees should be mindful of the need for a sufficiently broad range of views to be expressed in the AVS.

**Proposed Amendments to the Programme Codes concerning
Editorial Programmes and Personal Views Programmes**

I. Generic Code of Practice on Television Programme Standards

Chapter 9 Accuracy, Impartiality and Fairness

Personal View Programmes

17. “Personal view programmes” are programmes in which the [person providing the service and/or the](#) programme hosts and/or, sometimes, individual contributors put forward their own views. [“Person providing the service” refers to a licensee and persons exercising control of a licensee as defined in section 1\(6\) of Schedule 1 to the Broadcasting Ordinance \(Cap. 562\)^{\(Note 1\)}.](#) The following rules apply to all personal view programmes [and segments of factual programmes containing personal view content](#) 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).” [The above announcement should be suitably modified for a personal view programme which contains the views of the person providing the service.](#)
- (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 [in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period.](#)
- (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.

^(Note 1) [Under section 1\(6\) of Schedule 1 to the Broadcasting Ordinance \(Cap. 562\), a person exercises control of a licensee if—](#)

- [\(a\) he is a director or principal officer of the licensee;](#)
- [\(b\) he is the beneficial owner of more than 15% of the voting shares in the licensee;](#)
- [\(c\) he is a voting controller of more than 15% of the voting shares in the licensee; or](#)
- [\(d\) he otherwise has the power, by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating that licensee or any other corporation, to ensure that the affairs of the licensee are conducted in accordance with the wishes of that person.](#)

II. Radio Code of Practice on Programme Standards

Personal View Programmes

36. “Personal view programmes” are programmes in which the [person providing the service and/or the programme hosts and/or](#), sometimes, individual contributors put forward their own views. [“Person providing the service” refers to a licensee and persons exercising control of a licensee as defined in section 13A\(2\) of the Telecommunications Ordinance \(Cap. 106\)^{\(Note 1\)}.](#) The following rules apply to all personal view programmes [and segments of factual programmes containing personal view content](#) 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).” [The above announcement should be suitably modified for a personal view programme which contains the views of the person providing the service.](#)
- (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 [in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period.](#)
- (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.

^(Note 1) [Under section 13A\(2\) of the Telecommunications Ordinance \(Cap. 106\), a person exercises control of a licensee if he-](#)

[\(a\) holds office in that company or corporation; or](#)

[\(b\) subject to paragraph \(c\), is the beneficial owner of more than 35% of the voting shares in that company or corporation; or](#)

[\(c\) in the case of a corporation that is a licensee, is the beneficial owner of more than 15% of the voting shares in that corporation.](#)

III. Radio Code of Practice on Ancillary Visual Service Standards

Personal View Programmes

35. “Personal view programmes” are programmes in which the person providing the service and/or the programme hosts and/or, sometimes, individual contributors put forward their own views. “Person providing the service” refers to a licensee and persons exercising control of a licensee as defined in section 13A(2) of the Telecommunications Ordinance (Cap. 106)^(Note 1). The following rules apply to AVS of all personal view programmes and segments of factual programmes containing personal view content on matters of public policy or controversial issues of public importance in Hong Kong:

- (a) The nature of such personal views and/or views of the person providing the service must be identified clearly.
- (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 personal views and/or the views of the person providing the service should be provided in the same programme, in the same series of programmes or in similar types of programmes targeting a like audience within an appropriate period.
- (d) Licensees should be mindful of the need for a sufficiently broad range of views to be expressed in the AVS.

^(Note 1) Under section 13A(2) of the Telecommunications Ordinance (Cap. 106), a person exercises control of a licensee if he-

- (a) holds office in that company or corporation; or
- (b) subject to paragraph (c), is the beneficial owner of more than 35% of the voting shares in that company or corporation; or
- (c) in the case of a corporation that is a licensee, is the beneficial owner of more than 15% of the voting shares in that corporation.