

Case 1 – Television Programmes “Scoop” (東張西望) and “Extra” (娛樂頭條) broadcast on the Jade Channel of Television Broadcasts Limited (TVB) on 16 days in July and five days in August 2010 at 7.30pm – 8pm, and 14 days in July and six days in August 2010 at 11.45pm – 11.55pm

Two members of the public complained about the television programmes “Scoop” and “Extra”. The substance of the complaints was that the broadcast of the segments related to the film “The Jade and the Pearl” (翡翠明珠) (the Film) every day amounted to indirect advertising.

BA’s Findings

In line with established practice, the Broadcasting Authority (BA) had considered the complaint case in detail, including the recommendations of its Complaints Committee and the representations of TVB. The BA's findings are set out below.

The BA noted that –

- (a) regarding the two programmes under complaint, “Scoop” was an infotainment programme featuring hot social issues and showbiz gossips, whereas “Extra” was an entertainment programme featuring showbiz gossips. Both programmes were broadcast from Monday to Friday;
- (b) the Film was a commercial release produced by, among others, Shaw Brothers (Hong Kong) Limited and TVB;
- (c) according to the information provided by TVB, segments related to the Film were found in 21 out of a total of 26 episodes of “Scoop” broadcast from July 2 to August 6, 2010¹, and in 20 out of a total of 26 episodes of “Extra” broadcast from July 1, to August 9, 2010². The segments related to the Film were shown every day in either of or both of the two programmes during the concerned period; and

¹ The relevant episodes of “Scoop” were broadcast on July 2, 6 – 9, 13, 15, 16, 20, 22, 23 and 26 – 30; and August 2 – 6, 2010.

² The episodes of “Extra” were broadcast on July 1, 5, 9, 12, 14, 16, 19, 21, 23, 26 – 30, and August 2 – 6 & 9, 2010.

- (d) in most of the segments in the programmes, there was a tailor-made opening with the title “翡翠明珠星閃閃” (English translation: Sparkly Jade and Pearl). The sponsored title “自家烏冬呈獻：翡翠明珠星閃閃” (English translation: Sparkly Jade and Pearl sponsored by Jika Udon) was superimposed on the top of the screen. The segments featured interviews with the artistes participating in the Film on topics relating to the Film, behind-the-scene titbits, footages of the Film and promotional activities for the Film at different locations, etc. The title of the Film was found in the voiceover and/or on the T-shirt of the artistes/promotional materials/backdrop in some promotional activities.

The BA considered that the feature of dedicated segments of the Film (each segment lasted one to three minutes in duration) in the relevant episodes of “Scoop” and “Extra” almost every day before and during the release dates of the Film had gone beyond the purpose of providing information and entertainment for viewers, and had the effect of giving undue prominence to the Film. Though the programmes under concern were infotainment and entertainment programmes and that inclusion of entertainment news would be expected, the showing of 41 segments related to the Film in a total of 28 broadcast days in the two programmes are considered to be gratuitous and amounted to promotion for the Film. The presentation of the programmes was in contravention of paragraphs 1 and 3 of Chapter 11 of the TV Programme Code which prohibit the mingling of programme and advertising material or embedding of advertising material within programme content, whether inadvertently or by design, and the giving of undue prominence to products and services of a commercial nature.

Decision

The BA noted that the programmes were broadcast at the time when TVB should have been aware of the BA’s processing of a similar precedent complaint case related to indirect advertising of the film “72 Tenants of Prosperity” (72 家租客) in the programme “Scoop”, in which TVB was subsequently fined \$40,000. In view of the above, the present case was considered a blatant breach, and that a financial penalty of \$60,000 for each of the two programmes, totalling \$120,000, should be imposed on TVB for breaching the relevant provisions in the TV Programme Code.

Case 2 – Television Programme “Jika Udon Special: All Star Spoof-off” (自家烏冬呈獻：翡翠明珠星Fight夜) broadcast on the Jade and HD Jade Channels of TVB on July 24, 2010 at 8.30pm- 9.30pm

A member of the public complained about the television programme “Jika Udon Special: All Star Spoof-off”. The substance of the complaint was that the programme advertised for the film “The Jade and the Pearl” (翡翠明珠) (the Film) and that the programme title advertised for the sponsor and the Film.

BA’s Findings

In line with established practice, the BA considered the complaint case in detail, including the recommendations of its Complaints Committee and the representations of TVB. The BA's findings are set out below.

The BA noted that –

- (a) the programme was a variety show tailor-made for the promotion of the Film, which was a commercial release produced by, among others, Shaw Brothers (Hong Kong) Limited and TVB;
- (b) the Film was identified as a product sponsor of the programme concerned in the end credits;
- (c) “自家烏冬”, the Chinese name of the commercial brand Jika Udon, which was also the sponsor of the programme, was included in the programme title as well as in the front and end credits;
- (d) the programme featured talents of the Film singing songs from the Film. Artistes were grouped into “翡翠隊” (English translation: Jade Team) and “明珠隊” (English translation: Pearl Team) to compete in games revolving around the Film. All of them wore costumes similar to those in the Film. The artistes parodied some movie scenes and the producer and the director of the Film were invited to be the judges. There were skits themed on the plots of the Film and its characters. Excerpts of the Film were frequently broadcast in the programme; and
- (e) the games’ titles in the programme were named after the Film’s title. The theme song and footage of the Film were featured. A report of TVB’s official publication, *TVB Weekly*, indicated that the programme was specifically designed for the purpose of promoting the Film.

The BA, taking into account the overall context of the programme, considered that the programme under complaint had a noticeable effect of promoting the Film. The extensive exposure given to the Film was obtrusive to viewing pleasure and beyond the allowance of product sponsorship. The programme under complaint had mingled programme and advertising material by design with the obvious intention of promoting the Film. The programme was in breach of paragraph 1 of Chapter 11 of the TV Programme Code and paragraph 10(a) of Chapter 9 of the TV Advertising Code regarding the mingling of programme and advertising material and the use of sponsor's product/service in programme.

Decision

In view of the above and taking into consideration (1) the two precedent cases related to indirect advertising of the film "72 Tenants of Prosperity" (72 家租客) in the programme "Scoop" and "Citywalk CNY Eve Special 2010" (Citywalk 鯉躍龍門迎新春), in which TVB was fined \$40,000 and given a strong advice respectively; and (2) the substantial advertising effect of the programme under complaint and the fact that it was a tailor-made programme with an obvious intention of promoting the Film, the BA considered that the present case was a blatant breach on the part of TVB. The BA decided to impose a financial penalty of \$40,000 on TVB for breaching the relevant provisions in the TV Programme and Advertising Codes.

Case 3 – Radio Programme "Ordinary Done Seriously" (尋常事認真做) broadcast on the Radio 2 Channel of Radio Television Hong Kong (RTHK) on November 20 and 27, 2010 and December 4 and 11, 2010 at 4pm-6pm

Three members of the public complained about the radio programme "Ordinary Done Seriously". The substance of the complaints was that the random prank calls by the programme hosts would exert a bad influence on the public and promote prank playing.

BA's Findings

In line with established practice, the BA considered the complaint case in detail, including the recommendations of its Complaints Committee and the representations of RTHK. The BA's findings are set out below.

The BA noted that the captioned programme was a talk show broadcast on Saturday afternoons. In a segment entitled "名 DJ 打比你" (English

translation: Famous DJs Calling You), the hosts made random phone calls to members of the public, asked if they were aware that the hosts were famous DJs, and chatted about their listening habits. It was noted that most people who received the phone calls simply hung up when they found themselves engaged in nuisance calls from strangers.

The BA noted that although this type of “candid camera” presentation was not uncommon on television and radio programmes, some people found the calls obnoxious and offending. The hosts’ remarks and discussion after making the calls were often frivolous, sometimes preceded by a burst of laughter, and seemingly complacent over the meaningless jokes on others. The frivolous tone and presentation of the hosts might give listeners an impression that it was harmless to make prank calls or ridicule people in such a manner. The practice might invite imitation from children who were full of curiosity. The BA considered that RTHK had not handled the programme in a responsible manner. The programme was in breach of paragraph 6 of the Radio Code of Practice on Programme Standards (Radio Programme Code) which stipulates that the licensees should ensure that their programmes are handled in a responsible manner and should avoid needlessly offending audiences by what they broadcast.

Decision

The BA decided that RTHK should be **advised** to observe more closely the relevant provision in the Radio Programme Code.

Case 4 – Radio Programme “Happy Daily” (開心日報) broadcast on the Radio 1 Channel of RTHK on October 26, 2010 at 10.20am-12 noon

A member of the public complained about the radio programme “Happy Daily”. The substance of the complaint was that the host’s remarks that “Pakistanis and Indians were addressed as ‘阿差’ (Ah Cha) and ‘阿星’ (Ah Singh) respectively because Pakistanis were considered inferior to the Indians” amounted to racial discrimination.

BA’s Findings

In line with established practice, the BA considered the complaint case in detail, including the recommendations of its Complaints Committee and the representations of RTHK. The BA’s findings are set out below.

The BA noted that the programme under complaint was a light-hearted talk

show. In a discussion about nicknames and accents of different dialects, races and nationalities, the remarks “阿星升呢㗎...阿差差㗎” (English translation: Ah Singh becomes better...Ah Cha is not that good) were used and repeated in the discussion.

The BA considered that the remark “阿差差㗎” (English translation: Ah Cha is not that good), which was repeated several times in a joking manner in the programme, had the effect of denigrating the Pakistanis by suggesting that they were inferior to the Indians. The use of derogatory expressions on the public airwaves could not be considered appropriate. Given the pervasiveness of radio programmes, broadcasters had to be sensitive in their handling of the language used in their programmes, especially when such remarks might cause offence to certain group of people in the community. The programme was in breach of paragraph 7(b) of the Radio Programme Code which stipulates that a licensee should not include in its programmes any material which is considered to be denigrating or insulting to any person(s) or group(s) on the basis of ethnicity, nationality or race.

Decision

Having regard to the circumstances of the complaint case, the BA considered the complaint substantiated and decided that RTHK should be **advised** to observe more closely the relevant provision in the Radio Programme Code.