



廣播事務管理局
Broadcasting Authority

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23 January 2008

Miss Yue Tin-po
Clerk to Panel on
Information Technology & Broadcasting
Legislative Council Building
8 Jackson Road, Central
Hong Kong

Dear Miss Yue,

**Supplementary Information on Broadcasting Services Survey 2007
and Complaint Cases**

At the Legislative Council Panel on Information Technology and Broadcasting Meeting held on 10 December 2007, the Hon Ronny TONG Ka-wah requested the Broadcasting Authority (BA) to provide relevant statistics in the 2007 broadcasting services survey in support of the survey observation that BA was considered as “effective, fair, independent and reliable” in dealing with broadcasting complaints, and the Hon Emily LAU Wai-hing requested the BA to provide information on the complaint cases for which the BA imposed sanctions to broadcasters for breaches of the Codes of Practice during the relevant period as referred to in the LC Paper No. CB(1) 383/07-08(05).

I attach at **Annexes A** and **B** the relevant statistics and a summary of the complaint cases.

I would also like to take the opportunity to clarify the relevant statistics mentioned in paragraph 35 of the draft minutes of the above meeting. The statistics quoted by Mr Adrian Wong were related to responses by all respondents who would make complaints about broadcast contents, instead of why the respondents preferred to complain to the BA. In fact, the statistics in respect of those respondents who preferred to lodge complaints to the BA should be “69.7% of them considered the BA as an effective channel, and 26% considered BA as fair, independent and reliable”. Details of the above statistics are at **Annex A**. I apologize for any misunderstanding caused.

The BA also noted the requests by the Hon Emily LAU Wai-hing at the meeting to consider consulting the broadcasting industry on discouraging the use of lazy pronunciation and including respondents' listening habits in and before 2004 in the 2009 broadcasting services survey, and will follow up as appropriate.

Yours sincerely,



(P. L. Po)
Secretary
Broadcasting Authority

Encl.

c.c.

Secretary for Commerce and Economic Development
(Attn: Mr Kevin Choi) (Fax: 2511 1458)

**Extract from the Executive Summary of
the Broadcasting Services Survey 2007**

28. To be a preferred channel of lodging complaints, the following factors had to be fulfilled.
- (a) Be seen as an effective channel (62.4%);
 - (b) Be providing quick and efficient services to the complainants (22.4%);
 - (c) Be perceived as a fair, independent and reliable party (18.6%);
 - (d) Be prepared to have high profile, that is, to be known by the complainants (16.6%).
 - i. Broadcasting Authority (BA) was preferred because more persons perceived it as more effective (69.7%, for BA has the authority to regulate broadcasting programmes) or a fair, independent and reliable party (26.0%). Other than these, one-fifth knew this channel only (20.7%).
 - ii. Persons regarded electronic media as their preferred channel because the complainants were able to make complaints/ reflect opinions to the programme provider directly (54.5%). Also more complainants had the views that the electronic media were quick and efficient (39.2%).

Complaint/Appeal Cases on Contravention of the Code dealt with by the Broadcasting Authority (BA) from 1 September 2006 to 31 August 2007

Serious Warning (1)

**1. Complaint about unrestricted access to adult channel of HKCTV in July 2006
(Cable TV, July 2006)**

Particulars

A subscriber of HKCTV complained that she was able to view promotional material of adult nature on CAT Preview Channel by keying in the default access code even though she was not a registered user for access to HKCTV's adult channels.

Relevant Provisions

Generic Code of Practice on Television Programme Standards

- paragraph 17 of Chapter 3 requires a domestic pay television programme service licensee to provide sufficient safeguards against children's access to adult material.

Assessment

The BA noted that HKCTV had admitted that the lapse was caused by inadvertent human error. The BA had doubt on whether HKCTV had properly implemented the security system against children's access to its adult channels that no adult channels was provided to any person unless he/she had registered with it for access to adult channels; that the adult channels were locked by HKCTV and always kept so locked; and that no person was able to access the locked adult channels without the correct "PIN".

The BA noted that HKCTV merely brought the incident to the attention of HKCTV's responsible staff without substantial remedial action. The BA considered that the complaint case was a serious breach of the relevant provision of the Television Programme Code as HKCTV had failed to address the incident in a responsible manner.

Decision

The BA considered the complaint justified and decided that HKCTV be **seriously warned** to observe more closely the relevant provision.

Strong Advice (4)

1. **Television Advertisement for "SmarTone Vodafone 博彩王"**
(HKCTV Soccer Betting Channel, 10.6.2006, 9:56pm; News Channel, 16.6.2006, 8:44pm)

Particulars

Two members of the public complained that the advertisement advocated gambling by promoting the use of a mobile phone to get betting tips and place bets on soccer matches, and claiming that "跟足落飛，唔掂就唔收錢" (there is no need to pay if you do not win after placing bets according to the tips).

Relevant Provisions

Generic Code of Practice on Television Advertising Standards

- paragraph 1(e) of Chapter 5 on the prohibition on organizations/companies seeking to advertise for the purpose of giving betting tips.
- paragraph 1(f) of Chapter 5 on betting - that encouragement of betting or references to betting tips in advertisements for football betting which are authorized by or under the Betting Duty Ordinance (Cap. 108) are unacceptable for broadcast on television.

Assessment

The BA noted that in the context of the advertisement, the words "博彩王獨家提供球賽攻略，場場發放" in the voice-over was followed clearly and immediately by the assertion "跟足落飛，唔掂就唔收錢". The remarks together with the captions on screen such as "即場陣容", "教你橫掃世盃" and "唔掂就唔收錢" amounted to references promoting the service of providing betting tips and had the effect of encouraging football betting.

Decision

The BA considered the complaints justified and decided that HKCTV be **strongly advised** to observe more closely the relevant provisions.

2. Television Programme "What A Wonderful Life" (活得很滋味) (Cable Entertainment Channel, 11.6.2006, 3:00pm-4:00pm)

Particulars

A member of the public appealed against CTEL's decision on the complaints that the hostess of the cooking programme used a loafah to explain how a man underwent an operation to become a woman. The hostess' references about transsexual operation were of adult content and the remarks were shocking to the general audience.

Relevant Provision

Generic Code of Practice on Television Programme Standards

- paragraph 8 of Chapter 2 requires domestic pay television programme service licensees and other licensable television programme service licensees to ensure that programmes are suitable for their likely audience, and that programme material suitable for viewing by adults only should be clearly labelled as such.

Assessment

The BA noted that the Entertainment Channel under concern was a general viewing channel in the basic package of HKCTV. Unlike adult channels or other premium channels, viewers do not need registration or a PIN for access the channel. Children and teenagers were able to access the channel freely. The BA also noted that the culinary programme was well received by the general audience which included children and teenagers as the programme covered a wide range of topics which were of general interest.

The BA was of the view that although there was no Family Viewing Hours or children time slots for domestic pay television programme service, the licensees were responsible for ensuring that the programmes on their services were suitable for their likely audience; that the content about transsexual operation was of an adult nature;

that the programme hostess had already admitted in the programme that the subject about transsexual operation was of an adult nature; that the illustration of transsexual operation with a loofah in the programme was descriptive and graphic; and that the content about transsexual operation was out of the context in a culinary programme.

The BA considered that the impromptu inclusion of a topic on transsexual operation in a general viewing programme which was broadcast repeatedly and especially in the afternoon hours when children viewers might be watching was inappropriate. Besides, such adult content might also be offensive to general viewers who did not expect to view material of an adult nature in a culinary programme.

Decision

The BA considered the appeal justified and decided that HKCTV be **strongly advised** to observe more closely the relevant provision.

3. Television Programme "Hong Kong Connection" (鏗鏘集) (RTHK (TVB Jade), 9.7.2006, 7:35pm-8:00pm)

Particulars

A member of the public appealed against CTEL's decision on the complaints that -

- a. the programme was biased towards homosexuality, promoted homosexuality and contained discriminating elements;
- b. it was unsuitable for broadcast at the scheduled time and exerted a bad influence on children and youths;
- c. it was unfair to Christians as a whole as the reference to opposition from a Christian in the programme gave viewers a misleading impression that all Christians were irrational;
- d. it did not mention the undesirable aspects of homosexuality such as AIDS; and
- e. it did not contain a warning caption.

Relevant Provisions

Generic Code of Practice on Television Programme Standards

- paragraph 2 of Chapter 2 on family viewing policy
- paragraph 4 of Chapter 3 on portrayal of human relationship
- paragraph 1 of Chapter 7 on likely effects of all material shown on television on children
- paragraphs 1 and 2 of Chapter 8 on information for viewers, and
- paragraphs 2 and 3 of Chapter 9 on impartiality

Assessment

The BA noted that the programme, entitled "同志·戀人" and featuring the personal experiences of a pair of lesbians and a gay man, was produced by RTHK and broadcast on TVB Jade at 7:35pm-8:00pm during the family viewing hours (FVH), and that the broadcast of the programme was preceded by an advisory caption "本節目涉及同性戀題材 敬請留意" ("Please note that the programme concerned matters relating to homosexuality").

The BA considered the allegations (c) to (e), i.e., that the programme was unfair to Christians; that the programme did not mention the undesirable aspects of homosexuality such as AIDS; and that the programme did not contain a warning caption, unjustified. The BA upheld CTEL's previous decision that these aspects of the complaints were unsubstantiated as –

- i. the programme did not contain anything which was misleading and unfair to Christians. The reference to opposition from one individual Christian shown in the programme did not amount to a generalization that all Christians were irrational;
- ii. the major cause of AIDS was unprotected sex rather than homosexual sex; and
- iii. a warning caption was provided at the beginning of the programme.

The BA, however, considered that the programme was presented in the form of a documentary and that the contents of the programme about homosexuality and the legalization of homosexual marriage were controversial in many societies including Hong Kong. The programme was therefore a factual programme 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. However, the programme 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 programme unsuitable for broadcast within the FVH as children and young viewers watching the programme might have no knowledge of homosexuality and might be adversely affected by the partial contents of the programme if parental guidance was not provided.

Decision

The BA considered the appeal justified and decided that RTHK be **strongly advised** to observe more closely paragraph 2 of Chapter 2 (family viewing policy), paragraph 1 of Chapter 7 (likely effects of all material shown on television on children), and paragraphs 2 and 3 of Chapter 9 (impartiality) of the Generic Code of Practice on Television Programme Code.

4. Television advertisement for "Alcolout" ("酒筲箕"廣告) (Cable EPL Channel, 17.12.2006, 12:02am)

Particulars

A member of the public complained that the claims "純天然酒筲箕經科學驗證，專吸酒精，安全有效。酒筲箕有助酒精係胃內迅速地吸收，減少酒精進入血管，舒解酒醉嘅煩惱。不易醉，有根據，全靠酒筲箕" (Alcolout, a pure natural product, is scientifically proven to absorb alcohol safely and effectively. It helps to absorb alcohol fast in the stomach, reduce the amount of alcohol entering the blood stream, and ease off the unpleasantness of intoxication. Not easy to get drunk, all proven, it depends entirely on Alcolout) were misleading as the efficacy of the product was doubtful.

Relevant Provisions

Generic Code of Practice on Television Advertising Standards

- paragraph 9 of Chapter 3 on truthful presentation
- paragraph 1 of Chapter 4 on factual claims

Assessment

The BA noted that :-

- i. the claims concerned were based on a study in mice * ;
- ii. there was no evidence from the study that the product could alleviate both short-term and long-term ethanol poisoning effects as claimed in the advertisement;
- iii. the study was conducted in a mammalian model rather than in human, and the efficacy of the product on human in preventing ethanol poisoning was unknown; and
- iv. the advertised product was manufactured in the form of capsule which looked like a pharmaceutical product rather than a food product.

The BA considered that the factual claims relating to ethanol absorption in the stomach and blood stream, and the easing off of the unpleasantness of alcohol intoxication in the advertisement were specific claims. Moreover, the study submitted by HKCTV which was conducted only on mice could hardly justify the claims in the advertisement as there was no strong evidence to suggest that the effect of the advertised product on mice would be the same as that on human. As such, the efficacy of the product in preventing ethanol poisoning when used in human was doubtful and the claims could not be substantiated. The BA also considered that HKCTV had not exercised due diligence to ascertain the truthfulness of the claims concerned.

Decision

The BA considered the complaint justified and decided that HKCTV be **strongly advised** to observe more closely the relevant provisions.

* The study indicated that the ingredient of the product, Konjac

Glucomannan, could reduce ethanol absorption in mice. The animals given Konjac Glucomannan before or after oral administration of alcohol had lower blood ethanol level as compared to the control group.

Advice (8)

(The BA issued 8 pieces of advice to broadcasters for 6 complaint cases. In respect of Case 4, three broadcasters were advised.)

- 1. Television Programme "Dragon Boat Races 2006"**
(丙戌年龍舟競渡)
(TVB Jade, 31.5.2006, 10:30am-12:45pm)

Particulars

Three members of the public complained that –

- a. the frequent references to TVB Lifestyle Channel (無綫生活台) of TVB Pay Vision amounted to indirect advertising and that the advertising material was not clearly distinguishable from programme material; and
- b. Television Broadcasts Limited's (TVB) promotion of TVB Lifestyle Channel was in breach of the firewall provision stipulated in its domestic free television programme service licence (TVB's Licence).

Relevant Provisions

Generic Code of Practice on Television Programme Standards

- paragraph 1 of Chapter 11 on separation of programme and advertising material
- paragraph 3 of Chapter 11 on undue prominence

Third Schedule to TVB's Domestic Free Television Programme Service Licence

- Condition 3.6 on undue preference

Assessment

Regarding the allegations on indirect advertising and undue prominence, the BA considered that –

- i. the relevant footage obviously amounted to advertising material for TVB Lifestyle Channel and its programmes and the advertising remarks in the footage appeared not to be incidental;
- ii. TVB's devotion of a considerable part of the programme to the promotion of TVB Lifestyle Channel and its programmes was not contextually justified;
- iii. the prominence given to the TVB Lifestyle dragon boat team was undue, when compared with the treatment of other teams; and
- iv. references in the programme relating to TVB Lifestyle Channel and its programmes amounted to indirect advertising and gave undue prominence to TVB Lifestyle Channel and its programmes.

With regard to the allegation on the possible breach of the firewall provision concerning undue preference, the BA recognized that it was not uncommon for the producer or owner of a channel or programme to promote their channel or programme. The BA noted that TVB, as the content provider of TVB Lifestyle Channel, had a genuine interest to promote the channel and its programmes as successfully as possible. In view of this, the BA considered that no case had been made out that undue preference had been shown to TVB Pay Vision.

Decision

With regard to the allegations on indirect advertising and undue prominence, the BA considered the complaint justified and decided that TVB be **advised** to observe more closely the relevant provisions to prevent recurrence of similar lapses in future.

2. **Television Programme "Atypical IQ Show"**
(IQ 雙拼之 06 細界盃狂熱)
(Cable Children Channel, 30.6.2006, 9:00am - 10:00am)

Particulars

A member of the public complained that the hosts' remarks that the Brazilian soccer player, Rivaldo, should not have openly admitted that he had simulated a foul (插水) and should have kept his play-acting a secret forever exerted a bad influence on children.

Relevant Provisions

Generic Code of Practice on Television Programme Standards

- paragraph 1 of Chapter 7 on likely effects of broadcast material on children
- paragraph 11 of Chapter 7 stipulates that disrespect for good morals should be strictly avoided in children's programmes

Assessment

The BA noted that the programme under concern was a children's programme broadcast on the Children Channel. The BA considered that the hosts' remarks that the Brazilian soccer player, Rivaldo, should not have openly admitted that he had simulated a foul (插水) and should have kept his play-acting a secret forever in the programme were unsuitable as they were talking to a child on the phone and their remarks exerted a bad influence on children.

Decision

The BA considered the complaint justified and decided that HKCTV be **advised** to observe more closely the relevant provisions.

3. **Radio Programme "We Are Family" (自己人)**
(RTHK Radio 2, 29.7.2006, 5 & 12.8.2006, 12:00 midnight-2:00am)

Particulars

A member of the public complained that the programme was biased towards homosexuality as it only reflected views of homosexuals but

not views of others such as the Catholics and the teachers; and that the programme should carry a warning in advance as the content on homosexuality would disturb or offend many Hong Kong people.

Relevant Provisions

Radio Code of Practice on Programme Standards

- paragraph 20 on provision of warning

Assessment

The BA was of the view that the programme concerned was a niche programme portraying alternative lifestyles targeting minority listeners. Taking into consideration its approach and presentation, the programme did not fall within the category of factual programmes dealing with public policy or matters of controversial issues of public importance in Hong Kong. Thus, the programme concerned was not in breach of the impartiality requirement, as such requirement was not applicable to factual programmes which do not deal with public policy or controversial issues. Nevertheless, the BA considered that the programme warranted an advisory notice in view of its sensitive nature. The BA considered that the opening "走出衣櫃.....攀家路窄....." (Out of the closet, ...out of my limits, ...) of the programme concerned could not be regarded as an adequate warning for listeners on the content of the programme for the purpose of paragraph 20 of the Radio Code of Practice on Programme Standards.

Decision

The BA considered the complaint justified and decided that an **advice** be given to RTHK to observe more closely paragraph 20 of the Radio Code of Practice on Programme Standards on provision of warning.

4. **Television Advertisement for "Friso - Play & Learn"**
 ("Friso - Play & Learn 美素高"電視廣告)
 (ATV Home, 12.9.2006, 7:45pm; TVB Jade, 3.9.2006, 4:45pm;
 Cable Children Channel, 5.9.2006, 9:45pm)

Particulars

Five members of the public complained that the portrayal of a child pulling down a tablecloth was a dangerous act which would invite

children's imitation causing injuries to them.

Relevant Provisions

Generic Code of Practice on Television Advertising Standards

- paragraph 2 of Chapter 3 on compliance with the Generic Code of Practice on Television Programme Standards

Generic Code of Practice on Television Programme Standards

- paragraph 2 of Chapter 2 on family viewing policy (applicable to domestic free television only)
- paragraph 1 of Chapter 7 on likely effects of broadcast material on children
- paragraph 6 of Chapter 7 on portrayal of dangerous behaviour easily imitated by children
- paragraph 14 of Chapter 7 on compliance with provisions on protection of children on channels targeting children on domestic pay television programme services (applicable to domestic pay television only)

Assessment

The BA noted that the child featured in the advertisement was a toddler who was a little shorter than the table. Children of that age were usually full of curiosity and were too young to realize the potential danger of the act of pulling down a tablecloth.

The BA considered that –

- i. the portrayal of the act of a child pulling down a tablecloth was very dangerous;
- ii. the advertisement appealed to small children who were apt to imitate any act they saw;
- iii. the depiction of the mother looking on her kid's antics in an approving manner might render young children being unaware of the potential danger of the act; and
- iv. household safety of children should come first when considering the complaint case. Even though the theme of the advertisement was on the adventurousness of children, the depiction of a child pulling down a tablecloth was potentially dangerous for children

and which, if imitated, might result in irreversible harm to them. The advertisement was unsuitable for broadcast on a children's channel in a domestic pay television programme service and at all times, even outside the Family Viewing Hours, on a domestic free television programme service.

Decision

The BA considered the complaints justified and decided that ATV, TVB and HKCTV be **advised** to observe more the relevant provisions.

5. Television Programme "An Autumn's Tale"(秋天的童話) (TVB Jade, 1.10.2006, 1:18pm-3:19pm)

Particulars

A member of the public complained that the programme contained foul language which exerted a bad influence on children and was unsuitable for broadcast at the scheduled time.

Relevant Provision

Generic Code of Practice on Television Programme Standards
- paragraph 6 of Chapter 4 on prohibition of the use of downright offensive expressions.

Assessment

The BA noted that the programme contained some coarse expressions and downright offensive expressions. The BA considered that –

- i. the downright offensive expressions used in the programme were unacceptable for broadcast on television at all times;
- ii. the coarse expressions, which were used frequently and without moderation despite the fact that they were used for characterization purpose, were unacceptable for broadcast in the programme under complaint. Even though the programme under complaint was a "PG" (Parental Guidance Recommended) programme broadcast outside the family viewing hours (FVH), it was broadcast in daytime on Sunday when there might be a large number of children watching television.

The BA considered that the licensee should be vigilant in the scheduling of programmes even outside FVH. Material unsuitable for children or young viewers should not be shown when large numbers of children or young viewers might be expected to be watching television, particularly during school holidays. The BA also considered that the provision of verbal and written warning prior to the broadcast of the programme should not be regarded as a means to relieve the licensee's responsibility in complying with the codes.

Decision

The BA considered the complaint justified and decided that TVB be **advised** to observe more closely the relevant provision.

6. Television Programme "Super Adult & Child" (超級大細路) (Cable TV Entertainment, 4.11.2006, 8:00pm-9:00pm)

Particulars

Three members of the public complained that the programme hostess' remarks that a child had "義氣" (loyalty/comradeship) with regard to the child's refusal to disclose the name of a wrongdoer in a game segment were irresponsible and would mislead children into thinking that dishonestly keeping secret for wrongdoers was a proper behaviour.

Relevant Provisions

Generic Code of Practice on Television Programme Standards

- paragraph 1 of Chapter 2 requires that programmes should be scheduled with an awareness of the likely audience in mind
- paragraph 8 of Chapter 2 requires that programmes are suitable for their likely audience
- paragraph 1 of Chapter 3 requires that programmes should be handled in a responsible manner
- paragraph 1 of Chapter 7 on likely effects of broadcast material on children

Assessment

In the episode under complaint, there was a game segment involving three children. The three children were placed in the studio set individually with either the host, the hostess or the guest in the absence of their parents. The host/hostess/guest then deliberately broke one of the props displayed on the table in front of the child and then requested the child not to tell others what had happened. Later on, the children were separately asked by other adults to reveal the person who had broken the prop. Among the three children, two identified the culprits and one said she had no knowledge and claimed that the prop was already broken when she saw it. The hostess commended that the child who refused to tell had "義氣" (loyalty/comradeship).

The BA noted that the programme under complaint was a talk show broadcast on the Entertainment Channel of HKCTV which did not target children specifically; the programme was preceded with advisory captions; the programme was first broadcast in a Saturday evening at 8:00pm-9:00pm and repeated in a Sunday afternoon at 12:00noon-1:00pm and 3:00pm-4:00pm, and at other times during the following week, when children were likely to be watching television; and instead of keeping quiet, the child lied about the actual happening of the incident after being earnestly requested by the relevant programme host.

The BA considered that –

- i. peer group recognition was important to children and teenagers, and the programme hostess' remark "義氣" might mislead children viewers into believing that one could earn friendship by covering up for friends and that this was a proper and commendable act;
- ii. despite the provision of advisory captions and announcement prior to the broadcast of the programme, the hostess' remark was unacceptable for broadcast on a channel for general viewing on a domestic pay television programme service as the channel was unlikely to be locked and children viewers might watch the programme unaccompanied by adults, especially when the programme was broadcast in a Saturday evening and was repeated in a Sunday afternoon when a great number of children were likely to be watching television; and

- iii. although the family viewing policy was not applicable to domestic pay television programme services, licensees should ensure that the programmes on their services were suitable for their likely audience, viz. including children in this case with regard to the circumstances of broadcast.

Decision

The BA considered the complaints justified and decided that HKCTV be **advised** to observe more closely the relevant provisions.