

The Legislative Council of
The Hong Kong Special Administrative Region

Invitation for Views

Re : Panel on Information Technology and Broadcasting

Issues relating to the editorial independence of Radio Television Hong Kong and the yardsticks of the Broadcasting Authority in imposing sanctions

Date : 2nd March 2007

Background : The Broadcasting Authority (The BA) has made rulings recently against RTHK's Hong Kong Connection Program "Gay Lovers" and the film "A Tale of Autumn" (秋天的童話) both shown on the Jade Channel of TVB. The Panel on Information Technology and Broadcasting (the ITB panel) noted that the rulings had attracted a number of controversies in the society especially regarding the yardsticks of BA. Queries were also voiced out to question whether the BA's board members were up to date for their views and values. The ITB Panel also took note of the interview between the Secretary of Commerce, Industry and Technology and the Director of Broadcasting right after the event for fearing pressure and interference might be delivered to hamper editorial independence through the interview. Invitation for Views from the public on the matter is therefore sought by the ITB panel.

(1) Principle

Hong Kong has been and is a legal society in which the pillars of law making, execution (administration) and judiciary are independent from each other. The Basic Law for Hong Kong also affirmed such a position (see Articles 4 & 5, Cap. 1 thereof), namely,

Article 4

The Hong Kong Special Administrative Region shall safeguard the rights and freedoms of the residents of the Hong Kong Special Administrative Region and of other persons in the Region in accordance with law.

Article 5

The socialist system and policies shall not be practised in the Hong Kong Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years.

As the appellant against the airing of “Gay Lovers” during the family viewing hours on the Jade Channel, I applaud the the BA’s concerned ruling as both lawful and appropriate according to the spirit and principle spelled out by the aforesaid articles. It protects the basic rights (including lodging complaints to mandatory institutions) and freedom (including the freedom to petition over unreasonable and inappropriate matters) of the citizens of the HKSAR (of which I am a member) in general. The BA finds its legal foundation on the [Broadcasting Authority Ordinance \(Cap. 391\)](#). It is a statutory body established in September 1987 well before the return of Hong Kong to China. Its operation has so far been smooth and reasonable. As such, the BA’s lawful existence and operation are obviously covered by Article 5 within the concerned 50 years until changes as might be brought about by relevant legislative amendments.

(2) My Opinions

Re. RTHK’s Hong Kong Connection Program “GayLovers”

2.1 As the appellant in question, I applaud the BA’s concerned ruling, namely, the BA considered that the program was presented in the form of a documentary and that the contents of the program about homosexuality and the legalization of homosexual marriage were controversial in many societies including Hong Kong. The program was therefore a factual program dealing with matters of public policy or controversial issues of public importance in Hong Kong and should be subject to the impartiality rule under the relevant code. Unfortunately, the concerned program presented only the merits of homosexual marriage and featured only the views of three homosexuals on the legislation of homosexual marriage, rendering the presentation unfair, partial and biased towards homosexuality and having the effect of promoting the acceptance of homosexual marriage. The BA also considered the program unsuitable for broadcast within the Family Viewing Hours as children and young viewers watching the program might have no knowledge of homosexuality and might be adversely affected by the partial contents of the program if parental guidance was not provided.

2.2 I would like to emphasize that my complaint is against the said program as a documentary rather than soap operas and the like. Its views are clearly partial. It is also well known that working adults in Hong Kong are generally bogged down by their work. Such a situation often deprives our children and youngsters the privilege of a suitable guidance by their parents/guardians over TV broadcasts even during the family viewing hours. On the other hand, RTHK as a public media scores a rather good credential among its local audience. The average adult audience would likely take RTHK's programs as impartial, fair and accurate. The possible adverse effects of any RTHK's program, if impartial, on our children and youngsters would inevitably profound. It is therefore concluded that the concerned program should NOT be aired during family viewing hours unless sufficient impartial and balanced opinions are added to it. Otherwise, it is biased towards the homosexuals.

My Concerns over the legalizing of Same Sex Marriages in HK

- 2.3 Once same sex marriage is legalized in Hong Kong, it may render a severe blow to one of Hong Kong's core value ever since her founding, namely, marriage as a social norm between the legal union of one man and one woman. Should such a marriage norm be disintegrated, the consequences and damage would be irrevocable. The embedded problems include children's parental rights, maintenance fees regarding separated "couples", and family re-union across the border with the mainland, etc... These issues bear tremendous social implications and costs!
- 2.4 The risk and cure of AIDS (Acquired Immune Deficiency Syndrome) is another major concern. According to the Department of Health's (DH) press release, there were 373 reported new AIDS cases in 2006, the highest annual number ever recorded. Sexual transmission had continued to be the major mode of Human Immunodeficiency Virus (HIV) spread in Hong Kong. The cumulative total of reported HIV infection since 1984 has escalated to 3198. In the fourth quarter of 2006, 98 people were tested positive for HIV antibody (83 males & 15 females). Among them, 23 acquired the infection via heterosexual contact and 30 via homosexual or bisexual contact. In this quarter, the most commonly AIDS defining illness is Mycobacterium tuberculosis infection (TB) which is closely followed by Pneumocystic Pneumonia (PCP), a kind of chest infection.

- 2.5 DH has commissioned Dr. Tim Brown in 2006 to produce a consultancy report – [Living on the Edge](http://www.info.gov.hk/aids/pdf/g175.pdf) (see <http://www.info.gov.hk/aids/pdf/g175.pdf>). It highlights that the nature of the Hong Kong epidemic (i.e. AIDS) is changing as *Past prevention success in Hong Kong is being overshadowed by a growing epidemic*. In the last three years, the HIV situation in Hong Kong has entered a period of more rapid growth. It also points out that a serious men-having-sex-with-men (MSM) epidemic is underway in Hong Kong. By far the most serious concern regarding HIV in Hong Kong is the rapid increase in new infections seen among MSM. Such a phenomenon is alarming and disturbing! Coupled with the fact that the bird flu virus is mutating to become a possible pandemic, the chance of an incidental gene swapping between the flu virus and HIV should not be underestimated for the results could be shocking!
- 2.6 A more distant concern should same sex marriage be enacted under the slogan of “anti-discrimination” is the possible radical resorts by local pro-homosexual advocates after their radical counterparts in the western world. For instance, an initiative was filed by proponents of same-sex marriage requiring heterosexual couples to have kids within three years or else have their marriage annulled in the state of Washington in the United States (see http://www.nwcn.com/statenews/washington/stories/NW_020507W_ABinitiative957SW.546c6a4d.html). Such similar actions, if pursued, would greatly damage social harmony locally. Indeed, it is paradoxical that the “anti-discrimination” bill would likely produce a privileged class of so-called minority at the expense of the other majority groups in a society. An example is that any person then criticize against homosexuality would probably get punished through certain court injunctions or rulings. This is obviously NOT a blessing for Hong Kong!

My Question and Suggestions to The ITB Panel

- 2.7 I am perplexed by the current ITB panel meeting as it seems that the ITB panel has a special preference towards RTHK among other government departments. **Why is it so? What are the criteria for the ITB panel to hold similar hearings or meetings when similar controversy pops up?** For example, the Audit department, the BA or the Ombudsman do review and criticize other government departments from time to time. It appears to me that Legco panels were seldom convened to hold public hearing so heatedly as yours

over the other departments' controversies. I would presume your way of dealing with the concerned controversies in the present circumstance would entail a definite political pressure upon the concerned mandatory watchdogs. I really hope that your panel will make the current hearing and follow-up as impartial, fair and open as possible. You should also consider the importance of harmonious social development as an indispensable element. Your judgment, if any, upon the BA's work should be truly unbiased and impartial. Certainly, there is always room for improvement for organizations like the BA and yours.

- 2.8 If your panel happens to discover any imminent issues requiring urgent actions, I hope you could also consider asking other relevant government bodies (such as the Home Affairs Bureau) with constructive incentives such as to invite them to set out a detailed plan to investigate, collect statistical data, research and coordinate various views of our society towards issues like legalizing same sex marriage. Hopefully, any controversy can be settled through the impartial and constructive efforts of the concerned government departments and the society at large with a view to uphold Hong Kong as harmonious society.

Re. The Film: A Tale of Autumn 《秋天的童話》

- 2.9 Let me first emphasize that I neither am the complainant concerned nor know who the complainant is. However, I do agree with the BA's ruling over the subject matter. Youths nowadays are subject to appreciable influence by the role models as presented in films by famous and fabulous movie stars like Mr. CHOW Yun Fat (周潤發). They often imitate the acts and speech of their idols. Another example is seen with the faddish silly talks (無厘頭文化) as promoted by Mr. CHOW Sing Chi (周星池) in the 1990's.
- 2.10 The trends and styles involved are neutral at times. Regarding to "A Tale of Autumn", the character played by CHOW Yun Fat spoke rather vulgar and indecent dialects. As you know, it is a rather common phenomenon around the world for children and youngsters to imitate their idol's characters. Indeed, we adults are not entirely immune to such inclination. The Chinese saying "Born by one's parent and yet taught by one's friends." does make sense. As parents, you might agree with me that our instructions to our children are often met with by rebellious reactions. For those parents who hope to maintain a relatively pure and healthy environment for their

children's up-bringing, also as a member of our society, they certainly has the right to lodge the said complaint. It is indeed the best practicable and efficient means for them to safeguard their children and to exercise their citizen's rights.

- 2.11 Let me also emphasize that I am NOT absolutely against the showing of the concerned film as it is without editing provided it is aired through adults-only channels or such other channels with locking devices. I believe the concern adults are free and competent to make up their decision even as to whether their children should be permitted to watch with them such controversial films. After all, the parental responsibility in the circumstance is clearly theirs.
- 2.12 If my suggestion does not appeal to your panel, we probably have to go back to square one. In which case, I would like to urge your panel to forward a request to the concerned government authority to make way for a pure and healthy channel for the enjoyment of such other non-controversial TV programs by parents like those who would prefer their children to have a pure and healthy up-bringing. Parents like me may be the silent majority or a rare minority.

Submitted by: Howard Lai, independent observer.