

Appendix

Case 1 – Television Programme “Tasty Congee & Noodle Wantun Shop Special: Chua Lam’s Happiness in Asia” (正斗粥麵專家呈獻:蔡瀾亞洲一樂也) broadcast on the Home Channel of ATV on 25 March 2012 at 8:00pm – 9:00pm

A member of the public complained that the programme contained advertising materials for a confectionery store, facial masks, health drink and massage products.

The CA’s Findings

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

- (a) the programme under complaint was a travelogue and gourmet series. In the concerned episode, the programme hosts introduced unique stores and restaurants in Hong Kong;
- (b) the alleged confectionery store was not a product sponsor of the programme but was acknowledged in the end credits. The alleged facial masks and health drink products were identified as both programme sponsors and product sponsors. The alleged brand of massage products was identified as a product sponsor;
- (c) in the segment about the confectionery store, the store name could be seen in the exterior and interior shots of the shop and on the products. The hosts introduced and tried some of the products and commented on

the chocolates with special flavours;

- (d) in a separate segment, a programme hostess presented some facial masks and health drinks to the other programme hostess as gifts. She mentioned that the facial mask was rich in serum and tightly fitted the shape of the face, and that using it would help to revive the other programme hostess' beautiful face. Afterwards, she also mentioned that the health drink contained royal jelly and collagen, and that she had tried and found the product quite good; and
- (e) in a later segment, a programme hostess took the other programme hostess to the sponsor's shop to try out a massage chair. Its functions and characteristics were introduced in detail with demonstration and close-up shots of the chair. Some other massage products were also introduced. The sponsor's logo was partially displayed in the background of the shop.

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

- (a) regarding the segment on the confectionery store, although the name of the confectionery store was discernible in a few instances, the presentation of the segment as a whole was justifiable for a programme introducing unique shops and cuisine;
- (b) regarding the other two concerned segments, it was awkward and gratuitous to present facial masks and health drink as gifts and to make a visit to a shop of massage products in the middle of an episode of the programme on unique shops and restaurants, which appeared to be disjointed from the rest of the programme. Even though the brand

names of the products were not clearly displayed, the detailed description of the products' features and functions with many complimentary remarks on their effects were gratuitously given that the segments looked like advertisements for these products; and

- (c) the presentation of the segments on and the extensive exposure given to the facial masks, health drink and massage chair could not be clearly justified editorially in the context of a travelogue and gourmet programme, was obtrusive to viewing pleasure and gratuitous, amounting to advertising material and 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.

Decision

In view of the above, the CA decided that ATV should be **strongly advised** to observe more closely the relevant provision of the TV Programme and Advertising Codes.

Case 2 – Television Programme “Chua Lam’s Happiness in Asia” (蔡瀾亞洲一樂也) broadcast on the Home Channel of ATV on 11 March 2012 at 8:00pm – 9:00pm

A member of the public complained that the prominent display of the name and logo of a wonton noodle restaurant and the favourable remarks on the taste of its food amounted to advertising.

The CA's Findings

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

- (a) the programme was a travelogue and gourmet series. In the concerned episode, the programme host introduced some tourist spots and restaurants in Shanghai;
- (b) in a five-minute segment, the programme hosts visited the Shanghai branch of a Hong Kong based restaurant which specialised in wonton noodles;
- (c) when the restaurant owner greeted the programme hosts outside the restaurant, its name and logo was prominently shown for over 15 seconds. The noodle-making process in traditional method was introduced and the programme hosts and the restaurant owner had wonton noodles together and gave positive comments on the taste of the noodles; and
- (d) the alleged restaurant was not a sponsor of the programme but was acknowledged in the end credits.

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

- (a) the demonstration of the noodle-making process could be of intrinsic interest to viewers and editorially justified for a travelogue and gourmet programme, and the comments on the taste of the noodles were not considered excessive; and

- (b) however, the prominent and prolonged display of the restaurant's name and logo at the start of the segment could not be clearly justified by editorial requirements of the programme, nor was it incidental. Undue prominence had been given to the restaurant, the effect of which amounted to advertising and was in breach of paragraphs 1 and 3 of Chapter 11 of the TV Programme Code governing indirect advertising.

Decision

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

Case 3 – Television Programme “Master of Play” (心戰) broadcast on the Jade and HD Jade Channels of TVB on 21-25, 28 and 31 May and 8, 20, 21, 27-29 June 2012 at 9:30pm -10:30pm

119 members of the public complained that the programme included a large amount of bloody and horrifying portrayals of killing, with scenes of chopping off limbs using a chainsaw, close-up shots of wounds, stabbing at the neck, strangling, handling of corpses, and misleading messages on killing acts.

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, among others, as follows –

- (a) the concerned programme was a psychological thriller broadcast outside the family viewing hours (FVH). All the 13 episodes under complaint were classified “PG” (Parental Guidance Recommended) for violence, disturbing content and/or adult content;
- (b) nothing particularly violent was found in the content of the episodes broadcast on 23 and 28 May 2012. However, depictions of killing, stabbing, holding a victim at the neck with a blade, strangling with wires, hitting with bottles and fighting, etc. were found in the other 11 episodes; and
- (c) several strangling shots were included in the short title sequence featuring the theme song which was shown at the beginning of the drama series at around 9:30pm.

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

- (a) the concerned portrayals were mostly shot in dim settings or presented in a brief or suggestive manner, which could be acceptable in context of a psychological thriller series classified as “PG” with the provision of prior warnings and broadcast at the scheduled time slot (i.e. 9:30pm – 10:30pm) which was not in proximity to the FVH;
- (b) the portrayals of the killing acts of the male lead, a magician with split personality, and his views on killing were not presented in a positive manner. Moreover, the unusual ways of killing and corpse handling were not detailed and were unlikely be instructional or inviting imitation; and

- (c) nonetheless, the inclusion of several strangling shots in the short title sequence was disturbing and not contextually justified and might cause unease to some viewers. Moreover, the repeated broadcasts of the strangling acts might invite imitation. As such, the station did not appear to have exercised due diligence and sensitivity in including such a title sequence in a drama series scheduled at 9:30pm.

Decision

In view of the above, the CA decided that TVB should be **advised** to observe more closely paragraph 1 of Chapter 2 and paragraph 5 of Chapter 3 of the TV Programme Code.

Case 4 – Non-compliance with Statutory Requirement on Television Programme Service Locking Device by TVBPV

TVBPV reported to the CA on its failure to comply with the statutory requirement on television programme service locking device (locking device) for nearly 80 minutes on 5 April 2012 due to an unintentional technical lapse.

Section 20 of the Broadcasting Ordinance (Cap. 562) (BO) requires that a domestic pay television programme service licensee shall provide a locking device to the satisfaction of the CA. In determining whether a locking device is to its satisfaction, the CA normally assesses whether the locking device can allow subscribers to restrict unauthorised access to selected channels or programme categories or specified time zones, or any

combination of them, and whether it can allow parents to impose viewing restrictions for their children.

The CA's Findings

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

- (a) due to a human error in replacing a malfunctioned multiplexer for satellite transmission, the function and operation of the locking device for TVBPV's pay television service was temporarily suspended for nearly 80 minutes from 4:50pm to 6:07pm on 5 April 2012 (relevant period), affecting 14 channels (out of a total of 44) transmitted on TVBPV's satellite TV platform;
- (b) during the relevant period, subscribers receiving TVBPV's pay television service via satellite were able to gain access to the concerned channels regardless of whether they had subscribed to these channels and whether viewing restrictions had been imposed by parents; and
- (c) to prevent recurrence of similar mistakes, TVBPV had issued new guidelines to technical staff, requiring them to make proper verification of signal encryption each time after the maintenance and replacement of transmission equipment.

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

- (a) TVBPV had failed to provide a locking device to the satisfaction of the CA and was in breach of section 20 of the BO;
- (b) this was the first incident of such breach by TVBPV and TVBPV had taken measures to rectify the problem within a reasonably short period of time; and
- (c) TVBPV had taken the initiative to report the lapse to CA and introduced precautionary measures to prevent similar lapses in future.

Decision

In view of the above, the CA decided that TVBPV should be **advised** to observe more closely the relevant provision in the BO.