

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 CTCL 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.

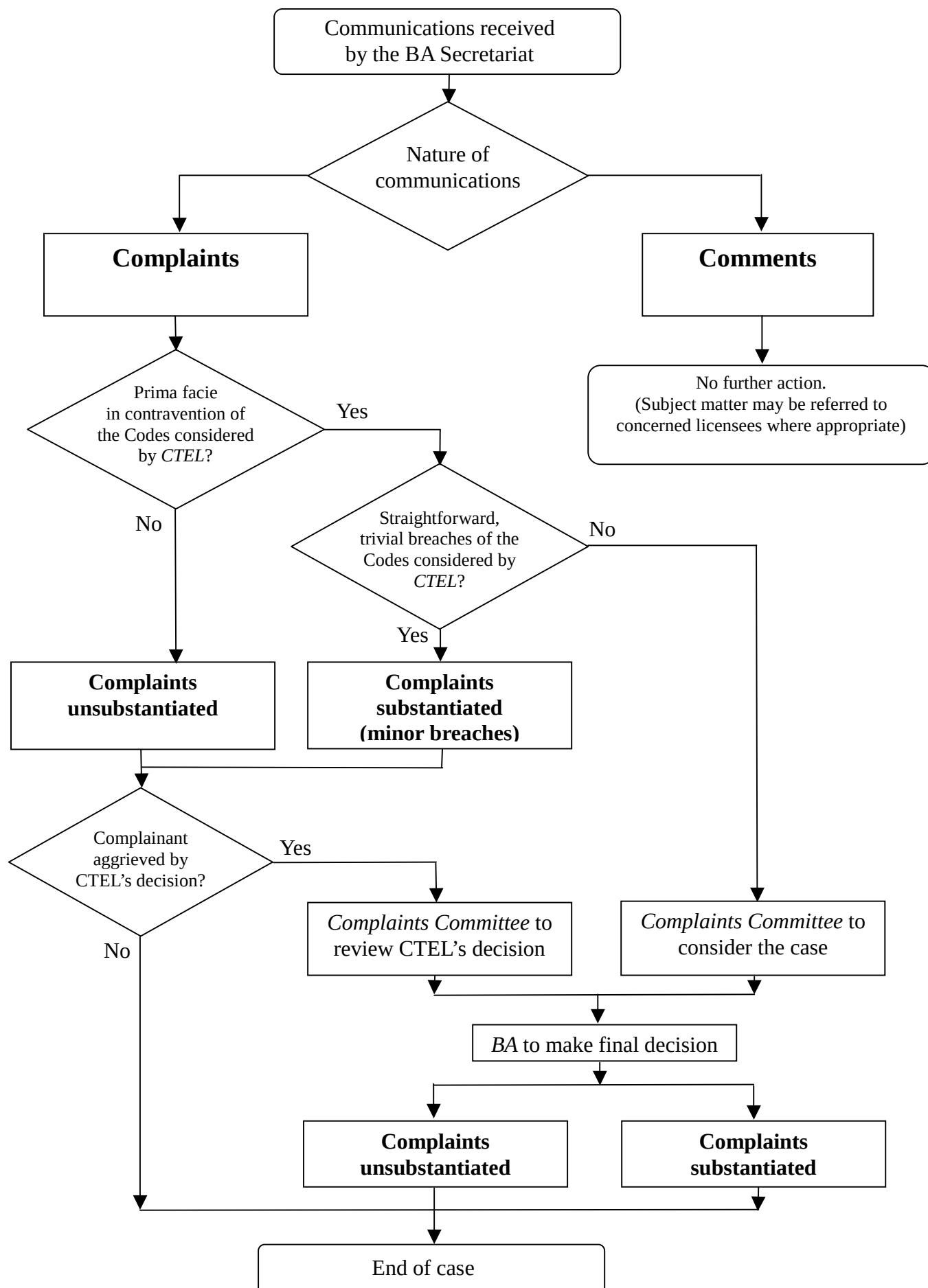
Complaint Figures

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



Annex B

Complaints Processed by the Broadcasting Authority Complaints Committee and Commissioner for Television and Entertainment Licensing (CTEL)

(1 April 2005 to 31 March 2006)

	Within Section 11(1) of BAO				Outside Section (11) of BAO	Total
	Substantiated		Unsubstantiated			
	Complaints Committee	CTEL	Complaints Committee	CTEL	CTEL	
No. of Cases	36	104	9	1 096	411	1 656
No. of Complaints	256	114	16	3 009	2195	5 590

Total : Complaints Committee	45 cases / 272 complaints
CTEL	1 611 cases / 5 318 complaints

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%