

## Appendix

### **Case 1 – Television Programme “Osim Presents: Stylish Deco with uDivine” (Osim天王椅特約: 家添品味) broadcast on the Jade and HD Jade Channels of TVB on 12 – 16 & 19 – 23 September 2011 at 10:33pm**

A member of the public lodged a complaint against the captioned television programme. The substance of the complaint was that the episode broadcast on 16 September 2011 contained content solely designed for promoting the exclusive products of a specific brand, rendering it an advertisement for the brand.

#### **The CA’s Findings**

In line with established practice, the CA considered the complaint case and the representations of TVB in detail. The CA noted the facts of the case as follows –

- (a) the programme under complaint was a one-minute programme series comprising ten episodes (“Series”). A model of massage chair of a brand was identified as the programme sponsor and the same commercial brand as the product sponsor (“Sponsor”) of the Series;
- (b) the Series adopted the format of an interview between a female host and an interior designer. They visited different flats and talked about using different colours of the Sponsor’s massage chair or ambient purifier to match with different interior decoration and environment. Among the ten episodes, eight episodes featured the same massage chair in different colours while the last two featured the same ambient

purifier. Although the name or logo of the Sponsor was not shown on the products or mentioned, there were many favourable remarks and detailed descriptions of the features and functions of the Sponsor's massage chair and ambient purifier featured in the programme;

- (c) together with the prominent display of the massage chair and ambient purifier, the programme appeared to be designed to showcase the Sponsor's products; and
- (d) while the programme series was broadcast in September 2011, the complaint was lodged on 15 December 2011. There had been four precedents about indirect advertising in TVB's mini-programme series, among which one was sanctioned with a warning by the former Broadcasting Authority before the broadcast of the current case in September 2011.

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

- (a) the mini programme series, with a similar programme formula focusing on the Sponsor's massage chair or ambient purifier in each of the ten episodes, was designed to promote the Sponsor's products, rather than providing genuine advice of intrinsic viewer interests on home décor;
- (b) the prominent display of the Sponsor's products, together with the favourable remarks and detailed descriptions of the features and functions of the products were gratuitous, obtrusive to viewing pleasure and could not be considered clearly editorially justified;

- (c) the programme as designed and presented amounted to advertising material for the Sponsor's products featured in the programme; and
- (d) TVB was in breach of paragraph 1 of Chapter 11 of the TV Programme Code and paragraph 10(a) of Chapter 9 of the TV Advertising Code. These two provisions govern indirect advertising and impose restrictions on exposure or use of the sponsor's products within a programme respectively.

### **Decision**

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

### **Case 2 – Television Programme “News at 6:30” (六點半新聞報道) broadcast on the Jade, HD Jade and I News Channels of TVB on 6 November 2011 at 6:30 pm – 6:55 pm**

Two members of the public lodged complaints against the captioned television programme. The substance of the complaints was that –

- (a) in the news item about the 2011 District Council (“DC”) Election, a reporter's remark that a candidate of a specific constituency lashed out at People Power (“PP”) during the 2010 Legislative Council (“LegCo”) By-election was inaccurate because by that

time PP had not been founded and the candidate's activities were actually targeted at the League of Social Democrats ("LSD"); and

- (b) one of the complainants also alleged that the error was intentional, would mislead viewers to associate the later report on violence incidents with PP and smeared the reported party indirectly.

### **The CA's Findings**

In line with established practice, the CA considered the complaint case and the representations of TVB in detail. The CA noted the facts of the case as follows –

- (a) in the concerned news item, a reporter mistook PP for LSD when citing the candidate's previous election activity during the 2010 LegCo By-election. No correction was made afterwards;
- (b) the next news item reported on the complaints related to the DC Election held on the same date received by the Electoral Affairs Commission ("EAC"). The item covered, without reference to any political party or coalition, an injury incident and certain disputes that had occurred at a number of polling stations in other constituencies;
- (c) in a separate item later on, it was reported that some members of LSD were protesting at a polling station in another constituency. There was no reference to PP; and

- (d) TVB submitted that the focus of the reporter's remarks was about the candidate's political stance and such message had been conveyed to viewers despite the unintentional lapse.

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

- (a) while noting TVB's submission that the lapse on accuracy was unintentional, the station should have been more cautious when reporting news on electoral activities on the polling day. There was no evidence that TVB had made reasonable effort to ensure that the factual contents of the news item were accurate. Hence, TVB was in breach of paragraph 1A of Chapter 9 of the TV Programme Code; and
- (b) in respect of the allegation that the inaccurate remark had misled viewers to associate the violence incidents in other constituencies covered in the news programme with PP, the CA noted that the news item containing the inaccurate remark was clearly separate from the other two news items mentioned above, and there was no reference to PP in these news items. It was unlikely that the general viewers would associate PP with the violence incidents or LSD's protest activities reported.

## **Decision**

In view of the above, the CA decided that TVB should be **advised** to observe more closely the relevant provision of the TV Programme Code.

**Case 3 – Radio Advertisement for “Nokia Lumia”(諾基亞 Lumia) broadcast on the CR2 Channel of CR on 22 December 2011 at 11:55 pm**

A member of the public lodged a complaint against the captioned radio advertisement. The substance of the complaint was that it was misleading to make the claim that the “People Hub” feature was only available in the two mobile phones mentioned in the advertisement as the feature was available in other mobile phones equipped with Windows Phone 7 operating system.

**The CA’s Findings**

In line with established practice, the CA considered the complaint case and the representations of CR in detail. The CA noted the facts of the case as follows –

- (a) a voice-over in the advertisement under complaint remarked that “因為我有 People Hub 囉，係 Nokia Lumia 800 同 710 先有㗎” (Translation : Because I have People Hub, which is only available in Nokia Lumia 800 and 710); and
- (b) according to information from the internet, besides the two mobile phones mentioned in the relevant voice-over, the feature is available in other mobile phones equipped with Windows Phone 7 operating system.

The CA, having regard to the relevant facts of the case, considered that the relevant voice-over in the advertisement, without any further qualification,

would give listeners the impression that “People Hub” is a unique feature that is only available in the two mobile phones mentioned in the voice-over and not in any other mobile phones. As such, the advertisement appeared to have provided misleading information about the uniqueness of the relevant products. Hence, CR was in breach of paragraph 9(c) of the Radio Advertising Code which requires licensees to exercise great care to prevent the presentation of misleading advertising.

### **Decision**

In view of the above, CR should be **strongly advised** to observe more closely the relevant provision in the Radio Advertising Code.