

Appendix

Case 1 – Television Programme “South Weather Forecast” (南方氣象) broadcast on the TVS Channel of ATV on 3 November 2011 at 6:43pm – 6:50pm

A member of the public complained that an advertisement for alcoholic beverage was found in the captioned programme which was broadcast during the family viewing hours (“FVH”), viz. the period between the hours of 4:00pm and 8:30pm.

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 as follows –

- (a) the programme under complaint was a weather programme broadcast on the TVS Channel, a direct re-transmission channel carried by ATV in its domestic free television programme service;
- (b) the second part of the programme was weather forecast for different cities in the Guangdong province in which 23 flipcards showing products or services of different commercial brands were presented. The brand names and their products or services in the flipcards were shown in a prominent manner and were irrelevant to the programme contents;

- (c) two of the flipcards showed two brands of alcoholic beverages respectively; and
- (d) ATV has taken remedial action to rectify the contents under complaint.

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

- (a) there was a clear breach of paragraph 1 of Chapter 11 of the TV Programme Code and paragraph 1 of Chapter 8 of the TV Advertising Code which prohibit the broadcast of advertising materials within a programme and paragraph 2(c) of Chapter 6 of the TV Advertising Code which prohibits the broadcast of liquor advertising on domestic free television programme services during the FVH;
- (b) ATV, as a domestic free television programme service licensee, had a clear duty to ensure that any materials broadcast on its service, including those programmes on its direct re-transmission channels, were in full compliance with local standards, especially in respect of the prohibition on liquor advertising within the FVH when a large proportion of children in the audience would be expected; and
- (c) ATV should have been more vigilant and taken a proactive approach to the compliance issue.

Decision

In view of the above and taking into account ATV's repeated lapses of similar

nature, the CA decided that ATV should be **warned** to observe more closely the relevant provisions of the TV Programme and Advertising Codes.

Case 2 – Television Programmes “6:00 News” (六點鐘新聞) and “Late News” (夜間新聞) broadcast on the Home Channel of ATV on 15 November 2011 at 6:00pm – 6:45pm and 10:00pm – 10:40pm respectively

A member of the public complained that the last segment in the news programmes promoted a programme of ATV.

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 as follows –

- (a) in the alleged programmes, there was a news item covering the event of the polling day for “ATV Hong Kong Loving Hearts Campaign 2011” (ATV 2011 感動香港年度人物評選) (the “ATV Campaign”) held at ATV. The first part of the news item covered the tidbits of the polling day, including excerpts of the chief adjudicator’s speech on the meaningfulness of the programme of ATV. The programme title “感動香港” (Translation: Hong Kong Loving Hearts) was mentioned and found in the subtitles; and
- (b) in the latter part of the news item, a main investor of ATV and initiator of the ATV Campaign was interviewed. He expressed satisfaction over ATV’s performance during the year and his wish to share half of

the audienceship with the other free television service provider. The reporter concluded the report by quoting the interviewee's remarks on his aspiration for ATV's production plan and salary review, and mentioned that the award ceremony of the ATV Campaign would be held in December 2011.

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

- (a) the editorial decision of the licensee to report the event in its news programme should be respected. The first part of the news item was a factual coverage of the polling day activity of the ATV Campaign and was not considered promotional in nature; and
- (b) as for the second part, the complimentary remarks of the interviewee on the improvement of ATV's performance and audienceship and his aspiration for the development plan and salary review of the station were not related to the event being reported in the news programmes. The inclusion of the remarks in the news item appeared to be gratuitous and amounted to materials for the promotion of the licensee's station and programme service, which was prohibited from being placed within programmes. Hence, ATV was in breach of paragraph 1 of Chapter 8 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 in the TV Advertising Code.

Case 3 – Radio Advertisement for “Marinella” (“深灣9號”廣告) broadcast on the Metro Finance Channel of Metro Radio in October 2011

A member of the public was dissatisfied with the decision of the former Commissioner for Television and Entertainment Licensing in classifying a complaint against the captioned radio advertisement as unsubstantiated. The substance of the complaint was that the claim that the MTR South Island Line (“SIL”) would come into operation soon (港鐵南港島線通車在即) was untruthful and misleading since the construction of SIL would be completed in 2015 the earliest.

The CA’s Findings

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

- (a) the advertisement for a real property contained the remark “港鐵南港島線通車在即，更顯投資價值” (English translation: SIL will come into operation soon and this further manifests the investment value); and
- (b) according to the information published by the Government and the MTR Corporation Limited, the construction of SIL would be completed in 2015.

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

- (a) though the advertisement did not mention any specific date as to when

SIL would be completed or come into operation, it was misleading to use the term “在即” (English translation: soon) to refer to 2015 which was several years after; and

- (b) the remark “港鐵南港島線通車在即” (English translation: SIL will come into operation soon) had misrepresented the available transport facilities for the advertised real property and amounted to a breach of paragraphs 9(c) and 25(a) of the Radio Code of Practice on Advertising Standards. Nonetheless, given the extensive publicity of the anticipated completion of SIL, the misleading effect on listeners should be minimal.

Decision

In view of the above, the CA decided that the complaint should be classified as a **minor breach**.