



CONTENT
FORUM



COMPLAINTS BUREAU ORDERS



2007 - 2017

A Decade of Decisions

**Communications and Multimedia Content Forum
Forum Kandungan Komunikasi dan Multimedia**



Complaints Bureau Orders

2007- 2017

A Decade of Decisions

**Communications and Multimedia Content Forum of Malaysia
Forum Kandungan Komunikasi dan Multimedia Malaysia**

Published by Communications and Multimedia Content Forum of Malaysia (CMCF)

March 2021

Copyright © 2021 Communications and Multimedia Content Forum of Malaysia (CMCF).

e ISBN: 978-967-19397-0-3

e ISBN 978-967-19397-0-3



All rights reserved. No part of this work may be reproduced or transmitted in any form or by any means electronic or mechanical, including photocopying or web distribution, without the written permission of the publisher.

EDITOR

Dr. Manjit Kaur Ludher

While every effort is made to ensure that accurate information is disseminated through this publication, CMCF makes no representation about the content and suitability of this information for any purpose. CMCF is not responsible for any errors or omissions, or for the results obtained from the use of the information in this publication. In no event will CMCF be liable for any consequential, indirect, special or any damages whatsoever arising in connection with the use or reliance on this information.

PUBLISHER

Communications and Multimedia Content Forum of Malaysia (CMCF)

Forum Kandungan Komunikasi dan Multimedia Malaysia

Unit 1206, Block B, Pusat Dagangan Phileo Damansara 1

9 Jalan 16/11, Off Jalan Damansara, 46350 Petaling Jaya

Selangor Darul Ehsan, MALAYSIA

Website: www.cmcf.my

This book is dedicated in loving memory of
Communications and Multimedia Content Forum's founding Chairman
Y. Bhg. Dato' Tony Lee

CONTENTS

Foreword by Chairman, CMCF.....	vi
Preface by Chairman, Complaints Bureau CMCF.....	vii
Introduction.....	1

2007

Definition of Friendship Clubs.....	4
‘ <i>Kepastian Yang Ku Tunggu</i> ’ Song Broadcast by Radio Suria FM.....	5
Reviewing Contents of My*****.Blogspot.Com.....	6
Red FM Radio Station Broadcast Remarks on Police.....	7

2008

Nissan Grand Livina Commercial over TV3.....	9
Iproperty.com Website Contents.....	10
Proton Holdings Berhad’s TV3 Commercial.....	11
Risque Messages on 8TV’s <i>Late Nite Juke Box SMS Chat Show</i>	12
Unhappiness Expressed about Interview on TV3.....	13

2009

Offensive Text Message.....	15
‘ <i>Sure Up</i> ’ Radio Commercial.....	16
Offensive Contents Posted on Facebook.....	17
Issue of Warranty and Purchase of Mobile Phone over Lelong.Com.My.....	18
Screening <i>WWE International Smackdown</i> & Similar Programmes on TV3 and ASTRO Channels.....	19
Bogus Profile in Tagged Social Networking Website.....	20
Celcom Xpax Television Commercials.....	21
<i>Anugerah Bintang Popular Berita Harian 2008</i> Programme.....	22
Defamatory Contents on Carnivall.com Website.....	23
Revealing Personal Details on Bignewsnetwork.com Website.....	24
Article in Yahoo Groups ‘ <i>Shoutussyabab</i> ’.....	25
Defamatory Statements on YouTube.com.....	26
Foul Language in Local Radio Station Programme.....	27
<i>Bang Bang Boom</i> TV Programme Contents.....	28
Insulting Remarks on Facebook.....	29

2010

Beras Herba Ponni Faiza Advertisement on TV3.....	31
Semenyih Memorial Hills Advertisement on Natseven TV Sdn Bhd.....	32
<i>Istana Takeshi</i> Game Programme on TV9: Accidental Exposure.....	33
Toyota Promotion Campaign on Sinar FM.....	34
Unilever's ' <i>Axe Effect</i> ' Deodorant TV Commercials.....	35
Visual of Victim of Crime on TV3's <i>Buletin Utama</i>	36
Riuh Pagi Era FM ' <i>Can I Help You</i> ' Radio Segment.....	37

2011

Telekom Malaysia's Unifi Television Commercial.....	39
Unsuitable Visuals Shown on NTV7 News.....	40
Performance in <i>Konsert Akhir Akademi Fantasia 9</i>	41
' <i>Gotcha</i> ' Segment on Hitz.FM Radio.....	42
Unprofessional Remarks in the Live Telecast of <i>Festival Filem Malaysia Yang Ke-24</i>	43
Authenticity in Television Advertising: Case of Colgate Advertisement.....	44

2012

Tan Automobile Centre Sdn Bhd against TV3's ' <i>Aduan Rakyat</i> ' <i>Buletin Utama</i>	46
Allegation of Corruption Contents Broadcast over BFM Radio.....	47
<i>Tropicana Twister Juicy Burst</i> Advertisement between Cotra Enterprise Sdn Bhd and Permanis Sandilands Sdn Bhd.....	48
<i>NCIS</i> Series Programme on 8TV.....	50

2013

<i>Anugerah Bintang Popular Berita Harian 2012</i> on TV3.....	53
<i>Sahara</i> Drama Series Broadcast over ASTRO Prima.....	55
988FM Radio Discussion on Plastic Surgery.....	56
' <i>C'mon Let Me Ride</i> ' Song over Red FM Radio.....	58
988 FM <i>Morning Up</i> Programme Discussion.....	60
Airing of a Filipino Drama by TV3.....	61
Slimming Product Advertised on TV3.....	62
Bad Language in <i>Bad Boys II</i> aired on ASTRO Channels.....	63

2014

Health Ministry Objection to <i>EXAMO CKM-500</i> Product Advertised over IKIM FM.....	65
London Weight Management ' <i>Body Trim Fluid</i> ' Advertisement on TONTON Website.....	66
Malaysian Communications and Multimedia Commission on ' <i>Show Me</i> ' Song Lyrics.....	67
Colgate-Palmolive Complaint of Unilever Product.....	68
Complaint about Song Lyrics ' <i>She Keeps Me Warm</i> '.....	69
' <i>Ratu Mirifica Plus</i> ' Advertisement on TV3.....	70
Alleged Contents of Sexual Innuendo on Mix FM's <i>Breakfast Show</i>	71
<i>Supernatural</i> Programme Series on ASTRO'S AXN Channel.....	72

2015

Japanese Tobacco International's Marketing Campaign.....	74
<i>The Bible</i> Programme Series on ASTRO History Channel.....	75
<i>Victoria's Secret Swimsuit Special</i> (2015) on ASTRO Star World.....	77
<i>Evan Almighty</i> Programme on ASTRO HBO.....	78
<i>Memori Cinta Suraya</i> Drama Content Broadcast over ASTRO Prima.....	79
<i>Bintang Mencari Bintang</i> Programme Content Broadcast over TV3.....	80
<i>Qu Puteh</i> Products Promoted during TV3's <i>Anugerah Juara Lagu 29</i>	81
<i>Ceria Pagi Sabah</i> Radio Broadcast over Suria FM Sabah.....	82
<i>Racun Menantu</i> Programme Broadcast on ASTRO.....	83
Advertising Slimming Product ' <i>Caboles</i> ' over TV9's <i>Nasi Lemak Kopi O</i> Programme.....	84
' <i>Cabaran Perlindungan Kuman Dettol</i> ' Advertisement.....	85
Alcoholic Beverage Logo over ASTRO Supersport 3 in FA Cup: Bradford V Reading.....	86
Advertisement Content in Segment Aired over ASTRO Radio THR RAAGA.....	87

2016

Firefly Airlines Sexist Advertisement on the Internet.....	89
------------------------------------------------------------	----

2017

Sexual Overtones in ' <i>Despacito</i> ' Song Video.....	92
<i>Camelus Green Select</i> Tea Advertisement over TV ALHIJRAH.....	93
Violence Portrayal in ASTRO's <i>Go Migration</i> Advertisement.....	94
Matter of the <i>Magnificent Century</i> Drama Series on ASTRO.....	95
' <i>D'Herbs Jus Kocok</i> ' Advertisement Broadcast on TV3.....	96
Matter of <i>Nivea Pearl & Beauty Deodorant</i> Advertisement.....	97
Matter of <i>Downy Fabric Softener</i> Advertisement.....	98
Matter of <i>Sunlight Lime 100 Dishwashing Liquid</i> Advertisement.....	100

Conclusion.....	102
-----------------	-----

FOREWORD

Assalamualaikum w.b.t

Praise be to Allah S.W.T for the success in producing Communications and Multimedia Content Forum of Malaysia's (CMCF) first Complaints Bureau Order Publication Volume 1.

The primary aim of this Complaints Bureau Publication is to share with the public as well as broadcasters the cases that have been addressed by the CMCF for a period of 10 years from 2007.

During this period and continuing to the present, CMCF has worked hard to communicate the importance of self-regulation among broadcasters in accordance with the Content Code as a minimum guideline in creating content.

I trust that with this Complaints Bureau Order Publication, the public and broadcasters will be aided to better understand how CMCF evaluates each type of complaint and addresses content-related complaints.

I urge all to always practise self-regulation when creating content.

Thank you!

Datuk Ahmad Izham Omar

Chairman (2013-2020)

Communications and Multimedia Content Forum of Malaysia (CMCF)

PREFACE

First and foremost, I would like to congratulate Communications and Multimedia Content Forum on its first Complaints Bureau Publication. This is a very important moment in the history of the Forum since it was founded in 2001.

From 2001 until now, both the Forum and Content Code have proved to be relevant as they have managed to tackle issues from every aspect.

In resolving the complaints received, the aim is to always promote self-regulation whilst the rights of consumers and industry players are also being protected. By embracing the principles of Rule of Law, the Complaints Bureau has managed to arrive at decisions adhering to reasonable pathways.

We hope that the decisions published here are taken in good faith. There is no doubt that the years ahead will be demanding, hence I hope that the industry and public will continue to demonstrate commitment towards self-regulation for our future generations.

Thank you!

Datuk Mohamed Bazain Bin Idris

Chairman

Complaints Bureau, CMCF

INTRODUCTION

The Communications and Multimedia Content Forum of Malaysia (CMCF) was established in February 2001 under the Communications and Multimedia Act 1998 (CMA '98) to govern content and address content related issues in the industry.

The Malaysian Communications and Multimedia Content Code (Content Code), was initiated as a set of industry guidelines on the use and dissemination of content for public consumption; it was officially registered with the Malaysian Communications and Multimedia Commission (MCMC) in September 2004. Under the CMA '98, Content is sound, text, still picture, moving picture, audio-visual or tactile representation, which can be created, manipulated, stored, retrieved or communicated.

Areas covered in the Content Code include Guidelines on Content; Advertisement; Broadcasting; and Audiotext Hosting Service Guidelines (www.cmcf.my). Prohibited content is that which is indecent, obscene, false, menacing or offensive in character with intent to annoy, abuse, threaten or harass any person.

Under Article XIII of the CMCF Constitution, a Complaints Bureau was set up within CMCF to address grievances relating to the content of a general and/or specific nature in the electronic media made by 'industry players' and the general public or consumers as well as interpret provisions of the Content Code as required.

A self-regulatory body, the Complaints Bureau plays a crucial role to receive, consider, mediate and if necessary, adjudicate and make a ruling on matters relating to alleged breaches to determine if there has been a breach of the Code. An Order is given where appropriate. The definition of a complaint is any expression of dissatisfaction which would require a response from the Bureau. As such, the Bureau adheres to a review process to manage the grievance. Any member considered to have breached the Content Code would have sanctions imposed. Member categories comprise Advertisers, Audiotext Hosting Service Providers, Broadcasters, Civic Groups, Content Creators/Distributors and Internet Access Service Providers.

The Complaints Bureau comprises an appointed Chairman with six members of the Forum to represent the six affiliations. This book is a record of the executive summaries of the cases compiled by the Bureau from 2007 to 2017 and the Advisory Orders contained within.

Editor's Note:

CMCF's Complaints Bureau organised the cases by the years in which they presented. While every effort was made to document the cases in a timely manner, due to technological limitations, some records were lost. Hence for instance, for the years 2007 and 2009, CMCF is unable to reproduce case reference numbers.



2007

Definition of Friendship Clubs

Background

Clarification was sought by the Malaysian Communications and Multimedia Commission (MCMC) on how the Communications and Multimedia Content Forum of Malaysia's (CMCF) defined 'friendship clubs' as stated in the list of unacceptable products and services.

Facts

Per se the word 'friendly club' is not an issue in the Malaysian Communications and Multimedia Content Code (Content Code). What could be an issue, if any, is the Content that the 'club' provides through the multimedia, in this case the SMS invitation. At this stage the Bureau is not clear on the activities of this 'friendly club' as to raise alarm for the Bureau to respond.

The Code does not specifically outline a list of any unacceptable products and services. However, the Code does provide a general prohibition of offensive content.

No content applications service provider or person using a content applications service shall provide content which is indecent, obscene, false, menacing, or offensive in nature with intent to annoy, abuse, threaten or harass any person.

Moreover, all service providers and any person using content applications service are subject to all Malaysian statutes affecting content.

Conclusion

The Complaints Bureau could not give more effective advice based on the limited facts presented.

***‘Kepastian Yang Ku Tunggu’* Song Broadcast by Radio Suria FM**

Background

Advice was sought by the Malaysian Communications and Multimedia Commission (MCMC) on whether the word ‘*membutuhkan*’ contained within the lyrics of a song sung in Bahasa Indonesia and aired over Radio Suria FM constitutes or connotes any indecent meaning in breach of the Malaysian Communications and Multimedia Content Code (Content Code).

Facts

Words may render different meanings in a different culture, race or region. Even within the same *lingua franca* of the Malay Archipelago, the same word may connote a different meaning or the emphasis to the meaning may be different.

In Bahasa Indonesia, as defined in *Kamus Interaktif Indonesia-English*, the word ‘*membutuhkan*’ carries the meaning ‘*memerlukan*’ i.e. 1. need, 2. necessity. 3. require. 4. (Coll.) penis.

Music DJs have a responsibility to play. However, the DJs should pre-warn listeners that the word ‘*membutuhkan*’ in the Indonesian language has meanings as given above.

Conclusion

The song should be allowed to be played on air but with the advisory content as above.

Reviewing Contents of My***.Blogspot.Com**

Background

Malaysian Communications and Multimedia Commission (MCMC) sought CMCF's assistance in reviewing and assessing the Contents of the Blog My*****- *Pendidikan Seks* (Online Sex Education) for whether its contents complied with the Malaysian Communications and Multimedia Content Code (Content Code).

Facts

Sex education generally is important, mainly because it helps to protect against abuse, exploitation, unintended pregnancies, sexually transmitted diseases and HIV/AIDS.

Proper sex education should help equip people with the requisite skills to be able to differentiate between accurate and inaccurate information, discuss a range of related issues and provide healthy perspectives on sex and sexuality as well as prevailing cultural attitudes. However, the Blog's focus here is rather narrow, directed towards the sex act itself.

The Content Code is intended for the purpose of self-regulation by industry players who subscribe to it. As the Blog here was posted by a non-subscriber, it cannot be restrained or contained by CMCF unless the Blogger volunteers to do so after a polite notice.

Conclusion

The Complaints Bureau held that a polite notice needed to be issued by MCMC since it (MCMC) had requested the Bureau's assistance to review and assess the Blog to ascertain whether it was acceptable under the Content Code.

Red FM Radio Station Broadcast Remarks on Police

Background

CMCF's Complaints Bureau was requested to deliberate on an opinion about the reporting and comments made by Red FM Radio DeeJay on police corruption based on newspaper clipping.

Facts

The Red FM Radio DeeJay's (DJ) insinuation about police corruption was negative in its approach. Comments about corruption as reported in the newspapers can be commented upon but DJs should remain impartial. Radio has a duty to educate the public in a responsible manner and act seriously in its intention, not clown about.

If at all Red FM Radio has erred, it erred because it took too casual an approach in their comments on the newspaper reports. Corruption is not a subject of insinuation to joke about. Such an approach can be offensive and project a negative effect, even if the intention is honourable.

Conclusion

Red FM deserved a written reprimand under Part 8 paragraph 8.1 (a) to be more professional in their approach in reporting comments about current topics.



2008

Nissan Grand Livina Commercial over TV3

A Member of the Public

V

**Edaran Tan Chong Motor Sdn Bhd
(CB-9-1-08)**

Background

A member of the public was unhappy with a Nissan Grand Livina television commercial aired over Sistem Televisyen Malaysia (TV3), a terrestrial free-to-air station, wherein the alleged offending scene shows a whole family of six riding on a single motorbike.

Facts

The Complaints Bureau appreciates the concerns of the complainant and the influence it may have on viewers, especially children, if the scene is viewed in isolation. However, the TV commercial could also be viewed or interpreted contrarily in the subtext. Besides promoting Nissan Grand Livina as providing a sense of spaciousness to accommodate its passengers, the caption alerts viewers on the danger of riding a motorbike in such an unsafe manner and its consequence in law. Without the caption, the TV commercial could trivialise unsafe riding.

Conclusion

There was social caution, a little humour and choice of mode of transport for a family member. The explanation of the advertiser in that they were positioning a contrasting scene to emphasise the message on safety, was reasonable and acceptable to the Bureau. In the circumstances the complaint was dismissed.

Iproperty.com Website Contents

Malayan United Industries Berhad

V

iProperty.Com

(CB-11-1-08)

Background

Malayan United Industries Berhad (MUI Bhd) sent a complaint letter to iProperty.Com because there was a listing for sale on the respondent's website dated on or about 23 July 2008 for Corus Hotel Kuala Lumpur, a hotel owned by MUI Bhd.

Facts

Though the complaint was referred after the matter was resolved, the Complaints Bureau appreciated MUI Bhd's reference for the alleged lack of oversight on the part of iProperty for not being proactive in ensuring that all contents posted on its website are thoroughly scrutinised beforehand and in iProperty's reliance on the exclusion clause to display prudent conduct in the circumstances.

Part 8, Paragraph 2.5 of the Malaysian Communications and Multimedia Content Code (Content Code) states that any complaint on matters covered by the Code shall be resolved by the parties concerned first. Only if the matter cannot be resolved should it be referred to the Complaints Bureau.

Conclusion

In the Complaints Bureau's view, iProperty had taken all the necessary steps to remedy the wrong/false listing appearing on their website. In the circumstances, the Bureau saw no necessity in pursuing the complaint any further and in providing the interpretation as requested.

Proton Holdings Berhad's TV3 Commercial

A Member of the Public

V

**Proton Holdings Berhad
(CB-9-2-08)**

Background

A member of the public lodged a complaint before the Complaints Bureau on Proton Holdings' television commercial (public service) broadcast over Sistem Televisyen Malaysia (TV3), a free-to-air station on 20 September 2008. In his short complaint, the complainant merely alleged that the advertisement offends Muslims.

Facts

The commercial showed an unnatural being (ghost) seated at the back seat handing over tissue paper to the lady driver of a car who sneezed. This act caused the driver to be alarmed and she immediately applied the brakes and set her car into reverse. The sudden braking caused the apparition to be thrown out of the car on to the road. The next scene shows another apparition advising the 'victim' to always secure itself with a seat belt when seated at the back seat.

PROTON explained that the concept behind the apparitions was humour based, to capture the attention of viewers in an understated manner to convey a public safety message, and not intended to depict literally the existence of such beings.

Conclusion

The Complaints Bureau found the advertisement not in breach of the Content Code. The complaint was therefore dismissed.

Risque Messages on 8TV's *Late Nite Juke Box SMS Chat Show*

**CMCF
V
8TV
(CB-10-2-08)**

Background

The issue before the Complaints Bureau related to the alleged risqué Short Messaging Service (SMS messages) displayed at the right hand corner of the screen during the 8TV *Late Nite Jukebox SMS Chat Show*. This musical programme, shown in the early hours of the morning between 12.00 a.m. to 3.00 a.m., provides an avenue for members of the public to send short messages over the terrestrial channel, make comment on current topics prompted by the programmer or engage in private conversation via a mode called "Private Chat" option mode.

Facts

The complaint was triggered by Utusan Malaysia's media report pertaining to some of the SMS messages posted by participants in the programme which were alleged to be 'Mesej-mesej panas' or hot (sexually suggestive) messages.

Part 2, Paragraph 2.1 of the Malaysian Communications and Multimedia Content Code (Content Code) prohibits contents which are offensive, morally improper and against current standards of accepted behaviour. Even if the programme is aired in the early hours of the morning, it must subscribe to the requirements of the Content Code and fall within its provision.

8TV had ceased to show the programme on 3rd October. The station had also initiated steps to tighten its 'content moderation procedures' and provided the detailed procedures.

Conclusion

Since there was an admission of breach in the explanation, the Complaints Bureau would consider this a mitigating factor which deserved due consideration. Having considered these mitigating factors, the Bureau imposed a Sanction Order of Ringgit Malaysia Five Thousand (RM5,000) on 8TV.

Unhappiness Expressed about Interview on TV3

A Member of the Public

V

TV3

(CB-11-2-08)

Background

The complainant, Puan (Ms.) Juniah Gantar who was the elder sister of one Puan Ampuyin, the subject matter of complaint in this reference, was not happy with the latter's interview by a free-to-air TV broadcaster Sistem Televisyen Malaysia (TV3) run by Media Prima Berhad.

Facts

She contended that as a sibling, the family had always provided financial assistance to Ampuyin and that Ampuyin's three sons who were working in Singapore had done the same. She alleged that before broadcasting the interview, TV3 had not verified the facts with the District Office of Marudu, Parliamentary Office nor the State Assembly Representative (ADUN) of Kota Marudu, Sabah.

To attest to TV3's facts, prior to the airing the complaint, TV3 had interviewed the State Assembly Representative from Tandek, the Hon. Anita Baranting on *Bulletin Utama* on 3 August 2008. According to the Assembly Representative, she herself had visited Ampuyin's family prior to the recording made by TV3 on 29 July 2008. As a result of her visit, two other poor families would also be receiving a new house each from Yayasan Sabah (Sabah Foundation) and in this case she had extended her support for a monthly allowance allocated for the hard core poor.

Conclusion

The complaint was dismissed.



2009

Offensive Text Message

A Member of the Public

V

A Member of the Public

Background

The Complainant Ms Molly Yen attached a report she had lodged with the Polis Diraja Malaysia (PDRM) and with that the Complainant requested CMCF's Complaints Bureau to take appropriate action against the person who had posted offensive messages via short messaging service (SMS) to her mobile phone.

Facts

The Complainant had identified the mobile phone number as 6012343xxxx and believed the owner of the mobile phone number was her neighbour who resided at address No. xx, Jalan 7/18, Petaling Jaya, 46050. The offensive SMS messages were sent at various times on 11 April 2009, and they are detailed out below:

At 01:16.... "YOUR NUMBER IS MY"

At 01:19... "DAMN..F**K U"

At 12:33.... "SORRY WRONG PERSON"

She was convinced that the apology proffered within the last SMS message was not a genuine apology. It was posted deliberately just to annoy her.

Conclusion

The complaint was dismissed.

‘Sure Up’ Radio Commercial

CMCF

V

XXXFM Radio

Background

Media Prima Berhad sought the advice of the CMCF’s Complaints Bureau on whether a male sexual enhancement product known as *‘Sure Up’* which it proposed to advertise on XXXFM radio station was within the law.

Facts

According to the Medicine Advertisement Board, all advertising of cosmetic products must not have any medical claims attached to it. The Medicine Advertisement Board could institute legal action against any person who made such a claim.

XXXFM would next have to ensure that the contents of the advertisement were not offensive, morally improper or against current standards of accepted behaviour as provided under Part 2, Paragraph 2.1 of the Malaysian Communications and Multimedia Content Code.

Conclusion

The complaint was dismissed.

Offensive Contents Posted on Facebook

A Member of the Public

V

Facebook

Background

The CMCF's Complaints Bureau received a complaint from a member of the public (Complainant) regarding alleged offensive contents posted on Facebook by the Complainant's work colleague.

Facts

The Complainant alleged that the offender had posted on Facebook a defamatory attack against her personal character by posting a statement that the baby she gave birth to was born out of wedlock and she had also used abusive and offensive language against her.

Before the Bureau proceeded to give its ruling on the complaint, the Bureau set to resolve the legal position of the Police Report vis-à-vis the complaint before the Bureau. There seemed to be two parallel actions being taken simultaneously, one before the Royal Malaysian Police and the other before the CMCF' Complaints Bureau.

Applying strict interpretation rules, if as circumstances provide, the Bureau should excuse itself from entertaining the complaint because 'legal proceeding' was at hand. However, the Bureau was of the view that purposive method of interpretation would be the better approach to adopt and come to bear later in this Order.

Conclusion

The complaint was dismissed.

Issue of Warranty and Purchase of Mobile Phone over Lelong.Com.My

A Member of the Public

V

Lelong.com.my

Background

In an e-mail to the CMCF's Complaints Bureau, the complainant Miss Chung Cheng May raised an issue pertaining to warranty on a product which she had purchased through the Lelong.com.my website. She alleged that the mobile phone she purchased was not a brand new item as advertised online and that it was also faulty.

Facts

Lelong.com.my had provided the details of the seller's name, identity card number, old and new addresses, old and new mobile phone number to the Complainant and with that the Complainant pursued unsuccessfully to demand a refund of the purchase price from the seller.

The Complainant had apparently filed a similar claim before the Tribunal for Consumer Claims Malaysia wherein she had secured an Award from the Tribunal. The exact nature of the Award handed down was not clearly defined in the complaint but in the Bureau's understanding of the contents of the complaint, there was an attempt made either to serve the Tribunal Award on the seller or that the Complainant had tried to serve the claim papers on the seller but that it failed because the seller had avoided being served the Tribunal papers, whichever was applicable.

Conclusion

The complaint was dismissed.

Screening *WWE International Smackdown* & Similar Programmes on TV3 and ASTRO Channels

**CMCF
V
TV3 & ASTRO**

Background

The Ministry of Energy, Water and Communications (KTAK) had referred to the Communications and Multimedia Content Forum of Malaysia (CMCF) a complaint regarding the suitability of the programmes aired such as *WWE International Smackdown* and similar programmes broadcast on free to air broadcaster Sistem Televisyen Malaysia (TV3) operated by Media Prima and ASTRO channels.

Facts

This reference was pertinent because ASTRO is a subscription based station and its programmes do not pass through the Film Censorship Board (LPF) prior to broadcast. It exercises self-censorship. However, TV3 being a member of the Content Forum is subject to the LPF's rules and self-regulatory processes observed by members of the Content Forum.

That reference was extended to the Complaints Bureau for interpretation of the Malaysian Communications and Multimedia Content Code's Rules on whether there was any infraction of the provisions of Part 2, Paragraph 4.1 on the reflection of Violence; Part 4, Paragraph 3.2 on the classification of Contents affecting Violence, and Paragraphs 3.3 and 3.4 on the scheduling of the content programme at an appropriate time to adhere to viewer suitability of different age groups. All these provisions are interrelated.

From the facts made available, all the broadcasters slotted the programmes after 10.00 p.m. in compliance with Part 4, Paragraph 3.3 of the Code in that it is for audience aged 18 and above, except for WWE Monthly Specials aired on ASTRO Box Office Sports on Monday at 9.00 p.m. or 10.00 p.m.

Conclusion

The complaint was dismissed.

Bogus Profile in Tagged Social Networking Website

A Member of the Public

V

Tagged

Background

A complaint was received by the CMCF's Complaints Bureau regarding unlawful use of the Complainant's identity that was allegedly posted in the 'Tagged' website. The Complainant alleged that her photographs were unlawfully posted on the site under the name '*Mirani O*', the registered name with 'Tagged' to wit the bogus person who had stolen her identity.

Facts

The Complainant had clearly identified her photographs. She denied categorically that details posted on the site were of her doing. Hypothetically speaking, even if the details had been found to be correct, the fact that she was not the author of the site was an infringement of her personal right unless the registered person shared similar features with the Complainant.

The posting of the bogus profile was also in breach of Part 2, Paragraph 7.1 under False Content of the Malaysian Communications and Multimedia Content Code. The legal justification can also be found in two of the Bureau's decisions, reported in the cases of 'Contents Posted on Facebook' and 'Defamatory Statements in YouTube'. In both cases, the Bureau held that it would be better for the MCMC to take up the issue directly with the website administrators.

Conclusion

The complaint was dismissed.

Celcom Xpax Television Commercials

A Member of the Public

V

CELCOM

Background

A complaint was lodged by a member of the public against Celcom XPAX television commercials which were aired over Sistem Televisyen Malaysia (TV3), a free-to-air TV station operated by Media Prima Berhad.

Facts

The grounds of complaint on the two commercials were twofold. First, the Complainant alleged that the commercial taught the public to be dishonest. Secondly, it was against the teaching of Islam to take something which one did not deserve and one ought to have it returned.

Celcom XPAX's TV commercials did not carry any religious message. However, they might have a detrimental and wayward effect on Islamic viewers if a strict religious point of view was taken. In Islamic philosophy, every Muslim should aspire to remain pure in thought, action and conduct for every moment of their life without lapse.

In advertisements, exaggeration is permitted as viewers are less likely to accept it as truth, but the advertisement may be effective enough to make an impression on them.

Conclusion

The complaint was dismissed.

Anugerah Bintang Popular Berita Harian 2008 Programme

CMCF

V

Media Prima Berhad

Background

A complaint was brought before the CMCF's Complaints Bureau pertaining to Encik (Mr) Ahmad Nabil Ahmad's conduct in embracing Cik (Ms) Irma Hasmie Ibrahim, a popular female artiste. This incident happened when Encik Ahmad Nabil was announced the 'Most Popular Star' of the year at the awards giving ceremony of *Anugerah Bintang Popular - Berita Harian 2008*.

Facts

Public outcry was posted online and published in the Malay language newspapers expressing regret that Encik Ahmad Nabil being a Muslim and a Malay by race did not exercise restraint in embracing a female artist notwithstanding that he also embraced other male spectators or artistes at the same time. It was also alleged that his conduct would bring disrepute to the artistes' community at large. In sum, embracing a female artist at the award ceremony did not fit the occasion nor was it in consonance with our cultural practices.

The Malaysian Communications and Multimedia Content Code encourages all those associated with the communications and multimedia industry to exercise self-regulation in ensuring that any breaches are addressed immediately and directly with the Complainant.

Parties are encouraged to interact directly in resolving any breaches of the Content Code. Only if a resolution cannot be reached should the complaint be referred to the Complaints Bureau.

Conclusion

The complaint was dismissed.

Defamatory Contents on Carnivall.com Website

A Member of the Public

V

www.carnivall.com Website

Background

Mr David Chan Soo Hin, a stage artist, lodged a complaint with the CMCF's Complaints Bureau against the contents of a video posted on the website www.carnivall.com. It was alleged that the video had referred to him as '*David Chan Chee Bai*.'

Facts

The Complainant alleged that the slur to his name in that video was deliberately posted with the intention of lowering his esteem in the eyes of the public, which is equivalent to the civil tort of defamation.

The Complainant was not satisfied with that outcome even though the offending video was subsequently removed. The Complainant contended that he had suffered damages because of the wrong. Hence, he requested that the Complaints Bureau take appropriate action.

In the present circumstances, since the offending video had been removed from the web, to invite the parties to mediate would serve no purpose.

Conclusion

Taking into consideration the fact that the Complainant had filed a civil claim at the civil court, this would render the complaint not an appropriate case for the Complaints Bureau to deliberate upon as only the civil court could award damages in a defamation case.

Notwithstanding that, this viewpoint had to be extended to the Complainant for his understanding of the mechanics under which this Order was derived.

Revealing Personal Details on Bignetwork.com Website

**A Member of the Public
V
Bignetwork.com Website**

Background

A complaint was lodged with the CMCF's Complaints Bureau against the Bignetwork.com website for revealing the Complainant's personal details on the website.

Facts

Bignetwork.com website is a specialist online news service provider, which updates hourly about 400 categories of news on its site. It is hosted in Dubai. The Complainant's focus was on the repeated, humiliating and embarrassing telephone calls she received on her mobile phone demanding to have sex with her and a threat to kidnap and rape her if she did not acquiesce. She found the calls disturbing and wanted the site to be removed so that her name and life is not tarnished.

The source of these calls could be traced to the website in question which had posted the Complainant's name and mobile phone number as one of the contributors to its commentaries. The Complainant alleged that the unidentified person who had actually posted the Complainant's particulars simply identified himself as '*the spy who loved you.*'

Conclusion

In the Complaints Bureau's view, this was not the platform for the aggrieved party to lodge a complaint. Since the Code of Conduct was not applicable to this website, it was doubtful whether any direct complaint would be entertained by Bignetwork Administrator.

Article in Yahoo Groups ‘*Shoutussyabab*’

A Member of the Public

V

Yahoo Groups Website

Background

The Complainant had brought a complaint before the CMCF’s Complaints Bureau on a mortifying article written about the Complainant on a Yahoo Groups website under the name ‘*Shoutussyabab*’. The article entitled ‘*Zamara Mustafa: Siapa Sebenarnya Disebalik Wajah*’ translates into the English language as: ‘*Zamara Mustafa: Who is he really behind that face?*’

Facts

The author accused the Complainant of assaulting and mistreating his wife which prompted the wife to lodge a report with the police against the Complainant. The author was prepared to supply a copy of the police report to the public at large, if requested. The author had claimed that because of the constant assault suffered at the hands of the Complainant, the wife was now seeking refuge with the Woman’s Aid Organisation. She had also sought legal advice to have the Complainant prosecuted before the Syariah court.

Conclusion

The Complaints Bureau resolved that since the contents had raised insights into the Complainant’s sexual conduct and affected the personal relationship of a husband and wife, these facts should appropriately be handled by Yahoo itself.

Defamatory Statements on YouTube.com

A Member of the Public

V

YouTube.Com

Background

The Complainant alleged to the CMCF's Complaints Bureau that the comments posted about him on YouTube (online video-sharing platform) were not only defamatory but also slanderous. Mr. Freddie Fernandez, the Complainant, was the President of the Persatuan Karyawan Malaysia (Karyawan), an association which looks after the interest of entertainment artistes.

Facts

In essence, the statements alleged that the Complainant had abused his position as President of Karyawan, representing members of the entertainment industry, by committing criminal breach of trust in channeling a sum of Ringgit Malaysia Fifty Thousand (RM50,000.00) donated by Arab–Malaysian Banking Group (Ambank) to the association into the Complainant's wife's bank account.

Conclusion

The Complaints Bureau would advise the Complainant in the circumstances to take the complaint directly to YouTube since it provides for any offended person to lodge a complaint with its Help Centre. A written statement from the Bureau would help YouTube to exercise its discretion.

Foul Language in Local Radio Station Programme

A Member of the Public

V

XX FM Radio

Background

On 16 March 2009, it was alleged that XX FM, a popular Radio Station in the Klang Valley, in conjunction with its '*XX FM Campaign*,' a competition to design an advertisement campaign for the XX FM radio station, had allowed one of the winner's acquaintance to insert 'foul language' against one Mr. Dinagaran Dina, the Complainant.

Facts

The Complainant was not happy that in the conversation between the winner's acquaintance and the DeeJay, the Complainant's name was mentioned specifically. The alleged offensive sentence (words) used against the Complainant were that his attitude in the competition '*sucks*' and that he was '*cocky*.'

Prior to the complaint being lodged with the CMCF's Complaints Bureau, the Complainant had corresponded with the Assistant Music Director of XX FM via e-mail dated 24 March 2009. The Complainant objected to the reference made against him in the conversation. In its reply, XX FM regretted the conversation being aired and apologised to the Complainant.

Conclusion

Since the Complaints Bureau had opined not to invoke its power to deliberate on the complaint or chasten XX FM, to assure the Complainant, this order would be recorded and published to show that XX FM had exercised self-regulation.

***Bang Bang Boom* TV Programme Contents**

MCMC

V

TV3

Background

The Complaints Bureau received a complaint through the Malaysian Communications and Multimedia Commission (MCMC) regarding the contents of a television programme *Bang Bang Boom* which was broadcast by Sistem Televisyen Malaysia (TV3), a free-to-air TV station. In a mock clinical scene, the children were put to a test to see their reaction when they were told that their mother had kidney failure and required a kidney transplant immediately.

The scene ended on a happy note when the prank was exposed with an ape, the symbol of *Bang Bang Boom* with which the children were familiar, appeared running towards the waiting area where they were seated with their mother. They all hugged each other in relief.

Facts

The Complainant was saddened by the mother's ignoble act in deceiving her children on the show. The Complainant was also disappointed with TV3 for willing to exploit 'REALITI EMOSI' (reality emotions) of the children for entertainment purposes. The scene had projected a positive angle of family values even though it might have touched on a sensitive nerve of some people. The good outweighed the negative aspect of the programme, if any.

Conclusion

Having considered the pros and cons and the moralising theme of the scene, the Complaints Bureau found the complaint unsustainable and therefore dismissed it.

Insulting Remarks on Facebook

A Member of the Public

V

Social Media Posting

Background

A complaint was made about alleged malicious contents posted on Facebook, a social networking service website, against the Complainant's family by an unknown individual going by the fictitious name of Shirley Miranda.

Facts

The CMCF's Complaints Bureau decided not to include the details of the insulting remarks in this Order because the Bureau would not be making any consequential Order. Suffice it for the Bureau to state that the remarks are a cause for complaint.

It was pertinent also to note that in an earlier conversation with the Executive Office of the CMCF, after the submission of the complaint to the Complaints Bureau on 16 April 2009, the Complainant informed the Executive Office that the offensive content had been removed from the Facebook website.

Conclusion

Since the manifest intention of the Complainant as spelt out clearly in the Police Report and the telephone conversation with the Executive Office was to claim for damages, the Complaints Bureau was of the view that the Complainant was using the Bureau as a conduit for securing the necessary evidence for the said intent. This would not make the facts an appropriate case for the Bureau to adjudicate.

A conviction at the criminal court would be corroborative evidence in support of a civil claim. Whereas a sanction imposed by the Complaints Bureau would bar the Complainant from proceeding with his original intention of securing damages.



2010

Beras Herba Ponni Faiza Advertisement on TV3

A Member of the Public

V

TV3

(CB-2-1-10)

Background

The CMCF received a complaint from a member of public on Beras Herba Ponni Faiza television commercials which were broadcast during the main news bulletin (*Buletin Utama*) over Sistem Televisyen Malaysia (TV3), a free-to-air TV station under Media Prima Berhad.

Facts

The offending part of the advertisement related to the attire used by the female model in which the complainant viewed as '*menjolok mata*'. The Complaints Bureau reviewed the translation of this Malay expression in the *Dewan Bahasa dan Pustaka* Malay-English Dictionary on the internet which denoted the meaning as either 'fleshy' or 'tarty' in manner or appearance.

The presenter's *Baju Kurung*, a traditional Malay dress, normally worn by Malays women, was said to be transparent and thus '*menjolok mata*'. Further, the complaint expressed that her attire did not reflect the image of the company, Syarikat Faiza Sdn Bhd. In other words, the advertisement did not appear to reflect the company's philosophy of promoting positive values.

As an arbiter of appropriate conduct in the media, the Complaints Bureau is obliged to consider current norms of society in Malaysia. Malaysian society comprises diverse races, religions, cultural values and practices. Some apparel may be offensive to conservative groups, irrespective of their religious or cultural background. However, in this multifaceted society, a standard dress code may not be practicable for all.

Conclusion

The complaint was dismissed.

Semenyih Memorial Hills Advertisement on Natseven TV Sdn Bhd

CMCF

V

Natseven Tv Sdn Bhd (NTV7)

(CB-6-2-10)

Background

The CMCF in its routine functions of monitoring contents in the multimedia came across an advertisement about a Chinese burial site at Semenyih Memorial Hills on Natseven TV Sdn Bhd (NTV7), a free-to-air television station.

Facts

The Executive office issued a letter to Natseven TV seeking their views on the advertisement with particular reference to Part 3, Paragraph 4.0 [xviii] of the Malaysian Communications and Multimedia Content Code (Content Code) with a heading entitled ‘Unacceptable Products and Services’. The Complaints Bureau had to consider the facts of whether the advertisement fell within any of the prohibitive acts stated in the provision: that the advertisement was not a notice relating to the death of a person, to wit, it was not in breach of the prohibition.

As regard to the second prohibition, ‘funeral and burial service notices’, the Complaints Bureau opined that the words ‘funeral’ and ‘burial’ needed to be read conjunctively in the sentence as they related to the same subject matter pertaining to death. However, implicit in the reading of the advertisement intimated that such a funeral or burial services are being offered at the Semenyih Memorial Hills.

On the prohibition of advertising a ‘burial monument’, the intent of the Code is clear. An advertisement about a tombstone, statue or building built in honour of a special person is prohibited. If this was the correct interpretation, then the advertisement fell short of that conduct.

Applying this principle, the Complaints Bureau was of the view that the wording in the provision was clear. It prohibits notices relating to death and it attended acts. The emphasis should be on the word ‘notice’. Since the advertisement did not issue any notice relating to death but rather intimidated the kind of liturgical services that could be made available at the Semenyih Memorial Hills, it had avoided breaching the Code.

Conclusion

For the reasons stated, the Complaints Bureau found that the advertisement was not in breach of Part 3, Paragraph 4.0 [xviii] of the Content Code.

***Istana Takeshi* Game Programme on TV9: Accidental Exposure**

A Member of the Public

V

TV9

(CB-7-5-10)

Background

CMCF received a complaint on *Istana Takeshi* Game Show Programme which was aired over Ch-9 Media Sdn Bhd (TV9), the free-to-air television station at 7.30 pm on 26 June 2010 with the theme of ‘*College Girl on Girl Action.*’

Facts

The Complainant took issue on the contents where in the course of the game programme, a participant’s underwear was exposed when she climbed over an obstacle wall. The Complainant alleged that words such as ‘*arse*’, ‘*vagina*’, and related statements containing sexual innuendos were uttered during the programme.

The Complaints Bureau viewed the video clip. On the exposed undergarment, the Bureau accepted the explanation given by the station that it was an accidental happening when the participant had to climb and overcome obstacles, a game wall. It was noted that the whole programme was about a physical game where the participants were expected to clear various obstacles. In that situation, accidental exposure (not nakedness) was bound to occur.

Conclusion

Overall, the Complaints Bureau deemed the programme not being offensive in the manner described in the complaint. The Complaints Bureau took cognition that the Film Censorship Board of Malaysia had approved it to be classified as ‘U’, suitable for all ages. The complaint was dismissed.

Toyota Promotion Campaign on Sinar FM

A Member of the Public

V

Sinar FM

(CB-7-7-10)

Background

CMCF received complaints by members of public through the Malaysian Communications and Multimedia Commission (MCMC) regarding Toyota's advertisement of its '*Wheel of Independence*' promotion campaign broadcast over Sinar FM, a radio station under Airtime Management and Programming Sdn Bhd (AMP).

Facts

The theme of the advertisement was '*Independence Day*.' That advertisement was planned to coincide with the National Day and *Hari Raya* celebrations in which Toyota offered a sales promotion deal to own a Toyota.

Complainants expressed the view that the contents insulted and belittled the sacrifices made by those who fought for independence.

After Toyota and Dentsu Malaysia, the advertising agency, received several complaints, the promotion advertisement was removed from the airwaves and replaced with another version on 6 August 2010.

Conclusion

Considering the facts of the case, there was insufficient ground to warrant the Complaints Bureau to uphold the complaint. The case was dismissed.

Unilever's 'Axe Effect' Deodorant TV Commercials

A Member of the Public

V

UNILEVER

(CB-8-5-10)

Background

CMCF received an emailed complaint, through the Malaysian Communications and Multimedia Commission (MCMC), by a member of the public against Unilever's 'Axe Effect' deodorant television commercial. The complainant alleged that the advertisement depicted women in a sensual manner which undermined the cultural values of Malaysia.

Facts

The advertisement content showed at first a man spraying 'Axe Effect' Body Spray on his body. Next, he is seen entering a *delicatessen*. A female server has a whiff of the *Axe Effect* fragrance while preparing the man's order, a sandwich. She becomes attracted to the man and wants to make contact with him. She squeezes the ketchup bottle on to the sandwich and leaves her mobile phone number on the sandwich. The squeezing of the bottle became an issue with the Complainant because of the apparently suggestive manner in which she did so.

The advertisement presented a realistic aspect of human conduct of when a person is attracted to the opposite sex. The waitress was appropriately attired, the whiff of that fragrance she inhaled is a natural reaction to most women who love fragrances. But in this case, the advertisement linked the fragrance to attraction. The squeezing of the ketchup bottle was an exaggeration of her attraction to the man.

The Complaints Bureau was of the view that we should not look too deeply into the action of the server's squeezing and giving away of her phone number as degrading or demeaning to women. It is human nature to love things of beauty. A natural attraction cannot be construed as uncultured conduct or unacceptable conduct. As a society, most Malaysians are tolerant of and accepting of reasonable sensuous behavior but not overt sexuality.

Conclusion

The Complaints Bureau was of the outlook that viewers ought not to interpret negatively every single act remotely connected to sexual behavior. The complaint was dismissed.

Visual of Victim of Crime on TV3's *Buletin Utama*

**MCMC
V
TV3
(CB-8-8-10)**

Background

The Executive Office received a complaint from Malaysian Communications and Multimedia Commission (MCMC) on visuals of victims of crime on *Buletin Utama* (main news) which was broadcast over Sistem Televisyen Malaysia Berhad (TV3), a free-to-air television station operated by Media Prima Berhad on Tuesday, 3 August 2010.

Facts

The visuals were broadcast during its news report programme, *Buletin Utama* on TV3 between 8.05 pm to 8.10 pm on 3 August 2010. They were of an incident involving the shooting and deaths of the former Permatang State Assemblyman and his aide. A letter advanced by the MCMC informed that the visuals contained elements of explicit and recognizable images of the aforesaid victims in the car of the incident. The Commission also notified that there was no prior warning to inform viewers that horrific scenes would be shown.

The Complaints Bureau reviewed the news bulletin. TV3's explanation in part could be accepted as most of the camera shots were taken through the window and windscreen of the car, relatively obscuring viewers' vision of the deceased bodies. However, there was a momentary lapse of care in a frame where the deceased bodies were shown collapsed on each other through an open door. This momentary lapse was not 'opaque' vision to the Complaints Bureau.

Conclusion

Having considered the mitigating factor and as stated in the order that there was a momentary lapse of care on the part of TV3, Complaints Bureau advised that a fine of Ringgit Malaysia Three Thousand (RM3,000) would be appropriate.

Riuh Pagi Era FM ‘*Can I Help You?*’ Radio Segment

A Member of the Public

V

ERA FM

(CB-9-18-10)

Background

The Malaysian Communications and Multimedia Commission (MCMC) in a letter dated 29 September 2010 referred to the Complaints Bureau a complaint about RIUH PAGI ERA’s ‘*Can I Help You?*’ radio segment aired on Era FM, a radio station under Airtime Management and Programming Sdn Bhd (AMP).

Facts

The complainant alleged that the radio segment which made calls to unsuspecting recipients had an element of belittling or degrading the receiver’s poor command of English. The complainant further alleged that the sound of laughter in the background during the segment was irritating and was designed to make fun of those who could not speak English properly, which offended the Complainant as a listener.

The call recipients were not aware that they were a subject of prank calls until the third call and the receiver realized it was a prank call only towards the end of the conversation/interview when he was asked the question whether he was aware of the programme *RIUH PAGI ERA*. The call recipient then exclaimed that he had been pranked.

Conclusion

It was noted that in all the prank calls, the call recipients’ names were blanked out from air to protect their identity. Before the prank calls were aired, the listeners were reminded that the calls were for entertainment purposes only and that it was meant to be a light-hearted way to learn English. The complaint was dismissed.



2011

Telekom Malaysia's Unifi Television Commercial

A Member of the Public
V
TELEKOM Malaysia (UNIFI)
(CB-1-2-11)

Background

The Malaysian Communications and Multimedia Commission (MCMC) forwarded a complaint to the Complaints Bureau on Telekom Malaysia's (TM) Unifi television commercial. The commercial promoted its internet service known as 'Unifi' in which a group of young people, from a local musical band named *Bunkface* endorsed the 'Unifi' service in providing high speed internet connection.

Facts

The subject matter of complaint related to the use of the word '*dowh*' by the lead singer of the group to stress the 'high speed Internet connection'. As could be observed, in the English version of the advertisement, the word '*dowh*' was not used, instead the word '*superfast*' was applied. The Complainant alleged that the word '*dowh*' signifies '*bodoh*' or '*stupid*' in English.

According to Dewan Bahasa and Pustaka, a statutory body responsible for regulating Malay language and Literature use in Malaysia, the word '*dowh*' was not a word set in formal Malay or the Malay dictionary. The word had been coined by the youth and was commonly used to express or add stress to a sentence just like the word '*lah*' or '*kan*', commonly used in informal conversation. The word '*dowh*' was a new phenomenon slowly creeping in informal Malay conversation, especially among the younger generation.

TM in its explanation stated that the word '*dowh*' is used as slang or an idiomatic expression intended to stress the speed delivered by the Internet service and not to suggest that the target audience was stupid.

Conclusion

The Complaints Bureau considered the cultural reality of Malaysian society, especially spoken expressions among the youth. While a pedantic linguist might consider the use of the word '*dowh*' inappropriate, the Complaints Bureau would not categorise the word offensive. The complaint was dismissed.

Unsuitable Visuals Shown on NTV7 News

A Member of the Public

V

NTV7

(CB-6-5-11)

Background

The CMCF received a complaint pertaining to Natseven TV Sdn Bhd (NTV7) news reporting of a fatal accident along Jalan Skudai, Johor Bahru. The alleged offending scene on the NTV7 English news programme showed a sprawling body of a motorcyclist lying in front of the rear left tyre of a trailer. The bottom half of the body was in view and the other half was deliberately blurred (obscured) from view.

Facts

The Complainant had raised concern over the visual: ‘Unsettling images were shown which may not be suitable for transmission during the hour when it could be seen by viewers of all ages. It is noted that no warning was provided before the images were aired.’ The Complaints Bureau sought a response from NTV7 on the complaint.

The CMCF has formulated rules which ensure that road accidents are reported compassionately, thus requiring the industry to be always conscious that those affected by road accidents are often traumatized. In circumstances where public interest reigns supreme, the news reporting could be moderated by balancing the two parallel poles of interest, public interest and the sentiment of those affected.

For NTV7 to describe the fatal accident just prior to showing the visual and deem it as a warning or a cautionary statement was void. News may be conveyed orally without any vivid visual accompanying it. Hence, to insert a gruesome visual immediately after a description of a fatal accident could catch viewers by surprise. To the Complaints Bureau, providing a description prior to the visual being screened fell short of the meaning of the word ‘caution’ or ‘warning’. Viewers must be alerted of the impending scene.

Conclusion

Reverting to the complaint on the suitability of the visual, the Complaints Bureau was of the view that since the rate of motor accidents in the country had risen despite the Government’s awareness raising campaigns, it was timely that Malaysians be exposed to the visual horrors of the accidents. The complaint was dismissed.

Performance in *Konsert Akhir Akademi Fantasia 9*

A Member of the Public

V

ASTRO

(CB-6-11-11)

Background

The CMCF's Complaints Bureau received a complaint pertaining to *Konsert Akhir Akademi Fantasia 9*. The Complainant was unhappy with the lyrics of the song '*Makhluk Tuhan Paling Seksi*' (God's sexist creature) sung by Ms. Stacy, a guest singer in the show, particularly at the part: '*Ow ow ow (ih ih ih)*' (x2) and her body movement at that juncture where she thrust her pelvic in the familiar style of the celebrated late Michael Jackson when performing his songs, but in Ms. Stacy's case without the hand placed on the crotch.

Facts

The word translated as 'sexiest' in the song title and in the lyrics is used as a metaphor to describe a man's gaze at a woman which caused her to be affected. The lyrics at issue in the song could also be interpreted differently, depending on a listener's mental frame of mind. It could be interpreted as a woman swooning towards a sensuous man or a man swooning towards a beautiful woman. It could also be interpreted as an expression of love. The cry '*Ow ow ow (ah ah ah)*', '*Ow ow ow (ih ih ih)*' could have been added to intensify the expression of love or to awaken the spirit of love. The lyrics could also be interpreted by some to convey a soul searching message.

Moving onto the next subject, the alleged body movement performed by the artiste at intervals when the words '*Ow ow ow (ah ah ah)*', etc. were uttered, critics could view this as a modern pop culture phenomenon popular in the West and which has taken foothold here, in the East. In this instance the performance by Ms. Stacy had some Middle Eastern influence, not only in the tune but also in her attire. Thus, the thrusting of her pelvic which lasted for a few seconds was aligned with Middle Eastern dance and was artistically choreographed.

Conclusion

The complaint was dismissed.

‘Gotcha’ Segment on Hitz.FM Radio

A Member of the Public

V

HITZ.FM

(CB-6-18-11)

Background

CMCF received an enquiry pertaining to a ‘*GOTCHA*’ segment, which offended the Complainant on Hitz.FM, a radio station .

Facts

Clarification was sought from CMCF’s Complaints Bureau on whether a recorded conversation between the listener and the radio station could be broadcast over the air without the prior consent of the listener (victim) affected. The listener also felt that the conversation had caused him humiliation, annoyance and embarrassment even though he had not been identified.

The question posed arose out of Hitz.FM’s ‘*Gotcha*’ radio programme, intended to provide comic entertainment to listeners. Application to prank a friend was guided by the radio station’s standard procedure whereby the process for selecting the ‘would be victims’ is tabulated in a ‘process flow’ chart and at step 7, an assurance is given to an applicant that the “Consent from your friend will be obtained, before the successful ‘*Gotcha*’ gets edited.” However, in this case the last process was overlooked by the radio station.

Arising from the lapse, the caller (victim) promptly got in touch with the radio station and the conversation was immediately withdrawn from the air and an apology was made, confirmed by the victim.

Conclusion

The victim of the prank call was right to lament about his wounded pride. However, since he accepted the apology and the company responsible for the programme admitted to the lapse and withdrew the taped conversation promptly, the matter should end there.

Unprofessional Remarks in the Live Telecast of *Festival Filem Malaysia Yang Ke-24*

A Member of the Public

V

ASTRO

(CB-12-4-11)

Background

CMCF received a complaint pertaining to the unprofessional conduct of a co-host in a live telecast of the *Festival Filem Malaysia ke-24* broadcast over Astro Prima on 20 November 2011.

Facts

The female presenter had raised a complaint against her co-host for the unscripted and uncalled for personal remarks during the show which she found to be unethical, especially repeatedly making reference to her as being old. During the dry run, the male host was advised by the management to avoid using the word 'old' and to replace it with the word 'old timer' instead.

The references made were intended to generate laughter with the Complainant as the butt of the jokes. The Complaints Bureau was unable to discern whether the audience was amused by watching the video clip provided by Astro Prima. Which word to use in jest is a matter of editorial discretion and the male presenter failing to adhere to the compromise suggested earlier would not be known by viewers.

Hence, whether the statements are offensive or not had to be viewed within the context and background in which they are made. There was no complaint of the contents of jokes delivered by the co-host during the show except for these choice of words. The references uttered by the comedian co-host was intended to be a joke relevant to the character in the film *Azura*, but the delivery might have lacked finesse. It hurt the Complainant's feelings when 'old' was used repeatedly instead of 'old timer' as agreed.

Conclusion

The Complaints Bureau empathised with the Complainant's feelings but that would not be sufficient to find the word 'old' grave enough to be in breach of the Content Code. The complaint was dismissed.

Authenticity in Television Advertising: Case of Colgate Advertisement

A Member of the Public

V

Colgate-Palmolive

(CB-1-21-11)

Background

CMCF received a complaint extended by the Malaysian Communications and Multimedia Commission (MCMC) pertaining to the bacteria scanning device demonstrated in the Colgate television advertisement broadcast on all television channels in Malaysia.

Facts

The Complainant alleged that the advertisement was misleading and felt that the advertisement had treated her (the consumer) like a fool as there were no such bacteria scanning devices offered in Malaysia. The issue was not in regard to the effectiveness of the toothpaste product but rather to question the authenticity of a supposed device in the advertisement. The advertisement depicted presumably a dentist using a hand held scanner to scan a volunteer's teeth. The scanner detected some level of bacteria on the volunteer's teeth. After using the Colgate Total toothpaste, the volunteer's teeth were scanned again. To the volunteer's surprise, it showed a clear result.

Colgate-Palmolive Marketing Sdn Bhd, the Respondent as the company responsible for the advertisement, in its explanation to the Complaints Bureau stated: "equipment exists to test the presence of bacteria plaque on teeth using a camera which reflects the images showing the bacteria plaque. It is referred to as '*Inspektor Extraoral Camera System*' which is bulky and for use in a laboratory."

The Complaints Bureau at this stage would not question the explanation given on the existence of the machine called '*Inspektor Extraoral Camera System*.' The Complaints Bureau would accept it existed in good faith as there was no contrary evidence presented. To reassure the Complainant, there was no reason for the Respondent to mislead the Complaints Bureau in their explanation. The Respondent, a reputable international company, had also supplied in further explanation, photograph images of the results using the said '*Inspektor Extraoral Camera System*'.

Conclusion

The complaint was dismissed.

The background of the image is a solid blue color. It features two prominent, thick, white brushstrokes. One stroke starts in the top right corner and extends diagonally towards the center. The other stroke starts in the bottom left corner and extends diagonally towards the center, meeting the first stroke. The brushstrokes have a textured, painterly appearance with visible bristles and varying shades of white and light blue.

2012

Tan Automobile Centre Sdn Bhd against TV3's '*Aduan Rakyat*' *Buletin Utama*

Tan Automobile Centre Sdn Bhd

V

TV3

(CB-5-3-12)

Background

The Malaysian Communications and Multimedia Commission (MCMC) referred a complaint by Datin Lee Seiw Seng, a director of Tan Automobile Sdn Bhd, to CMCF's Complaints Bureau. The Complainant was unhappy with the contents of *Buletin Utama*'s (main news) report for the company's alleged misconduct affecting its client, broadcast over Sistem Televisyen Malaysia Berhad (TV3), a free to air television station operated by Media Prima Berhad on 1 April 2012.

Facts

The Complainant was not happy with the contents on TV3's *Buletin Utama*'s report within the slot of '*Aduan Rakyat*' (People's Complaints) apropos the company's alleged misconduct affecting its client which was broadcast over TV3. The Complainant had raised that the report published in '*Aduan Rakyat*' was not accurate. As a result, it affected the company's credibility.

The Complaints Bureau would invoke Part 8, Paragraph 3.4 in the Malaysian Communications and Multimedia Content Code which states that: "The Bureau is not permitted to consider complaints if they concern matters that are the subject of legal proceedings, or if the Bureau decides it would be inappropriate."

Conclusion

In the circumstances here, two ingredients of the provision would apply. Hence, the Complaints Bureau would refrain from making a decision on part of the facts already decided in the referral. On the unresolved issues, it should appropriately be decided by the relevant authorities concerned.

Allegation of Corruption Contents Broadcast over BFM Radio

A Member of the Public

V

BFM Radio Station

(CB-3-1-12)

Background

The Malaysian Communications and Multimedia Commission (MCMC) forwarded a complaint from a member of the public to the CMCF's Complaints Bureau against the contents of a statement of alleged corruption made by Y. Bhg Tan Sri Abdul Kadir Sheikh Fadzir, a former United Malays National Organisation (UMNO) Supreme Council Member and ex-minister, in an interview aired over BFM Media Sdn Bhd (89.9 FM) Radio. UMNO is Malaysia's largest Malay national political party.

Facts

The question posed in the interview with Y. Bhg Tan Sri Abdul Kadir Sheikh Fadzir arose out of a comment he made at a forum organised by *Angkatan Amanah Merdeka* (Amanah), a Non-Governmental Organisation (NGO), as reported in *The Malaysian Insider*, an independent online news portal, dated 17 January 2012, where he allegedly said cash was handed out at previous election campaigns in an attempt to buy votes.

BFM also interviewed UMNO Secretary-General, Y. Bhg. Datuk Seri Tengku Adnan Tengku Mansor, on the same subject to get a response to the allegation of corruption at the last election. He denied the accusation made and said UMNO had its own disciplinary body to tackle corruption. It had taken action against those who were involved in money politics, and he cited the example of Y. Bhg. Tan Sri Mohd Isa Bin Hj. Abdul Samad, an UMNO vice-president at that time who was found guilty by the UMNO Disciplinary Committee for money politics.

Conclusion

The Complaints Bureau would not criminalise the contents of the interview (allegation of corruption) based on the limited facts available for the sake of democracy and for freedom of speech to be exercised typically. Freedom of speech here means speech acceptable under all the laws such as Defamation Act, Sedition Act, the Penal Code and the Societies Act.

***Tropicana Twister Juicy Burst* Advertisement between Cotra Enterprise Sdn Bhd and Permanis Sandilands Sdn Bhd**

**Cotra Enterprise Sdn Bhd
V
Permanis Sandilands Sdn Bhd
(CB-13-8-12)**

Background

Dentsu Young and Rubicam Sdn Bhd (Y&R), an advertising firm representing Cotra Enterprise Sdn Bhd (Cotra) lodged a complaint with the CMCF's Complaints Bureau against Permanis Sandilands Sdn Bhd's (Permanis) advertisement of its latest product. This was '*Tropicana Twister Juicy Burst*' orange juice, which had been aired over several local television networks and radio stations.

Facts

The Complainant claimed that the advertisement was a comparative one without clearly specifying with which brand the '*Tropicana Twister Juicy Burst*' orange juice was compared. Although Permanis alleged that it was making a comparison against its own brand, the Complainant further asserted that the qualifying caption printed at the bottom of the TV screen (Scene 8) was unnoticeably placed and only appeared momentarily. The advertisement was apparently misleading because it was presented in white text over a grey background, hence making it almost illegible to be viewed by average eyes. The effect of which was "an intentional effort to mislead the consumer into believing that the comparison is against a competitor brand."

On 30 August 2012, the Complaints Bureau received a response from Permanis stating that it was making a comparison against their other product. According to Pemanis, the emphasis in the advertisement was on the word '*new*' as the rendition and the caption stated '*is the new Tropicana Twister Juicy Burst*', the '*New Tropicana Twister Juicy Burst*', and the '*New, Juicy Burst sac*'. In the last scene, Scene 9, the word 'New' was clearly printed out on the screen. In the context of the advertisement, the antithesis of the word 'new' is 'previous' or 'old' product. These statements could imply or denote a meaning that it was making a comparison between Permanis's other orange juice product which contains pulp with that of the 'New' Tropicana Twister Juice which contains sacs.

The advertisement is a comparison between an orange juice drink containing orange pulp and an orange juice drink containing sacs. Orange pulp and sacs are from the same genus (category) unlike apples and oranges which are of a different genus.

Hence, the comparison adhered with Part 3, Paragraph 4.1 [xiv] (d)(i) of the Malaysian Communications and Multimedia Content Code which reads: Points of comparison shall be on facts that can be substantiated and should not be unfairly selected. In particular:

- i. The basis of comparison shall be for all the products being compared and shall be clearly stated in the advertisements so that it can be seen **that like is being compared with like.** (Emphasis added)

Conclusion

The complaint was dismissed.

***NCIS* Series Programme on 8TV**

A Member of the Public

V

8TV

(CB-11-14-12)

Background

A complaint was raised against the screening of television series *NCIS* aired by 8TV, a free-to-air television channel under Metropolitan TV Sdn Bhd (a subsidiary of Media Prima Berhad), on 12 November 2012. The Complainant opined the episode shown that evening portrayed fictional character villains who were committing allegedly morally repugnant acts had Muslim names and were non-American.

Facts

The Complainant failed to understand why the authority responsible for approving the series had taken a casual attitude on this matter. The Complainant accused 8TV of being a stooge to the West who were fond of portraying religion and race in a negative light. Ideally, TV stations should screen more stories which promote harmonious living, patriotic acts and good moral values in Malaysia.

Media Prima Berhad (MPB) explained that this action drama series was approved by the Malaysian Censorship Board. MPB was of the view that Malaysian audience were mature enough to understand that the show was purely entertainment. MPB denied that by airing the programme it was insensitive to racial harmony, mutual respect and patriotism in Malaysia. It had always promoted public service announcements, such as the promotion of anti-corruption awareness, 1Malaysia and the use of Bahasa Malaysia.

The Complaints Bureau viewed the particular episode in question and also several of the earlier episodes to get a clearer picture of the complaint. The story line was about intelligence gathering against the Al-Qaeda group in Sudan. There was a leak in the intelligence gathering process which led to the murder of one of the American Central Intelligence Agency (CIA) undercover agents by the name of Michael Saleh. The *NCIS* (the primary law enforcement and counter-intelligence arm of the Naval Department, United States) team was sent in to investigate the leak and the murder. The story centred on the villain, the ex-governor, Tahir Khaled, who was believed to have killed innocent people in Sudan, investigated by Alex Elmslie, an investigator from the Global Criminal Tribunal. In tandem, the *NCIS* agents were also closing in on the ex-Governor's link to Al-Qaeda and the leak in the CIA's operation.

The story in the series might be fiction, but as in all literary works, the ideas might have developed from real life events or people.

On the complaint against the Authority, the Malaysia Censorship Board had classified the TV series under the ‘U’ category, which denotes that the programme is suitable for viewing by all ages. This assessment was conducted by a panel of experts within the Censorship Board’s body. There was no reason for the Complaints Bureau to differ with the assessment. There was no apparent erroneous decision in law or facts on the matter. The Complaints Bureau would respect the decision of the Board.

Conclusion

Having considered the facts and its relevance to current world affairs and the legal provisions provided within the Content Code, the complaint was dismissed.



2013

Anugerah Bintang Popular Berita Harian 2012 on TV3

A Member of the Public

V

TV3

(CB-4-12-13)

Background

A complaint was lodged with the CMCF's Complaints Bureau against free-to-air television station Sistem Televisyen Malaysia's (TV3) programme *Anugerah Bintang Popular Berita Harian 2012* wherein the Complainant alleged that the show had mocked (*mempersendakan*) the religion of Islam in using Quranic verses.

Facts

The Complainant referred to two examples, in two separate narratives in the show. The first narrative was when the host and Fizz Fairuz entered the stage, the host greeted the audience with a salutation in Arabic: "*Assalammualaikum! Assalammualaikum!*" translated in English as: '*Peace be upon you! Peace be upon you!*' The audience returned a lukewarm response.

Fizz Fairuz then proceeded with a second salutation, "*Assalammualaikum*", but the response remained unencouraging. He then commented: "*Senyap je ni, ni bukan kenduri tahlil*" (*Why so silent, we are not at a feast prayer*). According to the Complainant, he said this in a sarcastic manner.

When the word '*tahlil*' was used, he was referring to the cold response they received from the audience, akin to in mourning. Since the show was supposed to be a jubilant occasion, he expected an ecstatic response from the audience. Only after he made the comment, did the audience give a more enthusiastic response.

The salutation of '*Peace be upon you*' or '*Peace be unto you*' as in Arabic, '*Assalammualikum*', is a Muslim greeting, taught by the Prophet Mohammed (SAW) for the Lord All-Compassionate. It is used by Muslims when meeting another Muslim, symbolizing Islam as the religion of peace.

Since they had received a sombre response, Fizz Fairuz was trying to alter the crowd's mood to a more joyous one and not mocking Islam or jesting with the Islam religion.

In the second narrative, the host was accompanied by two comedians. Prior to the announcement of the winners, both the comedians were jesting, entertaining the crowd. Finally, when the host was about to announce the result of the competition, as the two comedians were still distracting and jesting, she had to say “*Auzubillah himinasshaiton nirrajim*”, and blew towards her right side where Johan stood. Johan responded by saying “*panas*” (*hot*), meaning the invocation struck him so hard that he stopped jesting immediately. That was the understanding the Complaints Bureau gathered from the narratives. It could have been a little amusing to some audience members.

An understanding of Islamic tradition is essential here to understand the invocation. Usually, when one invokes the words ‘*Auzubillah himinasshaiton nirrajim*’ it is uttered to avoid distraction, and with that invocation one traditionally blows towards the left side. Consequently, to stop Johan from jesting and distracting her from making the announcement, the host invoked the Quranic verse.

The Complaints Bureau viewed that there was nothing improper with the host’s conduct, except perhaps that she blew towards her right side (but with good intentions) since Johan stood on her right side.

Conclusion

The salutation and the invocation were done spontaneously as Muslims, but not for mocking or jesting the Islam religion. Even if there had been an element of sarcasm in the first narrative, the sarcasm was not aimed against the religion of Islam but rather towards the audience’s conduct. The complaint was dismissed.

***Sahara* Drama Series Broadcast over ASTRO Prima**

CMCF
V
ASTRO
(CB-1-23-13)

Background

The CMCF in its daily routine monitoring, came across a lot of adverse comments on the drama series *Sahara*, broadcast by ASTRO Prima (Channel 105), posted by members of the public on several social networking websites. The drama programme was set in a '*sekolah agama*' or *Madrasah*, a Muslim religious school, where female students were shown dressed either in *hijab* (head scarf that also covers neck) or the *niqab* (garment which in addition covers the face).

In the first episode of the drama, one of the main protagonists, a young boy, was seen celebrating his intended departure for study overseas. There were some girls shown in the background joining the party dressed in modern attire. Another main protagonist, a girl by the name of Sahara, wearing a *niqab* crossed paths with this boy on the street. At this juncture, she slipped and fell backwards. Instinctively, the boy caught hold of Sahara by the waist saving her from a fall, and while he was still holding her, he gazed into her eyes momentarily. He then followed her from afar and found that she studied at a religious school.

Facts

The scene of the boy holding the girl starry-eyed gave rise to a barrage of comments on several social media platforms and networking websites. In sum, the commentators alleged that the drama series demeaned Islam, particularly since Sahara was wearing the *niqab* which to them was a reflection of Islam.

Fundamentally, since all religions emphasize the spiritual, what matters most is the inner dimensions of a person. It embraces the right actions, thinking, understanding and the intention behind an activity. Having considered the range of questions and answers that arose from the drama series, the Complaints Bureau referred to Part 2, under Paragraph 6 (iii) of the Content Code that prohibits hate speech whether in words, speech or pictures which denigrate, defame, or otherwise devalue a religion, in particular: the use of explicit sexual references or obscene gestures. This has to be measured against the understanding of religious tradition as a whole.

Conclusion

Since the drama series could give rise to differing interpretations, it was up to the Muslim Community in Malaysia to judge independently the moral integrity of the scene. The Community would need to respond with reason and wisdom on the perspectives Islam represents. Additionally, as the drama series (which comprised 15 episodes) ended on 31 January 2013 and the broadcaster had decided not to air any repeats due to public outcry, the Complaints Bureau would not deliberate further on the issue.

988FM Radio Discussion on Plastic Surgery

A Member of the Public

V

**988 FM Radio
(CB-4-38-13)**

Background

The Executive Office of CMCF received a complaint from a member of the public (the Complainant) apropos a radio programme aired on 22 April 2013 at 8.00 p.m. The said programme hosted by DeeJay Li Ye was aired over a free-to-air radio station 988 FM, operated by the Star Radio Group.

Facts

The Complainant alleged that during the said programme, the deejay had discussed plastic surgery. It was also alleged that the process and procedures of a liposuction surgery were shared. The Complainant claimed that the said programme might mislead young listeners to think that beauty or outer appearance was most important in order to achieve a better life.

The listeners had poured out their experiences in a most frank manner. To illustrate:

- i. Liposuction was painful and the experience nearly took the listener's life.
- ii. The process was painful and there was more blood than fats sucked out.
- iii. A caller shared her experience to remind listeners about the dangers of liposuction. If there was bleeding, it could become life threatening.
- iv. Another listener who had eye enhancement surgery said her eyes were swollen for two months after the operation. She said that if the surgery was not performed properly, scars would be apparent.

Cosmetic surgery is not a deliberate act of violence, if the Complaints Bureau takes the word '*violence*' to mean unjust surgery or abusive surgery. In this instance, the cosmetic surgery was performed by a medically qualified doctor to bolster an individual's self-confidence. The Complainant was perfectly entitled to question the ethics of cosmetic surgery and the sharing of that experience with the public.

The general provision affecting the complaint may be found in Part 2 , Paragraph 1.1 of the Malaysian Communications and Multimedia Content Code (Content Code). It should not be indecent, false, obscene, menacing, or offensive in character with intent to annoy, abuse, threaten, or harass any person.

On the allegation of disgusting (offensive) act, it would need to be examined from various angles on whether it was generally offensive to public feelings. Here, the Complaints Bureau had to consider the personal experience of the listeners, the Complainant's disgust, and impact on the society at large [see Part 2, Paragraph 1.2].

Part 2, Paragraph 4.1 recognizes that violence is a reality and there is a need to report it. But there is also a need to understand and reflect on the purpose of the violence reported. Of the same tenor, Part 2, Paragraph 4.2 recognizes the hard truth about violence in this world, but it must be presented with careful editorial justification.

Conclusion

Having considered all these factors, the Complaints Bureau concluded that the violence which this complaint was about was medical in its nature and not an act of deliberate physical violence. Although the topic posed a moral dilemma confronting society, at the same time, the explanation did serve as caution to the public on the danger of cosmetic surgery.

On balance, the Complaints Bureau viewed that the negative impact of cosmetic surgery discussed on the programme outweighed any benefit. For that reason, the Complaints Bureau did not find 988 FM to be in breach of any of the provisions in the Content Code as the sharing of that experience served as a public health interest topic. The complaint was dismissed.

‘C’mon Let Me Ride’ Song over Red FM Radio

A Member of the Public

V

RED FM Radio

(CB-7-38-13)

Background

MCMC had referred a complaint from a member of the public to the Complaints Bureau where the Complainant alleged that the lyrics of the song *‘C’mon Let Me Ride’* by Skyler Grey featuring Eminem, contained indecent suggestions inviting couples to engage in sexual acts. The song was broadcast on Red FM 104.9, a free-to-air radio station managed by Star Radio Group on 23 July 2013. In a letter dated 2 August 2013, MCMC requested for advice and decision on the said complaint.

Facts

In this electronic age, avoidance of offensive content is a challenging aspect of any civil society, made more difficult because of differing acceptable cultural values adopted by diverse countries and communities, including on the concept of freedom of speech extended to music.

The lyrics of the song in its original version could give rise to social concern not only in Malaysia, but also in the United States of America. There are organisations such as the American Academy of Paediatrics and Youth Voices which have expressed concern on the constant use of explicit language and sexual references in music today and their negative influence on society. Despite the concerns, these songs are aired without censorship in the United States and other countries.

The Complaints Bureau took cognition of the studies conducted by the two organisations referred to above on the use of explicit sexual content in songs. As far as the Complaints Bureau was aware, there had been no similar study conducted in Malaysia. The American Academy of Paediatrics also found that teenagers often do not know the lyrics or fully comprehend their meaning. It suggested that parents monitor the type of music to which their adolescent children were exposed. It also suggested labelling of a song’s contents by the music industry, or that there should be regulation governing the industry. Despite the concerns, the American Academy of Paediatrics was against censorship in songs.

In Malaysia however, the suggested regulation is already in place within the Malaysian Communications and Multimedia Content Code. The Complaints Bureau would describe self-regulation as a voluntary conscious act to ensure that expectations of society and industry on ethics, moral standards, and sensitivity are met and applied responsibly to uphold the Content Code Regulations.

When Red FM removed the offensive words from the song, it had exercised the first step towards self-regulation. Having omitted the offensive lyrics and/or replacing them with more suitable words, the station had aired what they deemed to be appropriate content, so as not to cause offense to listeners. Moreover, the station later removed the song from their airwaves.

Conclusion

The Complaints Bureau's advice was that Red FM made attempts to exercise self-regulation responsibly. On the sufficiency test, it was up to the particular Agency in question to think about all the variable factors considered above.

However, the Complaints Bureau cautioned that these songs must be considered separately on a case by case basis in making that assessment (sufficiency test).

988 FM *Morning Up* Programme Discussion

A Member of the Public

V

**The Star Radio Sdn Bhd (988 FM)
(CB-3-30-13)**

Background

CMCF received a complaint pertaining to topic contents of *Morning Up* talk show on 988 FM, a Chinese language radio station managed by Star Radio Group. In that broadcast, the radio announcer invited listeners to share their opinions on the salaries of our elected Members of Parliament (MPs) and the State Assembly.

Facts

The complaint was about the comparison made between the salaries of the MPs in Singapore and Malaysia. The discussion observed that parliamentarians in Singapore earned far more than their counterparts in Malaysia which in the Complainant's opinion was demeaning to the Government of Malaysia. The Complainant also alleged that this fact was not substantiated. The Complaints Bureau recognises that the concept of freedom of speech in Malaysia extends to the right of citizens to make comparisons on factual differences between countries.

Conclusion

Based on the above reasoning, the Complaints Bureau could not find any fact which contravened the provisions in the Content Code. The complaint was dismissed.

Airing of a Filipino Drama by TV3

A Member of the Public

V

TV3

(CB-4-27-13)

Background

The CMCF received a complaint about a drama from Philippines which was broadcast over Sistem Televisyen Malaysia Bhd (TV3), a free-to-air TV station under Media Prima Berhad. The complainant alleged that it was not suitable to broadcast a drama from Philippines right after the news of the Lahad Datu incident ‘terrorist attack’.

Facts

The complaint was in relation to TV3’s act of airing a drama originating from the Philippines immediately after the broadcast of news which had reported the Lahad Datu incident of a suspected terrorist attack which was still in progress. The Complainant alleged that this airing was an insensitive act by TV3.

Conclusion

The complainant did not raise any possible breach of the Content Code. The complaint was dismissed.

Slimming Product Advertised on TV3

Ministry of Health Malaysia (MOH)

V

TV3

(CB-4-27-13)

Background

The Executive Office of CMCF received a complaint submitted by the Ministry of Health Malaysia about a Felinna Beauty (Felinna) slimming product advertisement which was broadcast on 30 April 2013 on Sistem Televisyen Malaysia Berhad (TV3), a free-to-air television station operated by Media Prima Berhad.

Facts

According to the Ministry of Health (MOH), there were no medical claims made against the slimming product in the advertisement and as such it was not in breach of the Medicines (Advertisement and Sale) Act 1956 which is under its jurisdiction. However, MOH pointed out that the advertisement might be in breach of Part 3, Paragraph 4.1 (xviii) (q) of the Content Code. TV3 being a member of CMCF had a duty to comply with the regulation despite the fact that the Board of Censors had approved the advertisement as not being obscene or against public decency under the Film Censorship Act 2002.

In furtherance to that approval, TV3 would need to undertake the step in complying with Part 3, Paragraph 4.1 (xviii) (q) of the Malaysian Communications and Multimedia Content Code (Content Code). This procedural compliance is mandatory. Part 1, Paragraph 6.4 of the Content Code requires CMCF members to adhere not only to the Code but also to all applicable Malaysian Laws. On the facts, TV3 had complied partially with Malaysian Laws but had fallen short of the complete process required.

Conclusion

The Complaints Bureau found that TV3 was in breach of Part 3, Paragraph 4.1 (xviii) (q) of the Content Code and TV3 was issued a Sanction Order for the amount of Ringgit Malaysia Four Thousand (RM4,000).

Bad Language in *Bad Boys II* aired on ASTRO Channels

**MCMC
V
ASTRO
(CAC-2-1-13)**

Background

The Malaysian Communications and Multimedia Commission (MCMC) sought CMCF's Complaints Bureau's deliberation over the alleged use of bad language in the film *Bad Boys II*, aired by ASTRO Holdings Sdn Bhd (ASTRO) on ASTRO HBO (Channel 411) and ASTRO HD (Channel 431). The Complaints Bureau Chairman took an advisory approach towards the matter.

Facts

In Malaysia, the Malaysian Censorship Board (LPF) has a collection of words in English, Malay, Chinese, Tamil and Hindi languages which are considered offensive and which have to be censored. If the word '*shit*' is used as a mere swear word, the guideline is for the word to be muted. However, of late, the LPF has been more lenient in the use of the word '*shit*' within context. In certain circumstances, it is considered second degree profanity, such as for films classified for viewers over 18. Here, the LPF adopts a more flexible approach where such words are not muted. The question that the Complaints Bureau would like to pose is: Should Malaysians be protected and insulated from hearing the word '*shit*', particularly when they are above 18 years of age and the word is used commonly in the West?

Conclusion

The question raised in this Advisory Order is related to the Malaysian psyche and where we want to be in this fast changing global scene. Hence, though the enquiry may sound straightforward, the final decision would strike a sensitive chord or nerve in the Malaysian psyche. The Complaints Bureau members had read the Advisory Order and the majority were of the view that the word '*shit*' was not offensive and did not breach the Content Code.



2014

Health Ministry Objection to *EXAMO CKM-500* Product Advertised over IKIM FM

Ministry of Health (MOH)

V

**IKIM FM
(CB-1-3-14)**

Background

CMCF received a complaint from the Ministry of Health forwarded by the Malaysian Communications and Multimedia Commission (MCMC) via a letter dated 24 February 2014 about a medicinal product advertised. This was the '*Examo CKM-500*' product advertisement broadcast on 8 January 2014 at 5.00 p.m. over the Institute of Islamic Understanding Malaysia's Radio Station (IKIMfm).

Facts

The Ministry of Health (MOH) lodged a complaint that IKIMfm advertised the product '*Examo CKM 500*' without seeking prior approval of the Medicine Advertisements Board (MAB). Since the multimedia industry is outside MOH's jurisdiction, it referred the case to MCMC as the offence had a carryover effect on the multimedia industry for advertising a medicinal product without the approval of the MAB.

The Malaysian Communications and Multimedia Content Code (Content Code) under Part 3, Paragraph 8.1 states: Commercial on Medical Products, Treatments and Facilities:

Advertisements on medicines, remedies, appliances, skill and services relating to diagnosis, prevention and treatment of diseases or conditions affecting the human body are under the authority of the Medicine Advertisement Board, Ministry of Health Malaysia [K.K.L.I.U].

Conclusion

The Complaints Bureau issued a Reprimand Order to IKIMfm to be more alert to all provisions of the Content Code as abiding by the Content Code is one of the conditions for being granted a licence.

London Weight Management ‘*Body Trim Fluid*’ Advertisement on TONTON Website

**CMCF
V
TONTON
(CB-73-6-14)**

Background

In its daily monitoring of the electronic medium, CMCF came across an advertisement of a slimming product ‘*Body Trim Fluid*’, by London Weight Management, on the website: www.tonton.com.my.

Facts

To air a slimming product advertisement on electronic medium is an offence as stated in the Malaysian Communications and Multimedia Content Code (Content Code). Part 3 of Advertisement, Paragraph 4.1 under Specific Guidelines states:

- (xviii) Unacceptable Products and Services;
- (q) Slimming products, whether it is used orally or physical application.

CMCF brought this to the notice of the said website. Media Prima Digital in response to the said notice stated that it had been under an erroneous assumption that the approval from the Medicine Advertisement Board of the Health Ministry was adequate. This statement is correct for the purpose of the Medicine Advertisement Board as the provision does not cover online advertisement. However, the website is governed by the Content Code which covers the four electronic media: internet, mobile, television, and radio. Media Prima Berhad responded that it had withdrawn the advertisement prior to the receipt of a notice letter.

Conclusion

The Complaints Bureau issued an Advisory Order for the web based company to be conscious and aware of the limitation of contents that can be disseminated over electronic networks under the Content Code.

Malaysian Communications and Multimedia Commission on 'Show Me' Song Lyrics

MCMC

V

**Recording Industry Association of Malaysia (RIM)
(CB-5-02-14)**

Background

The Malaysian Communications and Multimedia Commission (MCMC) sought advice from CMCF's Complaints Bureau on whether the lyrics of the song entitled '*Show Me*' was in breach of the Malaysian Communications and Multimedia Content Code (Content Code).

Facts

In particular, at the beginning of the song, the lyrics mentioned the word '*panties*'. The question was whether this was obscene content when the rest of the song contents were free of offensive words. Based on the available facts submitted, the Complaints Bureau highlighted the importance of identifying the source of the song. The Recording Industry Association of Malaysia (RIM) practices self-regulation in regard to all songs that are broadcast over the electronic medium. If MCMC disagreed with RIM's decision, MCMC could review the decision.

Conclusion

The Complaints Bureau drew MCMC's attention to an earlier case of the lyrics of a song entitled "*C'mon Let Me Ride*" by Skylar Grey featuring Eminem where the guideline set in the Complaints Bureau Order could be extracted for the purpose of making a decision.

Colgate-Palmolive Complaint of Unilever Product

Colgate-Palmolive Marketing Sdn Bhd
V
UNILEVER (Malaysia) Holdings Sdn Bhd
(CB-18-2-14)

Background

Colgate-Palmolive Marketing Sdn. Bhd. (Colgate-Palmolive) lodged a complaint against Unilever (Malaysia) Holdings Sdn. Bhd. (Unilever) for its '*Sunlight*' dishwashing liquid TV commercial, alleging it to be false, misleading and/or unsubstantiated. Colgate-Palmolive contended that the advertisement content was in breach of the general principles of the Malaysian Communications and Multimedia Content Code (Content Code).

Facts

The complaint letter addressed to the Complaints Bureau was dated 6 March 2014, whereas the alleged misleading TV commercials were broadcast on 29 September 2013 and 10 October 2013, respectively.

Part 2, Paragraph 3.3 of the Content Code requires all complaints of a general or specific nature that relates to the Code to be made within two (2) months of its occurrence.

Conclusion

In view of the non-compliance of the procedural requirements of the Content Code, the complaint was dismissed.

Complaint about Song Lyrics ‘*She Keeps Me Warm*’

(CB-7-4-14)

Background

The Malaysian Communications and Multimedia Commission (MCMC) forwarded a complaint from a member of the public on the lyrics of a song by Mary Lambert entitled ‘*She Keeps Me Warm*.’ It sought for advice on whether the contents of the lyrics portrayed any element of lesbianism.

Facts

The Complaints Bureau would advise MCMC to examine the contents carefully. In this case, the word ‘*girl*’ and ‘*baby*’ needed to be interpreted from various perspectives. The Complaints Bureau also posed a question on whether the lyrics would have the same implications if the singer happened to be a male.

Conclusion

The Complaints Bureau would refer to its own advice in the cases of the lyrics of the songs entitled ‘*C’mon Let Me Ride*’ by Skylar Grey featuring Eminem and ‘*Show Me*’ by Kid Ink featuring Chris Brown as a general guide.

‘Ratu Mirifica Plus’ Advertisement on TV3

Ministry of Health (MOH)

V

TV3

(CB-22-1-14)

Background

The Ministry of Health (MOH) brought to the Complaints Bureau’s attention an advertisement aired over Sistem Televisyen Malaysia Berhad (TV3), a free-to-air television station under Media Prima Berhad. MOH stated that *‘Ratu Mirifica Plus’* is a traditional medicine approved to be advertised in the print media. However, *‘Ratu Mirifica Plus’* product was advertised on a multimedia platform. MOH claimed that this comes within the purview of the Malaysian Communications and Multimedia Content Code (Content Code) for a possible breach under Part 3, Paragraph 4.1 (iii) of the Code, as a misleading advertisement for its inaccuracy, ambiguity, exaggeration, omission or otherwise for the misuse of the certificate.

Facts

Upon receipt of the Malaysian Communications and Multimedia Commission’s email requesting for a recording of the advertisement, it was learnt that the certification issued was for print media only. TV3 had withdrawn the advertisement two weeks prior to the receipt of the Executive Office’s letter requesting for an explanation on the advertisement. Since the certification only allowed for hard print advertising but not on a multimedia platform, the fact that the advertisement was aired over TV3 was a clear breach of the certificate condition. Hence, the MOH’s concern here was that this could give a wrong impression that the *Ratu Mirifica Plus* advertisement over TV3 was approved by the said ministry.

The Complaints Bureau would take judicial notice of the certificate, on the safety aspect of the product, as it had been approved by experts at the MOH. This raised the matter: for an advertisement to be deemed ‘misleading’, it would need to relate to the content and not on a breach of condition attached to a certificate notwithstanding that *‘Ratu Mirifica Plus’* had used the same certificate to mislead TV3, if TV3’s statement could be accepted. The best avenue was for the Complaints Bureau to revert the complaint to MOH for the ministry to take the appropriate action on the breach of condition of the certificate.

Conclusion

Based on the above reasoning, the Complaints Bureau would not make any Order against TV3. The Complaints Bureau would not comment on whether the withdrawal of the advertisement amounted to an admission of offence. But the expeditious withdrawal of the advertisement was a responsible act of self-regulation.

Alleged Contents of Sexual Innuendo on Mix FM's *Breakfast Show*

A Member of the Public

V

MIX FM Radio

(CB-51-6-14)

Background

A member of the public lodged a complaint against MIX FM's *Breakfast Show* programme, broadcast over MIX FM radio station. The Complainant alleged that the gender debate content the presenters engaged in was beset with innuendos.

Facts

The MIX FM's Breakfast Show is a four-hour long programme. The programme discussion touches on various topics. One of the topics discussed here was in connection with the actress Kelly Cuoco, a main star in the television series *The Big Bang Theory*. She recently had married Ryan Sweeting, a tennis player, after only six months of courtship. She was interviewed on United States television about her having children. She was reported to have said that she loved her husband, was happy to be married and was "born to be a wife, born to be a mum."

The word '*hot*' has a number of meanings in modern English language use. Within the context of the actress's character portrayal, the word '*hot*' could not be said to be fraught with innuendo in a negative sense, or of concerning 'sex talk' as expressed in the complaint. If there was anything in the conversation, it was the laughs and the fact that men could appreciate her, which could have given rise to some oblique interpretation. The Complaints Bureau would not read too much into that. With some understanding of the actress's background and the situation, the picture became clearer to appreciate the conversation in its proper context and understanding that a sleazy effect was not created.

Conclusion

The complaint was dismissed.

***Supernatural* Programme Series on ASTRO'S AXN Channel**

A Member of the Public

V

ASTRO

(CB-24-8-14)

Background

The Malaysian Communications and Multimedia Commission (MCMC) received a complaint from a member of the public alleging that ASTRO's programme *Supernatural* on the AXN channel 701, could deflect and confuse Muslim viewers in its *Aqidah*. Hence, MCMC sought the CMCF's Complaints Bureau's advice on this concern of the Complainant.

Facts

The storyline contained elements of supernatural power, black magic, ghosts, angels and the like. It was the fantasy and fictional part in the story which probably gave rise to the complaint.

The Complaints Bureau would approach the advice in two parts. The first part was on the application of the Content Code to *Aqidah* vis-à-vis the *Supernatural* series. The Complaints Bureau mulled over on the serious subject of religion affecting content. The final conclusion to the advice would need to be verified by an expert opinion to form the basis for the second Part of the advisory opinion sought.

Part 2, Paragraph 1.3 of the Malaysian Communications and Multimedia Content Code provides broad guidelines on the use of content which takes into account the country's '*social, religious, political, and educational attitudes and observances*' as well as the need to accommodate global diversity in a borderless world. That provision is flexible and democratic in its perspective, ensuring that Malaysians remained connected, open minded and able to discern between good and bad, what is religious or not, fantasy versus reality, and above all to reflect on the circumstance. In sum, the provision is to enable Malaysians to be a thinking and tolerant society, aware of differences, and able to cope with an existential, divergent and diverse world.

Supernatural was not a religious programme (see Part 4, Paragraph 3 of Code) but an entertainment programme, though its content may touch a raw nerve in some religious viewers as being profane. All religions share similar fundamental values, and Islam shares that with Judaism and Christianity in its sapiential (wisdom) perspective.

Conclusion

As a reminder, the Content Code stressed the word '*education*' repeatedly and also on cultural differences which translate into the need for Malaysians to be an informed society, take the middle path and exercise tolerance even if one disagreed with some of the contents. When inculcated with these qualities, one could exercise self-regulation with wisdom and discernment in lived rapidly changing complexities and circumstances, allowing both industry players and viewers to assume responsibility.



2015

Japanese Tobacco International's Marketing Campaign

(CAC-01-02-15)

Background

Infobip requested for an Advisory Order on their intention to launch their client Japanese Tobacco International's marketing campaign, to train their distributors on their new tobacco (cigarette) products which it claimed would target and/or be restricted only to cigarette distributors.

Facts

The marketing process, Infobip claimed, entailed the use of mobile phone, a process called Unstructured Supplementary Service Data (USSD) menu. This USSD programme was intended to be restricted only to distributors of cigarettes and was not open to the general public at large, to wit the consumer.

Infobip assured the Complaints Bureau that this process was strictly for training of their internal agents and not for advertising purposes. There was to be no direct or indirect marketing or advertising in the processes.

With that knowledge gained by the distributors, was the knowledge to be restricted to the distributors alone to gain points or were the distributors required to act as facilitators-cum- promoters of the latest product line to the potential consumer at large?

From here on, it became a question of fact on whether there was indirect advertising. It was for Infobip to read carefully the distributors' actual role or function in the processes outlined so as not to transgress to indirect advertisement. Albeit, marketing could take the role of indirect advertising if the distributors' roles were not clearly defined. Above that, Infobip had to ensure that the processes were not made available to potential customers, but only to the specific group of distributors.

Despite the use of pin numbers as a security measurement, Infobip had to take further effort to advise the client that no media platform was allowed to advertise the presence of the said service and pin number (e.g in the form of QR code which the public could use to generate the said pin number).

Infobip had to ensure that in the processes, it avoided unsolicited commercials by not prompting potential customers to click a button to the conversion funnel with the distributors. Infobip informed the Complaints Bureau in a meeting held on 17 February 2015 that they had full control of the content before it went onto the said platform. Therefore, Infobip took full responsibility of any change or future inclusion of any content.

Conclusion

With that advice, the Complaints Bureau reasoned that Infobip took the necessary steps to avoid any breach of the Content Code.

***The Bible* Programme Series on ASTRO History Channel**

A Member of the Public

V

ASTRO

(CB-03-06-15)

Background

A complaint was brought to the attention of the Complaints Bureau relating to the screening of the series, *The Bible*, on Astro History Channel (555). The Complainant stated that the series failed to observe Muslims' sensitivity when it portrayed characters of various prophets shared in common with those in Islam ("*tidak menjaga sensitivity umat Islam kerana terdapat lakonan watak nabi-nabi seperti Nabi Adam, Nabi Nuh, Nabi Musa dan lain-lain*"). The Complainant also alleged that the series included manipulation of facts which could create doubts in a Muslim's mind.

Facts

The Complainant had not zeroed in exactly on the facts which touched on the issue of sensitivity. However, in interpreting the complaint, the Complaints Bureau surmised that the Complainant was not happy with the visual depiction of the various Christian prophets in the series which the Quran also accepts as Muslim prophets (but there are clear theological differences for the shared prophets).

On the visual representation of the various prophets, Islamic tradition and belief forbids the portrayal of the Prophet Muhammad's (SAW) face. The Complainant opined, this principle should be extended equally to all other prophets of Islam including those that were depicted in the television series. Further to that, the biblical narratives might not share the same frame of facts to that of Islam. As such, these differences in perspective gave rise to the issue of 'sensitivity'.

The Complaints Bureau viewed that an honest approach to religious 'sensitivity' should be understood based on mutual self-awareness, on subjectivity and fairness, and on the knowledge of what separates and what unites different religious beliefs and practices. This would entail a knowledge-based approach to religion.

Muslims had to attempt understanding Christianity as Christians understood it themselves and Christians to attempt to understand Islam as Muslims understood it themselves. This principle was to be applied equally across all religions when the issue of comparative religion is raised. If this was understood, there would be less possibility of misunderstanding, misreading or mistranslation of others' religious practices, and the issue of lack of 'sensitivity' would dissipate.

Conclusion

The Complaints Bureau concluded that it did not find the television series *The Bible* offensive to Muslim sensitivity. The issue affecting religious sensitivity when screening religious stories would need be measured by knowledge based understanding of a religion by that religion's perspective, and not by one's own prejudices and mediocre understanding of that religion. Malaysians ought to have a broader based understanding of all religions for harmonious living.

Also, the notice given prior to the screening was sufficient for all viewers to exercise their discretion on whether to watch that programme. If a programme portrays religious figures and stories from a perspective different to that of the viewers' world view on religion and they elect to watch it, they must be prepared to apply an open mind. The complaint was dismissed.

Victoria's Secret Swimsuit Special (2015) on ASTRO Star World

A Member of the Public

V

ASTRO

(CB-04-06-15)

Background

CMCF's Executive Office received a complaint dated 15 June 2015. The complaint pertained to *Victoria's Secret Swimsuit Special (2015)* programme broadcast over MEASAT Broadcast Network Systems Sdn Bhd (ASTRO) on its Star World Channel (711) on 10 April 2015 at 8.05 p.m. This complaint was accelerated via the Malaysian Communications and Multimedia Commission's (MCMC) letter to the Complaints Bureau dated 12 May 2015, with the reference given in the same complaint letter. The Complainant alleged that the programme was broadcast during 'prime time', which the Complainant contended was inappropriate for children's viewing.

Facts

In a letter of explanation, ASTRO highlighted the fact that the alleged inappropriate programme in question was classified for viewers above 18 and this was clearly spelled out in the summary of the programme in ASTRO's Electronic Guide (EPG). Moreover, ASTRO was a Direct-to-Home (DTH) subscription broadcasting services via satellite.

If a programme is rated 18, this would mean that it is suitable for adult viewing only. ASTRO had provided the Electronic Programme Guide (EPG) facility that disclosed information on programmes prior to their broadcast. When viewing a subscribed programme, subscribers would need to rationally understand their contractual obligation with the service provider and select for programme suitability prior to accessing the selected channel.

Another facility that ASTRO provides is the 'Parental Lock' facility which enables end users to act responsibly by locking channels deemed unsuitable for general family viewing. This gives full authority to the users to control the Content from their end.

It was to be noted that ASTRO Star World channel (711), had not come within the 'Family Pack' programme package (one of ASTRO's subscribed packages). The ASTRO Star World Channel was an add-on channel as an option for users to purchase specific content.

Conclusion

The Complaints Bureau ruled that ASTRO had complied with the requirements of the Content Code in providing the classification, programme choices, and software facilities. The complaint was dismissed.

***Evan Almighty* Programme on ASTRO HBO**

A Member of the Public

V

ASTRO

(CB-16-08-15)

Background

CMCF's Complaints Bureau received a complaint forwarded by the Malaysian Communications and Multimedia Commission (MCMC) about the content of the film, *Evan Almighty* broadcast by MEASAT Broadcast Network System Sdn Bhd (ASTRO) on its HBO Channel (411).

Facts

The Complainant alleged that the said film should not have been broadcast as it appeared to be disrespectful towards some religions. The Complainant also alleged that the programme contained scenes portraying 'Nabi Nuh' ('Noah' in the Bible) with his ark.

Upon reviewing the Complainant's allegation, the Complaints Bureau found that there was a need for further clarification from the Complainant to substantiate her claim. The CMCF's Executive Office contacted the Complainant twice to secure the necessary information. The first was via the telephone and the second through an e-mail provided by the Complainant after the telephone call.

Unfortunately, there was no further feedback from the Complainant. In the circumstances, a fair amount of time had been given to the Complainant to respond to the request. It was incumbent for the Complainant to assist the Complaints Bureau on further clarification sought to enable the Bureau to reach a considered decision. Failure to do that meant that the Complaint Bureau would not be able to act fairly.

In light of the above, the Complaints Bureau decided to adhere to the existing decision made by the Malaysian Film Censorship Board (LPF) back in 2007. The Complaints Bureau believed that the decisions made by the LPF was based on the Film Censorship Act 2002 and also on the perspicacity of current Malaysian acceptance towards comedy content in films.

Conclusion

The Complaints Bureau had no reason to question LPF's decision and since the Complainant had not given her cooperation to the Bureau's request for further information, the Complaints Bureau would abide by the decision made by the LPF and deemed the matter closed.

***Memori Cinta Suraya* Drama Content Broadcast over ASTRO Prima**

A Member of the Public

V

ASTRO

(CB-21-12-15)

Background

CMCF's Executive Office received a complaint from a member of the public in an e-mail dated 28 December 2015 about alleged indecent content in a drama series entitled *Memori Cinta Suraya* which was broadcast over MEASAT Broadcast Network System Sdn Bhd (ASTRO) on its Prima Channel (105) between 6.00 pm to 7.00 pm.

Facts

The Complainant forwarded to the CMCF instances in a scene that he had found uncomfortable to watch during that early evening air-time. This related to the provocative dialogue lines (verbal language) and the suggestive body movements (non-verbal communication) of the female actress towards her on screen husband. Because of sexual elements contained within, the Complainant's main concern was for the protection of children.

The drama series which ran into 148 episodes, depicted a storyline about conflicts of love, differences in social status, and negative human behaviour. To carry that theme, one of the leading female protagonists was portrayed to be a seducer, provocateur, and dishonest person.

ASTRO, in its defence, stated that the scene was not intended to show intimate relations between a man and a woman but rather to portray how the actress Irina tried to purposely provoke her husband Rayyan. ASTRO believed that the dialogue lines uttered and the gestures was not to be over-analysed. When viewed within the context of the story, the intention of such an act was to contribute to the plot and character development.

For the purpose of viewing, ASTRO had classified the programme under the category P13, aligned with the Film Censorship Board's (LPF) standard guidelines, where children above the age of 13 could watch with parental guidance.

Since a value judgement was in question here, provided that the contents were within the limits of what one considered suitable for children's viewing under parental guidance, it should be permissible.

Conclusion

The Complaints Bureau concluded that ASTRO had exercised the correct value judgement in categorising the programme as P13. The complaint was dismissed.

***Bintang Mencari Bintang* Programme Content Broadcast over TV3**

A Member of the Public

V

TV3

(CB-30-4-15)

Background

The Executive Office of CMCF received a complaint on 29 April 2015 from a member of the public pertaining to *Qu Puteh Bintang Mencari Bintang* programme aired on 25 April 2015 on Sistem Television Malaysia (TV3), a free-to-air television station under Media Prima Berhad. As alleged by the Complainant, the performance by the group *Kepoh* had denigrated and humiliated Malaysian aboriginal communities by showing inappropriate social behaviour and food diet.

Facts

The features of the above mentioned content may be in contravention of the guiding principles of the Malaysian Communications and Multimedia Content Code Part 4 of Specific Broadcasting, Paragraph 3.6 under Non-Discrimination.

TV3 wrote a letter of apology to the Complainant expressing that TV3 had taken all the necessary measures to prevent inappropriate acts or script by contestants prior to the screening of the show. The group *Kepoh* had defied the said advice and had since left the show.

Conclusion

The CMCF Executive Office contacted the Complainant and the Complainant was satisfied with the apology made by TV3 and had not wished to pursue the complaint.

The Complaints Bureau was of the view that since TV3 had admitted to the contravention and the apology letter had been accepted, the complaint was dismissed.

Qu Puteh* Products Promoted during TV3's *Anugerah Juara Lagu 29

Members of the Public

V

TV3

(CB-36-01-15)

(CB-45-01-15)

Background

CMCF's Complaints Bureau referred to the complaints submitted by members of the public on the presentation of *Qu Puteh* products during a live Awards show on Sistem Televisyen Malaysia Berhad's (TV3). TV3, a free-to-air television station under Media Prima Berhad, had broadcast *Anugerah Juara Lagu 29 (AJL)* on 16 January 2015.

Facts

The Complainants alleged that they were dissatisfied with the advertisement of *Qu Puteh* whitening product and *Vida Collagen Extra Grip* during the Awards show. The Complainants alleged that the presentation of the products was excessive in zeal and distracted viewers' attention. It was also claimed that the manner in which the *Vida Collagen Extra Grip* product was promoted was offensive, disgraceful and inappropriate for family viewing.

The Complaints Bureau was made to understand that the Awards programme was sponsored by *Qu Puteh* and the presentation of the products in the show did not in any way breach any of the provisions of the Malaysian Communications and Multimedia Content Code.

On the issue of the length and frequency of the *Qu Puteh* products being promoted during the show distracting the audience's attention, the Bureau would not comment as that would a subjective assessment call.

Conclusion

The Complaints Bureau was of the view that there was no necessity to rule on the product appearance. Since there was no breach of any provision of the Content Code, the complaint was dismissed.

***Ceria Pagi Sabah* Radio Broadcast over Suria FM Sabah**

A Member of the Public

V

Suria FM Sabah

(CB-2-3-15)

Background

CMCF received a complaint from a member of the public on alleged offending contents (obscene language) during its most anticipated programme, *Ceria Pagi Suria FM* morning show on Suria FM Sabah.

Facts

The Complainant felt that the phrase '*Pergi kedai nak beli coli, takde tetek*' (*Going to the store to buy a bra, no breasts*) was not suitable as it constituted obscene language. Suria FM in their reply stated that the said alleged offending content was quoted from a viral Twitter video and that they had adhered to their standard operating procedure in editing. They also confirmed that necessary actions had been taken in this case.

Conclusion

The Complaints Bureau issued a Reprimand Order to Suria FM Sabah for it to be more conscious at all times of listeners' sensitivity on the use of inappropriate language even if mature listeners were targeted for the show.

***Racun Menantu* Programme Broadcast on ASTRO**

A Member of the Public

V

ASTRO

(CB-18-4-15)

Background

The Malaysian Communications and Multimedia Commission (MCMC) forwarded a complaint to CMCF from a member of the public about a programme entitled *Racun Menantu* broadcast over MEASAT Broadcast Network Systems Sdn Bhd (ASTRO) on its MAYA HD Channel (134). The complaint was of an actress appearing in a scene wearing only a *batik sarong* tied from her bosom.

Facts

This complaint could be applied to Part 2, Paragraph 2.1 of the Malaysian Communications and Multimedia Content Code on indecent content (includes nudity and sex). ASTRO in its explanation stated that the scene depicted the appearance and conduct of a woman playing a seductive role in the storyline.

Conclusion

The Complaints Bureau did not see any improper material which could be deemed offensive or morally improper to the general public. The complaint was dismissed.

Advertising Slimming Product ‘*Caboles*’ over TV9’s Nasi Lemak Kopi O Programme

Ministry Of Health (MOH)

V

CH-9 Media Sdn Bhd (TV9)

(CB-20-12-15)

Background

A complaint was referred to CMCF by the Ministry of Health (MOH) about an advertisement of a product called ‘*Caboles*’ on TV9, a free-to-air station on 4 December 2015. ‘*Caboles*’ was allegedly a slimming product and had been aired on TV9’s *Nasi Lemak Kopi O* programme as well as advertised online on www.tonton.com.my. Since the product was not a medicine, the alleged breach was within the jurisdiction of the Complaints Bureau.

Facts

During the programme, a spokesperson promoted the product which also extended to its online platform and at its *jamu* (traditional herbal) stall. The telephone number of the company for product purchase was also provided on the show. While the discussion was ongoing in the programme, the website address of *Protech Nutrition* was displayed intermittently at the bottom of the television screen. The Complaints Bureau took note of TV9’s defence which ran contrary to the online statement. In a letter, TV9 denied that the product promoted, ‘*Caboles*’, was a slimming product. Further, it stated, the package cover did not state nor display that it was promoting a slimming product.

Conclusion

The Complaints Bureau did not agree with TV9’s defence of a mitigating factor that since the programme itself did not promote the product as a slimming product it was not responsible for the content on the internet site. By displaying the internet site on the screen, it engaged viewers to participate interactively. TV9 programmes are broadcast not only as terrestrial television but also online, demonstrating the interactive nature of multimedia. TV9 thus cannot dismiss its responsibility for the content on the internet site. The Complaints Bureau imposed a Sanction Order of Ringgit Malaysia Three Thousand (RM3,000) for the breach.

‘Cabaran Perlindungan Kuman Dettol’ Advertisement

UNILEVER (Malaysia) Holdings Sdn Bhd
V
Reckitt Benckiser (Malaysia) Sdn Bhd
(CB-30-05-15)

Background

CMCF received a complaint from Wong & Partners on behalf of Unilever (Malaysia) Holdings Sdn Bhd (Complainant) with regard to the television advertisement by Reckitt Benckiser (Malaysia) Sdn Bhd (Respondent) for a contest labelled ‘*Cabaran Perlindungan Kuman Dettol*’ (Dettol’s challenge of protection against germs) which was broadcast over the Malaysian television network. The said advertisement had allegedly violated the Malaysian Communications and Multimedia Content Code.

Among the allegations made was that the disclaimer displayed about the types of bacteria tested was in ultra-fine font size; the offer to viewers did not demonstrate any real intention of allowing them to win the contest; and conferred an artificial advantage to the respondent with an unfair basis of comparison for the type of bacteria tested. The respondent purportedly conducted tests on three types of bacteria and claimed that its product was ten times more effective than other products. The comparison was blatantly misleading and untrue.

Facts

The Executive Office of CMCF was informed that the complaint was currently being handled by the Ministry of Health (MOH). CMCF was also made to understand that the counsel representing Unilever had earlier lodged the same complaint at MOH.

Since MOH was attending to the complaint, the Complaints Bureau was of the view that it was inappropriate to deliberate on it in the circumstances. Moreover, since the Respondent was not a member of CMCF, the Complaints Bureau could not compel the Respondent to submit to the Complaints Bureau’s authority.

Conclusion

The complaint was dismissed.

Alcoholic Beverage Logo over ASTRO Supersport 3 in FA Cup: Bradford V Reading

**CMCF
V
ASTRO
(CB-51-6-15)**

Background

The Executive Office of CMCF in its daily routine investigation of any breaches of the Content Code in the multimedia came across an alcoholic beverage logo by Carlsberg promoted on ASTRO's SuperSport 3 Channel (ASSP3 816). The issue for determination was whether the appearance of a bunting during an interview with football stars breached any of the provisions of the Malaysian Communications and Multimedia Content Code (Content Code).

Facts

The content of the interviews did not mention or promote the Carlsberg brand, product or Carlsberg Ultimate Football Retreat event directly; however on viewing a bunting with the Carlsberg logo in the background, Part 3, Paragraph 8.5 of the Content Code would refer. It was a form of direct advertisement of the core business of Carlsberg as understood by the members of the public as that of a producer of alcoholic beverages and as claimed in the company's profile on the internet. A fact was that ASTRO had declined to interview one of the football players because of the venue provided by the organiser, which was a bar setting with prominent alcohol brands in the background. It was queried then, why had ASTRO not declined to interview the other two football legends at the venue which had the Carlsberg bunting in the background?

The Complaints Bureau took cognition of ASTRO's explanation that it had taken all necessary steps to reduce the sponsor's effort in advertising its product. However, in view of the fact that the programme was pre-recorded, ASTRO could have exercised self-regulation in making a further effort to eliminate from view the bunting as suggested in the Order.

Conclusion

The Complaints Bureau imposed a Sanction Order of a sum of Ringgit Malaysia Two Thousand (RM2,000).

Advertisement Content in Segment Aired over ASTRO Radio THR RAAGA

**A Member of the Public
V
ASTRO RADIO (THR RAAGA)
(CB-9-4-15)**

Background

CMCF's Complaints Bureau received a complaint from a member of the public pertaining to the content of an advertisement which the Complainant alleged could be interpreted by listeners as a Multi-Level Marketing (MLM) scheme in a segment over ASTRO Radio Sdn Bhd's THR Raaga.

Facts

The advertisement was broadcast over ASTRO Radio's THR Raaga. ASTRO in its explanation claimed that they had received the same complaint and had contacted the Complainant, provided clarification on the segment, which was that there was no involvement of any MLM company. The company in question was actually an insurance company called United Champion Resources.

Conclusion

Upon considering the facts, the Complaints Bureau Chairman was of the outlook that no further action needed to be taken against ASTRO as it had provided the necessary justification. The complaint was dismissed.



2016

Firefly Airlines Sexist Advertisement on the Internet

Malaysian Communications and Multimedia Commission (MCMC)

V

FlyFireFly Sdn Bhd (Firefly)

(CB-26-03-16)

Background

The Malaysian Communications and Multimedia Commission (MCMC) referred a complaint to CMCF's Complaints Bureau of alleged sexist contents of a FlyFireFly Sdn Bhd (Firefly) advertisement of its cheap flight offer, displayed on its Facebook page. To accompany the complaint, it attached two different still images showing, presented from the rear, the lower half of the bodies of female flight attendants wearing tight fitting skirts.

MCMC requested the Complaints Bureau to review if there had been any breach of the Content Code in order to set an example to advertisers not to exploit women's physical appearance as objects.

Facts

The first image showed a flight attendant who apparently would have earlier sat on a newly painted wooden bench and was now standing; sticking onto her pencil skirt bottom was an imprint '50% off'. Next to the figure the advertisement stated: *'FIREFLY STICKS TO YOU, 50% OFF, All flights, all destinations' 'Book from 7-13 March 2016', and 'Travel from 7 March 2016 - 25 March 2017.'*

In the second image, the offer was enhanced further. The imprint marked on each of the two attendants' rears showed the figures 50% + 10% respectively, indicating a further discount to the one offered above. Next to the two figures, the advertisement displayed:

'OOPS... WE DID IT AGAIN 60% OFF on all Base Fare all flights, All destinations.' 'Fly now at fireflyz.com.my', 'Book Now-13 March 2016' and 'Travel Now – 25 March 2017.'

MCMC's complaint letter, dated 21 March 2016, stated that Firefly had apologised for featuring the advertisements. Firefly had also removed the advertisement from their social media website.

In this instance, Firefly was not a member of CMCF; Firefly had exercised self-regulation (in displaying compliance) by withdrawing the advertisement and offering an apology once a complaint was brought to its attention. This is the spirit of self-regulation which the Communications and Multimedia Act had envisaged when the Act was passed in Parliament as proven by the debates recorded in the Parliamentary Hansard Reports during and since the passing of the Act.

Conclusion

The Complaints Bureau was appreciative of MCMC's concern about the use of women as sexual objects in advertisements. This Order and MCMC's complaint would act as a reminder to all industry players to be aware at all times and avoid sexism in advertising. The complaint was dismissed for reason of an exercise in self-regulation.



2017

Sexual Overtones in ‘*Despacito*’ Song Video

(CAC-1-7-17)

Background

The Malaysian Communications and Multimedia Commission (MCMC) sought CMCF Complaints Bureau’s advice apropos the Latin song ‘*Despacito*’, on whether the lyrics were laced with sexual innuendo and whether the song video was about ‘hot sex’ as some public complaints had indicated.

Facts

The Latin song *Despacito* was sung by a Puerto Rican duo adhering to the Reggaeton music style or genre. There are two versions of the same song, the Spanish version and the mixed version. In the mixed version, the initial part of the song was sung in English by the Canadian pop-singer Justin Bieber. The rest of the song was sung in Spanish.

The Complaints Bureau viewed the YouTube video link of the Spanish version forwarded by MCMC which showed a happily dancing crowd, including some children enjoying the pop and rap number of Reggaeton music. The scene was of gyrating bodies and people hugging, typical of Latin culture. The whole song reflected the vibe of rhythm and zest for life. There was no ‘*seks ranjang*’ (sex in bed) scene or any nudity in the Spanish video as alleged.

For the purpose of this Advisory order, the Complaints Bureau would not comment on any of the video contents. Further, the Complaints Bureau believed that the video was not broadcast on mainstream television stations while the song was played on licensed radio stations airwaves. That was probably the reason MCMC had raised some concern as the government had banned the song in Malaysia.

Conclusion

The Complaints Bureau trusted that the above advice would help MCMC to make a decision on whether to ban the song from the airwaves of licensed radio stations.

***Camelus Green Select* Tea Advertisement over TV ALHIJRAH**

MCMC V TV ALHIJRAH (CB-19-4-17)

Background

The Malaysian Communications and Multimedia Commission (MCMC) referred a complaint to CMCF's Complaints Bureau about an advertisement of a slimming product on TV AlHijrah (TVAH) which was alleged to be in breach of Part 3, Paragraph 4.1 of the Content Code. It appeared to be the same complaint raised earlier by the Ministry of Health (MOH) to the Complaints Bureau.

Facts

When TVAH first advertised the slimming product in April 2017, TVAH was not a member of the CMCF. At that time, when the Complaints Bureau requested TVAH for an explanation based on the letter from MOH, TVAH did not respond. In the circumstances, the Complaints Bureau advised MOH to refer to MCMC for appropriate action as the Complaints Bureau had no jurisdiction over a non-member who refused to submit to the jurisdiction of the Complaints Bureau. MOH took the Complaints Bureau's advice and made a referral to MCMC.

As the facts indicated, MCMC requested for an explanation from TVAH. TVAH responded to MCMC in a letter dated 23 August 2017, which was extended by MCMC to the Complaints Bureau for the Complaints Bureau's subsequent action. TVAH's explanation letter addressed to MCMC stated that it had withdrawn the advertisement immediately upon receipt of MCMC's letter. It had also given a stern warning to the advertiser. TVAH gave its assurance that it would not advertise the company's product in the future. Another crucial fact to be considered was that at the material time when the explanation letter was submitted to MCMC, TVAH had exercised self-regulation aligned with the Content Code by withdrawing the advertisement and subsequently becoming a member of the CMCF.

Conclusion

The complaint was dismissed.

Violence Portrayal in ASTRO's *Go Migration* Advertisement

Members of the Public

V

ASTRO

(CB-20-4-17)

Background

CMCF's Complaints Bureau received two complaints from members of the public on 22 April 2017, as they were unhappy with ASTRO's advertisement depicting violence to invite viewers to migrate from watching ASTRO programmes on television sets to a new platform called '*ASTRO on the GO*' online.

Facts

The advertisement was first aired on ASTRO channels on 22 April 2017, Complaints Bureau deduced, since that was the date many negative comments were posted on various internet sites. They all shared the same view that using violence in an advertisement (by showing an angry woman destroying a television set with a hammer and a man blowing up a television set) as a means to attract viewers' attention to the new medium was not suitable viewing content, particularly for young children.

On 27 April 2017, at 6.59 p.m, the Malaysian Communications and Multimedia Commission (MCMC) emailed a letter of enquiry to ASTRO regarding the same advertisement. However, ASTRO had withdrawn the advertisement at 6.00 a.m that same morning, prior to receipt of the email. The Complaints Bureau assumed that the withdrawal of the advertisement was spurred by the many negative responses generated on multimedia.

The Complaints Bureau resolved that since the withdrawal was made prior to receiving MCMC's letter of enquiry, it would indicate that the withdrawal was done voluntarily without any coercion from any Authority. Further, ASTRO had withdrawn the advertisement without making any legal stand in the face of criticism from members of the public. This was a display of ethical conduct deserving of the Complaints Bureau's consideration. On these grounds, the Complaints Bureau would not attribute any bad intention to ASTRO for any delay in making the withdrawal. However, the Complaints Bureau would like to convey that ASTRO needed to be more rigorous in its monitoring procedures of public comments.

Conclusion

The Complaints Bureau observed that ASTRO had exercised the required self-regulation and it was unnecessary to proceed further to require ASTRO to make a defence. Public social responsibility was appreciated in this Order. The complaint was dismissed.

Matter of the *Magnificent Century* Drama Series on ASTRO

A Member of the Public

V

ASTRO

(CB-24-5-17)

Background

The historical fiction drama series *Magnificent Century* was broadcast on ASTRO TV (ASTRO Maya HD and ASTRO Prima). The series, dubbed in Bahasa Malaysia, was about the rise of Sultan Suleiman the Magnificent, a 16th century Ottoman Sultan. It had attracted 150 million viewers, spread across Turkey, the Balkans and the Middle East. To Turkey's Prime Minister, Recep Tayyip Ergogan, the drama series was a blasphemy. A complaint was received alleging that the drama series contents contained elements of pornography, which degraded the sanctity of Islam. The Complainant questioned how the drama series could have been approved for broadcast.

Facts

The drama was banned in Turkey in 2013, for the irreverent portrayal of Suleiman the Magnificent on the grounds that it transgressed on national values by insulting, denigrating, distorting or misrepresenting historical personality or events.

To narrate part of the story, Suleiman the Magnificent was the most dynamic and the longest reigning ruler of the Ottoman Empire whose conquests extended into Austrian territory. According to historical records, he took his slave, a Russian Christian from Crimea, as his second wife and she converted to Islam. The drama series depicted her life story as a concubine.

ASTRO had classified the drama series as suitable for viewing with parental guidance to those aged fourteen years old and below. Part 4, Paragraph 3.2 of the Malaysian Communications and Multimedia Content Code allows children to watch contents which may contain some suggestive dialogue, mild sexual situations and innuendo, but that depiction must be infrequent, discreet and of low intensity.

In the Complaints Bureau's view, there was no suggestive dialogue of the scenes in question; at the most, there could be some mild sexual context and if interpreted as such, they were infrequent and of low intensity. The concubine scenes were innuendoes about the sexual practices of the Sultan during that period.

Conclusion

The complaint was dismissed. The Complaints Bureau suggested that a re-classification could help to ease some of the concerns raised by some of the parents whose value judgment may differ on contents to guide children of tender age.

‘D’Herbs Jus Kocok’ Advertisement Broadcast on TV3

A Member of the Public

V

Media Prima Berhad

(CB-28-1-17)

Background

A complaint was raised against the ‘D Herbs Jus Kocok’ advertisement, apparently broadcast during the programme *Biar Aku Jadi Penunggu* on Sistem Televisyen Malaysia (TV3), a free-to-air television station and radio stations managed by Media Prima Berhad.

Facts

The Complainant claimed that there were different versions of the advertisements of the same product. In one, “*the product is for the internal health of women,*” and the Complainant claimed that the term ‘*kocok*’ had a double meaning and “*it is sad to see youngsters use that term in their conversations.*” The Complainant purported that the Censorship Board had not exercised due diligence on their part as the advertisement allegedly was not in compliance with the Regulations.

The Complaints Bureau had reasoned that when any word is used in an advertisement, it must necessarily be applied, used, and interpreted in accordance with the *Dewan Bahasa dan Pustaka* (DBP) dictionary’s ascribed meaning. On the word ‘*kocok*’, the DBP dictionary had not attributed any secondary meaning to that word as interpreted and understood by the complainant.

If there was a double meaning or a secondary meaning that could be attached to the word ‘*kocok*’, TV3 stated that the advertisement certainly did not make any reference to ‘*any aphrodisiac abilities nor as a libido increasing abilities*’ if that was what the Complainant had in mind, since the intended meaning was not clearly specified in the complaint. If the Complainant intended the word ‘*kick*’ to mean ‘*masturbation*’ then again it was not in accordance with the official language denotation used by DBP Dictionary for ‘*masturbation*’.

The Complaints Bureau reached the conclusion that the brand name sat within the official interpretation (for *kocok*). No secondary meaning should be attributed to the brand name unless it becomes understood and accepted otherwise by the general public and within DBP lexicon.

Conclusion

The complaint was dismissed.

Matter of *Nivea Pearl & Beauty Deodorant* Advertisement

UNILEVER (Malaysia) Sdn Bhd
V
BEIERSDORF (Malaysia) Sdn Bhd
(CB-37-8-17)

Background

Unilever (Malaysia) Sdn Bhd (the Complainant) had lodged a complaint with the Complaints Bureau against Beierdoff (Malaysia) Sdn Bhd's (the Respondent) advertisement of its product, *Nivea Pearl & Beauty Deodorant*, that was shown over television channels throughout the month of July 2017. The Complainant alleged that the advertisement contained misleading content as the advertisement suggested that all the other 'non-Nivea' deodorants contained harsh chemicals. Hence, it denigrated competitors' products including the Complainant's product, '*Rexona*'.

Facts

The Complaints Bureau extended the complaint letter to the Respondent and requested for an explanation. The Bureau also requested the Respondent to extend one copy of their explanation letter to the Complainant. The Respondent complied with the first instruction but not the second instruction/request.

The Bureau could have extended the Respondent's explanation letter to the Complainant but it refrained from doing so on the grounds that since the Respondent was not a member of the Content Forum, any refusal to comply with the Complaints Bureau's instruction/request would be an indication by way of conduct that the Respondent was not prepared to submit to its jurisdiction. At this stage, the Bureau read the submission of the Respondent's explanation as polite courtesy and respectfulness shown to the Complaints Bureau. If an Order was to be handed down by the Complaint Bureau, the Respondent might not comply with the Order if the Order adversely affected their interest.

Conclusion

Applying Part 8, Paragraph 3.4 of the Malaysian Communications and Multimedia Content Code, this was not an appropriate case for the Complaints Bureau to continue to deliberate. Following that, the Complaints Bureau would not make any Order in this complaint. This provided an avenue to the Complainant to take alternative legal proceedings if it so deemed fit to pursue. The Respondent's conduct was regrettable notwithstanding that it was within their right to do so.

Matter of *Downy Fabric Softener* Advertisement

Colgate Palmolive Marketing Sdn Bhd
V
Procter & Gamble (Malaysia) Sdn Bhd
(CB-19-2-17)

Background

The Complainant, Colgate Palmolive Marketing Sdn Bhd, had raised a complaint directly with Procter & Gamble (Malaysia) Sdn Bhd on its *Downy Fabric Softener* advertisement which was aired on the 23 December 2016, on ASTRO AEC (Chinese language TV channel) and on Sistem Televisyen Malaysia (TV3), a free-to-air station by Media Prima.

The Complainant was unhappy with Procter & Gamble's response to the complaint which contained conditional terms. Their response was qualified by stating: '*Without Prejudice, and Private & Confidential*' which meant, the answers given should not be used against Procter & Gamble in any legal proceedings. The response also had not provided any substantiation to the claim made in the advertisement despite the Complainant's request for clarification and the necessary support/proof. This triggered the Complainant to lodge a complaint with the Complaints Bureau.

Facts

On the contents, the Complainant alleged that the advertisement contained inaccurate statements which "*may mislead consumers*". In particular, the following:

"1 Downy 900ml softener = 4 (4x900ml) Regular softeners".

Below that statement, it further stated:

"One Downy refill equals four conventional refills".

These two statements were further qualified with the following disclaimer:

"Disclaimer: Based on a technical freshness test conducted in March 2012, in which Downy at 20ml dosage shows higher freshness intensity vs regular fabric conditioner at 80ml dosage"

The Complainant also questioned the time lapse taken between the Test date (March 2012) and the advertisement date which was in December 2016. The Complainant contended that the Test conducted in March 2012 might not reflect the current standard of product testing available. Consequently, it might not necessarily yield the same results of "1=4" as many of the products compared since the Tests were last conducted could have been reformulated.

Conclusion

The Complaints Bureau Ruled that the ‘disclaimer’ clause lacked transparency for want of the ‘source’ and it also had not provided sufficient time for viewers /consumers to appreciate the contents of the disclaimer clause. As such, the advertisement had a misleading effect. Hence, the advertisement did not conform to expected standards and was in breach of the provisions of Part 3.1, Paragraphs (c) and (d), and Part 3, Paragraph 4.1 (iii) (b) read with Part 3.1 (a) of the Content Code.

The Complaints Bureau imposed a Sanction Order of Ringgit Malaysia Five Thousand (RM5,000) on Procter & Gamble.

Matter of *Sunlight Lime 100 Dishwashing Liquid* Advertisement

Colgate Palmolive Marketing Sdn Bhd

V

Unilever (M) Holdings Sdn Bhd

(CB-10-3-17)

Background

Colgate-Palmolive (the Complainant) had raised a complaint against Unilever (Malaysia) Holding Sdn Bhd (the Respondent) for the advertisement of its product, *Sunlight Lime 100 Dishwashing Liquid*, aired on ASTRO Channels Ria, Prima, Oasis, Citra, Warna, Maya HD, One HD and Mustika HD.

Facts

In the advertisement it asserted:

Claim : *“Clean grease 5x faster even if used on plastic”*

Qualifier : *“Based on internal lab test for Sunlight dishwashing liquid on curry chicken grease. August 15, Bangkok, Thailand.”*

The Complainant contended that the claim of ‘5x faster’ and its accompanying qualifier were vague. It could mislead consumers into perceiving that the *Sunlight* dishwashing liquid could clean ‘5x faster’ than all other products in the market as the statement was general in nature. The Complainant had posed the question five times against what? To add to the grievance, the Complainant claimed the Respondent had not substantiated the claim made in the advertisement. Consequently, it abused the trust of the consumer by exploiting their lack of experience or knowledge.

On the application of the Malaysian Communications and Multimedia Content Code, Part 3, Paragraph 4.1 (xiv)(d) the above should be read with Part 3, Paragraph 4.1 (viii) (a) which required an advertiser to supply documentary evidence to prove a claim made in an advertisement. These provisions impose a legal duty on advertisers to disclose the necessary facts on the methodology used. Advertisers should not ignore any request made for substantiation.

On reviewing the advertisement and the explanation given, the Complaints Bureau found that the Respondent had not satisfied or complied with the above said provisions. As it stood, the comparison and disclaimer clause in the advertisement contained sketchy facts which hardly encompassed or disclosed the minimum of the methodology (substantiation) used in the experiment.

Conclusion

The Complaints Bureau found the Respondent to be in breach of Part 3, Paragraphs 4.1 (xiv) (d), (viii) (a) and (iii) of the Content Code.

Since this was the first guiding principle handed down by the Complaints Bureau on the specific issue raised here on how to provide substantiation, the Complaints Bureau would issue a Reprimand Order to the Respondent to abide by the requirements laid down in this Order when making advertisement claims of the same nature in the future.

CONCLUSION

The summaries of complaints and Orders documented by the Communications and Multimedia Content Forum's Complaints Bureau in this publication were mostly in the nature of what Complainants alleged to be non-adherence to the Content Code's ethics in the communications and multimedia industry. The multimedia industry encompasses-- among others-- entertainment, current affairs as well as advertising of products and services.

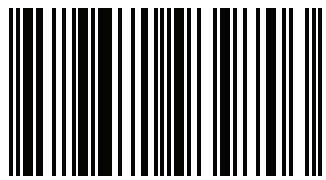
In enforcing the Content Code, the Bureau addressed issues across the electronic networked medium to safeguard, as far as possible, the representation of Malaysian culture which reflect the views of the community at large; ensure ethical advertising of products and services; and regulate appropriate content matter in programmes. The complaints were raised mostly by members of the public, MCMC, product competitors as well as through CMCF's Complaints Bureau's pro-active routine monitoring of programmes and social media platforms.

As the executive summaries in the book indicate, the issues in the complaints were independently reviewed by the Complaints Bureau and Orders served upon decisions taken so that the public at large is reassured that adherence to the Content Code is maintained by all stakeholders.

This inaugural E-publication of complaints and orders over a period of 10 years demonstrates retention of a public record, promoting good practice in the management of records in the Communications industry in Malaysia.



e ISBN 978-967-19397-0-3



9 7 8 9 6 7 1 9 3 9 7 0 3