

Case 1 – Television Programme “Oscars® Red Carpet Live” (奧斯卡頒獎禮前奏(直播)) broadcast on the Pearl Channel of Television Broadcasts Limited (TVB) on 28 February 2011 at 8:00am – 9:30am

A member of the public complained about the television programme “Oscars® Red Carpet Live” (奧斯卡頒獎禮前奏(直播)). The substance of the complaint was that the programme contained advertising material.

BA’s Findings

In line with established practice, the Broadcasting Authority (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) no advertising material was found in the programme under complaint. Nonetheless, three programme promos for a series of feature films that would be shown on the Pearl Channel of TVB from 4 March to 29 April 2011 were found within the programme (programme promos), each lasting for 30 seconds. All these programme promos were shown immediately after the programme returned from the commercial breaks which were signified by the broadcast of a programme breaker; and
- (b) TVB admitted the lapse and submitted that the programme was a live telecast lead-in programme transmitted via satellite feed from the United States. To allow greater flexibility and ensure better continuity or presentation of the programme, TVB had prepared programme promos and a flip of “Oscars® Red Carpet Live” (breaker) for filling the commercial

breaks which were longer than that had been scheduled. Due to operational oversight, the breaker was placed between the programme promos that made some of them fall inside the programme and mingled with the programme content.

The BA considered that the mingling of programme promos and programme content was unacceptable, as it might cause confusion to viewers and would have an adverse effect on viewing pleasure.

Decision

In view of the clear wording of paragraph 1 of Chapter 8 of the Generic Code of Practice on Television Advertising Standards (TV Advertising Code) that non-programme material (including programme promos) could only be placed at the beginning or end of a programme or in a natural break occurring therein, the BA considered that TVB had contravened the relevant provision. Taking into consideration the operational difficulties involved in live transmission and that this was the first lapse of its kind, the BA decided that TVB should be **advised** to observe more closely the relevant provision in the TV Advertising Code.

Case 2 – Television Programme “The 83rd Annual Academy Awards® (Live)” (第八十三屆奧斯卡金像獎頒獎典禮(直播)) broadcast on the Pearl Channel of TVB on 28 February 2011 at 9:30am-1:00pm

Three members of the public complained about the television programme

“The 83rd Annual Academy Awards® (Live)” (第八十三屆奧斯卡金像獎頒

獎典禮(直播)). The substance of the complaint was that —

- (a) the insertion of commercial breaks during the live transmission of the show had interrupted viewing pleasure;
- (b) the programme contained advertising material;
- (c) the broadcast of pre-recorded lengthy trailers of a few theatrical films during the livecast of the show, with the caption “LIVE” and the classification symbols for the films classified under the Film Censorship Ordinance (FCO) superimposed on screen, misled viewers that the trailers were part of the show and amounted to advertising for the films which were being shown in cinemas in Hong Kong. It was alleged that the broadcast of the trailers were confusing, distracting and irrelevant to the show; and
- (d) the film trailers mentioned in (c) above contained material classified as Category IIB under the FCO and should not be shown on television without a Parental Guidance Recommended (PG) warning.

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 were commercial breaks within the programme when it was broadcast live;
- (b) five programme promos for a series of feature films that would be shown on the Pearl Channel of TVB from 4 March to 29 April 2011 (programme promos), each lasting for 20 to 30 seconds, were shown in the programme. Four of these promos were shown immediately after the programme returned from the commercial breaks which were signified by the broadcast of a programme breaker, and one was broadcast right in the middle of the programme;
- (c) that six theatrical release film trailers, namely, “The Fighter” (擊情手足), “The King’s Speech” (皇上無話兒), “The Social Network” (社交網絡), “Inception” (潛行凶間), “True Grit” (離奇復仇事件) and “Black Swan” (黑天鵝), with duration ranging from 1’19” to 2’18”, were broadcast in the programme. The Chinese and English film titles and the FCO classification symbols were shown simultaneously. There was no mention of any relevant nominations or awards in conjunction with the broadcast of the respective film trailers in the live transmission of the award presentation ceremony; and
- (d) in the trailers, fleeting shots of face slapping, boxers’ punching, a man kissing a woman in brassiere and panties, gun shooting and a man standing on an execution platform with his head being covered with a black bag; fragmented shots of two women kissing, a woman screaming; and a close up shot of a splinter being pulled out from the skin were found.

The BA considered that –

- (a) the insertion of commercial breaks in programmes was an editorial decision of the licensee which was outside the ambit of section 11(1) of the Broadcasting Authority Ordinance;
- (b) although the broadcast of trailers of a few theatrical films during the livecast were not in connection with the rundown of the live award presentation ceremony, the inclusion of these trailers in the programme on the award presentation could be justified as the films concerned were amongst the nominees for certain awards in the presentation ceremony; and no undue prominence which amounted to advertising was given to any of the films. Furthermore, the superimposition of the FCO classification symbols did not amount to advertising material for the films;
- (c) the relevant portrayals in the trailers were brief and were unlikely to be considered unacceptable for broadcast in a programme at the scheduled time outside family viewing hours not targeting children; and
- (d) the presentation of mingling of programme promos with programme content might cause confusion to viewers and would have an adverse effect on viewing pleasure. This was clearly in breach of paragraph 1 of Chapter 8 of the TV Advertising Code.

Decision

In view of the clear wording of paragraph 1 of Chapter 8 of the TV Advertising

Code that non-programme material (including programme promos) could only be placed at the beginning or end of a programme or in a natural break occurring therein, the BA considered that TVB had contravened the relevant provision. Taking into consideration the operational difficulties involved in live transmission, the BA decided that TVB should be **advised** to observe more closely the relevant condition in the TV Advertising Code.

Case 3 – Radio Programme “On a Clear Day” (在晴朗的一天出發) broadcast on the CR1 Channel of Hong Kong Commercial Broadcasting Company Limited (CR) on 11 and 25 January and 8 and 23 February 2011 at 6:00am – 10:00am

A member of the public lodged four complaints about the radio programme “On a Clear Day” (在晴朗的一天出發). The substance of the complaints was that the hosts’ comments on a school under the Direct Subsidy Scheme (DSS) (the School) were offensive, partial, misleading, unfair, not based on facts, and that the comments damaged the image of the school and amounted to defamation.

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 CR. The BA’s findings are set out below.

The BA noted that –

(a) the programme under complaint was a personal view programme (PVP) on

current affairs;

- (b) in a discussion series about the School, entitled “公道反面教材” (English translation: Negative teaching materials for fairness series), the hosts referred to the observations and recommendations made in the Director of Audit’s Report on the governance and administration of DSS schools, and expressed his views on the issues concerning the School;
- (c) a Legislative Council member, who was a lawyer by profession, was invited to explain the legal issues concerned and a principal of another DSS school was also invited to talk about the allocation of resources for providing scholarships at his school; and
- (d) in the programme, one of the hosts repeatedly uttered the remarks like “人神共憤” (public outcry), “龜縮”, “縮埋唔見咗踪影” (chicken out), “非常丟架” (very disgraceful), “言而無信又甩咗底” (eat your words and did not turn up), “咁無膽呢就無謂做校長嘞，無膽就做匪類啦你” (you’d better quit your job as a principal if you don’t have the guts to face the queries. What a coward you are), “呢間學校連校長都無面見人” (this school, even the principal dares not face the public) to criticise the principal of the School and certain individuals in charge of the sponsoring body for declining the programme’s invitation to make clarifications.

The BA considered that –

- (a) regarding whether the hosts’ comments about the School were misleading, unfair and not based on facts, it was noted that the relevant Director of Audit’s Report had been released to the public and criticisms in the report

against the School had been widely reported. In addition, the hosts had updated listeners of the development of the issues concerning the School in the later episodes of the programme. Information about the curriculum of the School, one of the subject matters under discussion, could be found in the Internet. As such, there was no evidence that the hosts' comments concerning the School were misleading, unfair or not based on facts;

(b) the requirement on providing a sufficiently broad range of views in PVPs had been satisfied by interviews with a lawyer and the principal of another DSS school¹;

(c) the allegations on the damage of the image of the School and defamation fell outside the ambit of section 11(1) of the Broadcasting Authority Ordinance (Cap. 391); and

(d) though the host's remarks were made in response to the School's refusal of making clarifications on the questions raised in the programme for numerous occasions and the School's decline of the host's visit to the school which was initially accepted as submitted by CR, it was considered that the School and the relevant parties had the right not to give response. The host's criticisms and emotional language towards the concerned parties and individuals in this case could not be considered as detached and factual. The concerned remarks were in breach of paragraph 31 of the Radio Code of Practice on Programme Standards (Radio Programme Code) which stipulated clearly that where proposed interviewees were unable or unwilling to accept an invitation to participate in a factual programme, references to the missing participants should be made in a detached and factual manner.

¹ While CR submitted that it had interviewed three members of the Legislative Council, senior officials from the Education Bureau, principals of four other DSS schools and a director of the School council during the entire series of discussion, the complainant only cited four episodes of the series in his complaint.

Decision

In view of the above, the BA decided that CR should be **advised** to observe more closely the relevant provision in the Radio Programme Code.

Case 4 – Radio Programme “Evita” (伊維特) broadcast on the CR 2 Channel of CR (CR 2) on 12 April 2011 from 9:00pm – 10:00pm

A member of the public complained about the radio Programme “Evita” (伊維特). The substance of the complaint was that the story about a girl killing the owner of a toy shop with a plastic bag when the owner refused to sell her a doll, and saying that it was fun exerted a bad influence on youth.

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 CR. The BA's findings are set out below.

The BA noted that –

- (a) the programme under complaint was a talk show comprising monologues, story telling and music targeting the young audience on CR2. Prior to the

broadcast of the programme in question, a warning was issued to inform the audience that the programme contained some disturbing contents; and

- (b) in the story telling segment, the host narrated a story about a girl who wanted to buy a doll which reminded her of a doll her friend had many years ago. After being informed by the shop owner that the doll was not for sale, she planned to steal it when the shop owner was busy with customers. She returned to the shop the next day and found herself alone with the shop owner. She took the opportunity and suffocated the shop owner with a plastic bag. After returning home, she found that she had forgotten to take the doll with her, but then she consoled herself that it was alright because it had been quite fun (不過冇所謂啦，因為頭先都幾好玩㗎).

The BA, having regard to the relevant facts of the case, considered that –

- (a) given the style of the programme, which explored the anomic side of the world and provided a place for one to escape from reality, listeners in general would understand that the story was fictional. However, killing being remarked as fun and the girl going home without any consequence seemed to have trivialised the devilish act and would have a bad influence on young listener. The programme might give listeners the impression that killing was nothing serious and was an acceptable behaviour;
- (b) even though a warning was broadcast prior to the broadcast of the programme, it only informed the listeners that the programme contained disturbing contents. Youth and teenagers, who were the target audience of the programme and concerned channel, might not be mature enough to

enjoy the programme without being adversely influenced by the frivolous treatment of the topic as such; and

- (c) as CR2 is a channel generally targeting young persons, and the programme was scheduled for 9:00pm – 10:00pm when there was likely a large number of younger listeners, the station should have been more mindful about the possible adverse impact on the listeners.

Taking into consideration the facts of the case, the BA considered that CR was in contravention of paragraphs 9 and 17 of the Radio Programme Code which stipulate that criminal activities should not be presented as acceptable behaviour and the licensee should be aware of circumstances such that large numbers of children and young persons might be expected to be listening.

Decision

In view of the above, the BA considered that CR should be **warned** to observe more closely the relevant provisions in the Radio Programme Code.