

Case 2 - Television Programme “Wealth Blog” (理財博客之即市錦囊) broadcast on the Home Channel of ATV on 19 & 21 July 2011 at 9:15am-10:15am

Five members of the public filed complaints against the television programme “Wealth Blog” (理財博客之即市錦囊). The substance of the complaints was that the insertion of advertising contents, including excerpts from the advertising magazine “Corporate Excellence” (走進上市公司) about a listed company and promotion of warrants, into “Wealth Blog”, alleged to be a news or financial news programme, was in breach of the relevant codes of practice governing sponsorship, indirect advertising and impartiality of news programmes. Some complainants also alleged that ATV’s management had interfered with the operation and editorial independence of its news department and news reporting, which might be in breach of the Broadcasting Ordinance.

BA’s Findings

2. In view of significant public concern on this complaint case, in addition to the normal practice of inviting representation from licensees, the BA had conducted interviews with relevant parties, including ATV management, to gather more information on the case. The BA noted the facts of the case as set out below –

- (a) the programme under complaint was a live programme providing financial news and updates, interviews with representatives of banks, investment companies, etc. on their views of the financial markets, including individual shares and warrants. There were also sponsored segments on warrants trading, presented with clear sponsor credits;
- (b) the listed company identified in the complaints was featured in a total of four segments in two episodes of the programme broadcast on 19 and 21 July 2011. The episode broadcast on 19 July 2011 contained two of the segments, broadcast at 9:56 am lasting 5 minutes and at 10:08 am lasting 3 minutes respectively. The first segment was an interview with a financial commentator, who commented favourably on the company’s business expansion and prospects of increased profits. The second segment featured an interview with a financial analyst, who had written a report on the company;

- (c) The episode broadcast on 21 July 2011 contained the other two segments (broadcast at 9:41 am lasting 5 minutes and at 9:58 am lasting 3 minutes respectively). The first segment featured mainly excerpts of an interview with the Chairman of the listed company in question, who talked about the company's strategy and development plan. The second segment was an interview with a financial commentator, who analysed the prospect of the company's shares;
- (d) Frequent shots prominently showing the brand name, production facilities, shops and products of the company were also found in the episode broadcast on 21 July 2011 during the interview with the company's chairman. The footage was extracted from the episode of "Corporate Excellence", which was an advertising magazine, broadcast on 29 May 2011; and
- (e) the three interviews with financial analysts/commentators on the company in the episode broadcast on 19 and 21 July 2011 featured similar charts. Similar questions were also asked by the host to prompt the interviewees to render favourable comments on the company's business.

The BA noted the following representations submitted by ATV –

- (a) the programme under complaint "Wealth Blog" was an informational programme about the financial market. It was not a news programme for which sponsorship was not allowed;
- (b) the incorporation of excerpts showing shots of the listed company from the advertising magazine "Corporate Excellence" into the financial informational programme "Wealth Blog" was driven by editorial need without gratuitous use of the materials;
- (c) views from different financial analysts were featured to present balanced views in the programme;
- (d) ATV did not receive any consideration for broadcast of contents about the listed company in "Wealth Blog"; and

- (e) the programme was presented in a fair and impartial manner and did not constitute an advertisement or promotion of the listed company.

3. The BA, having regard to relevant facts of the case, recommendations of the Complaints Committee, ATV's representations and information collected at the interviews, considered that –

- (a) “Wealth Blog”, which consisted of financial news and information as well as analysis of and interviews on financial issues, should be regarded as a financial programme which could be sponsored. As such, paragraph 7(f) of Chapter 9 of the Generic Code of Practice on TV Programme Code, which prohibits the sponsorship of news programmes, was not applicable;
- (b) regarding the allegation against the promotion of warrants, the segments on warrants trading were clearly identified as sponsored segments and the introduction of various warrants by representatives of the sponsored banks in the segment did not cause any breach of the relevant provisions on sponsorship;
- (c) regarding the allegation on impartiality, the relevant provision was applicable to news programmes and factual programmes dealing with matters of public policy or controversial issues of public importance in Hong Kong. Since the programme under complaint did not deal with such matters, the impartiality provision was not applicable;
- (d) regarding the alleged interference by ATV's management with the editorial independence of its news department and news reporting, the BA considered that the independence and editorial autonomy of licensees should be respected. The BA would not interfere with the licensees' internal operation, including the relationship and operation between their management and news department; and
- (e) some companies were featured in both “Corporate Excellence” and “Wealth Blog”. While there was no evidence to establish that ATV had offered a package deal for arranging a company featured in “Corporate Excellence” to be broadcast in “Wealth Blog”, the detailed coverage and analysis of the same listed company by four separate segments in two episodes of the same financial programme from similar positive perspectives within a three-day period were highly conspicuous. This is particularly so given that the featured company was not a heavily traded stock and there was no special finance news concerning

the company at the time. The presentation of the relevant segments in the two episodes broadcast in a 3-day period, including the use of excerpts from the advertising magazine “Corporate Excellence” showing the company’s name and logo, had given undue prominence to the listed company and created a noticeable promotional effect. As such, ATV was in breach of paragraphs 1, 2 and 3 of Chapter 11 of the TV Programme Code concerning indirect advertising in television programmes.

Decision

4. In view of the above, the BA decided that ATV should be **seriously warned** to observe more closely the relevant provisions in the TV Programme Code.

Case 3 – Television Advertisement entitled “Corporate Excellence” (走進上市公司) broadcast on the Home Channel of ATV on 29 May 2011 at 11:15pm – 11:40pm & 21 August 2011 at 11:00pm– 11:15pm

Two members of the public filed complaints against the television advertising magazine “Corporate Excellence” (走進上市公司). The substance of the complaints was that “Corporate Excellence” (走進上市公司) was a financial programme containing advertising contents and the mingling of financial news and analysis with advertising compromised programme impartiality and confused viewers.

BA’s Findings

2. In view of significant public concern on this complaint case, in addition to the established practice of inviting representation from licensees, the BA conducted interviews with relevant parties, including ATV management, to gather more information and evidence of the case. The BA noted the facts of the case as follows –

- (a) “Corporate Excellence” was presented in a programme format with interviews of representatives of listed companies and financial analysts;
- (b) the episode on 29 May 2011, which was sponsored by another company, featured a listed company with frequent complimentary remarks;
- (c) the episode on 21 August 2011 was not sponsored and it featured three listed companies; and
- (d) the captions “以下內容以廣告時段播出” and “以上內容以廣告時段播出” were shown for three seconds on the upper right corner of the screen at the beginning and the end of each segment respectively. However, in the episode broadcast on 29 May 2011, the captions were presented in small and inconspicuous fonts, and the caption was completely missing at the end of the advertisement. In the episode broadcast on 21 August 2011, the captions were presented in smaller and blurred white fonts superimposed on a light-coloured background.

The BA noted the following representations submitted by ATV -

- (a) “Corporate Excellence” was an advertisement presented in programme format;
- (b) all episodes were labelled as advertisements during broadcast by superimposed captions at the beginning and end of each episode;
- (c) the captions were clearly legible; and
- (d) the relevant caption was missing at the end of the episode broadcast on 29 May 2011 due to oversight.

3. The BA, having regard to the relevant facts of the case, the recommendations of the Complaints Committee, ATV’s representations and information collected at interviews, considered that –

- (a) “Corporate Excellence” adopted a programme format which was intended to create the impression that it was a finance programme. Sponsorship of the episode broadcast on 29 May 2011 led viewers to believe that it was a sponsored programme and created further confusion. As it was not fully apparent that “Corporate Excellence” was an advertisement, the material should be clearly flagged as such in a clearly legible manner at the beginning and at the end;
- (b) the captions identifying “Corporate Excellence” as an advertisement had not been shown in a clearly legible manner. They were hardly noticeable on screen and failed to clearly identify the material as advertisement. Furthermore, the caption was missing at the end of the episode broadcast on 29 May 2011; and
- (c) in view of the above, the two episodes of “Corporate Excellence” were in breach of paragraphs 4 and 5 of Chapter 3 of the Generic Code of Practice on Television Advertising Standards (TV Advertising Code). These provisions stipulated that advertisements presented in programme style, which are not fully apparent that they are advertisements, must be flagged as such in a clearly legible manner at the beginning and at the end.

Decision

4. In view of the above, the BA decided that ATV should be **warned** to observe more closely the relevant provisions in the TV Advertising Code.