

Case 1 – Television Programmes “A Chinese Torture Chamber Story” (滿清十大酷刑), “Lover of the Last Empress” (慈禧秘密生活) and “Sex and the Emperor” (滿清禁宮奇案) broadcast on the TVB Movies Channel of TVB Pay Vision Limited (TVBPV) on June 5, 2011 at 12:30 am - 2:10 am, June 19, 2011 at 12:30 am - 2:10 am and June 26, 2011 at 12:30 am – 2:45 am

A member of the public filed three complaints against the television programmes “A Chinese Torture Chamber Story” (滿清十大酷刑), “Lover of the Last Empress” (慈禧秘密生活) and “Sex and the Emperor” (滿清禁宮奇案). The substance of the complaints was that TVBPV broadcast adult programmes at midnight on the movie channel of TVBPV’s domestic pay television programme service for which no parental locking device was provided to prevent children’s access. The complainant quoted the three programmes as examples, alleging that they were movies classified as Category III under the Film Censorship Ordinance (Cap.392) which contained frequent and explicit portrayals of nudity, sexual intercourse and torture without any computer masking. They were adult materials which should be restricted for viewing by adults only.

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 TVBPV. The BA’s findings and considerations are set out below –

- (a) the three programmes contained frequent and explicit portrayals of nudity and sex, sexual violence and impactful depictions of violence and torture, which amounted to adult materials and should only be shown in programmes or

channels restricted for adults;

- (b) as TVB Movies Channel was a movie channel for general viewing included in the basic monthly package of TVB PV's domestic pay television programme service, the materials broadcast on this channel could be easily accessed by children. The classification of the programmes concerned as "PG" (Parental Guidance Recommended) for broadcast on the concerned movie channel was clearly inappropriate. Some of the depictions were impactful and might offend and disturb the unprepared viewers of the movies which were classified as "PG" programmes;
- (c) by inappropriately classifying the movies under complaint as "PG" programme, TVB PV had deprived viewers of the information they need to decide whether to activate the parental lock to prevent access to such adult materials by children;
- (d) in light of the above, TVB PV had contravened the relevant provisions in the Generic Code of Practice on Television Programme Standards (TV Programme Code) viz. paragraph 17 of Chapter 3 for a lack of sufficient safeguards against children's access to adult material; paragraphs 1 and 7 of Chapter 5 for showing sexually explicit scenes in programmes and channels not restricted for adults; paragraphs 9 and 10 of Chapter 6 for showing sexual violence against women in abusive contexts and realistic and impactful depictions of violence in programmes and channels not restricted for adults; paragraphs 1 and 10 of Chapter 8 for failing to provide sufficient and reliable information about the nature and content of the movies under complaint and failing to clearly label them as programmes intended for viewing solely by adults; and
- (e) regarding the allegation on the lack of parental lock to the channel concerned,

should the programmes in this case be properly classified as adult programmes and clearly labelled as such, the parental locking system should be able to achieve its function and prevent children's access to these movies.

Decision

The BA considered that TVBPV had committed a serious lapse by inappropriately classifying adult programmes as "PG" and broadcasting such adult programmes on a general movie channel, thus failing to provide sufficient safeguard against children's access to adult material. In view of the seriousness of the lapse, the BA decided that a **financial penalty of \$200,000** should be imposed on TVBPV for breaching the relevant provisions of the TV Programme Code.

Case 2 – Television Programme “News Report” (新聞報道) broadcast on the TVB I News Channel of Television Broadcasts Limited (TVB) on June 12, 2011 at 10:00pm – 10:30pm

A member of the public filed a complaint against the television programme “News Report” (新聞報道). The substance of the complaint was that the news report advertised for an estate property.

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 news report featured a segment entitled “一區一盤” introducing an estate property with a duration of 3'40". Detailed information about the estate property

including its name, developer, location, number of flats, flat sizes, floor plan, efficiency ratio, sales price, amount of management fee, and etc. was given;

- (b) a reporter visited a show flat and commented in detail about the flat's layout and view, as well as the property's club house facilities, transport network and nearby environment; and
- (c) abundant favourable comments and some less favourable remarks were given on the property. At the end of the segment, the prices per square foot of some properties in the same district and in Hong Kong were briefly shown.

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

- (a) despite the presence of a few less favourable remarks, the presentation had gone beyond what could clearly be justified by the editorial requirements of a financial analysis segment in a news programme;
- (b) the significant exposure given to the property, the abundant favourable remarks rendered by the reporter on the property and the gratuitous overall presentation of the segment had given undue prominence to the property concerned and amounted to advertising material which should not be included in news programme; and
- (c) in light of the above, TVB's programme was in breach of paragraph 7(f) of Chapter 9 and paragraph 3 of Chapter 11 of the TV Programme Code which provided that no advertising matter should be included in the contents of a news programme and no undue prominence might be given in any programme to a product of a commercial nature

Decision

The BA considered that the complaint was substantiated. Taking a serious view of the inclusion of advertising matters in news programmes, the BA decided that TVB should be **warned** to observe more closely the relevant provisions in the TV Programme Code.

Case 3 – Television Programme “Cable Finance 2000” (八點有線財經) broadcast on the Cable No. 1 Channel of Hong Kong Cable Television Limited (HKCTV) on February 8, 2011 at 8:00pm – 8:30pm

Two members of the public filed complaints against the television programme “Cable Finance 2000” (八點有線財經). The substance of the complaints was that the first part of the programme was suddenly interrupted at about 8:06pm by advertisements and promotional materials (promos) after broadcasting for six minutes, and that the second part of the programme resumed after more than 10 minutes at about 8:17pm.

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 HKCTV. The BA noted the facts of the case as set out below –

- (a) according to the direction issued by the BA to HKCTV pursuant to Condition 19.5 of its domestic pay television programme service (TVPS) licence, HKCTV

is required to retain recordings of materials broadcast on its service for a period of 30 days;

- (b) due to technical problem, HKCTV failed to provide the recording of the concerned programme for investigation; and
- (c) HKCTV submitted that the programme under complaint was a live programme and the insertion of breaks was operated manually and admitted that the commercial break was inserted at around 8:06 pm, about six minutes ahead of the schedule due to a human error. As a result of the premature break, the operator decided to use a standby filler clip of promos to match the remaining time of the concerned programme before he could cut back to the live programme naturally at 8:17 pm.

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

- (a) HKCTV was clearly in breach of Condition 19.5 of its domestic pay TVPS licence for failing to retain the required recording; and
- (b) given that HKCTV admitted that the commercial break had been inserted about six minutes ahead of the schedule due to a human error and that since the commercials had not been aired at its scheduled time, it was more likely than not that they had been inserted abruptly. The BA considered that based on the available evidence, HKCTV was in breach of paragraph 1 of Chapter 8 of the Generic Code of Practice on Television Advertising Standards (TV Advertising Code) which stipulated that advertising or non-programme material might be

placed only at the beginning or end of a programme or in a natural break occurring therein.

Decision

The BA decided that HKCTV should be **strongly advised** to observe Condition 19.5 of its domestic pay TVPS licence for its failure to provide the requested recording. Furthermore, it should be **advised** to observe closely the relevant provision in the TV Advertising Code.

Case 4 – News on the Corruption Case of Mr Stephen Chan and Mr Wilson Chan broadcast on the Home and World Channels of ATV on July 18, 2011 from 6:00 pm – 11:18 pm

A member of the public filed a complaint against the news on the corruption case of Mr Stephen Chan and Mr Wilson Chan in various programmes broadcast on ATV Home and World on July 18, 2011 during the specified time period. The substance of the complaint was that in the news item about the corruption case, the report in various programmes that Mr Stephen Chan had presented character testimonies at the court was inaccurate as according to other media reports, only Mr Wilson Chan's lawyer submitted character statements while Mr Stephen Chan's lawyer did not.

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

- (a) the alleged inaccurate information was found in the programmes as alleged by the complainant; and
- (b) ATV admitted that it did not have any evidence to support its erroneous report, which was caused by human error.

The BA, having regard to the relevant facts of the case, considered that ATV had not made reasonable efforts to ensure the factual contents of the concerned news were accurate, and was not even aware of the erroneous reporting and failed to correct the factual error afterwards, notwithstanding there was extensive coverage of the case in various media. Therefore, ATV was in breach of 1A and 7(e) of Chapter 9 of the TV Programme Code regarding the factual accuracy of news and timely correction of factual errors.

Decision

Taking into consideration that the inaccurate information reported was unlikely to have made a serious impact on society, the BA decided that ATV should be **advised** to observe more closely the relevant provisions in the TV Programme Code.