

**For information  
on 29 July 2002**

**Legislative Council  
Panel on Information Technology and Broadcasting  
Ownership and Corporate Control Applicable to  
Domestic Free Television Programme Service Licensee**

**Purpose**

This paper informs Members of the relevant provisions under the Broadcasting Ordinance regarding the ownership and corporate control of a domestic free television programme service licensee.

**Background**

2. We are aware of Lai Sun Development Company Limited (Lai Sun)'s announcement that it had entered into a Memorandum of Understanding (MOU) with Tom Television Group Limited, a wholly-owned subsidiary of Tom.com, in relation to the sale and purchase of Lai Sun's 32.75% shareholding interest in Asia Television Limited (ATV) on 9 July 2002. We understand that the MOU is a statement of intention to purchase and sell, not a legally binding agreement. ATV is currently holding a domestic free television programme service licence. Up until 24 July 2002, the Administration has not received any application from ATV in relation to the change of the ownership of its shares currently held by Lai Sun.

3. In the absence of an application from the licensee, it is impossible for the Administration to comment on which legislative provision(s) is/are relevant to the purported change in share ownership. However, a licensee has the obligation to ensure compliance with the statutory ownership and corporate control requirements at all times during the licence period. When a licensee notifies the Administration and the Broadcasting Authority (BA) of a change in the shareholding and management structure, we will examine the relevant information to ensure that the licensee continues to comply with the statutory requirements and to determine if prior approval from the BA or the Chief Executive in Council is necessary. The following paragraphs set out for Members' information the statutory requirements regarding ownership and corporate control applicable to a domestic free television programme service licensee. The

requested background information about the 1993 amendments to the repealed Television Ordinance, precedent cases of change in shareholding that require approvals in relation to disqualified persons since 1993, and cross-media ownership restrictions in overseas jurisdictions are attached at **Annex**.

### **The current regime on ownership and corporate control**

4. The Government conducted a comprehensive review of television policy in 1998 and consulted the public on the review findings. Regulatory issues including ownership and corporate control of television service licensees were among the review areas. The new regulatory regime is enshrined in the Broadcasting Ordinance (Ordinance) passed by the Legislative Council in 2000.

5. Under the Ordinance, there are four areas of ownership and corporate control of a domestic free television programme service licensee, namely, -

- (a) restrictions on persons not regarded as fit and proper;
- (b) restrictions on corporate status;
- (c) restrictions on non-permanent residents; and
- (d) restrictions on disqualified persons.

#### *Fit and Proper*

6. It is our policy objective that a television programme service licensee and any person exercising control of the licensee shall be and remain a fit and proper person. The requirement is laid down in section 21 of the Ordinance. Section 21(4) also sets out the factors into be taken into account in determining whether a licensee or person exercising control over the licensee is a fit and proper person, i.e., the person's business record, criminal record in respect of offences involving bribery, false accounting, corruption or dishonesty and other records that require trust and candour.

#### *Corporate Status*

7. By virtue of the definition of "ordinarily resident in Hong Kong" in section 2(1) of the Ordinance, all licensee companies shall be incorporated in Hong Kong so as to ensure that they are subject to the laws

of Hong Kong. In addition, section 8(3) of the Ordinance stipulates that a domestic free television programme service licence shall not be granted to a company that is a subsidiary of a corporation. This is to ensure that a licensee company remains an independent entity with their management and control free from interference from other companies.

#### *Restriction on non-residents*

8. To ensure that local viewers' taste and interests are catered for, there are restrictions on foreign ownership of television stations in many jurisdictions. The restrictions in Hong Kong regarding persons and companies exercising control of licensed broadcasters are based on residence requirements rather than nationality or citizenship. We limit or restrict the influence and control of non-permanent residents in a domestic free television programme service licensee through the following provisions in the Ordinance:

- (a) the requirement of the BA's prior written approval for a non-permanent resident to hold, acquire, or exercise, or cause or permit to be exercised, 2% or more but less than 6%, or 6% or more but not more than 10%, or more than 10%, in the aggregate of the total voting control under section 20 of Schedule 1 to the Ordinance;
- (b) the attenuation of the votes cast by unqualified voting controller, i.e. non-permanent residents who have voting rights, on a poll (if any) at a general meeting of the licensee company to 49% in accordance with the formula stipulated in section 19(1)(c) of Schedule 1 to the Ordinance; and
- (c) the majority of the directors and the principal officers of a domestic free television programme service licensee, including the principal officers of the company in charge of the selection, production or scheduling of programmes, is each a permanent resident in Hong Kong.

#### *Restrictions on Disqualified Persons*

9. To minimise conflict of interest, encourage competition in media markets and avoid editorial uniformity, persons or companies

engaged in or are associated with certain types of businesses are not allowed to hold a domestic free or domestic pay television programme service licence or exercise control<sup>1</sup> of such licensees unless approved by the Chief Executive in Council on public interest grounds. They are defined as “disqualified persons” under the Ordinance and the relevant provisions are set out in Part 2 of Schedule 1 to the Ordinance. Disqualified persons prohibited from exercising control of a domestic free television programme service licensee are:

- (a) another television programme service licensee;
- (b) a sound broadcasting licensee;
- (c) an advertising agency; and
- (d) a proprietor of a newspaper printed or produced in Hong Kong

and persons exercising control of them, as well as their associates.

10. Pursuant to section 3(3) of Schedule 1 to the Ordinance, in considering the public interest for granting the approval, the Chief Executive in Council shall take account of, but not limited to, the following matters –

- (a) the effect on competition in the relevant service market;
- (b) the extent to which viewers will be offered more diversified television programme choices;
- (c) the impact on the development of the broadcasting industry; and
- (d) the overall benefits to the economy.

**Information Technology and Broadcasting Branch  
Commerce, Industry and Technology Bureau**

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<sup>1</sup> “Exercise control” means, inter alia, to be a director or a principal officer of the company or to be a beneficial owner or voting controller of more than 15% of voting shares in the company.

### **Restrictions on disqualified persons**

Cross media ownership restrictions have existed in the regulatory regime since the inception of the Television Ordinance in 1964. The restrictions have been updated from time to time in the light of technological and media market developments.

2. The primary purpose of the Television (Amendment) Bill 1993 was to provide a legal framework for the regulation of subscription television. It included an amendment to extend the definition of “disqualified person” to cover the first subscription television licensee and an associate of any disqualified person. The Legislative Council Brief on the Bill is at **Appendix I**. Since there were changes to the definition of disqualified persons over the years, the list of past approvals in relation to disqualified persons should be read together with the list of changes in disqualified person restrictions, both attached at **Appendix II**.

3. When formulating a regulatory framework for media ownership, governments often strive to strike a balance among the policy objectives of protecting plurality of views, encouraging diversity of content, promoting competition and attracting new investment. In addition, in the age of convergence, there is a need to make the framework sufficiently flexible to accommodate the rapid development in technologies, cross-sector convergence and the changing economic environment.

4. Restrictions on cross media and common ownership in the same medium in selected overseas jurisdictions are listed at **Appendix III**. The frameworks described are based on literature available to the Information Technology and Broadcasting Branch at the time of compilation and are subject to changes as some jurisdictions are in the process of updating their media ownership regimes.

File reference :  
RCB(CR) 4/3/70 (92) Pt. 2

Appendix I

LEGISLATIVE COUNCIL BRIEF

Television Ordinance  
(Chapter 52)

TELEVISION (AMENDMENT) BILL 1993

INTRODUCTION

At the meeting of the Executive Council on 5 January, the Council ADVISED and the Governor ORDERED that the Television (Amendment) Bill 1993 to be gazetted on 8 January 1993 should be introduced into the Legislative Council.

BACKGROUND

2. Neither the Television Ordinance (Cap. 52) nor the Telecommunication Ordinance (Cap. 106) provides a legal framework for the regulation of subscription television. The Television Ordinance does not yet reflect policy decisions taken after our comprehensive review of television broadcasting in 1992. The Television Ordinance is also unsatisfactory in that it contains provisions which are considered to be no longer necessary or which give powers which are too wide to the regulatory authorities.

3. Amendment to our broadcasting legislation is now required to give effect to recent policy decisions and to minimize the likelihood of challenge to certain provisions in our legislation. More information on the purpose and effect of the Amendment Bill is given in the Bill's Explanatory Memorandum.

THE BILL

(a) General

4. Our overall strategy in drafting the Bill has been to extend the provisions of the existing Ordinance relating to wireless television so that the Ordinance covers in addition subscription television, and to make amendments only where there are unavoidable differences between existing services and the new subscription service and where we need new provisions to apply to both kinds of service. This has led us to differentiate in the definition of "broadcasting" in Clause 3 of the Bill, amending section 2 of the Television Ordinance, between "commercial television broadcasting" and "subscription television broadcasting" so as to allow "licence" or "licensee" wherever the word appears in the Television Ordinance without any qualification (and which currently applies only to Asia Television Limited (ATV) and Television Broadcasts Limited (TVB)) to apply both to ATV and TVB and to a subscription television broadcasting licensee. Where there is a need to differentiate, we now refer to either a commercial broadcasting licence/licensee or a subscription television broadcasting licence/licensee, as the case may be.

5. In addition, Clause 3 provides a new, more meaningful definition of television broadcasting, extends the definition of "disqualified person".

6. Clause 5 makes it a criminal offence for any person to broadcast without a licence. Clauses 6 and 7 prescribe certain licence conditions which may be imposed upon licensees. Amended section 8 sets out certain of those conditions which will apply to both commercial and subscription television broadcasting licensees whilst new section 8A covers those applicable solely to commercial television broadcasting licensees and new section 8B those applicable solely to subscription television broadcasting licensees.

7. Clause 14 allows a licensee, where it has obtained the approval of the Broadcasting Authority (BA), to own or control shares in any local or overseas company directly connected with broadcasting (including satellite television and sound broadcasting) without the existing requirement that the licensee should have a controlling interest in those companies. The only restriction as regards investment in such companies will be on a licensee's holdings in a local commercial television broadcasting licensee (ATV and TVB), a local satellite television licensee (Hutchvision Hong Kong Limited (Hutchvision)) and a local sound broadcasting licensee (Metro Broadcast and Commercial Radio), where the licensee may in aggregate own or control no more than 15% of the share capital.

8. Anti-avoidance provisions target circumvention of the 15% limit by connected persons both on investments by licensees in certain companies directly connected with broadcasting (section 17B(1)(b)) and on investment into licensees by disqualified persons (section 10(1)(f)).

9. Clause 14 also provides exceptions to the requirement that a licensee may not invest in companies not directly connected with broadcasting so as to allow a limited amount of investment for treasury purposes (sections 17B(1B) and 17B(1C)) and to allow a subscription television broadcasting licensee to hold or acquire any level of shares in a company that is licensed to provide telecommunication services using a subscription television network (section 17B(1)(c)).



10. Clause 16 amends section 17E so that, provided it has the prior approval of the BA, an unqualified person (ie a person not ordinarily resident in Hong Kong) may hold, acquire or exercise more than 10% in aggregate of the total voting control of a licensee. The 49% ceiling remains untouched however.

(b) Subscription Television

11. In Clause 7, section 8B(1) gives the first subscription television broadcasting licensee the exclusive right to provide a subscription television service to Hong Kong for three years. Clause 8 (section 10(2)) relaxes the restriction over the scope of business which may be operated by a licensee under section 10(1)(a) to enable a subscription television broadcasting licensee to provide telecommunication services using a subscription television network subject to a licence being obtained under the Telecommunication Ordinance.

12. In Clause 7, section 8B(2)(b) gives retrospective validation to the first subscription television broadcasting licence, should it be granted as a transitional licence under the Telecommunication Ordinance. The period of exclusivity will begin from the date of grant of the transitional licence.

13. A new section 20C (Clause 19) requires the subscription television broadcasting licensee to broadcast subscription television programmes supplied to it by Hutchvision during the exclusivity period. Immediately after enactment of the Bill, regulations will need to be promulgated laying down the mechanics whereby the Governor in Council will resolve any failure of the two parties to reach agreement on the terms of how this requirement should be met.

14. Clause 29 (new section 32B) makes it a criminal offence to import, manufacture, sell or hire unauthorized decoders in the course of a business. This provision is designed to stop commercial gain from the supply of decoders which would allow evasion of payment of subscription for reception of subscription television broadcasts.

15. Clause 40 adds a new section 41A under which the subscription television broadcasting licensee is required to pay a subscription royalty to the Government in accordance with rates which will be prescribed by regulation. Advertising royalty will also be payable by subscription television licensees under section 41(1), as amended by Clause 39, if the moratorium on carrying advertising by subscription television licensees is lifted.

(c) Commercial Television

16. Amendments to effect the reduction in royalty payments of ATV and TVB are made in Clause 39. Relaxation of existing restrictions on programming and advertising is provided for in Clauses 22 and 56.

(d) Other Aspects

17. Clauses 11, 30, 32, 33, 46 and 57 remove or revise existing provisions in the Television Ordinance which may be regarded as no longer necessary or which give powers which are too wide to the regulatory authorities. As regards the amendments to sections 33 and 35 proposed by Clauses 30 and 32, our view is that there is a case for reserve powers to be held by the Governor in Council to prohibit programmes in well-defined situations. The Attorney General's Chambers have advised that "the peace and good order of Hong Kong", i.e. the existing criterion for banning

a programme, is too loose. We have proposed therefore that the Ordinance be amended to spell out clearly the circumstances in which a programme may be prohibited. In the light of the new specific criteria we have proposed, we think that any prohibition of programmes should be made by the Governor in Council (as is already provided for radio in section 13M of the Telecommunication Ordinance) on the recommendation of the BA, rather than by the BA itself. Any person broadcasting any prohibited material should be liable on conviction to heavy penalties because of the likely serious ramifications of any such violation.

18. In similar vein, the effect of Clause 28 will be to distance the Government from regulation of the industry, whilst Clause 11 provides for the proceedings of the BA to be more open to the public when it is considering possible revocation of a licence under new, more clearly defined circumstances. These proposed amendments take into account the views recently put to the Government by the Hong Kong Journalists Association.

#### PUBLIC CONSULTATION

19. ATV, TVB, Hutchvision and Wharf Cable Limited have been fully briefed on the policy decisions underlying the proposed legislative amendments. The BA examined a draft of the Bill on 10 December 1992 and endorsed its provisions.

#### ENVIRONMENTAL IMPACT ASSESSMENT

20. The enactment of the Bill by itself does not have any environmental impact.

21. In anticipation of being granted a licence, Wharf Cable is negotiating with the Mass Transit Railway Corporation, Hong Kong Telephone Company Limited and Rediffusion (Hong Kong) Limited over the sharing of existing duct facilities for their optical fibre trunk network so as to minimise environmental disruption. The company is at the same time liaising with utility companies which will be opening roads soon to entrust to these utilities the laying of ducts for their future optical fibre trunk network.

22. All road openings and construction works will be conducted within the provisions of the existing environmental ordinances.

#### FINANCIAL AND STAFFING IMPLICATIONS

23. The enactment of the Bill by itself does not have any significant financial and staffing implications.

24. In order to monitor and regulate the first subscription television broadcasting licensee, the Television and Entertainment Licensing Authority, the Post Office and the Attorney General's Chambers will progressively require some sixteen additional staff at a total annual staff costs of \$5.8 million in 1993/94, rising to \$7.2 million by 1996/97. The need will be met partly from additional resources allocated for this purpose, and partly from redeployment of existing resources. The cost of licensing and monitoring the new subscription television broadcasting service will eventually be fully recovered through the licence fees.

25. Revenue from royalties to be paid by the subscription television broadcasting licensee would be dependent on its subscription and advertising income. The reduction in royalty payments from ATV and TVB is roughly estimated to be in the order of \$400 million (at 1991 prices) for the period 1993-2002.

LEGISLATIVE TIMETABLE

26. The timetable for introduction of the Bill into the Legislative Council will be -

Publication in the Gazette	8 January 1993
First Reading and Commencement of Second Reading Debate	13 January 1993
Resumption of Second Reading Debate Committee Stage and Third Reading	to be notified

PUBLICITY

27. A press release will be issued on 8 January 1993 to explain the purpose of the Bill, viz to provide a legal framework for subscription television, to set out changes in the Government's policy on television broadcasting and to amend provisions in the Ordinance which are considered to be no longer necessary or which give powers which are too wide to the regulatory authorities.

Recreation and Culture Branch

6 January 1993

## Appendix II

### Changes in the definitions of disqualified persons over the years

<u>Year</u>	<u>Ordinance</u>	<u>Restrictions</u>
1964	Television Ordinance	No competitor, supplier of broadcasting material or advertising agent may have a controlling interest in the television broadcasting licensee.
1973	Television Ordinance	Disqualified person means a. an advertising agent; b. a company which supplies material for broadcasting by a licensee; c. a company – • which is a licensee; or • which transmit sound or television material, whether within or without Hong Kong; d. a person who exercises control of a company specified in para. (b) or (c).
1993	Television Ordinance	Disqualified person is extended to cover a. the sole or dominant supplier of a public switched telephone service by wire to residential premises in Hong Kong (in relation to the first subscription television broadcasting licensee only); and b. an associate of any disqualified person.
1996	Television Ordinance	Disqualified person is extended to cover a publisher of a newspaper published in Hong Kong.

<b><u>Year</u></b>	<b><u>Ordinance</u></b>	<b><u>Restrictions</u></b>
2000	Broadcasting Ordinance	<p>Disqualified person means</p> <ul style="list-style-type: none"> <li>a. a licensee in the same category of licence;</li> <li>b. a licensee in a different category of licence (except that a non-domestic licensee is not a DP in relation to a domestic pay licensee);</li> <li>c. a sound broadcasting licensee;</li> <li>d. an advertising agency;</li> <li>e. the proprietor of a newspaper printed or produced in Hong Kong;</li> <li>f. a person who exercises control over a company specified in paras. (a) to (e); or</li> <li>g. an associate of a company specified in paras. (a) to (f).</li> </ul>

**Approvals in relation to disqualified persons since 1995**

	<b>Date</b>	<b>DPs Approved and Details of Approval</b>
1	Sept 1995 <sup>Note 1</sup>	In 1995, TVB's subsidiary Galaxy applied for a Satellite Television Uplink and Downlink Licence. Galaxy fell within the definition of "DPs" at that time under the Television Ordinance which included a company which transmits sound or television material. TVB therefore applied for approval to enable it to have certain common directors and common shareholders with Galaxy.
2	Nov 1997	In the context of the then Cable and Wireless Hongkong Telecom VOD Limited's (CWHKTVOD) (now renamed as PCCW VOD Limited) application for a programme service licence, Cable and Wireless Plc and its subsidiaries, as Fixed Telecommunication Network Service licensees, i.e. companies which transmit sound or television material, were permitted to exercise control of CWHKTVOD.
3	May 1998	Appointment of Mr Liu Changle, Chairman and CEO of Phoenix TV, as a director to exercise control of ATV, subject to the condition that Mr Liu will not be involved in the day-to-day management, programming and editorial decisions or hold more than 15% of the voting shares of ATV.  Being an associate of Phoenix Channel, a company which transmits sound or television material, Mr Liu Changle was a DP at that time under the Television Ordinance.
4	July 2000	Approval in principle given to allow TVB and Galaxy to continue to have certain common directors and shareholders as approved in Sep 1995 during Galaxy's application for the domestic pay TVBS licence.

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Note 1 Under the then effective Television Ordinance ("TVO"), a disqualified person meant -

- a. an advertising agent;
- b. a company which supplies material for broadcasting by a licensee;
- c. a company –  
which is a licensee; or  
which transmit sound or television material, whether within or without Hong Kong;
- d. a person who exercises control of a company specified in paragraph (b) or (c);
- e. the sole or dominant supplier of a public switched telephone service by wire to residential premises in Hong Kong (in relation to the first subscription television broadcasting licensee only); and
- f. an associate of any disqualified person.



	<b>Date</b>	<b>DPs Approved and Details of Approval</b>
		Additional firewall conditions have been imposed on the licences of TVB and Galaxy to prevent any possible cross-subsidization, undue preference or other anti-competitive practices.
5	Sep 2000 <sup>Note 2</sup>	Introduction of Mr Richard Li who was:- (i) associate of Mr Li Ka Shing, a person who exercises control over Metro Radio; and (ii) an executive director of Hutchison Whampoa Ltd, which indirectly owns 50% of Metro Radio, to exercise control of PCCWVOD

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Note 2 Upon the enactment of the Broadcasting Ordinance on 7 July 2000, a disqualified person means -

- a. a licensee in the same category of licence;
- b. a licensee in a different category of licence (except that a non-domestic licensee is not a disqualified person in relation to a domestic pay licensee);
- c. a sound broadcasting licensee;
- d. an advertising agency;
- e. the proprietor of a newspaper printed or produced in Hong Kong;
- f. a person who exercises control over a company specified in paragraphs (a) to (e); or
- g. an associate of a company specified in paragraphs (a) to (f).

### **Restrictions on cross media ownership and common ownership of the same mass medium in selected overseas jurisdictions**

*The media ownership frameworks described are based on literature available to the Information Technology and Broadcasting Branch at the time of compilation and are simplified as an easy reference summary. Some frameworks are subject to changes as some jurisdictions are in the process of updating their media ownership regimes.*

#### **Denmark, Finland, New Zealand and Sweden**

- No restrictions on cross-media ownership beyond the competition laws.

#### **Australia**

- For radio, no one must control more than two commercial radio licences in the same licence area.
- For TV, no one can control more than one commercial television licence in the same licence area or more than one commercial television licences whose combined licence area population exceed 75% of Australia's population.
- There are no specific controls on the printed media.
- Joint control (generally deemed to be a 15% holding) of the following in the same licence area is prohibited:
  - a commercial TV licence and a commercial radio licence
  - a commercial TV licence and a newspaper published at least four times a week (with at least 50% circulation in the licence area);
  - a commercial radio licence and a newspaper;
  - a commercial TV licence and a datacasting transmitter licence.

### Latest Developments in Media Ownership Law

- In March 2002, the Australian federal government introduced the Broadcasting Services (Media Ownership) Amendment Bill 2002 which updates the media ownership regime to encourage greater competition and use of new technologies whilst providing safeguards to ensure diversity of opinion and minimum levels of local news and information.
- The Bill empowers the Australian Broadcasting Authority to grant “exemption certificates” to applicants seeking to acquire media organisations that would otherwise represent a breach of the cross-media rules. Exemptions will be subject to applicants meeting requirements to maintain separate editorial decision-making responsibilities so as to ensure diversity of opinion. Therefore, before receiving an exemption, applicants will be required to demonstrate the existence of:
  - separate and publicly available editorial policies;
  - appropriate and publicly available organisational charts; and
  - separate editorial news management, news compilation process and news gathering and interpretation capabilities.

### **France**

- Terrestrial TV ownership is limited to:
  - maximum holdings in two stations of 49% in the first, 15% in the second;
  - maximum holdings in three stations of 49% in the first, 15% in the second, 5% in the third;
  - maximum holding of 50% in local or regional terrestrial TV; and
  - one national licence (disqualification from holding any other national or local licences).

- Satellite TV ownership is limited to:
  - maximum holdings in two stations of 50% in the first, 33.3% in the second; and
  - maximum holdings in three stations of 50% in the first, 33.3% in the second, 5% in the third.
- No limit on common ownership of radio stations. But there are restrictions on the total audience share.
- Cross-media ownership is limited to two of the followings at the national level: a TV audience of 4 million; a radio audience of 30 million; a cable audience of 6 million; a 20 % share of national daily newspaper circulation.
- Cross-media ownership at the local level is limited to two of the following: one or more terrestrial TV licences broadcast to the area concerned; a 10% share of the radio audience in that area; one or more licences for cable networks serving the region; one or more daily publications distributed there.

### **The United States**

- Common ownership of more than one local TV station in the same Designated Market Area (DMA) is forbidden, although 2 stations may be owned if at least 8 independently-owned stations will remain and both stations do not rank among the top four in the DMA according to audience ratings.
- Commercial radio ownership on a nationwide basis is limited to 20 AM stations and 20 FM stations. An additional 3 AM and 3 FM stations are allowed if they are small business-controlled or minority-controlled.

- Common ownership of more than one commercial radio station and two commercial television stations in the same broadcast area is forbidden unless:
  - at least 20 independently owned media voices will remain in the market, in which case the limit is 2 commercial TV stations and 6 commercial radio stations;
  - at least 10 independently owned media voices will remain in the market, in which case the limit is 2 commercial TV stations and 4 commercial radio stations.
- No daily newspaper owner may own a radio or broadcast-TV station that covers the same geographical area.
- No cable operator can carry the signal of any broadcast-TV station if they have any interest in broadcast-TV in the same area. In addition, as long as they are subject to effective competition in the cable market, no cable operator may offer satellite TV services in the same area.

#### *Latest Developments in Media Ownership Law*

- Section 11 of the 1996 Telecommunications Act requires the Federal Communications Commission (FCC):
  - to review biennially its regulations that pertain to
    - (a) the operations or activities of telecommunications service providers; and
    - (b) broadcast ownership; and
  - to determine whether those regulations are no longer necessary in the public interest as a result of meaningful economic competition.
- The FCC set up a Media Ownership Working Group in October 2001 to develop a factual and analytical foundation for media ownership regulation. There may be proposed changes to cross-media ownership later this year.

## **The United Kingdom**

- Disqualifications on holding more than one national television licence. There are disqualifications on holding more than one regional television licence for the same region and other disqualifications based on total audience share.
- Disqualifications on owning more than one national radio service, more than one national radio multiplex service, or more than one national digital sound programme service. There are also disqualifications on owning more than one local radio service sharing the same potential audience and subject to a public interest test.
- Restrictions on cross ownership between a newspaper and a commercial television licence or a commercial radio licence depending on the market shares.
- Cross ownership between a newspaper and a commercial television or commercial radio licence may be allowed if there are other commercial service providers in the same coverage area and the public interest test is met.
- The matters to which the Independent Television Commission and the Radio Authority shall have regard in determining the public interest test include:
  - the desirability of promoting plurality of ownership in the broadcasting and newspaper industries and diversity in the sources of information available to the public and in the opinions expressed on television, radio or newspapers;
  - economic benefits;
  - market effects.

*Latest Developments in Media Ownership Law*

- In May 2002, the UK Government introduced the Communications Bill 2002 which, inter alia, proposes to reduce cross-media regulation to three core rules:
  - (a) a rule limiting joint ownership of a national newspaper controlling more than 20% of the national newspaper market and Channel 3 (a commercial television channel);
  - (b) a parallel, regional rule limiting joint-ownership of a regional Channel 3 licence and more than 20% of the local/regional newspaper market in the same region; and
  - (c) a new local radio ownership scheme to relax ownership restrictions as long as there are at least 3 local commercial radio operators, and at least 3 local or regional commercial media voices (in TV, radio and newspapers) exist in most local communities.

*Source: Consultation Paper on Media Ownership Rules 2001 published by the UK Department of Culture, Media and Sports; the Australian Department of Communications, Information Technology and the Arts; the US Federal Communications Commission*

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