

Appendix

Case 1 – Television Advertisement for “Chewy – Kumai Premium American Pearl Rice” (超力 – 熊井美國珍珠米) broadcast at 10:53pm on 6 August 2017 and at 7:46pm on 7 August 2017 on the Chinese Channel of Fantastic Television Limited (“Fantastic TV”), and at 6:51pm on 17 August 2017 on now TV News Channel of PCCW Media Limited (“now TV”)

The Communications Authority (“CA”) received two public complaints against the captioned advertisement. The main allegation was that the claims relating to pesticide residue and heavy metal in the advertisement might not be capable of substantiation.

The CA’s Findings

In line with the established practice, the CA considered the complaint case and the representations of Fantastic TV, now TV and the advertiser in detail. The CA took into account the relevant aspects of the case, including the following –

Details of the Case

- (a) the 15-second advertisement under complaint promoted a brand of rice. Remarks about the advertised product having no pesticide residue and heavy metal were found with corresponding captions. No reference to the source and date of any research survey or test for substantiating the aforementioned claims were found in the advertisement.

Relevant Provisions in the Generic Code of Practice on Television Advertising Standards (“TV Advertising Code”)

- (a) paragraph 9 of Chapter 3 - no advertisements may contain, among others, any claims which expressly or by implication depart from truth or mislead about the product or service advertised. The licensee should have his responsibility under this paragraph discharged if he did not know and had no reason to suspect that the claims made were false or misleading and could not, with reasonable diligence, have ascertained that the claims were false or misleading;
- (b) paragraph 1 of Chapter 4 - all factual claims should be capable of substantiation; and
- (c) paragraph 2 of Chapter 4 - where a factual claim is substantiated by research or testing based on the advertiser’s own assessment or work done at his request, the source and date of the assessment or research should be indicated in the advertisement.

The CA’s Considerations

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

- (a) taking into account the representations and information provided by Fantastic TV, now TV and the advertiser, including the reports of the relevant assessment(s)/test(s) conducted, it was arguable that overall speaking, the claims relating to pesticide residue and heavy metal could be considered as being capable of substantiation. Also, there was

insufficient evidence that the two licensees had not exercised reasonable diligence in ascertaining the claims concerned; and

- (b) the advertisement did not indicate the source and date of the assessment (s)/test(s) for substantiating the factual claims as required under paragraph 2 of Chapter 4 of the TV Advertising Code. The CA considered that Fantastic TV and now TV were in breach of the aforementioned provision.

Decision

In view of the above, the CA considered that as the source and date of assessment or research were not indicated in the advertisement, Fantastic TV and now TV were in breach of paragraph 2 of Chapter 4 of the TV Advertising Code. Taking into account the specific facts and circumstances of the case and other relevant factors (including the severity of the breach), the CA decided that Fantastic TV and now TV should be **advised** to observe more closely the relevant provision.

**Case 2 – Radio Programme “Crazy & Happy” (瘋 Show 快活人)
broadcast at 10:00am on 11 July 2018 on Radio 2 Channel of Radio
Television Hong Kong (“RTHK”)**

A total of 79 members of the public complained about the captioned programme. The main allegation was that a programme host’s utterance of a foul expression was offensive, unnerving, of low quality, unprofessional and unacceptable, had exerted a bad influence on children, and breached the Radio Code of Practice on Programme Standards (“Radio Programme Code”).

The CA’s Findings

In line with the established practice, the CA considered the complaint case and the representations of RTHK in detail. The CA took into account the relevant aspects of the case, including the following –

Details of the Case

- (a) the programme under complaint was a light-hearted talk show; and
- (b) at around 11:11am on 11 July 2018, following the broadcast of the programme’s promo, a host uttered a Cantonese foul expression swiftly. A programme ID, a sound clip and a song followed immediately. After the broadcast of the song, the host concerned apologised for his utterance of the foul expression and explained that he forgot to turn off his microphone when he had a conversation with other hosts in private and it was unfortunate that part of their conversation was broadcast inadvertently. At around 11:29am, the host concerned apologised

again.

Relevant Provision in the Radio Programme Code

- (a) paragraph 15 – expressions considered vulgar or unacceptable by an average person are to be avoided. Expressions that are definitely offensive are prohibited from use on radio.

The CA's Considerations

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

- (a) the foul expression in question was clearly audible in the programme. It was a downright offensive expression which was considered unacceptable for broadcast at all times; and
- (b) notwithstanding that the foul expression was uttered during a private conversation which was broadcast inadvertently and that apologies had been made by the host in the programme, the broadcast of such an expression constituted a clear breach of paragraph 15 of the Radio Programme Code.

Decision

In view of the above, the CA considered that the complaints were justified. Taking into account the specific facts and circumstances of the case and other relevant factors (including the measures taken by RTHK after the incident), the CA decided that RTHK should be **advised** to observe more closely

paragraph 15 of the Radio Programme Code.