

Case 1 - A Report of the Broadcasting Authority's Investigation into Complaints on Misreporting of News on the Death of a Former National Leader by Asia Television Limited (ATV)

ATV misreported in its news programme on 6 July 2011 that former national leader Mr Jiang Zemin had passed away. ATV retracted the news on 7 July and issued a public apology.

2. The misreporting incident has aroused serious public concern. The Broadcasting Authority (BA) received 45 complaints against ATV on the case. The Legislative Council Panel on Information Technology and Broadcasting held a special meeting to discuss the issue on 19 September 2011. Having regard to the gravity of the incident, the BA has, in investigating the complaints, conducted interviews with relevant parties including ATV management, on top of the established practice of inviting representations from the licensee.

3. This report sets out the findings of the investigation and the decision of the BA.

Substance of the Complaints received by BA

4. The BA received 45 complaints from members of the public which, in summary, raised the following issues –

- (a) the news reports were false, unverified, misleading, confusing and unnerving. The change of the colour of the station identification logo was confusing;
- (b) the correction of the misreporting was not made in a timely manner;
- (c) the announcement on ATV Home in the evening of 6 July 2011 of the broadcast of a special programme on Mr Jiang and its subsequent cancellation were confusing and misleading; and

- (d) the response of Mr Wong Ching to ATV's reporting of Mr Jiang's death was irresponsible and cast doubt on the editorial independence of ATV's news team.

The media and Legislative Council Members have expressed serious concern regarding the editorial independence of the ATV news team.

Relevant Provisions

5. The relevant provisions in the BA Generic Code of Practice on Television Programme Standards ("TV Programme Code") are as follows –

Paragraph 1A of Chapter 9 the licensees shall make reasonable efforts to ensure that the factual contents of news are accurate;

Paragraph 7 of Chapter 9 presentation of news should observe the following rules:

(a) morbid, sensational, or alarming details not essential to factual reporting should be avoided. News should be presented in such a manner as to avoid unnecessary alarm;

...

(e) correction of factual errors should be made as soon as practicable after the original error; and

Paragraph 11 of Chapter 12 where programmes are not shown in accordance with publicly announced or published programme schedules, the licensee should take reasonable steps to inform viewers of such changes. These steps may include making on-screen announcements at the beginning of the scheduled time of the programmes affected and at other appropriate times when the intended audience of the programme might be watching television.

Investigation Methodology

6. To ascertain whether ATV was in breach of the provisions in the TV Programme Code cited above, the BA conducted an initial investigation into the case by reviewing the recording of the news programmes in question. The BA requested ATV to submit representations on the issues raised in the complaints. The BA also conducted interviews with relevant parties, including ATV's management to seek further details of the events of 6 and 7 July 2011. Where interviewees put forward inconsistent or conflicting accounts as to what happened leading to the misreporting of the news and the subsequent events, the BA has carefully assessed their evidence and has reached its findings on balance of probabilities.

ATV's Representation

7. ATV made several representations to the BA. The gist is as follows –
- (a) The news team of ATV had “relied on an outside source which it had reasons to believe to be reliable at the material time¹”. The news team “had also used its best endeavours to verify the accuracy of the news before the broadcast decision was made²”;
 - (b) “There are ethical norms and legal restrictions for members of the news team to disclose the sources of any news that the team decides to broadcast.” “BA’s request for ATV to confirm the number of sources relied on by the news department does not conform with such ethical norms of journalism.” “If we are to provide information to the BA on assessment of our news source reliability and our efforts to confirm the news, the news team will have to not only disclose the sources of the news (which is something the BA acknowledges that we are not expected to disclose) but also explain its criteria of gauging the reliability of different sources. Again, BA’s information request is obviously inconsistent with journalists’ ethical norms of keeping news sources confidential”³ ;
 - (c) the decolouring of the station logo was a mere gesture to express ATV’s respect to Mr Jiang;

¹ ATV’s letter dated 24 August 2011 to BA

² ATV’s letter dated 22 September 2011 to BA

³ ATV’s letter dated 7 November 2011 to BA

- (d) ATV had made a reasonable effort in keeping viewers informed of the cancellation of the special programme on Mr Jiang;
- (e) after Xinhua News Agency made a clarification on 7 July 2011 that Mr Jiang's death was a pure rumour, ATV had promptly reported the clarification in its news bulletin. The prompt broadcast of the clarification provided a correction of ATV's factual errors;
- (f) ATV had retracted the report of the news in a timely manner. As the formal retraction had to be carefully worded, it was not unreasonable for ATV to take some time to draft and finalise it;
- (g) ATV was not in a position to comment on Mr Wong Ching's reactions to the news; and
- (h) ATV's news team has always been operating independently. ATV denied categorically any suggestion that its editorial independence had been compromised.

The BA's Findings

8. Having considered all available information and relevant facts, including ATV's representations, recording of the news programmes, and information collected at the interviews, the BA has come to the following findings on balance of probabilities –

Before 6 July 2011

- (a) Noting the reports of other media organisations that the former president Mr Jiang Zemin had been seriously ill, ATV's news department commenced preparation for a special programme on the life of Mr Jiang.

On 6 July 2011

- (b) Shortly after 6 pm, i.e. during the broadcast of “6:00 News”, Mr Kwong Hoi-ying, Senior Vice President (Corporate Development and External Affairs) of ATV called Ms Tammy Tam Wai-yi, Vice President (News and Public Affairs) of ATV by phone and prompted her to report the news on Jiang’s death. During the phone conversation, Mr Kwong told Ms Tam that he had received reliable information about the death of Mr Jiang and requested Ms Tam to report the news in the “6:00 News” as soon as possible; Mr Kwong assured Ms Tam that he/ATV would shoulder the responsibility of reporting the news and told her not to worry about reporting the death news.

- (c) After Mr Kwong’s call, both Mr Leung Ka-wing, Senior Vice President (News and Public Affairs) of ATV at the time, and Ms Tam tried hard to verify the death news through other means but failed to obtain any confirmation. Mr Leung and Mr Kwong had held subsequent conversations over the phone, where Mr Leung requested for more time to verify the news but Mr Kwong reiterated his request for the broadcast of the news as soon as possible and reassured Mr Leung that he/ATV would shoulder the responsibility for broadcasting the news.

- (d) Despite not being able to obtain verification from a separate source, Mr Leung decided to report the news of Mr Jiang’s death in the “6:00 News” on the ATV Home Channel. The news was first broadcast at 6:36 pm and more details were provided at 6:41 pm. The news was repeated in the “News Update” at 7:16 pm, 8:17 pm and 9:13 pm. Similar news reports were made on the ATV World Channel.

- (e) Mr Kwong, who was in charge of ATV’s Programme Division in addition to his own duties at the time, decided to broadcast the special programme

on Mr Jiang's life that evening. ATV announced at 6:43 pm that the special programme would be broadcast at 9:30 pm – 10:30 pm.

- (f) With the approval of Mr James Shing, Executive Director of ATV, Mr Kwong directed ATV staff to change the colour of ATV station logo from orange to grey on the ATV World Channel at 7:17 pm and on the ATV Home Channel at 7:19 pm.
- (g) After the broadcast of the death news, Mr Leung and Ms Tam still tried to verify the information through various means, but the feedback received indicated that the validity of the death news was in doubt. Noting that China Central Television did not carry a report on Mr Jiang's death at its joint news programme broadcast at 7:00 pm, Mr Leung instructed the news department that in subsequent reports of the death news, it should be made clear that there had yet to be any official announcement. This clarification was added to the news reports on the ATV Home Channel from 7:16 pm onwards and on the ATV World Channel from 7:30 pm onwards.
- (h) By around 8:00 pm, Mr Leung and Ms Tam became more certain that the information about Mr Jiang's death was invalid. Mr Leung asked Mr Kwong to cancel the special programme, revert the station logo to orange colour and not to broadcast the death news further.
- (i) At around 9 pm, Mr Kwong informed the ATV news department of the decision to cancel the broadcast of the special programme. However, Mr Kwong instructed ATV news department to continue reporting the death news that night.
- (j) ATV informed viewers by teloping messages at around 9:16 pm that the special programme was cancelled.

- (k) ATV continued to broadcast the news of Mr Jiang's death on the ATV Home Channel in the "Late News" at 10:31 pm and on the ATV World Channel at 11:00 pm.
- (l) ATV changed the colour of the station logo back to orange on the ATV World Channel at 10:49 pm and on the ATV Home Channel at 11:01 pm.

On 7 July 2011

- (m) Before noon, ATV management discussed the issue of an apology statement but decided not to broadcast it in its news programme "12:30 News".
- (n) Xinhua News Agency issued an English dispatch at around 12:13 pm that the reports of Mr Jiang's death were "pure rumour". ATV reported Xinhua's clarification in the news programme "12:30 News".
- (o) ATV retracted its reports at around 4:40 pm by making the following statement –

“ 亞洲電視注意到新華社今日中午發出的報道，撤回於昨晚有關江澤民先生逝世的報道，謹向觀眾、江澤民先生及其家人致歉。 ”
- (p) In response to media enquiry at the entrance of ATV, Mr Wong Ching replied that he only learnt the death report through watching ATV news.
- (q) ATV retracted the death news at its news programme "6:00 News" on ATV Home Channel.

The BA's Assessment

Accuracy of the factual contents of the news

9. BA had not requested and did not expect ATV to disclose the source of its information. However, the BA considers that the onus was on ATV to demonstrate that it had made reasonable efforts to ensure the factual accuracy of its news report. Paragraph 1A of Chapter 9 of the TV Programme Code stipulates that licensees should make reasonable efforts to ensure the accuracy of the factual contents of its news. In its letter to the BA of 22 September 2011, ATV informed the BA that its News Team is expected to adhere to the following guidelines and procedures formulated by the ATV News Department for the verification of news –

“The truthfulness of the news is the most fundamental principle which must be strictly observed by the News Department. The news being telecast by the News Department should be confirmed by an established verification procedure which involves auditing by various layers comprising reporters, assignment editors, editors and chief editors. Any important news must go through repeated verification, the more important the news, the more sources seeking to confirm the news are needed, usually at least two or more sources.”

Having explained the guidelines that it used, ATV failed to provide any information to the BA on how in this particular case it had assessed the reliability of its sources and what efforts it had made to confirm the news independently or through any other means or source. ATV could have, but did not, explain to the BA how it had complied with its own guidelines for the verification of this news story. This would not have involved disclosure of the identity of the sources of the story. The BA does not accept ATV's contention that an explanation of its efforts undertaken, if any, in verifying the piece of news would breach any ethical norms of journalism.

10. The findings in the earlier part of this Report reveal clearly that ATV as a licensee decided to broadcast the news of Mr Jiang's death **before** it had obtained positive verification of the news. On the one hand, the ATV news team had tried but failed to seek positive verification of the news before deciding to broadcast the news. On the other hand, the ATV senior management, while denying having

exerted pressure on the ATV news team to broadcast the news, failed to demonstrate that it had exercised due diligence to ensure compliance with the BA and ATV guidelines on news verification. The need for the Licensee to exercise due diligence in the release of this piece of news is obvious – given worries clearly expressed by the head and deputy head of the news team. While the BA is not concerned about the internal division of work and responsibilities between the ATV news department and the ATV senior management, the BA has every reason to be concerned when ATV’s management problems affected the proper discharge of the responsibilities of ATV as a Licensee.

11. ATV has failed to demonstrate that it has made reasonable efforts to ensure the accuracy of the news content. BA finds ATV **in breach of** paragraph 1A of Chapter 9 of the TV Programme Code.

12. ATV had also made conflicting representations to the BA about the sources of the story –

- (a) in its letters of 24 August and 22 September 2011 signed by Mr Kwong, ATV stated that its news team had relied on an outside source which it believed to be reliable at the material time;
- (b) in its letter of 25 October 2011, ATV stated that its “news team must have relied on one or more sources” but then made the contradictory statement at the end of the letter that the author, Mr Kwong, is “not in a position to tell whether our news team had relied on one or multiple sources for the News”;
- (c) in its letter of 7 November 2011, ATV stated that it had asked Mr Leung Ka Wing, Ms Tammy Tam and other members of the news team before responding to BA but they refused to disclose details of the outside sources they had checked due to ethical norms of journalism. This was again different from the representations in ATV’s earlier letters of 24 August, 22 September and 25 October 2011.

Given the conflicting representations made by ATV, BA has serious doubt as to whether ATV management had checked with relevant parties in ATV before it submitted representations to BA. Further information obtained by BA indicated that ATV had not conducted any enquiry nor even discussed the incident with Mr Leung

Ka Wing or Ms Tammy Tam after 7 July before making representations to the BA. In this connection, the BA considers ATV's approach in its representations to the BA totally irresponsible.

Change in the colour of station logo

13. The change in the colour of ATV's identification logo is not a matter governed by the TV Programme Code. The BA **cannot establish any breach** in this respect.

Correction of factual errors of news

14. Xinhua News Agency clarified on 7 July 2011 at around 12:13 pm that Mr Jiang Zemin's death was pure rumour. Although ATV broadcast this clarification at its news on 7 July, the broadcast did not by any means represent ATV's formal position on its erroneous report of the death of Mr Jiang. ATV only retracted its report in the news programmes more than four hours after Xinhua's clarification. The BA considers this far from timely. Thus, ATV was **in breach of** paragraph 7(e) of Chapter 9 of the TV Programme Code which stipulated that correction of factual errors should be made as soon as practicable after the original error.

Handling of the special programme

15. On the handling of the broadcast arrangements for the special programme, the BA considers that ATV had taken reasonable steps to inform viewers of its broadcast and the subsequent cancellation. There was **no breach** in this respect.

Interference of the editorial independence of the ATV

16. In this inquiry, the BA has made findings on the events surrounding the misreporting incident as set out in the earlier part of this Report. The BA does not consider it advisable, in discharge of its role as regulator, to inquire into the relationship between ATV's management and its News Departments, or draw any conclusion regarding the alleged interference by ATV's management with its news department. As the editorial independence of the news team within ATV is not a matter regulated by the BA, the BA has made no findings on the issue.

17. As for the role of Mr Wong Ching, there is no direct evidence to enable

BA to ascertain his role in the misreporting incident. As announced previously, the BA has initiated an investigation into the role played by Mr Wong Ching in the control and management of ATV. That investigation is continuing and is a separate exercise.

The BA's Decision

18. Having considered the information collected at the interviews and all other available evidence and submissions, the BA has found the complaints against **inaccurate** news reporting and **late** correction of factual errors substantiated. The BA regrets that ATV has adopted an irresponsible approach in its response to BA's inquiry. The BA decided that a financial penalty of \$300,000 should be imposed on ATV.