

**Case 1 – Television Programme “Greater China Live” (直播港澳台) broadcast on the SZTV Channel of Asia Television Limited (ATV) on December 20 and 21, 2010, February 17 and March 8, 2011**

Seven members of the public filed complaints against the television programme “Greater China Live” (直播港澳台). The substance of the complaints was that undue prominence was given to the sponsor and other commercial brand names in the news programme which should not be sponsored. Besides, the references to the programme title sponsor exceeded the stipulated time limit.

**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 ATV. The BA noted the facts of the case as set out below —

- (a) ATV claimed that instead of a news programme, the programme concerned was a current affairs programme due to difference in culture and viewing habit in mainland China;
- (b) a Mainland brand of a mobile phone was the sole title sponsor of the alleged news programme broadcast on SZTV, a direct retransmission channel carried on ATV’s digital platform;
- (c) the sponsorship was repeatedly identified in the programme by superimposition, captions, and “stay tuned” messages showing the sponsor’s brand name in its original typeface, as well as aural announcements in the voice over and by the presenters. At the end of the programme, the brand was acknowledged prominently, both aurally and visually, with a flip card showing the name, logo and sometimes the promotional slogan of the brand;

- (d) the title sponsor also appeared to be the sponsor of the programme part featuring views of commentators. The news presenters always made references to the sponsor when they introduced the commentators and the relevant caption appeared on screen; and
- (e) references to a number of Mainland commercial brands/organisations/products were found either in the programme or in the rolling end credits of various episodes of the programme under complaint.

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

- (a) although there might be slight differences between the presentation of the programme concerned and news programmes in general in Hong Kong, the programme objective of “Greater China Live” was to report the latest news/happenings in Hong Kong, Macau and Taiwan to its audience. The programme was a news programme<sup>1</sup>. As such, the programme was in breach of paragraph 18 of Chapter 9 of the Generic Code of Practice on Television Advertising Standards (TV Advertising Code) which stipulated clearly that news programme should not be sponsored;
- (b) as the programme was found to be in breach of the relevant provision of the Code that prohibits the sponsorship of news programmes, there is no need to consider the specific provisions therein governing presentation of sponsorship identification within programmes;
- (c) the presentation of other commercial references in the programme had the effect of giving undue prominence to the respective commercial names

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<sup>1</sup> The programme was in fact promoted as a news programme on a Chinese news website: “《直播港澳台》- 為您呈現最新鮮、最權威、最專業的港澳台新聞” (English translation: “Greater China Live” brings you the latest, the most authoritative and professional views about Hong Kong, Macau and Taiwan). It began with introduction of the news headlines (新聞焦點). Reporters were sent to other countries to report on international events and commentators were invited to comment on some important international events of the day.

which amounted to advertising. Thus, ATV had contravened the relevant provisions, viz. paragraph 3 of Chapter 11 of the Generic Code of Practice on Television Programme Standards (TV Programme Code) and paragraph 1 of Chapter 8 of the TV Advertising Code concerning the prohibition of undue prominence and placement of advertising material in all programme types; and

- (d) since ATV had been advised for similar lapses in February 2011 for the broadcast of a news programme and a current affairs programme on the TVS Channel, another direct retransmission channel carried on ATV's digital platform, the repeated lapse in this case indicated that ATV had not taken BA's previous advice seriously or taken any initiatives to remedy similar situation since then.

## **Decision**

In view of the above, the BA decided that ATV should be **strongly advised** to observe more closely the relevant provisions in the TV Programme and Advertising Codes.

**Case 2 – Television Programmes “Noon News” (午間新聞), “News at 6:30” (六點半新聞報道) and “News Roundup” (晚間新聞) broadcast on the Jade Channel of Television Broadcasts Limited (TVB) on March 29, 2011 at 1:00pm-1:15pm, 6:30pm-6:55pm & 11:00pm-11:35pm and the programme “News at 6:30” broadcast on March 30, 2011 at 6:30pm-6:55pm**

Three members of the public filed complaints against the Television Programmes “Noon News” (午間新聞), “News at 6:30” (六點半新聞報道) and “News Roundup” (晚間新聞) broadcast on the Jade Channel of TVB. The substance of the complaints was that the remark that “according to an expert,

five grams of plutonium, approximately the size of a sugar cube, would kill all human beings in the world” (有專家指只要五克的鈾，即大約一粒方糖，就足以令全球人類死亡) found in the news programmes on March 29, 2011 was groundless. It was alleged that in the programme “News at 6:30” broadcast the following day on March 30, 2011, it was falsely reported that the remark was made by Dr Christopher Busby, a former advisor to the UK government on radiation, in an interview on hazards of plutonium with the British Broadcasting Corporation (BBC).

### **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 noted the facts of the case as set out below –

- (a) the alleged remark was found in the news programmes on March 29, 2011 but there was no reference to the identity of the expert concerned; and
- (b) the BBC webpage did not state that Dr Busby had made the remark that five grams of plutonium would kill all human beings.

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

- (a) TVB’s submissions provided little evidence that it had made reasonable efforts to ensure the accuracy of the alleged claim. TVB submitted that the alleged remark was quoted from reports on the Internet, one of which was published on March 30, 2011 and therefore could not be accepted as TVB’s source of the alleged remark which was first reported in its news programmes on March 29, 2011. The submissions of TVB did not provide

any indication that TVB had confirmed the alleged remarks with BBC. Taking into account the public concern about nuclear safety and the potential impact of the claim on audience, TVB's reliance on the media reports from two websites for ensuring the accuracy of its report appeared to have fallen short of the expectation on a responsible free television licensee. Thus, TVB's programme was in breach of paragraph 1A of Chapter 9 of the TV Programme Code regarding accuracy of news contents; and

- (b) as the public was highly concerned about nuclear safety after the radiation leaks from the Fukushima nuclear plant in Japan, the presentation of the news report had caused alarm which might not be alleviated by the presentation of alternative opinions from a university professor and a health official in the news programme on March 30, 2011. Thus, TVB's programme was in breach of paragraph 7(a) of Chapter 9 of the TV Programme Code which stipulated that news should be presented in such a manner as to avoid unnecessary alarm.

### **Decision**

Taking into consideration of the sensitive nature of the news item concerned, the BA decided that TVB should be **warned** to observe more closely the relevant provisions in the TV Programme Code.

### **Case 3 – Television Programme “Turistas” (勝地狂屠) broadcast on the Pearl Channel of TVB on May 7, 2011 at 11:45pm – 1:35am**

A member of the public filed a complaint against the television programme “Turistas” (勝地狂屠). The substance of the complaint was that there were shots of full frontal nudity of women without computer masking and scenes of cutting open a woman's abdomen and taking out her sex organs. The

complainant also alleged that no display of “PG” (Parental Guidance Recommended) warning was found at the beginning of 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 noted the facts of the case as set out below –

- (a) the programme under complaint was an American thriller about a group of young tourists travelling in Brazil where they fell victim to a sadistic physician who tried to harvest their organs and use them in transplants for poor Brazilian patients; and
- (b) the film was classified as “M” (Mature) category for broadcast after 11:30pm with warning for adult elements and violence. Both aural and visual advice on the programme classification had been provided at the beginning of the programme.

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

- (a) as the portrayals of female nudity were incidental and limited to a couple of shots showing bare breasts and bare buttocks in non-sexual contexts, they were not unacceptable for broadcast in a programme classified “M” for adult elements and violence;
- (b) the other violence scenes were acceptable for an “M” programme as they were fleeting, mostly in dim lighting and justifiable in context without gruesome details; and

- (c) despite the use of editing effects to reduce its impact, the vivisection scene in which a doctor cut open a woman's abdomen with a scalpel and removed her organs one by one while she was still conscious was still too bloody, gory, horrific and sadistic with callousness to the suffering of the victims. The scene was prolonged and disturbing which had gone beyond the expectations of audience of a free television service and the acceptable bounds of an "M" programme on free TV. Therefore, TVB was in breach of paragraphs 3 and 8 of Chapter 6 and paragraph 5(a) of Chapter 8 of the TV Programme Code which stipulated that callousness to suffering experienced by victims of violence should be avoided and depiction of violence should not be unduly bloody, sadistic and horrific.

## **Decision**

The BA decided that TVB should be **advised** to observe more closely of the relevant provisions in the TV Programme Code.

### **Case 4 – Radio Programme “Free as the Wind” (講東講西) broadcast on the Radio 2 Channel of Radio Television Hong Kong (RTHK) on May 1, 2011 at 10:00am – 12:00noon**

A member of the public filed a complaint against the radio programme “Free as the Wind” (講東講西). The substance of the complaint was that the host uttered a term which sounded like a foul expression.

## **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 noted that in a chat about agricultural developments of Britain and China at the time around the Opium War, a host uttered a phrase containing a Cantonese foul expression at around 10:53am while the other hosts were also talking.

The BA, having regard to the relevant facts of the case, considered that the foul expression was clearly audible and definitely offensive to the average listeners. Thus, the programme was in breach of paragraph 15 of the Radio Code of Practice on Programme Standards (Radio Programme Code) which stipulated that expressions that were definitely offensive were prohibited from use on radio.

## **Decision**

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