

**Commerce and Economic Development Bureau’s handling of
request for the list of members of the dedicated team
for reviewing the governance and management of
Radio Television Hong Kong
(Related to Code on Access to Information)
Investigation Report**

The complainant complained to this Office against the Commerce and Economic Development Bureau (“CEDB”) and submitted supplementary information on 12 April and 3 May 2021 respectively.

The Complaint

2. On 20 February 2021, pursuant to the Code on Access to Information (“the Code”), the complainant requested CEDB to provide the list of members (“the List”) of the dedicated team (“the Team”) for reviewing the governance and management of Radio Television Hong Kong (“RTHK”). In its reply on 9 April 2021^{Note 1}, CEDB explained that disclosure of information relating to individual members and operations of the Team would make it more difficult to conduct other reviews in the future or have a negative effect on the ability of other departments to conduct similar operations. Hence, CEDB refused the complainant’s request by invoking paragraph 2.9(c) of the Code.

3. In the complainant’s opinion, disclosure of the List could help the public understand each individual member’s conduct and media experience and whether there was any potential conflict of interests, thereby enhancing the credibility and legitimacy of the review report. The complainant also pointed out that the Government had disclosed the membership when setting up the Committee on Review of Public Service Broadcasting (“the Committee”) in 2006. Therefore, CEDB’s refusal to disclose the List lacked sufficient justification.

Our Findings

4. Having scrutinised the complainant’s submission, this Office decided to conduct a full investigation. CEDB replied to this Office on 3 June 2021 and upon our request, provided supplementary information on 21 July 2021. After a discreet

^{Note 1} In its reply to the complainant, CEDB indicated that the Team was established in mid-2020 to review the governance and management of RTHK, with Jessie Ting Yip Yin-mei, a directorate Administrative Officer leading the Team. Members of the Team included Albert Cheung Kin-wah, the then Assistant Director of Broadcasting, and officers from different staff grades including Executive Officer, Treasury Accountant and Management Services Officer, who were serving civil servants or retirees employed on a contract basis. They all have knowledge and experience on broadcasting services, administration, resources management as well as organisation management consulting. The Team reported to the Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries). In compiling the review report, the Team had made reference to internal documents, made observations on RTHK’s operation and discussed with RTHK staff.

examination of CEDB's submission and explanation, we completed this investigation on 24 August 2021. Our findings are as follows.

Background

5. According to the Governance and Management of Radio Television Hong Kong Review Report ("the Review Report") published in February 2021, RTHK is under CEDB's housekeeping oversight. In view of the wide public concern about RTHK's programmes, a large volume of complaints against RTHK and repeated breaches of the relevant codes of practice, CEDB saw the need for a more critical review of RTHK's governance and management. On 28 May 2020, CEDB announced that a dedicated team would be established to conduct an internal review of the governance and management of RTHK to ensure RTHK's full observance of the requirements stipulated in the Charter of RTHK, other applicable rules and regulations, and relevant codes of practice.

Response from CEDB

Relevant Provisions in the Code

6. Paragraph 2.9(c) of the Code provides that a department may refuse to disclose information if the disclosure of such information would harm or prejudice the proper and efficient conduct of the operations of the department. This provision protects information relating to the conduct of tests, management reviews, examinations or audits conducted by or for a department. According to the Guidelines on Interpretation and Application of the Code, invocation of paragraph 2.9(c) need not be limited to those cases where disclosure would adversely affect the conduct of a particular review, or prejudice the supply of information in one particular case. It would be sufficient to show that the disclosure of information relating to a particular review would make it more difficult to obtain similar information or conduct other reviews in the future, or that disclosure might have a negative effect on the ability of other departments to conduct similar operations.

Consideration Given as to Whether the List Should be Disclosed

Providing Name and Post Title of Public Officers

7. The Government attaches particular importance to the quality and transparency of public services and continues to strengthen accountability to the public. The relevant government circular provides that all staff in contact with the public in the performance of their duties should identify themselves by name and post title to enable transparency and accountability in delivering public services as well as facilitating communication with members of the public.

8. The Team was established to conduct an internal audit in a professional manner. It comprised non-frontline staff whose major duty was to study internal

documents, observe the department's operations and discuss with RTHK staff in order to compile the Review Report. In performing its duty, the Team did not need to communicate with or contact the public. Hence, it was unnecessary for members of the Team to provide personal data to the public as required in the government circular mentioned in the preceding paragraph.

Macro Social Environment

9. Following the riots in 2019, there had been doxxing cases/activities where government or public officers' identities were disclosed through various channels such as online forums, social media or messaging groups. These cases involved various departments and personnel including police officers, judicial staff and even the Privacy Commissioner for Personnel Data. That those harassed included the head of a department and frontline officers shows how grim the situation has been.

10. In such an environment, public officers, in particular those who undertake tasks widely concerned by members of society, would be facing explicit risks of being identified maliciously and having their privacy infringed. When personal data has been weaponised, those public officers might be prone to serious harm. Currently, the Government is working on the amendment to the Personal Data (Privacy) Ordinance to combat such malicious act of doxxing.

Preparing Formation of the Team

11. In preparing the formation of the Team in mid-2020, CEDB had approached serving officers and retirees of different staff grades and invited them to join the Team. Besides having concern about the duties of the Team, some of them had expressed their worry over the possibility of being doxxed. For this reason, some rejected the invitation, making the formation of the Team very difficult to achieve. Those who later joined the Team were of the understanding that the review of RTHK's operations was an internal audit, and that their personal data would not be disclosed. CEDB considered that it was obliged to protect members of the Team or their family members from being doxxed rather than making remedies after doxxing occurred.

Subsequent to Publication of Review Report

12. In April 2021, RTHK issued a personnel circular to inform its staff that several officers would engage in the follow-up on the Review Report compiled by the Team. Relevant information and the officers concerned then received unreasonably wide media coverage. That the media coverage included even non-directorate frontline officers means disclosure of the List after the Review Report was published could still put privacy of members of the Team at risk and cause harm to them.

13. Moreover, an RTHK official had previously been subjected to a threat in which a letter containing suspicious objects was sent and an organ donation card was completed with this official's personal data. The case was reported to the Police. In

July 2021, a “lone-wolf” style attack took place in a busy area in which the attacker committed suicide after wounding a police officer. Such radical action has proven that CEDB had a valid reason for worrying, and that it was necessary for CEDB to handle the List carefully to prevent members of the Team from suffering unreasonable and irreversible harm. Otherwise, it would be more difficult for the Bureau to engage officers to conduct similar operations in the future.

Creditability and Legitimacy of Review Report

14. In addition to releasing the list of directorate members of the Team, CEDB also explained the Team’s duties and mode of operation. As the other members were either civil servants or retirees employed on a contract basis (from staff grades including Executive Officer, Treasury Accountant, Management Services Officer, Secretary and clerical staff), who played a supporting role in the Team, CEDB considered that disclosure of their identities had no impact on the creditability and legitimacy of the Review Report.

15. By press release and publication on CEDB’s website, the Review Report was made available for public inspection. The Secretary for Commerce and Economic Development also held a press conference on the publication day, explaining the details of the Review Report. He also gave a briefing on the Review Report and provided updates on the follow-up work at the meetings of the Panel on Information Technology and Broadcasting of the Legislative Council on 15 March and 25 May 2021 respectively. Hence, by referring to the Review Report, members of the public could judge whether the Team had performed its duty in a reasonable and professional manner.

16. Further, the Team had already completed its tasks and disbanded when the complainant first requested the List from CEDB on 20 February 2021. Hence, disclosing the List would in no sense help the public in expressing their views to the Government regarding the Review Report. Public enquiries about the Review Report should be made to CEDB.

Duties of the Committee and the Team

17. The Committee, comprising independent individuals appointed by the Chief Executive to conduct the Review of Public Service Broadcasting in 2006, was commissioned to examine the role of public service broadcasting and arrangements for such service. The Team was established by CEDB in 2020 to review the governance and management of RTHK by way of internal audit for a government department. Unlike other reviews of public policies, this review was a part of the administrative management within a government department, and all staff members involved were government employees. The aforesaid two reviews should not be compared with each other as the topics and arrangements involved were totally different.

CEDB's Comments

18. RTHK's work has attracted much public concern in recent years. Apart from criticisms on the Internet and social media, there were derogatory remarks and inaccurate reports posted on widely-used public platforms relating to RTHK staff. While the Team was established to complete a six-month task, it had attracted unreasonably massive public concern, rendering it an easy target of attacks from radical members of society. The personal data (such as residential address, schools and classes that their children attend) of the staff concerned and their family might be publicised with an intent to affect or even threaten the work of the Team. Therefore, disclosure of the List containing the names of all members of the Team (especially those non-directorate supporting staff) might cause some colleagues to worry about their privacy being infringed or themselves being doxxed and bullied on the Internet. That would make it difficult for the Government to engage civil servants or other contract staff to conduct reviews or similar operations in the future (paragraph 2.9(c) of the Code).

19. CEDB had tried to attend to the complainant's request by providing the names of directorate members who led the Team as well as the staff grades of other members to facilitate the complainant's understanding of the division of work within the Team. Besides, the Bureau had briefly explained the Team's work and mode of operation (see Note 1). In CEDB's view, providing part of the List instead of a full list, was in line with the Code and it could strike a balance between the public's right to know and protection of staff's privacy. Hence, it was unnecessary to disclose the List containing the names of all members.

Our Comments

20. As described in **paragraphs 9 to 13 and 18**, CEDB had detailed the reasons why disclosure of the names of non-directorate staff on the List would make it difficult for the Bureau to conduct other reviews, or have a negative effect on the ability of other departments to conduct similar operations in the future (see paragraph 2.9(c) of the Code). Generally speaking, it is good practice that public officers provide their names and post title upon request. Civil servants should not expect that worry over being doxxed could be regarded as a justification for refusal of duties assigned by seniors. Nevertheless, it was then in exceptional circumstances, and CEDB had reasons to worry that disclosure of the List might put members of the Team at risk. Having considered CEDB's explanation and justifications, this Office is of the view that CEDB had not violated the Code in refusing to provide the complainant with the requested information.

21. As regards public evaluation of the Review Report's creditability and legitimacy, this could be achieved by examining the content of the report itself. In addition, the names of the Team's two key members and staff grades of the other members were disclosed. As such, it was not necessary to disclose also the names of other members on the List for increasing creditability and legitimacy of the report. After all, it was CEDB that reviewed the governance and management of RTHK (see **para. 5**) and CEDB, not the Team or its members, should be responsible for explaining

the Review Report to the public. CEDB had indicated that the public could contact it direct for any comments or enquiries regarding the Review Report (see **para. 16**).

22. Based on the analysis in the two preceding paragraphs, this complaint against CEDB was **unsubstantiated**.

**Office of The Ombudsman
August 2021**