

The Legislative Council
Panel on Information Technology and Broadcasting

Licence Fees for Television Programme Service Licences

Purpose

This paper briefs Members on the proposed licence fees for television programme service licences¹ issued under the Broadcasting Ordinance (Cap.562) (BO).

Background

2. The policy of charging licence fees at full-cost recovery level has been applied to the broadcasting sector since 1996. To mitigate the financial impact on licensees, the Government adopted a special arrangement whereby licensees were allowed to phase-in the payment of full-cost recovery licence fees over a period of five years. Accordingly, broadcasting licensees were required to pay 20% of the full-cost fee in the first year after the renewal of their respective licences, 40% in the second year and so on until the full cost fee is payable on the fifth year.

3. Following the 1998 Review of Television Policy, the Government made a policy decision that all broadcasting licensees should be required to pay licence fees at full-cost recovery level, with the abolition of royalties following the enactment of the BO. During the scrutiny of the Broadcasting Bill, Members of the Bills Committee suggested and the Administration agreed that the annual full-cost licence fees payable by licensees should be prescribed by regulation made under the BO. Accordingly, section 13 of Schedule 4 of the BO provides that a licensee² shall pay annually to the Director of Accounting Services a licence fee and such other fees as may be prescribed by regulation made under the BO. The regulation is a subsidiary legislation subject to negative vetting by the Legislative Council.

4. Given that subsidiary legislation can only be made after the enactment of the BO, we have provided for a transitional arrangement in the

¹ These refer to domestic free, domestic pay, non-domestic and other licensable television programme service licences.

² This provision does not apply to satellite television uplink and downlink licences and hotel television service licences, which are deemed to be non-domestic television programme service licences and other licensable television programme service licences respectively. As the licence fees of these deemed licences are stipulated in their respective licences, this provision shall not apply to these licensees until their existing licences expire or when they are surrendered for a licence under the BO, whichever is the earlier.

BO whereby the Financial Secretary may, by notice in writing served on an existing licensee³, specify the fee to be paid to the Government by the licensee for the year after the commencement of the BO. We have adopted the existing charging basis for the computation of full-cost licence fees for this transitional period. The licence fees paid by these existing television licensees after the commencement of the BO⁴ are set out in Annex A.

5. Under the old regulatory regime of the repealed Television Ordinance, television broadcasting licensees were required to pay a single licence fee which reflects the resources spent by the Television and Entertainment Licensing Authority (TELA) and the Office of the Telecommunications Authority (OFTA) in administering the licence conditions. This charging basis, however, is not applicable to the new regulatory regime under which “carriage” and “provision” of television programme services are licensed separately under the Telecommunications Ordinance (Cap. 106) (TO) and the BO respectively.

Proposed Licence Fees

6. With the opening up of the television market under the new regulatory regime, there will be a proliferation of broadcasters each providing different number of channels and serving different audience sizes. There is a need to devise a new licence fee structure to reflect the level of costs in administering different categories of licences. We propose that the licence fees for the “programme service” part of broadcasting licences should be based on a formula approach taking into account the number of channels or subscribers as appropriate.

7. The costs incurred in most of the work undertaken by TELA in relation to licence administration are quite constant for licences under the same category. These include, for example, general licence administration; preparation and review of codes of practice and guidelines; etc. The costs for the above in relation to the same category of licences would constitute the **base fee** of the formulae. On the other hand, the cost of handling complaints is very much affected by the number of complaints, which in turn is related to the number of viewers served or the number of channels provided by a service. Such cost would form the **variable fee** of the formulae.

³ These refer to the licensees holding television broadcasting licences issued under the repealed Television Ordinance. These licences are deemed to be domestic free television programme service licences (licences of ATV and TVB) or domestic pay television programme service licences (licences of Hong Kong Cable Television Ltd and Cable & Wireless HKT VOD Ltd) issued under the BO.

⁴ The BO comes into operation when it was gazetted on 7 July 2000.

8. The proposed formulae for calculating the licence fees for different categories of TV programme service licences are as follows:

	Base fee	Variable fee
Domestic Free TV Programme Service Licence	\$3,810,780	\$1,565,920 per programme service channel
Domestic Pay TV Programme Service Licence	\$1,371,450	\$4 per subscriber
Non-domestic TV Programme Service Licence (Where the service is available free in Hong Kong or is not available in Hong Kong)	\$56,550	N.A.
(Where a subscription is required to be paid for the service provided in Hong Kong)	\$69,600	\$4 per subscriber ⁵
Other Licensable TV Programme Service Licence: (Hotel)	\$15,170	\$5,410 per hotel
(Others, e.g. for niche audience or housing estates)	\$223,850	\$4 per subscriber

B The detailed cost computation is set out in Annex B.

⁵ Only subscribers to the service in Hong Kong will count.

9. As for the “carriage” part of the broadcasting licences, OFTA has explained in the *Consultation Paper on the Implementation of Carrier Licence under Telecommunications Ordinance* that it falls within the meaning of “carrier licence”. The licence fees payable for the carriage of television programme services should therefore be the same as that applicable to the restricted scope of carrier (fixed) licence, the proposed fee structure of which is at Annex C.

10. Under the above proposed charging scheme, the aggregate licence fees payable for the “carrier licence” and “television programme service licence” by existing television broadcasters which are deemed to be licensees under the Broadcasting Ordinance would not exceed⁶ the existing licence fees payable. A table showing the licence fees payable by television broadcasters under the old and new regulatory regime is at Annex D.

Way Forward

11. The proposed licence fees for “television programme service licence” and “carrier licence” will be prescribed by regulations made under the BO and the TO respectively. The respective regulations will be tabled for negative vetting by the Legislative Council as soon as possible.

Television and Entertainment Licensing Authority
13 November 2000

⁶ This is on the presumption that there is no change in the operating environment (e.g. the spectrum used for carriage of the service and the number of channels of / subscribers to the service) of the service concerned.

Annex A

**The annual licence fees payable by the existing licensees
after the commencement of the Broadcasting Ordinance**

Licensees	Licence fee
ATV	\$10,145,738
TVB	\$10,145,738
HKCTV	\$13,347,995
CWHKTVOD	\$2,030,114

COST COMPUTATION
Television and Entertainment Licensing Authority
TV Programme Service Licence Fee under Broadcasting Ordinance

Unit Cost at 2001 Price Level

Domestic Free TV

	Base	Variable
	\$	\$
Staff cost	2,582,940	2,375,867
Departmental expenses	669,825	194,814
Accommodation cost	286,622	311,408
Depreciation	787	844
Central administrative Overheads	270,602	248,908
Total Cost	3,810,776	3,131,841

Estimated number of programme channels per licence for 2001 2 programme channels

Unit cost at 2001 prices (\$) 3,810,780 1,565,920 per programme channel

Proposed licence fee formula under the BO \$3,810,780 + \$1,565,920 per programme channel

Computed Licence fee(\$) \$6,942,620

COST COMPUTATION
Television and Entertainment Licensing Authority
TV Programme Service Licence Fee under Broadcasting Ordinance

Unit Cost at 2001 Price Level

Domestic Pay TV

	<u>Base</u>	<u>Variable</u>	
		<u>HKCTV</u>	<u>CWHKTVOD</u>
	\$	\$	\$
Staff cost	685,420	1,413,387	240,276
Departmental expenses	537,615	87,293	14,840
Accommodation cost	76,394	239,795	40,765
Depreciation	212	630	107
Central administrative Overheads	71,808	148,074	25,172
Total Cost	<u>1,371,449</u>	<u>1,889,179</u>	<u>321,160</u>
 Estimated number of subscribers per licence		486 110 subscribers ⁽ⁱ⁾	81 608 subscribers ⁽ⁱ⁾
 Unit cost at 2001 prices (\$)	1,371,450	\$4 per subscriber	\$4 per subscriber
 Proposed licence fee formula under the BO		\$1,371,450 + \$4 per subscriber	
 Computed Licence fee(\$)		\$3,315,890	\$1,697,882

⁽ⁱ⁾ The number of subscribers as at 31.7.2000 of HKCTV and CWHKTVOD are 486 110 and 81 608 respectively.

COST COMPUTATION
Television and Entertainment Licensing Authority
TV Programme Service Licence Fee under Broadcasting Ordinance

Unit Cost at 2001 Price Level

Non-Domestic TV

	Non-Domestic (Free)		Non-Domestic (Pay)	
	<u>Base</u>		<u>Base</u>	<u>Variable</u>
	\$		\$	
Staff cost	44,832		55,037	
Departmental expenses	2,131		2,669	
Accommodation cost	4,873		6,111	
Depreciation	13		17	
Central administrative Overheads	4,697		5,766	
Total Cost	<u>56,546</u>		<u>69,600</u>	
Unit cost at 2001 prices (\$)	56,550		69,600	\$ 4 per subscriber ⁽ⁱ⁾
Proposed licence fee formula under the BO	\$56,550		\$69,600 + \$4 per subscriber	

⁽ⁱ⁾ It is assumed that the unit cost for each subscriber to non-domestic pay TV programme service is the same as that for the domestic pay TV programme service.

COST COMPUTATION
Television and Entertainment Licensing Authority
TV Programme Service Licence Fee under Broadcasting Ordinance

Unit Cost at 2001 Price Level

Other Licensable TV (for Hotel)

	Base	Variable
	\$	\$
Staff cost	12,073	4,259
Departmental expenses	550	215
Accommodation cost	1,275	489
Depreciation	3	1
Central administrative Overheads	1,265	446
Total Cost	15,166	5,410

Estimated number of hotel per licence 1 hotel

Unit cost at 2001 prices (\$) 15,170 5,410
per hotel

Proposed licence fee formula under the BO \$15,170 + \$5,410 per hotel

COST COMPUTATION
Television and Entertainment Licensing Authority
TV Programme Service Licence Fee under Broadcasting Ordinance

Unit Cost at 2001 Price Level

Other Licensable TV (for housing estates & niche audience)

	Base	Variable
	\$	
Staff cost	141,248	
Departmental expenses	53,074	
Accommodation cost	14,690	
Depreciation	38	
Central administrative Overheads	14,798	
Total Cost	223,848	
Unit cost at 2001 prices (\$)	223,850	\$ 4 per subscriber ⁽ⁱ⁾
Proposed licence fee formula under the BO	\$223,850 + \$ 4 per subscriber	

⁽ⁱ⁾ It is assumed that the unit cost for each subscriber to other licensable TV programme service (for housing estates and niche audience) is the same as that for the domestic pay TV programme service.

Annex C

For carrier (fixed) licence whose scope of service is restricted to using fixed telecommunications networks to transmit television programmes of their own or of third parties:

1. A fee of \$100,000 shall be payable on the grant of a licence and, in each year while the licence remains in force, on the anniversary of the grant of the licence.
2. A fee of \$700 shall be payable on each anniversary of the grant or the renewal of the licence for each 100 customer connections, made by telecommunications line or radiocommunications means, to the Network established and maintained under Schedule 2 to the licence provided by the licensee.
3. Save as provided in paragraph 4, a fee for use of radio spectrum assigned to the licensee shall be payable on the grant and on each anniversary of the grant of the licence and calculated in accordance with the formula set out below –
 - (i) where the radio spectrum is assigned exclusively to the licensee –
 - (a) \$50 for every 1 kHz or part thereof of spectrum then assigned below 1 GHz;
 - (b) $\$(50-4F)$ for every 1 kHz or part thereof of spectrum then assigned within 1 GHz to 10.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;
 - (c) $\$(20-F)$ for every 1 kHz or part thereof of spectrum then assigned within 11 GHz to 18.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;
 - (d) \$1 for every 1 kHz or part thereof spectrum assigned at or above 19 GHz;

(ii) where any part of the radio spectrum is assigned to the licensee on a non-exclusive or shared basis, the fee calculated in accordance with the formula set out in subparagraph (a) shall be proportionally reduced by a reduction factor equal to the number of users authorized or reserved by the Authority to use that particular part of the radio spectrum. For the avoidance of doubt, the reduction factor is to be determined on the grant and on each anniversary of the grant of the licence.

4. No fee is payable for the use of spectrum within any of the following frequency bands –

6.765	–	6.795 MHz
13.553	–	13.567 MHz
26.957	–	27.283 MHz
40.66	–	40.7 MHz
2400	–	2500 MHz
5.725	–	5.875 GHz
24.0	–	24.25 GHz
61	–	61.5 GHz
122	–	123 GHz
244	–	246 GHz

**Existing & Proposed Licence Fees payable by
Television Programme Service Licensees**

	Existing Fees	Proposed Fees		
		TV Programme Service Licence	Carrier (Fixed) Licence - Restricted Scope	Total
Domestic Free				
ATV	\$10,145,738	\$6,942,620	\$2,475,000	\$9,417,620
TVB	\$10,145,738	\$6,942,620	\$2,616,000	\$9,558,620
Domestic Pay				
HKCTV	\$13,347,995	\$3,315,890	\$9,975,690	\$13,291,580
CWHKTVOD	\$2,030,114	\$1,697,882	NA ⁽ⁱ⁾	\$1,697,882
Non-domestic (Where the service is available free in Hong Kong or is not available in Hong Kong)				
Hutchvision ⁽ⁱⁱ⁾	\$176,940	N.A.	N.A.	\$176,940
Galaxy ⁽ⁱⁱ⁾	\$83,000	N.A.	N.A.	\$83,000
APT Sat Glory ⁽ⁱⁱ⁾	\$270,435	N.A.	N.A.	\$270,435
Starbucks ⁽ⁱⁱ⁾	\$83,030	N.A.	N.A.	\$83,030
New licence	NA	\$56,550	\$100,000 ⁽ⁱⁱⁱ⁾	
(Where pay service is provided in Hong Kong)		Base fee (\$69,600) + \$4 per subscriber		

⁽ⁱ⁾ CWHKTVOD does not establish or maintain a carrier network.

⁽ⁱⁱ⁾ The new licence fees will not be applicable to deemed non-domestic licensees until expiration of their existing licences or surrender of their existing licences for a new licence under the BO.

⁽ⁱⁱⁱ⁾ The carrier licence fee is payable only if the non-domestic licensee also holds a carrier licence. A non-domestic licensee may opt to hire the service of carrier licence holders to transmit its service.

	Existing Fees	Proposed Fees		
		TV Programme Service Licence	Carrier (Fixed) Licence - Restricted Scope	Total
Other Licensable				
Hotel - Existing	\$5,850 - \$81,560	N.A. ^(iv)	N.A. ^(iv)	\$5,850 - \$81,560
- New		Base fee (\$15,170) + \$5,410 per hotel		
(Others (e.g. niche audience and housing estates))	NA	Base fee (\$223,850) + \$4 per subscriber		

^(iv) The new licence fees will not be applicable to deemed other licensable television programme service licences until expiration of their existing licences or surrender of their existing licences for a new licence under the BO.