

Case 1 – Television Programme “Making of ‘The Founding Of a Party’” (建黨偉業電影製作特輯) broadcast on the Home Channel of Asia Television Limited (ATV) on 25 June 2011 at 9:00 pm – 11:00 pm

Two members of the public lodged complaints about the television programme “Making of ‘The Founding Of a Party’” (建黨偉業電影製作特輯). The substance of the complaints was that the programme advertised for the film “The Founding Of a Party” (建黨偉業) and was not distinguishable from an advertisement.

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 programme under complaint was about the making of the concerned historical film (the Film). There was comprehensive and detailed coverage of the Film including its casts, scripts, production crew, shooting progress, filming locations and set designs. Excerpts of the Film, footage of the premiere and interviews with the casts were broadcast. During the interviews, the Film’s poster with the promotional line “6月23日 哄動公映” (The film would soon be released on June 23) was found in the backdrop. The programme also contained frequent favourable remarks about the Film; and
- (b) ATV submitted that the film distributor could be said to be the sponsor of the programme as it provided the film footage, behind-the-scene titbits and assisted ATV in arranging interviews with the actors. However, the film distributor was acknowledged in the end rolling credits of the programme only, instead of being properly identified as the programme sponsor.

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

- (a) the programme contents, generally factual, were considered editorially justified for a “making of” programme. However, the abundant favourable remarks throughout the programme and the feature of the film poster showing the release date of the film in the backdrop of the interviews could not be considered as incidental to the programme and were gratuitous;
- (b) the mingling of programme and advertising material in the programme was in breach of paragraph 1 of Chapter 11 of the Generic Code of Practice on Television Programme Standards (TV Programme Code); and
- (c) the acknowledgement given to the film distributor in the end rolling credits did not clearly identify the distributor as the sponsor of the programme, thus in breach of paragraph 4 of Chapter 9 of the Generic Code of Practice on Television Advertising Standards (TV Advertising Code).

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 – Broadcast of advertisements for alcoholic beverages during the family viewing hours on the SZTV Channel of ATV on 11 - 13 August 2011

Two members of the public lodged complaints about the broadcast of advertisements for alcoholic beverages during the family viewing hours (FVH) on the SZTV Channel of ATV, viz. at around 6:30 pm on 11 and 12 August 2011 and at 4:00 pm – 8:00 pm on 13 August 2011.

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) an advertisement for an alcoholic beverage was broadcast at 6:34 pm on 11 August 2011, and advertisements for three alcoholic beverages were broadcast between 4:34 pm and 7:44 pm for a total of 14 times on 13 August 2011 during the commercial breaks of the livecasts of “Shenzhen Universiade 2011” (2011 年深圳世界大學生運動會);
- (b) the duration of each of the advertisements was 15 seconds; and
- (c) no alcohol advertisement was found on 12 August 2011 at around 6:30 pm, as alleged by one of the complainants.

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

- (a) the broadcast of advertisements for alcoholic beverages during the FVH, viz. 4:00pm to 8:30pm on 11 and 13 August 2011, on SZTV channel was a clear breach of paragraph 2(c) of Chapter 6 of the TV Advertising Code, which prohibited the broadcast of liquor advertising during the FVH of a domestic free TV programme service; and
- (b) it appeared that ATV might have difficulty in blocking the alcohol advertisements carried on the original live feed from the sports event television signal provider, especially when these advertisements were of a short duration of

15 seconds. However, ATV, as a domestic free television programme service licensee, should be fully responsible for ensuring that any material broadcast on its service comply with the relevant provisions, including the restrictions on the broadcast of liquor advertisements for the protection of minors, regardless of whether the channel concerned was self-produced or directly retransmitted.

Decision

In view of the above, the BA considered that the complaints were substantiated. Taking into consideration the mitigating factor that ATV might have genuine difficulty in blocking the alcohol advertisements during the live feed of the sports events on the direct retransmission channel, the BA decided that ATV should be **advised** to observe more closely the relevant provision in the TV Advertising Code.

Case 3 – Television Programme “Chimelong Group Presents: Summer Super Fun” (長隆暑假好嘢大搜查) broadcast on the Jade and HD Jade Channels of Television Broadcasts Limited (TVB) on 27 – 30 June 2011 and 1, 4 – 8 July 2011 at 7:59pm

A member of the public lodged a complaint about the television programme “Chimelong Group Presents: Summer Super Fun” (長隆暑假好嘢大搜查). The substance of the complaint was that the episode broadcast on 28 June 2011 advertised for the Chimelong water amusement park.

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) “Chimelong Resort” (廣州長隆旅遊度假區) (Resort) was identified as both the programme sponsor and product sponsor of the one-minute series comprising 10 episodes;
- (b) the series adopted the format of a drama with a simple plot about a family’s trip to the Resort and presented the Resort in a very systematic manner. All the 10 episodes were filmed entirely on location at the Resort; and
- (c) in the entire series, the family’s visit at a theme park or hotel facility always began with shots of the relevant signboards of the facilities in the background. Characters in the drama also made various favourable remarks about the Resort’s facilities.

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

- (a) the plot was solely designed to showcase the sponsor’s resort facilities and services and devoid of any real content. The blatant exposure of the sponsor's resort and services within the programme was tantamount to advertisement and went beyond what was acceptable under the relevant provision governing product sponsorship;
- (b) the favourable remarks together with the shots of the resort facilities had a noticeable advertising effect and were gratuitous. They were not necessary for plot development or characterisation, and could not be considered editorially justified; and
- (c) in view of the above, the programme was in breach of paragraph 1 of Chapter 11 of the TV Programme Code governing indirect advertising; and paragraph 10(a) of Chapter 9 of the TV Advertising Code governing exposure or use of sponsor’s product within a programme.

Decision

In view of the blatant breach, the BA decided that TVB should be **seriously warned** to observe more closely the relevant provisions in the TV Programme and Advertising Codes.

Case 4 – Television Programme “ATM 劇場: 不毛地帶” broadcast on the now 101 Channel of PCCW Media Limited (now TV) on 10 – 13 & 15 – 20 February 2011 at 9:30pm– 10:30pm

A member of the public lodged a complaint about the television programme “ATM 劇場:不毛地帶”. The substance of the complaint was that the continuous superimposition of the caption “今晚 10:35，齊齊揸錢! 想玩請揸●” (Tonight at 10:35, come join the “ATM”) (the Caption) on the top left corner of the screen during the broadcast of the programme promoted another now TV programme “ATM” (ATM. 揸錢).

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

- (a) the programme under complaint “ATM 劇場：不毛地帶” was an acquired Japanese drama series, with its own opening and closing including the theme song and rolling end credits. Prior to its broadcast, an advisory that the drama was classified as “PG” was shown;

- (b) the broadcast of “ATM 劇場：不毛地帶” was followed by “ATM” (ATM. 揸錢), which was a self-produced interactive game show of now TV with its own opening and closing tags and a separate set of rolling end credits;
- (c) now TV submitted that the drama and the game show were in fact two parts of an integrated programme. The Caption shown in the preceding drama provided important and essential information about the game show and was contextually justified, hence, it should not be considered as non-programme material governed by the codes of practice;
- (d) in the drama broadcast on 11 and 17 February 2011, the Caption about the game show was superimposed on the screen almost throughout the entire episode of the drama, with a duration of at least 8 minutes in each programme segment; and
- (e) with the BA’s prior approval, now TV is allowed to deviate from the requirement in paragraph 1 of Chapter 8 of the TV Advertising Code to superimpose an icon within programmes on its self-produced general entertainment channels to indicate that interactive features are available for the promotion of its station and programme services, subject to the condition, among others, that the duration should not be more than 60 seconds in aggregate per every 7 minutes within each programme segment or a programme without breaks.

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

- (a) the application of the relevant provisions governing the placement of non-programme materials within programmes, which include programme promotions in the form of superimposed text, is not restricted to promotion for another programme. Thus, whether the drama and the game show were two parts of a single integrated programme was not a significant factor to consider

whether there was a breach of the relevant provisions;

- (b) the Caption superimposed on the screen during the drama was prima facie a promotion for the game show that was scheduled for broadcast immediately after the drama and fell within the scope of the BA's approval mentioned above. Nonetheless, the duration of the Caption clearly exceeded the time limit stipulated in the BA's approval and was therefore in breach of paragraph 1 of Chapter 8 of the TV Advertising Code; and
- (c) the extended superimposition of the promotional text messages in the drama was obtrusive on viewing pleasure or entertainment, thus in breach of the relevant rules governing the presentation of in-programme promotions for programmes in the form of superimposed text, as stipulated in paragraph 15A of Chapter 12 of the TV Programme Code.

Decision

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

Case 5 – Television Programme “ATM” (ATM.揸錢) broadcast on now TV’s now Hong Kong Channel and now 101 Channel on 15 June 2011 at 10:30 pm – 11:30 pm

Three members of the public lodged complaints about the television programme “ATM” (ATM.揸錢). The substance of the complaints was that the multiple-choice

question about the time needed for a Shanghai citizen “to buy a pack of international brand cigarette according to the statistics conducted by the World Health Organization (WHO) in 2002” (根據世衛 2002 年統計，一名上海市民需時多久，才可買到一包國際品牌香煙?) was misleading as the WHO report referred to the *minutes of labour worked* to purchase a pack of international brand cigarette, and not the *time needed* to purchase it.

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

- (a) the programme was a live interactive quiz show. One of the multiple-choice questions and the related discussion among the hosts focused on the time needed for a Shanghai citizen to buy a pack of international brand or imported cigarette. The female host who asked the question elaborated that the WHO statistics reflected the accessibility of imported cigarettes in terms of the time needed to purchase the cigarettes in different places. The answer to the question given by the female host was 61.8 minutes; and
- (b) in the 2002 edition of The Tobacco Atlas published by the WHO, the parameter “the number of *minutes of labour worked* to purchase a pack of Marlboro cigarette or an equivalent international brand” was used to reflect the economic costs of smoking in some selected cities in a table entitled “The Business of Tobacco”. According to the table, the figure for Shanghai was 61.8 minutes.

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

- (a) now TV had misinterpreted the statistics in the WHO table and had worded the question in a misleading manner not reflecting the findings of the WHO report; and
- (b) the statistics published by the WHO was clear and unambiguous. A reasonable person setting questions for the quiz would have appreciated the importance of presenting the question in clear wordings and would not have made the mistake. As such, the BA considered that now TV had failed to make reasonable efforts to ensure that the factual contents of contests are accurate, thus in breach of paragraph 1A of Chapter 9 of the TV Programme Code.

Decision

In view of the above, the BA decided that now TV should be **advised** to observe the relevant provision in the TV Programme Code.

Case 6 – Radio Programme “The Summit” (光明頂) broadcast on the CR1 Channel of Hong Kong Commercial Broadcasting Company Limited (CR) on 6 September 2011 at 11:00 pm– 12:00 midnight

A member of the public lodged a complaint about the radio programme “The Summit” (光明頂). The substance of the complaint was that a host’s remarks “個西有陣味” (literal English translation: the West is smelly) and “個西臭㗎”(literal English translation: the West stinks) were strong innuendoes to the female sex organ and were vulgar, disgusting and offensive to listeners.

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 noted the facts of the case as set out below –

- (a) the late night talk show was a personal view programme. When mentioning the media report about some local politicians' frequent meetings with representatives of the western countries, a host compared such meetings to “稟神” (pray to God). He then remarked that one should not look to the west like praying to God and uttered the expressions “個西有陣味” (the West is smelly) and “個西臭㗎” (the West stinks).

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

- (a) while the expression might be argued to be referring to the West in its context, there appeared to be a clear intention to pun on a downright offensive expression referring to the female genitals. The host could have used words such as “西邊” or “西方” instead of using the expression “個西”. The expressions were considered to be vulgar, of bad taste, and might be considered offensive by average listeners. Thus, the BA considered that CR was in breach of paragraphs 7(a) of the Radio Code of Practice on Programme Code, which prohibited the inclusion in programmes any material which is indecent, obscene, of bad taste which is not ordinarily acceptable to the listeners, and paragraph 15 of the Radio Programme Code, which stipulated that expressions considered vulgar or unacceptable by an average person should be avoided.

Decision

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