

2024 AVIA Regulating for Growth – Advertising Matrix for Hong Kong

	Pay TV	OCC TV	Foreshadowed changes
GENERAL			
<i>Overview of Regulation</i>	<ul style="list-style-type: none"> The Hong Kong Communications Authority (CA), a unified regulatory body for the broadcasting and telecommunications sectors, issued and is responsible for administering the Generic Code of Practice on TV Advertising Standards (the TV Advertising Code). Broadcast licensees are responsible for ensuring this code is observed. <p>General Principles</p> <ul style="list-style-type: none"> The “domestic pay TV” category occupies a middle-ground between “domestic free” and “non-domestic” TV categories in terms of the stringency of advertising regulations. The TV Advertising Code covers a range of prohibited products, services, and advertising methods, with special attention to minors, sensitive industries, and privacy protection. There are also requirements contained in other industry or product-specific legislation that may apply to the advertising of the products/services. In general: <ul style="list-style-type: none"> Prohibited Products and Services: Advertisements related to firearms, fortune tellers, undertakers, unlicensed employment services, betting (unless authorised), adult services, and tobacco are banned on licensed broadcasting services. Advertisements for betting are allowed under strict conditions but cannot target children. Controlled Methods: Ads must be clearly distinguished from programmes. Protection of Minors: Ads targeting children or proximate to children's programmes are strictly controlled. For example, ads for betting, alcohol, and certain health products must not appear close to such content. 	<p>There is no specific regulatory regime for advertising on OCC TV, which is not subject to regulation under the Broadcasting Ordinance or other relevant legislation.</p>	

	Pay TV	OCC TV	Foreshadowed changes
	<ul style="list-style-type: none"> ○ Specific Product Rules: Special rules exist for credit and financial products, therapeutic goods, food, tobacco and alcohol. ● Legal and Ethical Compliance: The TV Advertising Code require advertisers to comply with all legal and regulatory guidelines and prohibit misleading claims, especially concerning health products, alcohol, and financial services. 		
<i>Regulatory Bodies</i>	The CA is the statutory body that administers the TV Advertising Code.		None.
<i>Advertising per hour</i>	No restrictions for Pay TV.	None.	None.
<i>Revenue Restrictions</i>	None.	None.	None.
<i>Product Placement</i>	<p>Regulations are generally contained under the TV Advertising Code and the Frequently Asked Questions (FAQs) on Indirect Advertising and Product Placement:</p> <ul style="list-style-type: none"> ● The exposure or use of products within a programme should be presented in a natural and unobtrusive manner having regard to the programme's context and genre. <ul style="list-style-type: none"> - For example, no lingering or frequent close-up shots of the product's brand or trademark. ● The direct encouragement of purchase or use of the product is not allowed. <ul style="list-style-type: none"> - A "hard-sell" approach is generally unacceptable. For example, referring to the products by frequent use of favourable or superlative language, including explicit and prominent remarks that the products should be purchased, owned or used, or repeatedly mentioning the price, retail outlets and availability of the products. ● Product placement is not allowed in the following programmes: <ul style="list-style-type: none"> - Children's programmes - Educational programmes - News programmes - Religious service or other devotional programmes ● Product placement is not allowed for products that are found to be unacceptable for advertising under the TV Advertising Code (e.g. firearms and associated equipment). ● Identification and notification requirements <ul style="list-style-type: none"> - Sponsor for product must be clearly identified in the front and/or end sponsor credits of the programme. 	None.	None.

	Pay TV	OCC TV	Foreshadowed changes
	<ul style="list-style-type: none"> - An announcement containing the wording “The following programme contains indirect advertising” must be made to clearly inform viewers of the inclusion of product placement in the programme before the programme starts • Same requirements apply to both local and foreign products. 		
<i>Foreign Commercials</i>	Must comply with local laws and codes of practice.	Must comply with local laws regulating specific categories of advertising and content. Please see Product-Specific analysis of restrictions below.	None.
<i>Govt Levy</i>	No regulations/restrictions exist.	None.	None.
<i>PSAs</i>	To be imposed by the CA in the licensee's specific licence terms.	None.	None.
PRODUCT-SPECIFIC			
<i>Alcohol</i>	<p>Generally speaking, such advertisements should not encourage immoderate drinking, misuse or abuse of alcohol, portray alcohol as essential to relaxation, or encourage or challenge non-drinkers or minors (i.e. persons under the age of 18) to drink.</p> <p>Set out below are some of the conditions specific to alcohol advertising:</p> <ul style="list-style-type: none"> • Only adults should be targeted, and no children or adolescents should be allowed to be used in the presentation of such advertisements. • Such advertisements must not be shown in proximity to children’s programmes or programmes that, in the opinion of the CA, target minors. • Alcoholic liquor must not be presented as prizes or gifts in isolation for broadcast content (e.g. TV contests). • Alcoholic products should not be advertised as similar to or equated with non-alcoholic products (e.g. soft drinks, fruit drinks etc.) which have particular appeal to children or minors. • Selection of artists in alcoholic beverage advertisements should avoid featuring any personality who appears regularly in children TV programmes or who has a particular appeal to children or minors. • Drinks containing between 0.5%-1.2% ethyl alcohol by volume, whether or not presented as a low or no alcohol 	None.	None.

	Pay TV	OCC TV	Foreshadowed changes
	version of an alcoholic liquor, must not be advertised in or adjacent to children's programmes.		
<i>Pharmaceutical</i>	<p>Pharmaceutical or medical-related advertisements are highly regulated under the TV Advertising Code. The imposed regulations include the following:</p> <ul style="list-style-type: none"> • All medical advertisements must conform to the laws of Hong Kong, including, without limitation, the Undesirable Medical Advertisements Ordinance (Cap. 231). • Advertisements for medical preparations which are included in Part 1 of Schedule 10 to the Pharmacy and Poisons Regulations (Cap. 138A) or Schedule 1 to the Antibiotics Regulations (Cap.137A) are not acceptable. • Advertisements for certain medical-related products or services are prohibited (e.g. pregnancy testing services, clinical laboratory testing services, procurement of miscarriage or abortion, etc.). • Patients cannot be shown receiving treatment or under the influence of a drug or hypnotism. The appearance of a patient implying or testifying to the cure of any condition is not acceptable. <p>As per the Public Health and Municipal Services Ordinance (Cap. 132), advertisements cannot contain any drug that has been adversely affected in its quality, constitution or potency by means of adding a substance to, or abstracting any constituent from, that drug.</p>	<p>Advertisements published on OCC TV via the internet are also subject to regulation under the Undesirable Medical Advertisements Ordinance and the Public Health and Municipal Services Ordinance.</p> <p>The Department of Health conducts regular checks on the market (including the internet) and will take follow-up action in accordance with the law if any suspected violation of the Ordinance is found. Technically, rules would apply to offshore services accessible by Hong Kong audiences, but enforcement against such services would likely be difficult.</p>	None.
<i>Gambling</i>	<p>Under the Gambling Ordinance (Cap. 148), advertisements that promote or facilitate bookmaking and betting-related services are prohibited. It is also illegal to advertise offshore bookmaking in Hong Kong.</p> <p>An exception to these restrictions is where such activities are authorised under the Betting Duty Ordinance (Cap. 108) in relation to horse racing or football betting publications and related matters. Currently such authorisations have been granted only to the Hong Kong Jockey Club.</p> <p>Where authorised under the Betting Duty Ordinance, any advertisements for lotteries are subject to specific restrictions. For</p>	<p>Under the Gambling Ordinance, advertisements to promote or facilitate bookmaking and betting-related services are prohibited. This includes those that are published on OCC TV via the internet.</p> <p>Technically, rules would apply to offshore services accessible by Hong Kong audiences, but enforcement against such services would likely be difficult.</p>	None.

	Pay TV	OCC TV	Foreshadowed changes
	example, it may not be broadcast on TV during certain hours of the day, and it may not contain certain elements such as targeting juveniles, exaggerating the likelihood of winning, or suggesting that betting is a source of income or a viable way to overcome financial difficulties.		
<i>Claims</i>	<p>The TV Advertising Code imposes restrictions on the making of claims in advertisements. For example:</p> <ul style="list-style-type: none"> • Best-selling and factual claims (e.g. “the best”, “safest”, “quickest”, etc.) must be capable of substantiation by independently audited sales figures or industry recognised or endorsed sample surveys. • In addition, superlatives such as “most popular”, “most preferred”, “most favoured”, etc., when used to clearly suggest a leading sales position, must be subject to the same standards of independent substantiation concerning best-selling claims. • Best-selling claims must also contain adequate and explicit specification of the category of brand leadership, country, and the time period it covers. • Advertisements should not contain any claims that have the effect of disparaging competitors, competing products or services or other industries, professions, or institutions. • Claims relating to nutrition or dietary effects of products or services should comply with certain rules (e.g. claims of effects or treatment for conditions of health for which qualified medical attention or advice should reasonably be sought are not acceptable). <p>The above requirements do not apply to non-domestic TV licensees, who should instead follow the laws and regulations of the relevant regulatory authority in the intended recipient jurisdictions.</p> <p>Under the Trade Descriptions Ordinance (Cap. 362), all claims regarding a product’s trade description (e.g. price, place of origin, availability, whether brand new or pre-owned, etc.) must be justifiably correct and capable of substantiation.</p>	<p>The restrictions under the Trade Descriptions Ordinance and the Undesirable Medical Advertisements Ordinance are also equally applicable to advertising through OCC TV services on the internet.</p>	None.

	Pay TV	OCC TV	Foreshadowed changes
	Under the Undesirable Medical Advertisements Ordinance (Cap. 231) , advertisements containing claims regarding certain orally consumed products (e.g. regulation of body sugar or glucose, regulation of blood pressure, regulation of cholesterol, etc.) are prohibited, subject to some exceptions.		
<i>Food & Beverages – general</i>	<p>Under the Public Health and Municipal Services Ordinance, a person who publishes an advertisement that falsely describes any food, or is likely to be misleading as to its nature, substance or quality, may be guilty of an offence and liable on conviction to a fine and imprisonment.</p> <p>Under the TV Advertising Code, specific claims for the nutritional value of food must be supported by sound scientific evidence and must not give a misleading impression of the nutritional or health benefits of the food as a whole.</p>	Advertisements published on OCC TV via the internet are also subject to the Public Health and Municipal Services Ordinance.	None.
<i>Food & Beverages – sugar levels</i>	<p>Under the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W), food and beverage may not be advertised as:</p> <ul style="list-style-type: none"> • Low sugar or words to the same effect: if the food or beverage contains more than 5g of sugar per 100g or mL of food or beverage respectively. • No sugar, sugar free or words to the same effect: if the food or beverage contains more than 0.5g of sugar per 100g or mL of food or beverage respectively. 	Food and beverage-related advertisements involving mentions of sugar levels published on OCC TV via the internet are identically regulated under the Food and Drugs (Composition and Labelling) Regulations. Technically, these rules apply to offshore services accessible by Hong Kong audiences, but enforcement against such services would likely be difficult.	None.
<i>Personal hygiene/ Sanitary (including Condoms)</i>	Under the TV Advertising Code, depiction of such products must not be overly graphic or likely to cause offence or embarrassment to viewers. Condom ads must be purely factual and not give the impression that the condom product can provide full protection against transmission of AIDS.	None.	None.
<i>Tobacco</i>	<p>Under the Smoking (Public Health) Ordinance (Cap. 371), all “tobacco advertisements” (i.e. any advertisement containing any express or implied inducement, suggestion or request to purchase or smoke cigarettes or promote or encourage the use of tobacco products) are prohibited.</p> <p>Under the TV Advertising Code, any advertisements for tobacco-related products such as cigarette holders, tobacco filters and other smoking accessories (that are not prohibited under the Smoking (Public Health) Ordinance) should only target adults (over</p>	Tobacco-related advertisements published on OCC TV via the internet are similarly prohibited under the Smoking (Public Health) Ordinance. Technically, these rules would apply to offshore services accessible by Hong Kong audiences, but enforcement against such services would likely be difficult.	None.

	Pay TV	OCC TV	Foreshadowed changes
	the age of 18), have no children or adolescents participate in the presentation of such advertisements, and not be shown in proximity to children's programmes, or in the opinion of the CA, target minors. The presentation of tobacco products as prizes or gifts for TV contests is also not permitted.		
<i>Children</i>	<p>Under the TV Advertising Code, children in ads must be portrayed as contributing to safety, practicing good manners and behaviour, and cannot appear in ads for alcoholic and tobacco-related products.</p> <p>Publishing and publicly displaying indecent and obscene content is regulated by the Control of Obscene and Indecent Articles Ordinance (Cap. 390) (COIAO). Under the COIAO, an article (i.e. anything consisting of or containing material to be read or looked at, which would include online content):</p> <ul style="list-style-type: none"> • is considered indecent if it is unsuitable to be published to an individual under 18 years old by reason of indecency (classified as a Class II article), and cannot be distributed, circulated, sold, hired, given or shown to anyone under the age of 18 and must include a statutory warning notice; or • is considered obscene if it is unsuitable to be published to any person (regardless of age) by reason of obscenity (classified as a Class III article), and shall be prohibited from being distributed, circulated, sold, hired, given or shown to anyone. <p>"Indecency" and "obscenity" is broadly defined to include violence, depravity and repulsiveness. "Publish" is also broadly defined to include anyone who "distributes, circulates, sells, hires, gives or lends the article to the public or a section of the public", whether or not in return for gain.</p> <p>The Obscene Articles Tribunal (OAT) is ultimately responsible for determining whether or not an article is either indecent or obscene.</p>	The COIAO would apply to OCC TV provided via the internet.	None.
<i>Women</i>	None.	None.	None.

	Pay TV	OCC TV	Foreshadowed changes
Property	<p>Under the TV Advertising Code, no advertisement offering for sale or let any flat, shop, office or other unit of accommodation in Hong Kong should be accepted:</p> <ul style="list-style-type: none"> • in respect of a completed building, unless the advertiser is able to substantiate that any such proposal does <u>not</u> constitute any breach of the conditions relating to such sale or letting imposed in the government's lease conditions affecting the land on which such completed building stands; or • in respect of an uncompleted building, unless the prior consent of relevant government authority such as the Director of Lands has been sought; or unless the developer can produce evidence that his solicitor has deposited a statutory declaration under Rule 5C(3) of the Solicitors Practice Rules. <p>Licensees are exempt from the above restrictions if the advertiser is an estate agent licensed under the Estate Agents Ordinance (Cap. 511) or if the building in question regulated under the Residential Properties (First-hand Sales) Ordinance (Cap. 621).</p> <p>Property advertisements should display visually or auditorily an advisory message with words to the following effect:</p> <p style="text-align: center;">PLEASE OBTAIN AND REVIEW CAREFULLY ALL RELEVANT INFORMATION RELATING TO THE PROPERTY(IES) BEFORE MAKING ANY PURCHASE DECISIONS AND SEEK PROFESSIONAL ADVICE IF IN DOUBT.</p> <p>As for any descriptions, demonstrations and claims of a specific nature regarding the property, the broadcasting licensee must ascertain that they have been adequately substantiated by the advertisers. In particular:</p> <ul style="list-style-type: none"> • the advertisement should not misrepresent the location, size and value of the property and the available transport facilities; • the lowest selling price must be stated as such and should not give viewers the impression that it is the average price; • a price being offered to local purchasers only should be stated as such and should not give an impression that it is also being 	None.	None.

	Pay TV	OCC TV	Foreshadowed changes
	<p>offered to overseas purchasers, if there is a significant difference in the prices; and</p> <ul style="list-style-type: none"> any furniture, home appliances and the likes shall not be presented as “free gifts” unless they will be provided at no extra cost to the recipient. The licensee needs to obtain a statement to this effect from the advertiser. 		
COUNTRY-SPECIFIC INFORMATION	<p>For a "light-touch" government, Hong Kong has a surprising array of advertising restrictions.</p> <ul style="list-style-type: none"> Financial and investment services: Licensees must ensure advertisements comply with all Hong Kong ordinances. Controls on the advertising of solicitation of investment opportunities are controlled by the Securities and Futures Commission (SFC). Equally, controls on the advertising of deposits and investment opportunities by authorised institutions such as licensed banks are controlled by the Hong Kong Monetary Authority (HKMA), which coordinates its regulatory functions with those of the SFC in respect of the compulsory registration and licensing with the SFC of all authorised financial institutions under the general control of the HKMA. Triads: There are restrictions on the depiction of triads in the Generic Code of Practice on TV Programme Standards. Programme Sponsorship: news programmes, religious services and government programmes are prohibited from sponsorship. Other prohibitions under the TV Advertising Code: <ul style="list-style-type: none"> Advertisements relating to firearms and associated equipment, fortune tellers, establishments providing adult entertainment (e.g. dance halls, night clubs, saunas, bath houses), escort services and chat lines, among others, are not allowed. Ads must not be inserted in the course of religious services, or other devotional programmes. Various medical services may not be advertised, including smoking cessation (except nicotine replacement therapy products subject to restrictions), hair/scalp disease treatments, pregnancy testing, other lab testing, relief from drug/alcohol addiction, and cosmetic surgery and weight reduction involving use of 	<p>Technically, the restrictions listed on the left (except for the Code of Practice on TV Programme Standards and the TV Advertising Code) would apply to advertising on OCC TV services, including those operated by offshore entities accessible by Hong Kong audiences, but enforcement against such services would likely be difficult.</p>	None.

	Pay TV	OCC TV	Foreshadowed changes
	<p>medical preparations, and procurement of miscarriage or abortion.</p> <ul style="list-style-type: none"> • National Security Law: Advertisements deemed to "endanger national security" are prohibited under the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region and the Safeguarding National Security Ordinance under Article 23 of the Basic Law. 		
Useful Links	Please see above.	None.	None.