

Case 1 – Television Programme “To Experience the Taste of Tai Pan 2010” (大班冰皮月餅特約: 追擊潮食新口味) broadcast on the Jade and HD Jade Channels of Television Broadcasts Limited (TVB) from September 15 to 17 2010 at 10:30pm

A member of the public complained about the television programme “To Experience the Taste of Tai Pan 2010” (大班冰皮月餅特約: 追擊潮食新口味). The substance of the complaint was that the programme promoted a brand of mooncake in a way that was indistinguishable from an advertisement.

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 alleged mooncake brand was identified as both the programme sponsor and product sponsor of the concerned mini-programme series. In the three episodes under complaint, the hosts introduced different flavours of snowy mooncake and invited artistes to try. There were shots of the host holding carrying bags of Tai Pan mooncakes. The mooncake boxes bearing the name of the alleged brand were displayed;

(b) the BA had dealt with a case of dissatisfaction with the decision of the Commissioner for Television and Entertainment Licensing on a similar complaint in February 2011 regarding the first seven episodes of the same mini-programme series broadcast on the Jade and HD Jade Channels of TVB from September 6 to 10 and 13 to 14, 2010. The BA decided that the complaint was substantiated and TVB was given a warning (Precedent Case); and

(c) the presentation of the three episodes in the present case was similar to that of the first seven episodes in the Precedent Case.

The BA, having regard to the relevant facts of the case, considered that the presentation in the three episodes under complaint was similar to that of the first seven episodes in the Precedent Case, hence the BA's considerations for the Precedent Case should be fully applicable for the present case. While Tai Pan was the programme sponsor and product sponsor, the mini-programme series had a noticeable effect of promoting the snowy mooncake of the sponsor brand. The shots of the host holding carrying bags of Tai Pan mooncakes and mooncake boxes bearing the name of Tai Pan found in every episode of the programme series could not be considered as incidental. The blatant exposure given to the sponsor's product could not be argued to be clearly editorially justified. The programme was designed solely for advertising the snowy mooncakes of the brand to the extent that the whole programme was tantamount to an advertisement as it did not contain any other information or programme content. The exposure or use of the sponsor's products within the programme was beyond what was accepted under the relevant provision governing product sponsorship. It was considered gratuitous and obtrusive to viewing pleasure and there was a breach of

paragraph 10(a) of Chapter 9 of the Generic Code of Practice on Television Advertising Standards.

Regarding the sanction, the BA considered that another separate sanction was not necessary taking into consideration that the nature of breach of the present case was essentially the same as that of the first seven episodes in the Precedent Case, and that the three episodes in the present case had been broadcast before TVB was informed of the BA's decision on the Precedent Case.

Decision

The BA decided that the relevant aspects of the complaint were justified but **no further sanction** needed to be imposed on TVB.

Case 2 – No verbal announcement for Parental Guidance Recommended” (PG) television programmes broadcast on TVB J2 from February 22 2011 to March 19 2011

A member of the public complained about the omission of verbal announcement for “Parental Guidance Recommended” (PG) for various “PG” television programmes broadcast on the J2 Channel of TVB from February 22 2011 to March 19 2011. The substance of the complaint was that only visual but no aural announcement on the “PG” classification of the programmes was given, which was in violation of the requirement under the Generic Code of Practice on Television Programme Standards (TV Programme Code).

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) there was no aural advice on the “PG” classification of various episodes of eleven “PG” programmes broadcast at different timeslots on the J2 Channel of TVB during the period from February 22 to March 19 2011; and
- (b) paragraph 6 of Chapter 8 of the TV Programme Code stipulated clearly that both aural and visual advice on programme classification should be given.

Decision

The BA considered the lapse represented a gross negligence on the part of the licensee. The omission of aural “PG” warnings repeatedly over a prolonged period of time was unacceptable, as some viewers might not have paid much attention to visual warnings.

In view of the clear wording of paragraph 6 of Chapter 8 of the TV Programme Code, the BA considered the complaint justified, TVB was in contravention of the relevant provision. Taking into consideration the prolonged period of the lapse, the large number of programmes affected,

and that TVB should be fully aware of the requirement in the TV Programme Code, the BA decided that TVB should be **warned** to observe more closely the relevant provision in the TV Programme Code.

Case 3 – Television Programme “Fly with Me” (飛女正傳) broadcast on the Jade Channel of TVB from April 19 to May 22 2010 at 9:30pm-10:30pm

A member of the public was dissatisfied with CTEL’s decision in classifying a complaint against the television programme “Fly with Me” (飛女正傳) as unsubstantiated. The complainant alleged without sufficient details that in the whole drama series,

- (a) the portrayals of gun shooting and vehicle explosion in the opening credits were unjustified;
- (b) the language was downright offensive, e.g. in the first episode, a woman remarked that “May your son chases [sic] after other men’s arses when he grows up”. Such remark was offensive to homosexuals, crude with sexual connotation, and should be broadcast after 11:30pm;
- (c) the characters engaging in numerous criminal activities were treated in a comical manner and without punishment;
- (d) the portrayals of women engaging in illegal activities were provoking and eliciting hatred towards women; and
- (e) a warning was needed for the programme.

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 fictitious drama about a woman who was gifted with the ability to fly. It was broadcast outside the family viewing hours and the first episode broadcast on April 19 2010 was classified as “PG” for adult content and violence;
- (b) the portrayals of gun shooting and vehicle explosion in the opening credits were brief and depicted in a surrealistic manner without any detail; and
- (c) when a woman found out that her boyfriend had set her up, she remarked “你咪以為你個仔出咗世有屎忽我就咒唔到你，我鬼唔望佢第日追住個男人屎忽追一世，你無孫送終” (Just because your son has buttocks doesn't mean that I cannot curse you. I hope your son chases after another man's buttocks for his whole life when he grows up and you won't have any grandson) (the remarks).

Regarding allegation (a) about the portrayal of gun shooting and explosion in the opening credits, the BA considered that the degree of violence was mild and the depiction was not unacceptable for broadcast at the scheduled time not targeting children.

Regarding allegation (b) about downright offensive language, the BA considered that the remarks under concern though crude, were not downright offensive taking into consideration the context of the drama. However, the BA considered that the remarks were derogatory to homosexuals, hence in violation of paragraph 2(b) of Chapter 3 of the TV Programme Code which prohibited the broadcast of material which was considered to be denigrating or insulting to any person(s) on the basis of sexual preference.

Regarding allegations (c) to (e), the BA considered that as no specific details were given for investigation, it was not possible to establish that there was a breach of the TV Programme Code.

Decision

The BA considered that the remarks were denigrating to homosexuals. This aspect of the complaint was justified. TVB was in breach of paragraph 2(b) of Chapter 3 of the TV Programme Code. The BA decided that TVB should be **advised** to observe more closely the relevant provision.