

**Details of the Communications Authority (“CA”)’s Decision to
Revise the Television and Radio Codes of Practice**

**1. Placement of Commercial References within Programmes on
Channels Acquired for Direct Re-transmission on Domestic Free
Television Programme Services**

At present, domestic free television programme service (“Domestic Free TV”), domestic pay television programme service (“Domestic Pay TV”) and other licensable television programme service (“Other Licensable TV”) licensees have to comply with provisions in the Generic Code of Practice on Television Advertising Standards (“TV Advertising Code”) and the Generic Code of Practice on Television Programme Standards (“TV Programme Code”) which prohibit the placement of advertising material and indirect advertising within programmes, require clear distinctions between advertisements and programmes, and impose restrictions on programme sponsorship.

Satellite feed services on Domestic Pay TV and Other Licensable TV are currently exempted from the application of the above provisions, (except the prohibition on indirect advertising), on the conditions that the services are produced primarily for reception outside Hong Kong and do not contribute to any advertising revenue of the licensee, and where compliance is not feasible without interrupting the licensee’s services.

With the launch of digital terrestrial television services, Domestic Free TV can provide multi-channel services which may include channels acquired for direct re-transmission. Such channels often contain built-in advertising materials and licensees have encountered difficulties in taking

measures to ensure compliance with the relevant provisions given that these channels are re-transmitted live. In the past two years, there were ten substantiated complaints about contravention of the relevant provisions on Domestic Free TV. The surge of the number of substantiated complaints necessitated a review of the relevant provisions.

The CA conducted a review of the relevant provisions and, taking into consideration the views from the public and licensees, decided to extend the exemption currently granted for satellite feed services on Domestic Pay TV and Other Licensable TV to channels acquired for direct re-transmission to Domestic Free TV, subject to the same conditions currently applicable to Domestic Pay TV and Other Licensable TV. Due to the pervasiveness and influence of Domestic Free TV, the CA considered that Domestic Free TV should be subject to the following additional conditions for the exemption to apply –

- (i) the licensee should provide a declaration that the channels are produced primarily for reception outside Hong Kong and do not contribute to any advertising revenue of the licensee;
- (ii) announcements, which may be in the form of superimposed text, should be displayed on screen to adequately inform viewers that advertising materials may be placed within programmes on a channel acquired for direct re-transmission for 15 seconds at the start of each programme and at regular intervals for 15 seconds once every 30 minutes; and
- (iii) the aggregate advertising time during advertising breaks on a channel

acquired for direct re-transmission shall not exceed the limits set out in the Broadcasting Ordinance (“BO”) (Cap. 562).

While exemption is granted for Domestic Free TV licensees, they shall continue to comply with the prohibition against advertising for unacceptable products or services and the scheduling restrictions on advertisements for certain products or services which are currently in force and apply to all TV licensees.

The CA also decided to make two related amendments. First, at present, satellite feed services on Domestic Pay TV and Other Licensable TV are exempted from the prohibition on placement of advertising materials within programmes subject to specified conditions. However, there is no exemption regarding the similar prohibition on indirect advertising. To enhance consistency in this area of regulation, the CA decided that the same exemption in relation to placement of advertising materials within programmes shall apply to the prohibition on indirect advertising on channels acquired for direct re-transmission on Domestic Free TV, Domestic Pay TV and Other Licensable TV. Second, “satellite feed services” and “channels acquired for direct re-transmission” are currently both used in the TV Programme and Advertising Codes to refer to live channels not produced by licensees. For consistency, the CA decided that the term of “satellite feed services” be replaced with “channels acquired for direct re-transmission” to reflect the technology-neutral nature of the regulatory regime.

2. Applicability of Aggregate Advertising Time Limits to Promos for Television and Radio Advertisements

Domestic Free TV and sound broadcasting licensees are subject to aggregate advertising time limits stipulated in the BO or sound broadcasting licences.

Under the existing TV Advertising Code, Radio Code of Practice on Advertising Standards and the Radio Code of Practice on Advertising Standards of Ancillary Visual Service (“Radio Advertising Codes”), material for the promotion of the licensee’s station, programme services and/or ancillary visual service is excluded from the definition of advertisement or advertising material in the Codes. The BO provides that a “television programme service” includes any advertisements comprised within the service. The carve-out of promotional materials for stations and programme services from the definition of advertisement and advertising material in the Advertising Codes might give rise to ambiguity over the nature of promos for advertisements. One may interpret that promos for television advertisements or radio advertisements comprised within the service is promotion for programme services and hence does not fall into the definition of “advertisement” or “advertising material” under the Codes. This being the case, promos for advertisements would not be counted towards the advertising time limits.

The CA conducted a review of the relevant provisions and, taking into consideration the views from the public and licensees, decided that promos for advertisements were advertisements and should be counted towards the advertising time limit. To enhance clarity of the existing provisions governing advertising materials, the relevant provisions in the TV Advertising Code and Radio Advertising Codes should be amended to make it clear that promos for advertisements should be regarded as

advertising materials and should be counted towards the aggregate advertising time limits.

3. Identification Requirements for Television Advertisements Adopting a Programme Style

The existing TV Advertising Code allows television advertisements on Domestic Free TV, Domestic Pay TV and Other Licensable TV to adopt a programme style so long as it remains clearly identifiable as an advertisement and not be confused as programme material. Where its style does not make it fully apparent that it is an advertisement, the advertisement must be flagged as such in a clearly legible manner at the beginning and at the end. Satellite feed services on Domestic Pay TV and Other Licensable TV are exempted from the above requirement.

In recent months, there were substantiated complaints that advertisements or advertising magazines of long duration presented in a programme style had not been clearly identified as advertisements. While the CA respects licensees' freedom of expression and creativity in the presentation of advertisements, the CA noted that the new presentation style of advertisements had rendered the present identification requirement, which only required identifications be made at the beginning and at the end of the advertisements, insufficient to inform viewers of the nature of materials being broadcast.

The CA conducted a review of the relevant provisions and, taking into consideration the views from the public and licensees, decided that the relevant provision be revised to require licensees to superimpose the caption "Advertisement" (廣告) or "Advertising magazine" (廣告雜誌)

on screen throughout the broadcast of an advertisement adopting a programme style to identify the materials as advertisements. On equity grounds, the CA also decided that the exemption currently granted for advertisements built into satellite feed services on Domestic Pay TV and Other Licensable TV be extended to channels acquired for direct re-transmission by Domestic Free TV licensees.