

Consultation Document

The Broadcasting Authority's Public Consultation on the Proposed Codes of Practice on Standards of Ancillary Visual Service in relation to Digital Audio Broadcasting Services (WC 1/2011)

Purpose

One of the functions of the Broadcasting Authority ("BA") is to secure proper standards of broadcasting and to provide guidance for licensees by issuing and revising codes of practice. The BA is now preparing a new set of Radio Codes of Practice on standards of ancillary visual service ("AVS") provided in conjunction with digital audio broadcasting ("DAB") services ("the Proposed Codes"). Members of the public are invited to give written views and suggestions on the Proposed Codes.

Background

2. The Government announced in November 2010 that the Chief Executive in Council had approved in principle the applications of Digital Broadcasting Corporation Hong Kong Limited (formerly known as "Wave Media Limited"), Metro Broadcast Corporation Limited and Phoenix U Radio Limited for 12-year sound broadcasting licences to provide territory-wide round-the-clock DAB services in Hong Kong.

3. Unlike the existing analogue sound broadcasting services, DAB technology can support a variety of AVS, which are ancillary services provided by the radio operators to transmit information incidental to the sound broadcasting services to the audience for display on the screen of a compatible DAB+ receiver for viewing by the audience. AVS includes electronic programme guide, advertising material in the visual form¹, and other visual images² which include, but not limited to, text, pictures, drawings, graphs, charts or diagrams in relation to the sound broadcasting service established or maintained by a Licensee under the Licence. A new set of Codes of Practice is necessary to secure proper standards of AVS

1 There will be a condition in the DAB licences that advertisement displayed on a receiver's screen through AVS should not exceed 30% of the total time of display within a day.

2 As far as technical aspects are concerned, AVS may be transmitted in the form of text, still images and even moving images for display on a compatible DAB+ receiver. It should be noted that the transmission of moving images under a DAB+ platform may be treated as a form of mobile TV service which should be subject to licensing as a telecommunications service under the Telecommunications Ordinance. The transmission of moving images will also consume a large amount of data capacity. Thus there will be a condition in the DAB licences imposing limit on the refresh rate of any moving images to not faster than 1 picture per second, unless the moving images consist of text only.

provided in conjunction with DAB services.

The Proposed Codes

4. The regulatory approach of DAB services including AVS is in line with that applicable to the existing analogue sound broadcasting services. The audio contents of the radio channels of DAB services will be subject to the same set of Radio Codes of Practice on Programme Standards and Advertising Standards for existing analogue sound broadcasting services. The BA Secretariat has drawn up a set of proposed Radio Code of Practice on AVS Standards which governs AVS in general (**Appendix 1**) and the proposed Radio Code of Practice on Advertising Standards of AVS (**Appendix 2**) which governs AVS advertising in particular. The Proposed Codes are prepared in the light of the standards adopted in the existing Radio Codes of Practice on Programme and Advertising Standards, with modifications (highlighted in shade) made to reflect the visual nature of the AVS.

Invitation for Comments and Suggestions

5. The BA invites views and comments from members of the public on the Proposed Codes at **Appendices 1 and 2** to this Consultation Document. All views and comments should be made in writing and should reach the BA Secretariat on or before 24 March 2011 through one of the following means -

By Post: Broadcasting Authority Secretariat
39/F, Revenue Tower
5, Gloucester Road
Wanchai, Hong Kong
(Attn: Content Regulation Section 1 – Consultation on Proposed Codes)

By Fax: 2507 2219
(Attn: Content Regulation Section 1 – Consultation on Proposed Codes)

By e-mail: cr@tela.gov.hk

The written views and comments submitted will be referred to the BA and its Codes of Practice Committee for reference during the consideration of the relevant Proposed Codes. The BA reserves the right to make public all, or parts, of any submissions made in response to this Consultation Document and reveal the identity of source. Confidential materials should be clearly marked as such. The BA would take such marking into account in making its decision on whether the material should be made public.

For enquiries, please send e-mail to <cr@tela.gov.hk> or call the Content Regulation Section 1 at 2594 5723 / 2594 5751.

Broadcasting Authority Secretariat
3 March 2011

(Proposed)
RADIO CODE OF PRACTICE
ON ANCILLARY VISUAL SERVICE STANDARDS

BROADCASTING AUTHORITY

XX XXX 2011

Preamble

1. This Code of Practice is issued by the Broadcasting Authority ("BA") pursuant to Condition 26.2 of sound broadcasting licences for provision of digital audio broadcasting ("DAB") services (the "licences") issued under the Telecommunications Ordinance (Cap.106). All materials included in an ancillary visual service ("AVS") provided by the licensees in accordance with their licences must comply with this Code. The BA has the power to impose sanctions on licensees who do not comply with the Code.

2. The BA, as the regulator, does not pre-censor any AVS. The editorial responsibility lies with the licensees themselves. The Code sets out the factors which should be taken into account when making editorial judgement. It is the responsibility of the licensees to ensure that any AVS delivered on their licensed services will comply with the Code. Judgement will always be called for by the licensees. When forming a view about the acceptability of any AVS, the BA will give consideration to the context in which the AVS appears and the nature, scheduling, target audience and merits of the AVS, as well as the nature of the associated sound broadcasting service channel and the sound broadcasting material during its broadcast when the AVS is shown on the screen of a DAB+ receiver.

3. The Code deals in general principles. Licensees would be required to draw up their own guidelines in the light of the particular interests of the organisations and their audience so as to provide practical guidance to their staff on how these general principles would be applied in specific circumstances. Licensees must reflect the general effect of this Code in their own guidelines.

4. The detailed rules set out below have to be applied in spirit as well as in letter and should be read in conjunction with relevant legislation and licence conditions currently in force. As a matter of principle, the BA will not try to interpret or enforce the law under the purview of other enforcement agencies. When there is an alleged breach of the law, the BA will generally refer the case to the proper enforcement agency for action.

General Principles

5. The licensee is required to provide an AVS of high quality both in terms of transmission and matters transmitted.

6. Licensees should ensure that their AVS is handled in a responsible manner and should avoid needlessly offending audience.

7. In the presentation of AVS, the basic principles of ordinary good taste and common sense must always be observed. A licensee should not include in its AVS

- (a) any material which is indecent, obscene, or of bad taste which is not ordinarily acceptable to the audience taking into consideration the circumstances of the provision of the AVS. Such matter includes, but

is not limited to, language and material which depict or describe, in downright offensive terms, sexual or excretory organs or activities;

- (b) any material which is likely to encourage hatred against or fear of, and/or considered to be denigrating or insulting to any person(s) or group(s) on the basis of ethnicity, nationality, race, gender, sexual orientation, religion, age, social status, or physical or mental disability; or
- (c) anything which is in contravention of the law.

Human Relationships

8. The portrayal of family and similarly important human relationships and the presentation of any material with sexual connotations should be treated with sensitivity and not in an exploitative or irresponsible manner.

Criminal Activities

9. Criminal activities, when depicted, must be consistent with and reasonably related to plot and character development. Crime should not be portrayed in a favourable light and criminal activities should not be presented as acceptable behaviour, nor should criminals be glorified. Glamorization of the lifestyles of criminals should be avoided. The presentation of criminal techniques, or police techniques of crime prevention and detection, in such a way as to be instructional or invite imitation should also be avoided. Depictions containing detailed instructions for, or illustrations of, the use of illegal drugs, harmful devices or weapons are not permitted. The depiction of triad groups and activities is further subject to the following rules:

- (a) Depictions of triad ceremonies, rituals, hand signs and paraphernalia, including cryptic poems and icons, should be avoided.
- (b) Triad expressions not generally accepted in, or in the process of being absorbed into, daily language should be avoided.
- (c) Glorification of the power of the triads and membership in a triad society should be avoided.

Drunkenness, Drug Addiction and the Use of Tobacco

10. Drunkenness, addiction to drugs or narcotics and the use of tobacco should not be encouraged or be presented as desirable.

Gambling

11. No AVS should be presented in a manner which encourages or offers instructions in gambling.

Religion

12. Attacks on any established religious faiths or beliefs should not be permitted. Any AVS which includes a portrayal of religious rites should ensure the accurate presentation of these rites and correct treatment of the religious dignitaries and officers in their various callings.

Superstition

13. The promotion of belief in harmful superstition and supernatural beliefs should not be permitted. AVS based on or pertaining to fortune-telling, fung-shui, occultism, astrology, phrenology, palm-reading, numerology, mind-reading, character-reading, spiritualism and the like should not encourage people to regard such activities as providing commonly accepted appraisals of life or give the impression that these are exact sciences. Care should be taken to avoid creating undesirable emotional disturbances such as undue fear and anxiety, particularly in children and young people.

Language

14. Expressions considered vulgar or unacceptable by an average person are to be avoided. Some 'undesirable' expressions, which have been absorbed into daily language, may be employed with discretion, if the use is defensible in terms of context of the AVS. Materials showing bad language that are not so widely accepted may still be considered offensive by some people, and these may be used in moderation only. Materials that are definitely offensive are prohibited from use in AVS.

Violence and Sex

15. AVS should present such subjects as violence and sex without undue emphasis. Violence, physical or psychological, should only be projected in responsibly handled contexts and not used to excess or in an exploitative manner. AVS involving violence should present the consequences of it to its victims and perpetrators. The depiction of material reflective of sexual considerations should be handled with sensitivity.

Responsibility toward Children and Young People

16. The licensee should not schedule AVS targeting an adult audience at times when it normally broadcasts programmes targeting children or young persons.

17. AVS targeting children should impart appreciation of sound social, moral and spiritual concepts. They should contribute to the healthy development of personality, character and intelligence.

18. The standards relating to language, violence and sex should be strictly observed in AVS which might reasonably be expected to hold the attention of children and young people.

Warning

19. Any AVS containing material which is likely to offend or disturb some people should carry a warning to that effect at the beginning of the AVS.

Accuracy

20. The licensees shall make reasonable efforts to ensure that AVS with factual contents of news, weather, current affairs, financial information, and any other information are accurate.

Impartiality

General

21. The licensees must ensure that due impartiality is preserved in respect of AVS of news programmes and any factual programmes or segments thereof dealing with matters of public policy or controversial issues of public importance in Hong Kong (except those of personal view programmes which are dealt with separately under paragraph 35 below). Factual programmes are non-fiction programmes which are based on material facts. They can take the form of news, current affairs programmes, personal view programmes, phone-in programmes, documentaries and programmes adopting an investigative style of reporting.

22. Due impartiality requires the licensees to deal even-handedly when opposing points of view are presented. Balance should be sought through the presentation, as far as possible, of principal relevant viewpoints on matters of public importance. AVS under concern should not be slanted by the concealment of facts or by misleading emphasis.

23. In achieving due impartiality, the term “due” is to be interpreted as meaning adequate or appropriate to the nature of the subject and the type of programme or programme segment. Due impartiality does not mean that “balance” is required in the sense of equal time, an equal number of lines in the script, or an equal amount of AVS being devoted to each view, nor does it require absolute neutrality on every controversial issue. Judgement will always be called for by the licensees.

24. The licensee should be alert to the danger of unsubstantiated allegations being made by participants in live transmission of AVS. Where necessary, the staff of the licensee should correct the factual errors to the best of their knowledge.

Impartiality Over Time

25. Although it is desirable, it is not always possible for principal opposing viewpoints to be reflected in the AVS of a single programme or programme segment. Sometimes a series of programmes or programme segments may be considered as a whole. At other times, a narrower range of views may be appropriate within individual programmes or programme segments. This is an issue which calls for editorial judgement based on particular circumstances. In achieving impartiality over time, it is

not always necessary to ensure that in the AVS of a single programme or programme segment all sides have an opportunity to present their views.

News

26. News transmitted within AVS should offer the audience an intelligent and informed account of issues that enables them to form their own views. Presentation of news should observe the following rules:

- (a) News should be presented with accuracy and due impartiality.
- (b) Morbid, sensational, or alarming details not essential to factual reporting should be avoided. News should be presented in such a manner as to avoid unnecessary alarm.
- (c) Pictorial representation of news should be carefully selected to ensure fairness and should not be misleading or sensational.
- (d) Commentary and analysis should be clearly distinguished from news.
- (e) When the presence of cameras provokes incidents that would not otherwise have occurred, news editors and producers should make every effort to eliminate “manufactured” incidents or to reveal them for what they are.
- (f) Correction of factual errors in AVS should be made as soon as practicable after the original error, or at the end of the current AVS or the beginning of the subsequent AVS.
- (g) No bona fide news reports comprising local or international news item may be sponsored. For the purpose of this paragraph, ‘news reports’ should not include AVS which takes the form of news features, news magazines, news comments, current affairs, or business/financial/sports news. No advertising matter should be offered as news or included in the contents of any news reports or news photos.

Fairness

General

27. The licensees have a responsibility to avoid unfairness to individuals or organisations featured in AVS, in particular through the use of inaccurate information or distortion. They should also avoid misleading the audience in a way which would be unfair to those featured in the AVS.

Reporting of Court Cases

28. AVS which is based on extracts of court proceedings or other matters of public record must be presented fairly and accurately. In particular the reporting of criminal cases for which proceedings have commenced must not be presented in such manner that would be likely to prejudice a fair trial, and the following should be avoided:

- (a) any pre-judgement of the issues in the case, in particular of the guilt or innocence of the accused;
- (b) any discussion of the merits or facts of the case which may prejudice the relevant legal proceedings;
- (c) any comment relating to the character or conduct of the accused; and
- (d) any comment or report which tends to impair the impartiality of the court.

Dramatised "Reconstructions"

29. AVS on dramatised "reconstructions" related to news which seeks to reconstruct actual events should be carefully labelled as such, so that the fictional elements are not misleadingly presented as fact.

Interviews

30. Where proposed interviewees are unable or unwilling to accept an invitation to participate in a factual programme, references to the missing participants in the AVS should be made in a detached and factual manner. Care should be taken to ensure that their views are not misrepresented.

31. Editing or excerpts of interviews must not distort or misrepresent the known views of the interviewees.

32. Licensees should not misrepresent the views of interviewees by providing a previous interview and presenting it as the interviewees' current views. The audience should be informed of the date the interviews were conducted where necessary.

Right of Reply

33. Licensees should take special care when their AVS is capable of adversely affecting the reputation of individuals, companies or other organizations. Licensees should take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented.

34. Where a factual AVS reveals evidence of iniquity or incompetence, or contains a damaging critique of an individual or organization, those criticized should be given an appropriate and timely opportunity to respond.

Personal View Programmes

35. “Personal view programmes” are programmes in which the programme hosts and, sometimes, individual contributors put forward their own views. The following rules apply to AVS of all personal view programmes on matters of public policy or controversial issues of public importance in Hong Kong:

- (a) The nature of such personal views must be identified clearly.
- (b) Facts must be respected and the opinion expressed, however partial, should not rest upon false evidence.
- (c) A suitable opportunity for response to the personal views should be provided.
- (d) Licensees should be mindful of the need for a sufficiently broad range of views to be expressed in the AVS.

Privacy

General

36. The rights of individuals to privacy should be respected in all AVS. Complaints against AVS about invasion of privacy can arise from the gathering of material or from the way an individual is treated in the AVS itself. In obtaining material for an AVS, the licensees must ensure that the provisions of the Personal Data (Privacy) Ordinance (Cap. 486) are observed. The licensees shall only collect material for the provision of AVS by means which are lawful and fair in the circumstances of the case.

Scenes of Extreme Suffering and Distress

37. If AVS carries any interview of people who are already extremely upset or under stress, licensees should be sensitive to the possibility of causing additional anxiety or distress to the interviewee.

Interviewing of Children

38. If AVS carries any interview of children, they should not be questioned to elicit views on private family matters, nor asked for expressions of opinion on matters likely to be beyond their judgement.

Reporting of Sexual Offences Against Children

39. Reporting of sexual offences against children should avoid identification of the child.

Undue Prominence

40. No undue prominence may be given in any AVS (other than advertising materials in AVS) to a product, service, trademark, brand name or logo of a commercial nature or a person identified with the above so that the effect of such reference amounts to advertising. Such references must be limited to what can clearly be justified by the editorial requirements of the AVS itself, or of an incidental nature.

Consumer Advice

41. AVS (other than advertising materials in AVS) which contain material offering or including reviews or advice on products or services should apply the highest standards of fair dealing and editorial values. The real objective of the material must be bona fide consumer advice, and the presentation must be fair and objective. In addition, the licensee should ensure that the following rules are complied with:

- (a) the licensee or producer of AVS should not receive consideration for making references to products or services in such AVS;
- (b) such material must be designed to convey truthful and objective consumer information about products or services;
- (c) the disclosure of brand names must be relevant and appropriate to the objective of the AVS and the products and services are selected objectively and without regard to the manufacturer or supplier of the product or service;
- (d) such material should be based on research so far as is practicable;
- (e) the information conveyed must be accurate and not misleading by concealing significant facts;
- (f) a wide range of firms or products or services should be included as far as practicable in order not to give unfair advantage or disadvantage to a particular brand or firm. In the case of AVS of a serial programme, the licensee may cover a range of products and services in the AVS within the same series and not necessarily in one single episode;
- (g) while fair and objective assessment on certain products or services is permissible, producers of AVS should avoid being carried away by personal preferences and showering the product or service with excessive praise and unnecessary details and hence giving it undue advantage over other products or services; and

- (h) such material should not include products or services insofar as they are not acceptable for advertising under the Radio Code of Practice on Advertising Standards of Ancillary Visual Service.

Contests

42. No fee is payable either in money or money's worth for participation in any contests. Subject to prior approval from the BA, a licensee may deviate from this requirement in respect of a contest for charitable purposes.

43. Any contest included in an AVS or in an advertisement therein must offer an opportunity for all contestants to win on the basis of skill or knowledge and not purely by chance.

44. All rules and conditions of contests, including commencing and closing dates, should be clearly and fully announced at the beginning of the contest, and thereafter adequately summarized on each occasion. The names of winners should be released as soon as possible after the close of the contest. The conditions of all contests must meet the requirements of the laws of Hong Kong.

45. Where a contest is included in an AVS which is produced in advance of the date on which it is shown, the closing date for the contest must be fixed so as to provide a reasonable opportunity for any person viewing the contest to send in an entry before that date. In the case of a continuing contest which closes immediately on receipt of a correct answer, the licensee must ensure the immediate notification of the fact to avoid any waste of time and money by the audience in the submission of entries which no longer have any chance of winning.

46. Where a contest is included in an AVS, references to prizes must not be made in such a way as to amount to advertising. References to prizes or acknowledgment of the source of prizes are allowed in contests provided that they are not excessive. However, there must be no promotional reference to any product or service.

47. The presentation of tobacco products as prizes or gifts for contests is not permitted. The presentation of alcoholic liquor as prizes or gifts in isolation for contests is not permitted.

Visual Effects

48. AVS should avoid visual effects calculated to unwarrantably mislead, shock or alarm the audience.

Sponsorship of Ancillary Visual Service

49. There must be a clear distinction between advertising and non-advertising materials in AVS. If any AVS (other than advertising materials in AVS) is sponsored, supplied or suggested by an advertiser, clear announcements to this effect should be made. The licensee should be responsible for the content of sponsored AVS. Showing

of a sponsor related product in such AVS may be permitted provided it does not occur frequently and does not obtrude on viewing interest or entertainment.

Elections

50. Licensees shall observe all the regulations and guidelines in connection with elections issued by the Electoral Affairs Commission.

51. The standards laid down in this Code should also govern advertising materials in AVS, wherever applicable.

(Proposed)

**RADIO CODE OF PRACTICE
ON ADVERTISING STANDARDS
OF ANCILLARY VISUAL SERVICE**

BROADCASTING AUTHORITY

XX XXX 2011

Preamble

1. This Code of Practice is issued by the Broadcasting Authority ("BA") pursuant to Condition 26.2 of the sound broadcasting licences for provision of digital audio broadcasting ("DAB") services ("the licences") issued under the Telecommunications Ordinance (Cap.106). All materials included in an ancillary visual service ("AVS") provided by the licensees in accordance with their licences must comply with this Code. The BA has the power to impose sanctions on licensees who do not comply with the Code.

2. The BA, as the regulator, does not pre-censor any advertising material. The editorial responsibility lies with the licensees themselves. The Code sets out the factors which should be taken into account when making editorial judgement. It is the responsibility of the licensees to ensure that any advertising delivered on their licensed service will comply with the Code. Judgement will always be called for by the licensee. When forming a view about the acceptability of any advertising material in AVS, the BA will give consideration to the category, scheduling and target audience of the advertisement and the circumstances in which the advertisement was delivered, including the nature of the associated sound broadcasting service channel and the sound broadcasting material during its broadcast when the advertising materials are shown on the screen of a DAB+ receiver.

3. The Code deals in general principles. Licensees would be required to draw up their own guidelines in the light of the particular interests of the organisations and their audiences so as to provide practical guidance to their staff on how these general principles would be applied in specific circumstances. Licensees must reflect the general effect of this Code in their own guidelines.

4. The detailed rules set out below have to be applied in spirit as well as in letter and should be read in conjunction with relevant AVS standards, licence conditions and legislation currently in force. The legal and regulatory requirements cited in the Code are for reference only. It is the responsibility of the licensees to ascertain the applicable and up-to-date legal and regulatory requirements. As a matter of principle, the BA will not try to interpret or enforce the law under the purview of other enforcement agencies. When there is an alleged breach of the law, the BA will generally refer the case to the proper enforcement agency for action.

Definition of Advertisement

5. The following definition applies in this Code unless the contrary intention appears:

- (a) advertisement or advertising material means any material included in a licensed service which is designed to advance the sale of any particular product or service or to promote the interests of any organisation, commercial concern or individual, whether by means of words and/or visual images and whether in the form of direct announcements, slogans, descriptions or otherwise, as well as any promotional reference in AVS in respect of any products or services;

- (b) for the purpose of this Code the term advertisement or advertising material does not include:
- (i) station/channel/programme service/AVS identifications;
 - (ii) announcements in the public interest;
 - (iii) material for the promotion of the licensee's station, programme services and/or AVS;
 - (iv) material connected with charities and public appeals approved by the BA and for which the licensee does not receive payment or other valuable consideration for including in its licensed service;
 - (v) references in AVS to the title of an event sponsored by a person other than the licensee carrying the trade name or brand name of the sponsor and other incidental references to the trade name or brand name of the sponsor in AVS provided that
 - (1) the licensee receives no consideration for such references;
 - (2) no undue emphasis is given to such references; and
 - (3) the references do not obtrude on viewing pleasure or entertainment; and
 - (vi) incidental or natural references to products or services in AVS which are justifiable in context and do not obtrude on viewing pleasure or entertainment.

Such definition shall extend to the grammatical variations and cognate expressions of such term and the word advertising shall be interpreted accordingly.

General Principles

6. The general principle which will govern all advertising materials is that it should be legal, decent, honest and truthful.
7. The content, presentation and placement of all advertising materials must comply with the Radio Code of Practice on Ancillary Visual Service Standards.
8. Advertisements must be clearly distinguishable as such.
9. Advertisements must comply in every respect with the laws of Hong Kong.

10. It is the responsibility of the licensee to ensure that the following practices are observed in the preparation and showing of all advertising matter:

- (a) care and good judgment should be exercised in respect of advertisements to be shown during times when large numbers of children or adolescents may be likely to be viewing;
- (b) advertising material should be presented with courtesy and good taste and disturbing material such as overly persistent repetition, and words or phrases implying emergency or playing on superstition should be avoided;
- (c) great care should be exercised by the licensee to prevent the presentation of false, misleading or deceptive advertising. No matter should be included which in any way departs from truth as to the composition, character or action of a product or its suitability for the purposes for which it is recommended; and
- (d) advertising matter should contain no claims intended to disparage competitors, competing products or other industries, professions or institutions. Statements should not be used in respect of any products that they are 'the best', 'the most successful', 'safest', 'quickest', or containing any similar use of unsupported superlative adjectives involving comparison with other products, or departures from strict truth. Advertisers must be prepared to produce evidence to substantiate any descriptions, claims or illustrations (including 'best-selling' claims).

Acceptability of Advertising Matter

11. The licensee shall observe the following standards for the acceptability of advertising matter and the sponsorship of materials in AVS:

- (a) the licensee shall refuse the facilities of his station where he has good reason to doubt the integrity of the advertiser, the truth of the advertising representations, or the compliance of the advertiser with the spirit and purpose of all applicable legal requirements; and
- (b) the licensee shall refuse to permit the use of advertising matter, or the advertising of products and services, which he has good reason to believe would be objectionable to a substantial segment of the community.

Unacceptable Products or Services

12. Advertisements for products or services coming within the recognized character of, or specially concerned with, the following are not acceptable:

- (a) fortune-tellers and the like: this does not preclude advertisements for publications (whether printed or otherwise) or pre-recorded information services (whether voice or data) on subjects of general interest such as horoscopes, astrology, Chinese almanacs, fung-shui etc.;
- (b) undertaker or others associated with death or burial: except advertisements for columbaria, which are acceptable provided that the following conditions are complied with:
 - (i) presentation of such advertisements should be dignified and restrained, and the licensee should exercise due sensitivity in scheduling and presenting such advertisements; and
 - (ii) all explicit references to death and technical aspects of associated services and morbid details must be avoided;
- (c) unlicensed employment services, registries or bureaux;
- (d) night clubs, dance halls, massage parlours, sauna houses, bath houses or similar establishments in which hosts or hostesses are employed for the primary purpose of attracting or entertaining customers or in which floor shows or other live performances or activities involving sexual behaviour of whatever nature are presented;
- (e) escort services in general and dating services targeting young people under the age of 18;
- (f) pay per call information services which offer adult material of a sexual nature;
- (g) organisations/companies/persons seeking to advertise for the purpose of giving betting tips; or
- (h) betting (including pools): this does not preclude advertisements for lotteries, football and horse race betting which are authorized by or under the Betting Duty Ordinance (Cap. 108) and for horse racing and football betting publications (whether printed or otherwise) and pre-recorded information services (voice or data) on horse racing and football betting provided that the advertisement does not encourage betting or contain any reference to betting tips. No advertisements for these items should be shown within or in proximity to AVS transmitted alongside radio programmes targeting children. In addition, the licensee must ensure that advertisements for the aforesaid lotteries, football and horse race betting should:
 - (i) not be shown in AVS transmitted between 4:00p.m. and 8:30p.m. each day or at other times when radio programmes, in the opinion of the BA, target young persons under the age of 18;

- (ii) only target the adult audience and no children or adolescents should be allowed to participate in the presentation of these advertisements;
- (iii) not feature any personality who has particular appeal to children or adolescents;
- (iv) not state or imply praise for those who participate in lotteries/football/horse race betting or denigrate those who abstain;
- (v) not mislead or exaggerate one's likelihood of winning;
- (vi) not be instructional in nature or unduly exhort the public to bet;
- (vii) not feature excessive or reckless betting; and
- (viii) not present lotteries/football/horse race betting as an alternative to work or a way out of financial difficulties.

Indirect Publicity of the Unacceptable Product or Service

13. The licensee should not show an advertisement for an acceptable product or service if, in the opinion of the BA, a significant effect of the advertisement would publicize indirectly a product or service which is unacceptable to be advertised in AVS. Where an advertisement for a particular product or service is not allowed in particular hours of the day or during a radio programme targeting children and young persons, an advertisement shown in AVS which has a significant effect of publicizing such a product or service should likewise be prohibited in those circumstances. In determining whether the significant effect of an advertisement would publicize indirectly an unacceptable product or service for the purpose of this provision, the BA shall have regard to the contents of the advertisement and satisfy itself that the advertisement as a whole is clearly intended for the promotion of the acceptable product/service category. Without prejudice to the general discretion of the BA, some relevant factors which may be taken into consideration should include the following:

- (a) whether the advertisement contains any reference to the brand name or trade name of an unacceptable product/service or the name of the person/organisation supplying an unacceptable product/service or any logo, trade mark, slogan or copyline commonly associated with the unacceptable product/service or any advertisement for it;
- (b) whether the trade mark for the acceptable product/service which is being advertised is registered in Hong Kong or any other major markets in the world, or that an application for the registration of the trade mark is pending, or that the common law rights of an unregistered trade mark have been acquired in respect of the product/service;

- (c) whether the proprietor/applicant/licensed user of the registered trade mark or the proprietor of the unregistered trade mark engages in the marketing or manufacturing of the acceptable product/service; and
- (d) the target audience, the arrangement of the display and the placement of the advertisement.

Specific Categories of Advertisement

14. The licensee should exercise care in the inclusion in its service of certain categories of advertisement having regard to the nature of the product or service advertised, the treatment of the product or service in the advertisement and the likely composition of the audience for the time of day at which they are shown. The following paragraphs set out restrictions on advertisements for products or services which are of particular concern or sensitivity.

Tobacco and Tobacco Related Products

15. The licensee must comply with all relevant provisions relating to tobacco advertisements under the Smoking (Public Health) Ordinance (Cap. 371).

16. The presentation of tobacco products as prizes or gifts for contests in AVS is not permitted.

17. Advertisements for certain tobacco related products such as cigarette holders, tobacco filters and other smoking accessories should be subject to the following rules:

- (a) such advertising should only target adult audience and no children or adolescents should be allowed to participate in the presentation of these advertisements; and
- (b) such advertisements should not be shown in proximity to AVS transmitted alongside radio programmes targeting children or in the opinion of the BA, target young persons under the age of 18.

Alcoholic Beverages

18. The advertising of liquor or alcoholic liquor (as defined in the Dutiable Commodities Ordinance (Cap.109)) also requires special consideration and is subject to the following conditions:

- (a) such advertising should only target the adult audience and no children or adolescents should be allowed to participate in the presentation of these advertisements;
- (b) such matters should not be advertised in proximity to AVS transmitted alongside radio programmes targeting children or in the opinion of the BA, target young persons under the age of 18;

- (c) advertisements may not imply that drinking is a desirable new experience or that it is closely associated with social success or popularity or that refusal is a sign of weakness;
- (d) the presentation of alcoholic liquor as prizes in isolation for contests in AVS is not permitted;
- (e) the licensee should not between the hours of 4:00p.m. and 8:30p.m. show any advertisement for alcoholic beverages or invite, offer or accept sponsorship or any form of commercial promotion for such beverages in respect of any material, item or AVS shown between those hours;
- (f) the use of alcoholic beverages or products should not be portrayed as essential to maintain social status, relieve stress, or as a solution to personal problems. It is unacceptable to depict the consumption or presence of alcoholic beverages as a cause of the achievement of personal, business, social, sporting, sexual or other success;
- (g) alcoholic products should not be advertised as similar to or equated with non-alcoholic products, e.g. soft drinks, fruit drinks, etc., which have particular appeal to children or young persons under the age of 18;
- (h) advertisements must not suggest that a drink is more preferable because of higher alcohol content or intoxicating effect;
- (i) such advertisements must not feature any personality whose example children or young persons are likely to follow or who has a particular appeal to children or young persons under the age of 18;
- (j) use of alcoholic beverages or products should not be represented before or during any activity requiring alertness, dexterity and/or sober judgment, e.g. the operation of a motor vehicle, boat or aeroplane or engagement in swimming, water sports or other potentially hazardous activities;
- (k) advertisements must not encourage or depict immoderate drinking. This applies to the quantity of drink consumed and to the act of drinking portrayed;
- (l) advertising should not promote the misuse or abuse of alcoholic beverages;
- (m) advertising should not suggest that drinking is a prerequisite to relaxation. Alcohol should not be offered as a sedative or tranquilizer. While advertisements may refer to refreshment after physical performance they must not give any impression that performance can be improved by drinking;

- (n) advertising by retail liquor outlets for alcoholic products should adhere to the advertising standards on alcoholic drinks; and
- (o) advertising must not encourage, challenge or dare non-drinkers or young persons under the age of 18 to drink.

19. Generally speaking, drinks containing 1.2 per cent or less of ethyl alcohol by volume and presented as a low or no alcohol version of an alcoholic liquor, must not be advertised within or adjacent to AVS transmitted alongside radio programmes targeting children or young persons. In particular, drinks containing more than 0.5 per cent but not more than 1.2 per cent ethyl alcohol by volume, whether or not presented as a low or no alcohol version of an alcoholic liquor, must not be advertised adjacent to or within AVS transmitted alongside radio programmes targeting children. The advertisements must also comply with all conditions in paragraph 18 above.

Educational Courses

20. The licensee must comply with section 86A of the Education Ordinance (Cap. 279), section 34 of the Non-local Higher and Professional Education (Regulation) Ordinance (Cap. 493) and section 3 of the Non-local Higher and Professional Education (Regulation) Rules (Cap. 493 sub.leg.).

Personal Products

21. Products of a personal nature, such as female sanitary products, condoms, deodorants for the genital area, incontinence products, etc., should be presented with care and sensitivity. Depiction of such products must be in good taste and not overly graphic. Advertising of female sanitary products and condoms should be restrained and discreet. Female sanitary products should not be shown in a manner likely to cause offence and/or embarrassment to the audience. Close-up shots of the crotch area are unacceptable.

Financial Advertising

22. The licensee should comply with the supplementary standards on financial advertising as set out in Appendix I.

Real Estate Advertising

23. No advertisement offering for sale or to let any flat, shop, office or other unit of accommodation in Hong Kong should be accepted:

- (a) in respect of a completed building, unless the advertiser is able to substantiate that the proposed sale or letting does not constitute any breach of the conditions relating to such sale or letting as imposed in the lease conditions affecting the land on which such completed building stands;
- (b) in respect of an uncompleted building:

- (i) unless the prior consent of the Director of Lands or any other Government authority relating to such sale or letting as required under the lease conditions affecting the land on which such uncompleted building stands has been given; or
- (ii) unless the developer is able to produce evidence that his solicitor has deposited a statutory declaration under Rule 5C (3) of the Solicitors Practice Rules in regard to the sale and purchase of the affected real estate in the relevant Land Registry where consent as mentioned in (b)(i) above is not required for the sale of units in such uncompleted building (a solicitor's letter certifying that the above condition has been met will be regarded as sufficient substantiation).

24. No advertisement offering for sale to Hong Kong residents any flat, shop, office or other unit of accommodation in a building or proposed building or any land or any sub-division, share or interest thereof or therein situated outside Hong Kong should be accepted unless the developer or vendor is able to produce the following:

- (a) a letter from a firm of solicitors/attorneys registered and recognized in the country where the real estate or land is situated confirming that:
 - (i) all the requirements imposed by the local government relating to the development and sale of the real estate or land to be advertised have been properly complied with by the developer or vendor;
 - (ii) the developer or vendor has obtained the requisite consent (if necessary under the local laws) from the local government for the sale of the real estate or land to non-residents; and
 - (iii) housing loan is available to prospective purchasers from a licensed financial institution, either locally or elsewhere; and
- (b) a letter from a firm of solicitors who are qualified to practise in Hong Kong confirming that, to the best of their knowledge and belief, the local firm of solicitors/attorneys providing the confirmation in (a) above is registered in the country where the real estate or land is situated for the provision of legal advice within that jurisdiction.

25. No advertisement should be accepted if it contains an invitation to the public to enter into or offer to enter into a regulated investment agreement^(Note 1) in respect of real estate or to acquire an interest in or participate in, or offer to acquire an interest in or

(Note 1) "Regulated investment agreement" (受規管投資協議) means an agreement the purpose or effect, or pretended purpose or effect, of which is to provide, whether conditionally or unconditionally, to any party to the agreement a profit, income or other returns calculated by reference to changes in the value of any property, but does not include an interest in a collective investment scheme.

participate in, a collective investment scheme^(Note 2) in respect of real estate, unless the advertisement has been authorized by the Securities and Futures Commission or is exempted under the Securities and Futures Ordinance (Cap. 571).

26. The licensee must ascertain that any descriptions, demonstrations and claims of a specific nature with regard to real estate advertisements have been adequately substantiated by the advertisers. In particular,

- (a) no claim may expressly or by implication misrepresent the location, size and value of the real estate and the available transport facilities;
- (b) the lowest selling price of a real estate should be stated as such and should not give an impression that it is the average price;
- (c) a price being offered to local purchasers only should be stated as such and should not give an impression that it is also being offered to overseas purchasers, if there is a significant difference in the prices; and
- (d) advertisements must not offer any furniture, home appliances or any other goods as "free gifts" unless such items are supplied at no cost or no extra cost to the recipient. The licensee needs to obtain a statement to this effect from the advertiser.

The licensee should have his responsibility under this subparagraph discharged if he did not know and had no reason to suspect that the information contained in the advertisement or data supplied by the developer or advertiser were false or misleading and could not, with reasonable diligence, have ascertained that the claims were false or misleading.

^(Note 2) "Collective investment scheme" (集體投資計劃) means arrangements in respect of any property-

- (i) under which the participating persons do not have day-to-day control over the management of the property, whether or not they have the right to be consulted or to give directions in respect of such management;
- (ii) under which-
 - (A) the property is managed as a whole by or on behalf of the person operating the arrangements;
 - (B) the contributions of the participating persons and the profits or income from which payments are made to them are pooled; or
 - (C) the property is managed as a whole by or on behalf of the person operating the arrangements, and the contributions of the participating persons and the profits or income from which payments are made to them are pooled; and
- (iii) the purpose or effect, or pretended purpose or effect, of which is to enable the participating persons, whether by acquiring any right, interest, title or benefit in the property or any part of the property or otherwise, to participate in or receive-
 - (A) profits, income or other returns represented to arise or to be likely to arise from the acquisition, holding, management or disposal of the property or any part of the property, or sums represented to be paid or to be likely to be paid out of any such profits, income or other returns; or
 - (B) a payment or other returns arising from the acquisition, holding or disposal of, the exercise of any right in, the redemption of, or the expiry of, any right, interest, title or benefit in the property or any part of the property.

Medical Preparations & Treatments

27. The advertising of medical preparations and treatments is subject to the detailed rules given in Appendix II.

Claims Relating to Nutrition or Dietary Effects

28. Claims relating to nutrition or dietary effects of products or services should be handled with care. Advertisements for products and services containing such claims should comply with the following rules:

- (a) claims of effects or treatment for conditions of health for which qualified medical attention or advice should reasonably be sought are not acceptable. The licensee must also comply with the provisions of the Undesirable Medical Advertisements Ordinance (Cap. 231);
- (b) specific claims for the nutritional value of food must be supported by sound scientific evidence and must not give a misleading impression of the nutritional or health benefits of the food as a whole;
- (c) advertisements for dietary supplements, including vitamins or minerals, must not state or imply that they are necessary as additions to a balanced diet in order to avoid dietary deficiency or that they are the only means to enhance normal good health;
- (d) no advertisements should encourage patterns of behaviour which are prejudicial to health;
- (e) advertisements making nutritional and dietary claims are required to comply with paragraph 5 of Appendix II governing professional advice and support;
- (f) the licensee must ensure that the advertisements which make claims relating to nutrition or dietary effects comply with all relevant legislation including without limitation the Public Health and Municipal Services Ordinance (Cap.132); and
- (g) no advertisements for products, services and establishments which offer or provide treatment aimed at the achievement of weight loss or reduction of body fatness are acceptable unless these advertisements state that their services/products are adjunct to having a balanced/healthy diet to achieve such effect. The following rules must also be complied with:
 - (i) such advertisements must not be addressed to persons under 18 and containing elements which are likely to be of particular appeal to them such as featuring children or any persons posing as adolescents in the advertisements;

- (ii) the licensee must obtain sound evidence showing that such products or services are likely to be effective and will not cause harm. The effect of the products or services must be substantiated;
- (iii) such advertisements must not be directed at the obese or must not use case histories to show that subjects who were or appeared to be obese lose weight and become slimmer after using the product or service advertised;
- (iv) such advertisements must not suggest or imply that to be underweight is acceptable or desirable. Those giving testimonials must neither be nor appear to be underweight; and
- (v) advertisements for food products in this category must make it clear that the product can assist weight loss only as part of a calorie controlled diet.

(Note: For the purpose of this rule the Body Mass Index for a normal person is between 18.5 and 25 kilograms/meter² as recommended by the World Health Organisation. Body Mass Index over or under this range would be considered as obese or underweight.)

Political Advertising

29. No advertisement of a political nature shall be shown except with the prior approval of the BA.

30. Advertisements which contain statements or suggestions which may be considered offensive to religious views, racial traits or to particular sections of the community should be avoided.

Film Advertisements

31. Advertisements for a film which is classified under the Film Censorship Ordinance (Cap. 392) and is intended for public exhibition in Hong Kong, should display the appropriate symbol applicable to the film under that ordinance. In addition, advertisements for films classified under categories other than Category I should carry legible visual advisories to the effect that they are not suitable for particular group(s) of persons or approved for exhibition to persons aged 18 or above, as the case may be. *(For placement restrictions on film advertisements, please see paragraph 2 of Appendix III Advertising and Children)*

Imitation

32. Advertisements which imitate or approximate unreasonably the name or advertising slogans of competitors to the knowledge of the licensee should not be permitted.

Appeal to Fear

33. Advertisements should not unduly play on fear.

Advertising Time Allowance

34. The total amount of advertising time must not exceed the limit set by the conditions of the Licence.

Advertising & Children

35. Particular care should be taken over advertising that is likely to be viewed by large numbers of children and advertisements in which children are featured. More detailed guidance is given in Appendix III.

Appendix I

SUPPLEMENTARY STANDARDS ON FINANCIAL ADVERTISING

Legal Responsibility

1. It is the responsibility of the licensee to ensure that advertisements comply with all the relevant legal and regulatory requirements including, but not limited to, the following:

- (a) the Companies Ordinance (Cap. 32);
- (b) the Banking Ordinance (Cap. 155);
- (c) the Insurance Companies Ordinance (Cap. 41);
- (d) the Securities and Futures Ordinance (Cap. 571);
- (e) the Mandatory Provident Fund Schemes Ordinance (Cap. 485);
- (f) the Codes of the Securities and Futures Commission (SFC), including without limitation:
 - (i) the Code on Unit Trusts and Mutual Funds;
 - (ii) the Code on Investment-linked Assurance Schemes;
 - (iii) the Code on Pooled Retirement Funds;
 - (iv) the Code on Immigration-linked Investment Schemes;
 - (v) the SFC Code on MPF Products;
 - (vi) the Code of Conduct for Persons Licensed by or Registered with the Securities and Futures Commission;
 - (vii) the Fund Manager Code of Conduct;
 - (viii) the Corporate Finance Adviser Code of Conduct; and
 - (ix) any other prevailing rules and guidelines on other types of investment products regulated by the SFC such as paper gold schemes; and
- (g) the Rules Governing the Listing of Securities on The Stock Exchange of Hong Kong Limited and the Rules Governing the Listing of

Securities on the Growth Enterprise Market of The Stock Exchange of Hong Kong Limited.

(The list is for reference only and it is the responsibility of the users of this Code to ascertain the applicable and up-to-date legal and regulatory requirements.)

Deposit and Savings Facilities

2. Advertisements for deposit and savings facilities should comply with the following provisions:

- (a) for deposit and savings facilities offered by any licensed bank, any restricted licence bank or any deposit-taking company authorized under the Banking Ordinance (Cap. 155):
 - (i) the advertisement should not use any terms or expressions indicating that the deposits will be absolutely or completely secure or to the like effect;
 - (ii) the advertisement should not state or imply that the repayment of any deposits or the payment of any interest payable on deposits is guaranteed or secured unless it also states the nature and extent of the guarantee and the name of the guarantor, or the nature and extent of the security, as the case may be;
 - (iii) no reference should be made to the amount of the nominal or authorized capital of the institution; and
 - (iv) no reference should be made to the total assets of the institution or to the total deposits made with the institution unless at the same time a reference is made to the amounts of the paid up capital and reserves either separately or together; or
- (b) for invitations to make a deposit outside Hong Kong, the advertisement should comply with the requirements specified in the Fifth Schedule to the Banking Ordinance (Cap. 155).

Lending and Credit

3. Mortgage, other lending facilities and credit services offered by licensed banks, restricted licence banks and deposit-taking companies authorized under the Banking Ordinance (Cap. 155) may be advertised. Care should be taken to avoid the public being misled as to the terms of the loan services being advertised.

Review or Advice about the Stock Market or Investment Prospects

4. Subject to paragraphs 5 and 6 of this appendix or unless otherwise permitted (whether expressly or impliedly) under applicable law, no advertisement should contain any review of or advice about the stock market (including securities listed on the stock

market), investment prospects, any investment advice or make any reference to specific securities, futures contracts or investment products.

Investment Products

5. Advertisements for investment products requiring authorization by the SFC, including but not limited to unit trusts, mutual funds, investment-linked insurance schemes, pooled retirement funds, Mandatory Provident Fund products and immigration-linked investment schemes, are not acceptable unless these advertisements are authorized by the SFC pursuant to section 105 of the Securities and Futures Ordinance (Cap. 571).

Regulated Activities

6. Advertisements relating to carrying on of any regulated activity (as defined in the Securities and Futures Ordinance (Cap. 571)) should comply with the relevant provisions of the Securities and Futures Ordinance (Cap. 571) (including but not limited to the requirement for the issuer to be licensed by the SFC).

Financial Publications

7. Subject to paragraphs 5 and 6 of this appendix or unless otherwise permitted (whether expressly or impliedly) under applicable law, advertisements for publications, including periodicals, books, teletext services and other forms of electronic publishing, on investments and other financial matters must make no recommendation on specific securities or investment products; advertisements for subscription services for such publications must be in general terms and make no reference to specific securities or investment products.

Estimates of the Proceeds of Insurance Policies

8. No numerical examples of the proceeds of insurance policies including but not limited to estimates of future bonus or dividend declarations on participating life insurance policies should be quoted in any advertisement.

Appendix II

SUPPLEMENTARY STANDARDS ON MEDICAL PREPARATIONS AND TREATMENTS

General

1. The licensee should ensure that all medical advertisements conform with the laws of Hong Kong, including without limitation the Undesirable Medical Advertisements Ordinance (Cap. 231).

Medical Preparation

2. The term 'medical preparation' means any kind of medicament or other curative or preventive substance and whether a proprietary medicine, a patent medicine or purported natural remedy. It includes:

- (a) mixtures, powders, tablets, lozenges, or any product to be taken by mouth for therapeutic use;
- (b) drops or paints, such as eye, ear or nose drops, throat paint, etc.;
- (c) ointments, creams, pastes or powders for therapeutic use externally;
- (d) liniments or any product to be rubbed on;
- (e) injections; and
- (f) foods which claim to assist 'regularity' or other health problems.

Restricted Medical Preparations

3. Advertisements for medical preparations which are included in:
 - (a) Part I of the Schedule to the Poisons List Regulations (Cap.138B); or
 - (b) Schedule 1 to the Antibiotics Regulations (Cap.137A),

are not acceptable.

Unacceptable Products or Services

4. Advertisements for products or services coming within the recognised character of, or specifically concerned with, the following are not acceptable:
 - (a) smoking cessation: this does not preclude advertisements for nicotine replacement therapy products which are listed in Part II of the Schedule to the Poisons List Regulations (Cap. 138B) provided that such advertisements are not shown within or in proximity to AVS

transmitted alongside radio programmes targeting children and that the licensee must ensure that advertisements for nicotine replacement therapy products should:

- (i) comply with all relevant provisions relating to tobacco advertisements (including any illustration or mentioning of smoking) under the Smoking (Public Health) Ordinance (Cap. 371). Please refer to sections 2 and 14 of Cap. 371 for definitions of “smoking” and “tobacco advertisement”;
 - (ii) not be shown within AVS transmitted between 4:00p.m. and 8:30p.m. each day or at times when radio programmes, in the opinion of the BA, target young persons under the age of 18;
 - (iii) make it clear that the advertised nicotine replacement therapy products are aids for smoking cessation^(Note 1);
 - (iv) not claim that:
 - (1) the advertised nicotine replacement therapy products can cure smoking addiction;
 - (2) smoking is made safer whilst the habit is being reduced; and
 - (v) contain the advisory message: “Please consult healthcare professionals for more details of the product”.
- (b) prevention or treatment for any disease of hair or scalp, except for prevention or treatment of dandruff by means of external applications;
 - (c) pregnancy testing services;
 - (d) clinical laboratory testing services;
 - (e) relief or cure of alcoholism and drug addiction;
 - (f) cosmetic surgery and slimming or weight reducing measures involving the use of medical preparations; and
 - (g) procurement of miscarriage or abortion.

Impressions of Professional Advice and Support

5. Unless it can be substantiated that professional advice or recommendation has been obtained from an acceptable organisation of the relevant profession (for the purpose of this provision, any organisation acceptable to the Director of Health or the relevant professional body in Hong Kong from time to time and the relevant

^(Note 1) It is recognized that it takes determination and perseverance as well as a healthy lifestyle for one to quit smoking successfully.

professional body itself should be deemed to be an acceptable organisation), advertisements containing the following are not acceptable:

- (a) presentations of doctors, dentists, veterinary surgeons, pharmacists, nurses, midwives, or other supplementary medical professionals under the control of the Supplementary Medical Professions Ordinance (Cap. 359) which give the impression of professional advice or recommendations;
- (b) statements giving the impression of professional advice or recommendation by persons who appear in the advertisements and who are presented, either directly or by implication, as being qualified to give such advice or recommendation. To avoid misunderstanding about the status of the presenter, it may be necessary to establish positively in the course of an advertisement that the presenter is not a professionally qualified adviser; and
- (c) references to approval, acceptance or recommendation of, or preference for, the product or its ingredients or their use by the professions referred to in (a) above.

Appeals to Fear or Exploitation of Credulity

6. No representation should be used which dramatizes distress or morbid situations involving ailments or sickness or which conveys the suggestion that harmful consequences may result from the product advertised not being used. No representation of vivisection should be allowed. No advertisement should contain any matter which would lead persons to believe from the symptoms described that they are suffering from any serious ailment.

Conditions Requiring Medical Attention

7. Advertisements on any product or treatment which claims to cure chronic or incurable ailments or for use in conditions in which self-medication presents a risk are prohibited.

Encouragement of Excess

8. No advertisement may directly or indirectly encourage indiscriminate, unnecessary or excessive use of any medical preparation or treatment.

Exaggeration

9. No advertisement may make exaggerated claims, in particular through the selection of testimonials or other evidence unrepresentative of a product's effectiveness, or by claiming that it possesses some special property or quality which is incapable of being established. Statements should not be used in respect of any product or method of treatment that it is 'the most successful', 'safest', 'quickest' or similar use of superlative or comparative adjectives.

General Statements

10. Advertisements should not contain:
- (a) general statements which mislead the audience by omitting essential facts;
 - (b) statements directly stating or implying that 'all' of a certain group of diseases will be cured by the preparation; or
 - (c) statements directly stating or implying that 'all' diseases are due to a particular cause.

Depiction of Patients

11. Advertisements should not depict a patient receiving treatment or under the influence of a drug or hypnotism. The depiction of a patient implying or testifying to the cure of any condition is also not acceptable.

Description of Bodily Functions

12. Repellent descriptions of bodily functions or matters which are generally considered not acceptable to a wide cross section of society are not allowed.

Derogatory Reference to Physical or Mental Affliction

13. No derogatory reference should be allowed for advertising purposes to any physical or mental affliction or deformity. Any reference to such infirmities must avoid bringing ridicule or offence to the sufferers or their families.

Sales Promotions

14. No advertisement for a medical preparation or treatment may contain any reference to a prize competition or promotional scheme such as gifts, premium offers and samples.

Appendix III

ADVERTISING AND CHILDREN

The Child Audience

1. No product or service may be advertised and no method of advertising may be used, in association with a radio programme or AVS targeting children or which large numbers of children audience are expected which might result in harm to them physically, mentally or morally, and no method of advertising may be employed which takes advantage of the natural credulity and sense of loyalty of children.

In particular:

- (a) No advertisement may encourage children to take part in any scheme that contains an element of danger to them, e.g. to enter strange places or to converse with strangers in an effort to collect coupons, wrappers, labels, etc. The licensee should have his responsibility under this subparagraph discharged if he had exercised reasonable effort to ensure that the scheme advertised contain no element of danger to children.
- (b) Advertisements must not directly urge children to purchase or to ask their parents or others to make purchases.
- (c) No advertisement for a commercial product or service is allowed if it contains any appeal to children which suggests in any way that unless the children themselves buy or encourage other people to buy the product or service they will be failing in some duty or lacking in loyalty towards some person or organisation whether that person or organisation is the one making the appeal or not.
- (d) No advertisement is allowed which leads children to believe that if they do not own the product advertised they will be inferior in some way to other children or that they are liable to be held in contempt or ridicule for not owning it.
- (e) No advertisement dealing with the activities of a club is allowed without the submission of satisfactory evidence that the club is carefully supervised in the matter of the behaviour of the children and the company they keep and that there is no suggestion of the club being a secret society.
- (f) If there is to be a reference to a competition for children in an advertisement, the value of prizes and the chances of winning one must not be exaggerated.

- (g) Advertisements for toys, games and other products of interest to children must not mislead, taking into account the child's immaturity of judgment and experience.

Restrictions on Transmission Time

2. Advertisements for products or services, films and any material which are considered as not suitable for children may not be shown within or in close proximity to AVS transmitted alongside radio programmes targeting children or at times when a large number of children are expected in the audience.

3. Advertisements which are frightening, or provoke anxiety, or which contain depictions of violent, dangerous or anti-social behaviour are not allowed to be shown within or in close proximity to AVS transmitted alongside radio programmes targeting children or at times when a large number of children are expected in the audience.

The Child in Advertisements

4. The appearance of children in advertisements is subject to the following conditions:

- (a) ***Contributions to safety***

Any situations in which children are to be seen in advertisements should be carefully considered from the point of view of safety.

In particular:

- (i) Children should not appear to be unattended in street scenes unless they are obviously old enough to be responsible for their own safety; should not be seen playing in the road unless it is clearly shown to be a play-street or other safe area; should not be shown stepping carelessly off the pavement or crossing the road without due care; in busy street scenes should be seen to use zebra crossings in crossing the road, and should be otherwise seen in general as pedestrians, cyclists or passengers, to behave in accordance with the Road Users Code as published by Transport Department from time to time.
- (ii) Children should not be seen leaning dangerously out of windows or over bridges, climbing cliffs or playing in or near water unaccompanied by adults, or playing irresponsibly on escalators.
- (iii) Small children should not be shown climbing up to high shelves or reaching up to take things from a table above their heads.
- (iv) Medicines, disinfectants, antiseptics and caustic substances must not be shown within reach of children without close parental supervision, nor should children be shown using these products in

any way.

- (v) Children must not be shown using fire, matches or any gas, paraffin, petrol, mechanical or mains-powered appliance which could lead to their suffering burns, electrical shock or other injury.
- (vi) Advertising and products advertised must be consistent with generally recognised safety standards. Demonstrations may not depict harmful or dangerous use of product. When children are shown engaging in activities potentially dangerous to them, such activities should be seen being carried out under parental supervision.

Except that in advertisements designed specifically and only to promote safety, it may be acceptable to show children, for that purpose, in dangerous situations.

(b) Good manners and behaviour

Children in advertisements should be reasonably well-mannered and well-behaved.

(c) Alcoholic liquor and tobacco related products

Children will not be permitted to participate in the presentation of advertisements for alcoholic liquor or tobacco related products.