

A. Introduction

Background

The Committee noted that the Audit Commission (Audit) had conducted three reviews relating to Radio Television Hong Kong (RTHK) in 1997, 1999 and 2001 respectively and this was the fourth one since 1997. During the same period, a number of internal (e.g. by RTHK's System Review Unit (SRU)) and external (e.g. by the Independent Commission Against Corruption (ICAC)) reviews on RTHK had been carried out. This audit review of the financial control and resource management of RTHK focused on the following areas:

- management of departmental contract staff (DCS) and service providers;
- management of outsourcing activities;
- management of overtime (OT) work;
- stores and procurement matters;
- entertainment expenses; and
- management of sponsorship.

2. The Committee held three public hearings on 8, 9 and 11 May 2006 to receive evidence on the findings and observations of the Director of Audit's Report (the Audit Report).

Media coverage of the matters dealt with by the Audit Report prior to and after the tabling of the Report in the Legislative Council

3. According to the arrangements agreed among the Committee, the Administration and the Director of Audit in 2000, departments should not speak or confirm the audit investigations before tabling of the Audit Report and, after tabling of the report but before public hearings, departments might only respond to press enquiries and should refrain from initiating publicity to counter the audit findings.

4. The Committee noted that prior to and after Audit Report No. 46 was tabled, there had been a large amount of media coverage of the matters dealt with by the Report. Some of the coverage provided details of certain contents of the Audit Report in advance of the Report being made public upon tabling at the Council. There had also been coverage, appearing after the Report was made public, which contained a wide range of comments on certain details of the Report by public officers which went beyond mere response to media enquiries.

5. The Committee was dismayed at the leakage of the contents of the Audit Report as well as some of the comments that were attributed to public officers. The Committee therefore wrote to the Chief Secretary for Administration and urged him to ensure that the agreed arrangements would be observed to facilitate the work of the Committee.

6. In response, the **Chief Secretary for Administration** reiterated the Administration's commitment to upholding the agreed arrangements on 30 March 2000 to facilitate the smooth operation of the Committee. He also stated that:

- to enable all Directors of Bureaux and Controlling Officers to be aware of the agreed arrangement, the Administration had promulgated procedural guidelines in Financial Circulars for handling Audit Reports and co-operation with the Committee;
- the Secretary for Financial Services and the Treasury had renewed his efforts of reminding Directors of Bureaux and Controlling Officers of the agreed arrangement through an updated Financial Circular No. 3/2005 on 21 June 2005. In essence, the Financial Circular advised Directors of Bureaux and Controlling Officers that draft Audit Reports were confidential and they should not speak or confirm the audit investigations before tabling of the Report. After tabling of the Report in the Council but before public hearings, Directors of Bureaux and Controlling Officers were advised to refrain from initiating publicity to counter the audit findings. In addition, the Financial Services and the Treasury Bureau (FSTB) had also individually reminded Directors of Bureaux and Controlling Officers concerned of the need to follow the procedures set out in the Financial Circular; and
- the Administration remained committed to the agreed arrangements with the Committee. The Administration would remind Directors of Bureaux and Controlling Officers of the importance of giving full co-operation with the Committee.

B. Culture of compliance

7. At the Committee's first public hearing on 8 May 2006, **Mr Benjamin TANG, Director of Audit**, made a statement explaining the background to the Audit review on RTHK, the full text of which is in **Appendix 8**. In summary, he said that:

- during the years 2002 to 2004, Audit noted some media reports on fraud cases involving RTHK employees. In March 2005, an employee of RTHK was convicted of fraud in relation to the awarding of RTHK contracts. The court judgement on this fraud case indicated potential mismanagement in RTHK. In response to public concerns over the matter, and to help RTHK reduce the risks of recurrence of such cases, Audit considered it necessary to conduct a

review of RTHK in July 2005. The audit was an independent review conducted in accordance with the Value for Money Audit Guidelines;

- Audit fully recognised the fact that RTHK was a government department that served the role of a public service broadcaster. Audit had also taken due consideration of the policies, rules and procedures under which RTHK operated;
- the audit revealed various irregularities in a number of major areas in RTHK. Whilst the amounts involved in individual cases identified by Audit might not be very large, the irregularities were a cause for concern, taking into account their nature, prevalence, and the risks that they posed to the proper use of public funds;
- as a government department, RTHK should strictly follow all government policies, regulations, guidelines and procedures, unless specific exemptions were obtained from the relevant authorities. Irrespective of the amounts involved, as a matter of principle, non-compliance was undesirable. The irregularities identified in Chapter 7 and Chapter 8 of Audit Report No. 46 mainly related to non-compliance with government policies, regulations, guidelines and procedures;
- many of the cases of non-compliance in RTHK were not isolated cases. The past internal and external reviews of RTHK, as well as this audit review, had shown that such non-compliance was prevalent;
- the nature and prevalence of the identified irregularities posed risks to the proper use of public funds in RTHK. The amount of public funds exposed to such risks was considerable. For example, RTHK spent some \$50 million a year on payments to DCS and service providers, \$52 million a year on payments under the Technical Services Agreement (TSA), and \$198 million a year on production of television (TV) programmes; and
- as the audit review showed that there was a problem of compliance culture among RTHK staff with applicable policies, regulations, guidelines and procedures, Audit was duty-bound to point this out and suggest a way to tackle it.

8. As requested by the Committee, the **Director of Audit** provided, in his letter of 24 May 2006 in *Appendix 9*, a summary of the issues raised in the current audit review which, though already identified at different times in the three previous audit reviews conducted since 1997, had not been fully addressed by RTHK.

9. The overall response of RTHK to the audit review on RTHK's financial control and resource management is in *Appendix 10*.

10. The Committee asked whether the Director of Broadcasting agreed with the Director of Audit's view that there was a lack of compliance culture among RTHK staff with applicable policies, regulations, guidelines and procedures.

11. **Mr CHU Pui-hing, Director of Broadcasting**, responded that:

- RTHK generally accepted the Audit Report. The stance of RTHK's management on the matter was clear. As long as RTHK remained a government department, it would comply with government policies, regulations and guidelines. RTHK had implemented various measures over the past years to address the procedural shortcomings and strengthen internal control, including the setting up of an SRU in April 2002, which would be upgraded to a high-level internal audit team, as recommended by the Commerce, Industry and Technology Bureau (CITB). A number of administration units had been set up in various divisions in RTHK to assist staff engaged in programme production and creative work in following administrative procedures and regulations. In the past few years, several reviews had been conducted by various government agencies and their recommendations had already been implemented progressively; and
- RTHK staff also attached much importance to administrative procedures and regulations. The thematic workshops organised by the ICAC's Corruption Prevention Department and the Treasury were all well-received by RTHK staff. In addition, all new recruits had to attend an induction training programme on rules and compliance.

12. While acknowledging RTHK's efforts to strengthen internal control, the Committee noted that the current audit review still revealed the existence of certain irregularities in RTHK that were of different degrees of concern. The Committee enquired:

- how RTHK could assure the public that the improvement measures would be effective; and
- whether RTHK was confident that with the implementation of the improvement measures, there would be "no incidence" of irregularity.

13. The **Director of Broadcasting** stated that:

- given the complexity in RTHK's operations, a lot of problems had to be addressed in order that it could function effectively under government rules and regulations. For example, every year RTHK had to handle about 9,000 cases of payment to service providers and there were more than 2,000 contracts with them. There were also 3,000 cases of procurement of goods and services not exceeding \$1,000. Altogether there were a total of 7,000 to 8,000 cases of procurement of goods and services a year. The administrative procedures involved were complicated. Despite the difficulties, RTHK's efforts to achieve improvement had produced results in the past few years and RTHK would continue to improve its operations;
- in value for money terms, over the last five years, from 2000-01 to 2004-05, the allocation to RTHK had been trimmed cumulatively by \$70 million, i.e. 13.7%. In the same period, the total number of full-time employees in RTHK had decreased by 9.5% from 831 to 752. Nevertheless, compared to 2000-01, the programme output in TV and radio productions had recorded an increase of 14% and 2% respectively by 2004-05. At the same time, amidst budget cuts, RTHK had further developed new media services through internal resource redeployment;
- in terms of quality, over the last eight years, the TV programmes produced by RTHK had consecutively scored the highest rating in the TV Programme Appreciation Index Surveys. Its TV and radio programmes had also attained international and local awards. Recent opinion surveys indicated that over 70% of the respondents were satisfied with RTHK's services and productions;
- as pointed out in paragraph 1.13 of the Audit Report, RTHK's management had always taken enforcement and monitoring issues very seriously. However, although RTHK's management adopted a "no tolerance" attitude, realistically it could not guarantee that there would be "no incidence". In fact, all systems required time to settle, to function generally, to be revised and improved from time to time in the light of changing circumstances, and to be fully implemented; and
- the Chief Treasury Accountant seconded from the Treasury to head the high-level internal audit team had assumed duty recently. A Senior Auditor seconded from Audit would also join the team in June 2006. The team would report to him direct. It was expected that the internal audit team would be able to strengthen RTHK's financial control and resource management, and monitor the implementation of Audit's recommendations.

14. At the request of the Committee, the **Director of Broadcasting** provided, in his letters of 24 May 2006 (in *Appendix 11*) and 8 June 2006 (in *Appendix 12*) respectively, the action plan drawn up by the Chief Treasury Account heading RTHK's internal audit team, and the current progress made in implementing the various actions set out therein.

15. To ascertain the uniqueness of the complexities and difficulties mentioned by the Director of Broadcasting above, the Committee asked whether other government departments faced similar problems in the past few years.

16. **Mr Joseph WONG Wing-ping, Secretary for Commerce, Industry and Technology**, responded that:

- the CITB recognised RTHK's achievements in the face of reduced resources, enhanced public demand and increased workload during the past few years. However, this was a general phenomenon faced by all government departments;
- the CITB also recognised the special nature of RTHK as a public service broadcaster. RTHK was also special as it employed a large number of temporary staff and non-civil service contract (NCSC) staff. However, other departments also had uniqueness in their operations. For example, Hong Kong Post, which operated as a trading fund, was special as it had to co-operate and compete with private-sector companies. The Electrical and Mechanical Services Department also employed many NCSC staff and had to compete with private-sector companies for business. Hence, there was no question of a department being more special than others; and
- if RTHK considered that certain government rules and regulations had caused difficulties in its daily operation, it could discuss with the relevant authorities for flexible treatment. The CITB was most willing to consider any suggestion put forward by RTHK. However, as a general principle, where no exemption had been granted, all government departments had to comply with government regulations and procedures.

17. **Mr Francis HO Suen-wai, Permanent Secretary for Commerce, Industry and Technology (Communications and Technology (C&T))**, supplemented that:

- in January 2003, he had suggested to the Director of Broadcasting that if RTHK needed flexibility in applying certain rules and regulations due to its operational needs, RTHK might set out their proposals in a more systematic and specific manner, instead of on a case-by-case basis, for further deliberations with the CITB. If the proposals were justified, the CITB would

give its policy support and RTHK could follow up with the resource bureaux, such as the Civil Service Bureau (CSB) and the FSTB; and

- in May 2003, RTHK put forward its proposals on three or four matters, including sponsorship, retention of part of the revenue from the sale of its programmes and employment of non-civil service staff. There was no proposal on financial arrangement or stores and procurement matters. RTHK indicated at that time that it had to further consider these matters and conduct internal consultation, and would submit their proposals in due course. However, the CITB had not received any specific proposal from RTHK in the past three years.

18. It appeared to the Committee that if RTHK had sought exemption or flexibility in the application of certain government rules and regulations, some of the cases identified by Audit might not have been non-compliance cases. The Committee asked why RTHK had not fully reflected its difficulties to the CITB or followed up the CITB's suggestion.

19. The **Director of Broadcasting** replied that:

- RTHK had regular meetings with the CITB in which RTHK would report the progress made in improving its management. RTHK had raised with the CITB its difficulties in applying some government regulations. For example, RTHK had discussed with the CITB the question of acceptance of commercial sponsorships;
- when RTHK had operational difficulties in complying with certain government regulations, it would liaise with the relevant authority direct, not necessarily through the CITB;
- in the past few years, RTHK had successfully worked out clear guidelines with the relevant bureaux for compliance by all staff. For example, RTHK had discussed with the Treasury and the Government Logistics Department (GLD) regarding the proper procedure for procuring goods and services not exceeding \$1,000. It had discussed with the CSB regarding the payment of allowances for staff on overseas programme production and news broadcasting duties. RTHK had also obtained consent for licensing its archived TV programmes into VCD/DVD for sale in the market; and
- he accepted that RTHK might need to seek exemption more systematically. The directorate Chief Treasury Accountant seconded from the Treasury should have the experience to assist RTHK in taking follow-up actions in this respect.

20. The Committee further asked whether the Director of Broadcasting agreed with the Director of Audit's view that, whilst the amounts involved in individual cases identified by Audit might not be substantial, the irregularities were a cause for concern as they posed risks to the proper use of public funds.

21. The **Director of Broadcasting** said that:

- as a civil servant, he considered it a fundamental principle to exercise prudence in the use of public funds, irrespective of the amount of money involved; and
- RTHK fully accepted that as it was a government department, in endeavouring to provide high-quality public broadcasting services, it had to comply with government rules and regulations at the same time.

22. The Committee noted that on 26 April 2006, the Secretary for Commerce, Industry and Technology announced that he had requested the Director of Broadcasting to give him a report within three months, to comment on the cases of suspected irregularities covered by the Audit Report, and which would include whether disciplinary proceedings should be instituted against the staff concerned after due investigations, whether the management staff should take management responsibility for such irregularities, and their proposals for building up and consolidating a culture of compliance with government rules and regulations. The Secretary also emphasised that it was incumbent on RTHK to improve fundamentally all the irregularities identified in the Audit Report.

23. Given that irregularities still existed in a number of areas in RTHK despite the improvements made in the past years, the Committee asked about the Secretary for Commerce, Industry and Technology's views on how RTHK could fundamentally improve all the irregularities identified. The **Secretary for Commerce, Industry and Technology** responded that:

- the CITB was highly concerned about Audit's severe criticism on RTHK and about the widespread irregularities revealed in the current and previous Audit Reports. As pointed out by the Director of Audit, many of the cases of non-compliance in RTHK were not isolated cases and the incidence of irregularities was indeed very high. Some of the cases had become court cases or formal disciplinary cases;
- while the CITB appreciated that the management of RTHK had been striving to strengthen internal financial control and resource management, its efforts had apparently not produced significant improvements. Hence, the CITB suggested that more effective monitoring of improvement measures should be considered. It proposed the setting up of a high-level internal audit team

headed by a directorate Chief Treasury Accountant to follow up Audit's recommendations. The team would submit periodic reports to the Director of Broadcasting, and the reports would also be copied to the CITB. The responsible Permanent Secretary would scrutinise the reports and decide, in consultation with the CSB and the FSTB, whether any follow-up action was necessary. For example, the reports might reflect that some rules and regulations should be revised to suit RTHK's operational needs. The proposed arrangements had been agreed by the Director of Broadcasting; and

- the CITB hoped that after a period of time, say one to two years, there would be well-established rules and regulations in RTHK and all RTHK staff would comply with them.

C. Management of DCS and service providers

Efforts to rationalise the DCS structure

24. According to paragraph 2.3 of the Audit Report, in March 1982, the Finance Committee (FC) authorised the Director of Broadcasting to, among others, recruit DCS to temporarily fill civil service vacancies pending the completion of the normal appointment formality, but such DCS should not remain on contract for more than a year in any individual case. The 1982 FC paper is in *Appendix 13*.

25. The Committee noted from paragraphs 2.40 to 2.47 that Audit Report No. 28 of February 1997 had reported that RTHK had employed a large number of DCS I and Category II service providers (previously known as DCS II) for prolonged periods of time.

26. In its Report No. 28 of June 1997, the Committee had expressed concern that RTHK's practice of employing DCS was at variance with the conditions of employment approved by the FC in 1982 and contravened the Government's policy on the employment of temporary staff. To address the Committee's concern, the Director of Broadcasting had assured the Committee that RTHK would conduct a review of the DCS system. RTHK completed the review of the DCS system in November 1997. The review recommended a phased approach to reduce the number of long serving DCS I. Since then, RTHK had recruited permanent Programme Officers (POs) to replace DCS I.

27. In October 1999, the Administration reaffirmed RTHK's plan of employing NCSC staff to meet its operational needs. In March 2000, the Administration reported, in its Half-yearly Progress Report on follow-up action on the Government Minute (in *Appendix 14*), that RTHK would regularise the employment of about 130 full-time DCS III by appointing them on NCSC terms and would complete that exercise by the end of 2000.

28. Audit considered that the DCS structure should have largely been rationalised by 2006, and it noted that the number of DCS I had indeed reduced from 120 as at April 1998 to 18 as at January 2006. However, because RTHK had continued to employ DCS III, the number of DCS III had remained high.

29. Noting that according to the FC approval given in 1982, DCS should not remain on contract for more than a year in any individual case, it appeared to the Committee that RTHK's employment of DCS for a prolonged period of time had violated the conditions of employment approved by the FC in 1982. The Committee asked whether this was the case and, if so, why the CITB had allowed such irregularity to remain for a long time. It also asked whether RTHK had ever informed the FC of the changes in the conditions of employment for its DCS since 1982.

30. The **Secretary for Commerce, Industry and Technology** responded that:

- the Director of Broadcasting was the Controlling Officer of RTHK under the Public Finance Ordinance. Each Controlling Officer had the legal responsibility to properly manage the resources under his charge and to comply with the conditions set by the FC for any public fund. A policy bureau would not and should not interfere with the discharge of such administrative and legal responsibilities by a Controlling Officer;
- under the Framework Agreement between the CITB and RTHK, the Secretary for Commerce, Industry and Technology was responsible for providing policy guidance to the Director of Broadcasting, and RTHK basically operated independently; and
- as the current Audit Report had identified various irregularities in RTHK, it was imperative that the CITB should act more positively to assist RTHK in making improvement. As such, the CITB suggested the formation of a high-level internal audit team, with a view to closely monitoring and assessing the effectiveness of RTHK's internal control measures and ensuring full implementation of Audit's recommendations. Nevertheless, the team would still report to the Director of Broadcasting direct.

31. The Committee referred to paragraph 2.48(d) of the Audit Report in which RTHK had said that in order to contain the negative impact of introducing too many changes within a short span of time, RTHK had deliberately phased the conversion of the DCS structure to the NCSC framework in a gradual manner. The Committee asked RTHK how long the gradual conversion would take.

32. The **Director of Broadcasting** and **Mr Raymond NG Sek-fai, Deputy Director of Broadcasting** stated, at the public hearings and in the Director of Broadcasting's letter of 26 May 2006 (in *Appendix 15*), that:

- in 1982, the FC authorised the Director of Broadcasting to engage freelance staff i.e. casual artists, disc jockeys, script-writers, contributors and researchers, as and when required. The Director of Broadcasting was also authorised to recruit DCS to temporarily fill civil service vacancies pending the completion of the normal appointment formality. The DCS system had been evolving over the years, but RTHK was still operating within the framework approved by the FC;
- in its review on the employment of DCS in 1998, RTHK agreed to adopt a phased approach to reducing the number of long serving DCS I. Since the introduction of the NCSC staff scheme in 1999, RTHK had decided to adopt the NCSC framework for employing its DCS. The number of DCS I had been reduced by 92% from 234 in 1982 to 18 in 2006. Due to the intermittent civil service recruitment freezes imposed since April 1999 and the staffing mix proposal as recommended in a consultancy study on a five-year strategic plan (i.e. it was considered desirable for RTHK, in the long run, to maintain a mixture of civil servants, contract staff and service providers in equal proportions), RTHK was unable to convert the remaining 18 DCS to the permanent establishment. With the Review of Public Service Broadcasting now underway, it was also not timely to convert them to permanent terms. As part of its ongoing efforts to regularise the contract staff system, RTHK aimed to migrate the DCS I to the NCSC framework by the end of June 2006;
- RTHK also intended to employ DCS III on NCSC terms. As there were more DCS III (i.e. 148 as at January 2006), RTHK would consult them within this year, with a view to completely migrating them to the NCSC framework by the end of 2006;
- as for Category II service providers (formerly know as DCS II), they were only contracted to provide service and were not entitled to any fringe benefits. A number of presenters, actors, casual artists, script-writers, etc. belonged to this category. There was a long-term need for RTHK to retain their service, and RTHK considered that their employment fell within the scope approved by the FC in 1982. Through the engagement of this group of service providers, the number of which stood at more than 600, RTHK could maintain the flexibility needed for its operation; and
- in view of the changed circumstances regarding the employment of DCS over the years, he would discuss with the CITB the need to report the latest situation to the FC.

33. As regards whether RTHK's employment of individual DCS for a prolonged period of time had violated the conditions of employment approved by the FC in 1982, the **Director of Broadcasting**, in his letter of 26 May 2006, stated that:

- RTHK had complied with the conditions of employment set for its DCS, as approved by the FC in 1982. The conditions of employment as stipulated in the notes on decisions of the FC meeting held on 24 March 1982 were as follows:
 - (a) the Director of Broadcasting should have the authority to employ DCS on any point in the pay scale for the appropriate rank in the PO grade;
 - (b) the Director of Broadcasting should have the authority to review the fixed point of salary of DCS staff who remain on contract for more than a year, and to move it up or down on the appropriate pay scale, having regard to his updated assessment of the value of the person concerned;
 - (c) the DCS contract would not provide for any fringe benefits such as quarters, housing allowances, education allowances, medical and dental benefits or passages; and
 - (d) the pay level of DCS would be automatically revised when the Master Pay Scale was revised;
- RTHK's operational need to recruit staff at short notice faster than government procedures would allow was recognised by the FC and approval was therefore given for RTHK to employ DCS, subject to the following conditions:
 - (a) the employment of DCS should be strictly related to the number of vacancies in the approved establishment of posts in the PO grade; and
 - (b) DCS would be restricted to those employed to perform the duties normally appropriate to ranks in the PO grade, and their numbers in each rank would not exceed the number of vacancies in that rank;
- in adherence to the above conditions, DCS I in RTHK had always been held against PO Grade civil service vacancies in corresponding ranks;
- the 1982 FC paper had also clearly stipulated that the employment of DCS would *normally* be temporary pending the completion of formal appointment procedures to the vacant post. It also stated that there might exceptionally be instances where someone was employed as DCS but, for valid reasons, was not suitable for eventual appointment to the post, and in these cases the employment on DCS terms would tend to be of longer duration; and

- as RTHK had never introduced any changes to the conditions of employment for its DCS I, there had never been any requirement for it to inform the FC.

34. In response to the Committee's enquiry, the **Director of Audit**, in his letter of 27 May 2006 in *Appendix 16*, advised that, based on the FC paper of 24 March 1982, Audit considered that, **in exceptional circumstances**, the Director of Broadcasting should have the authority to employ DCS on contract for more than a year.

35. Regarding DCS III, the Committee referred to paragraph 2.46 of the Audit Report which revealed that, as RTHK had continued to employ DCS III, the number of DCS III had remained high, increasing from 120 as at January 1998 to 148 as at January 2006. The Committee asked:

- about the number of DCS III employed by RTHK in each year from January 1998 to January 2006; and
- the reason why the number of DCS III employed by RTHK had increased from 120 in 1998 to 148 in 2006, despite RTHK's commitments made in March 2000, in response to the audit review of February 1997, to regularise the employment of about 130 full-time DCS III by appointing them on NCSC terms and to complete that exercise by the end of 2000.

36. In his letter of 6 June 2006 in *Appendix 17*, the **Director of Broadcasting** stated that:

- the respective numbers of DCS III employed by RTHK as at January of each year from 1998 to 2006 were:

<u>Position as at</u>	<u>No. of DCS III</u>
1 January 2006	148 (35 full-time and 113 part-time)
1 January 2005	130 (46 full-time and 84 part-time)
1 January 2004	97 (43 full-time and 54 part-time)
1 January 2003	95 (36 full-time and 59 part-time)
1 January 2002	Not Available
1 January 2001	Not Available
1 January 2000	Not Available
1 January 1999	Not Available
1 January 1998	Not Available

- before the end of 2001, many of the contracts in respect of DCS II and DCS III were maintained manually at divisional level. As such, RTHK was unable to provide accurate figures on the number of such staff for the period from 1998 to 2002. Although it was mentioned in paragraph 2.46 of the Audit Report that the number of DCS III as at January 1998 was 120, the figure was only an estimate based on the result of ad-hoc stock-taking exercises on the number of DCS III staff employed by respective divisions/units;
- there were basically two categories of DCS III staff in RTHK, namely:
 - (a) “**full-time**” DCS III - they were remunerated on a monthly basis, and worked for at least 44 conditioned hours per week; and
 - (b) “**part-time**” DCS III - they were all appointed on a short-term basis to meet ad-hoc and irregular programme needs. Most of them were not on a continuous contract of employment. They were usually remunerated on the bases of project, hour, session, programme or episode; and
- since the completion of RTHK’s review on the continued employment of DCS in 1997, **RTHK had been committed to reducing the number of long serving and full-time DCS III**. RTHK had thereafter completed the conversion of some 139 full-time DCS III to the service-wide NCSC framework by the end of 2000. From 2001 to 2006, RTHK had further regularised a total of 64 full-time DCS III to the NCSC framework. The number of full-time DCS III had been reduced to 25 as at 1 June 2006.

37. As for the reason why RTHK had not stopped employing DCS III and why the number of DCS III had been increasing, the **Director of Broadcasting** explained in his letter of 6 June 2006 that:

- RTHK needed to allow the appointment of full-time contract staff on DCS III terms. There was an operational need for programme producers to flexibly secure the required manpower to meet their production needs. Nevertheless, RTHK had built in a well-established mechanism to control the number of full-time DCS III and to cease their appointment on long-term basis. According to the revised departmental policy implemented since 1 March 2006, the appointment period of DCS III **was confined to less than 12 months**. Exceptional approval, supported by strong justifications, had to be sought from the Deputy Director of Broadcasting if the appointment of full-time DCS III lasted for more than 12 months;

- due to RTHK's unique operational requirement and nature of business, it had not been possible to completely phase out the DCS III structure so far. As stated in the Progress Report in respect of issues outstanding in the Government Minute of September 1997 and April 1998, RTHK would further explore the option to reduce its dependence on "full time" DCS II and III. In parallel to keeping the undertaking in reducing the appointment of full-time DCS III, RTHK had kept appointing part-time DCS III to meet ad-hoc and short-term programme production needs. The 148 DCS III at January 2006 (as stated in paragraph 2.46 of the Audit Report) in fact consisted of 113 part-time and 35 full-time DCS III. **The increase in the overall figure of DCS III from 120 as at January 1998 to 148 as at January 2006 was thus mainly due to the increase in the number of part-time DCS III;**
- there was an increasing demand for RTHK to employ part-time DCS III amidst the challenges of cost cutting and freeze in recruiting civil service staff. RTHK had the need to flexibly secure the required manpower to meet its fluctuating operational needs. Before the phasing out of the DCS III structure could be completed, RTHK still needed some part-time workforce which afforded more flexibility and cost-effectiveness for certain projects;
- it was a rare practice in other government departments to frequently appoint temporary staff of varying contract durations on part-time basis and remunerate them on different bases. Without any prevailing practice to follow and having regard to the fact that the operation of the NCSC staff scheme had not been fully matured in the first few years of its implementation, RTHK needed to be very careful before deciding to completely phase out DCS III lest it might hinder RTHK's operations. New employment packages distinctly different from those of the full-time DCS III had to be worked out, often individually in the first instance, before migration could be effected; and
- RTHK had pledged to **completely rationalise DCS III**, both part-time and full-time, to the NCSC framework **by the end of December 2006**.

Fee scale table

38. According to paragraphs 2.10 to 2.24 of the Audit Report, a fee scale table had been developed in 2002, setting out a framework for RTHK staff to follow in determining the fees to be offered to DCS and service providers. Audit saw the need for RTHK to improve the fee scale table by addressing various issues relating to benchmarking, and to develop guidelines to help its staff systematically assess the attributes of the DCS and service providers for applying the different tiers in the fee scale table.

39. The Committee referred to paragraph 2.20 in which RTHK admitted that given the complexities of the issue, the historical development and the industry practice, the fee scales had not fully matured. RTHK accepted that it needed to continue exerting efforts to further improve the fee scale table. The Committee enquired about the actions that RTHK would take to improve the fee scale table and the expected implementation schedule.

40. In addition, paragraph 2.21 pointed out that under the existing fee scale table, a job title may have several tiers. However, there were no guidelines on how different tiers in the fee scale table were to be applied for paying DCS/service providers. The Committee queried how, in the absence of guidelines, RTHK staff could determine the tier and the level of pay to be offered to service providers on an objective basis.

41. **Mr CHEUNG Man-sun, Assistant Director of Broadcasting (Public Affairs Television (PATV)), and Mr TAI Keen-man, Assistant Director of Broadcasting (Radio),** replied that:

- as RTHK did not have any TV channel, it did not have its own actors. In producing TV programmes, it had to engage contract actors. The competition for actors had become more intense in recent years due to the introduction of new media, as well as the rapid development of the entertainment business in the Mainland;
- while the pay for actors was commercial secret, the fees paid by RTHK to actors or performers were generally below the going market rates. In determining the pay for actors, RTHK staff would draw on their experience and check with other TV or radio stations;
- despite the difficulties involved in assessing the reasonable level of pay to be offered to actors, RTHK agreed with and would try its best to implement Audit's recommendations in paragraph 2.49 of the Audit Report, including developing an action plan to take forward steps to improve the fee scale table. It would also strive to provide clearer guidelines for staff to follow. As regards the suggestion that RTHK should benchmark the rates against the civil service pay scale, RTHK was considering how this could be implemented;
- RTHK had set up a mechanism under which special approval had to be sought when a DCS/service provider was to be paid a fee that exceeded the fee scale range for a particular job type. Moreover, the Standing Committee on Contract Staff and Service Providers (SCOCS), chaired by the Deputy Director of Broadcasting and comprised various senior staff of RTHK, would be notified monthly of any DCS/service providers whose remuneration/fee exceeded the prevailing pay for civil service Master Pay Scale Point 22; and

- to prevent staff from offering a high level of pay arbitrarily, there were internal guidelines in the PATV Division that required approval to be obtained from staff at a more senior level. For example, if the remuneration for a service provider was \$3,000 per job, approval had to be given by staff at the Assistant Director level. In addition, RTHK had always attached great importance to the question of conflict of interest. Front-line staff had been reminded that in case any conflict of interest had arisen from the employment of service providers, they had to make declaration before employing the service providers.

42. As regards the specific actions for improving the fee scale table and the implementation schedule, the **Director of Broadcasting** informed the Committee, in his letter of 26 May 2006, that:

- a Working Group on Fee Scale Review had been set up in RTHK with the objectives of improving the fee scale table and implementing Audit's recommendations;
- the Working Group would review and streamline the job types and fee ranges for individual job titles. It would also launch benchmarking exercises against the civil service pay scale and, if impractical, against the going market rate and document the basis for such comparison; and
- the Working Group would try to develop guidelines to help staff apply the different tiers in the fee scale table. It will further enhance the mechanism to document how the staff had determined the tiers and the pay to be offered to DCS/service providers. This was a complicated exercise which was expected to be completed by the end of 2006. The revised fee scale table could be implemented in early 2007 after being endorsed by the SCOCS.

Practice of seeking covering approval

43. According to paragraph 2.31 of the Audit Report, RTHK Circular No. 4/2002 on "Control and Administration of Overtime" stipulated that: "Written approval for overtime work must be sought in advance. Otherwise, covering written approval, with full justification for not seeking prior approval, must be sought within a week." However, in an examination of seven approvals granted in 2004-05 for OT work, Audit identified three cases where covering OT approval was only sought in periods ranging from two weeks to three months after the OT work had been carried out.

44. In response to the Committee's enquiry, the **Director of Audit** provided, in his letter of 6 May 2006 (in *Appendix 18*), the ranks of the claimants and the approving officers concerned in the above three cases, as follows:

Case	Rank of claimants	Rank of approving officer
1	Production Assistant (DCS III)	Principal Programme Officer (PPO) (MPS 40 to 44)
2	Production Assistant (DCS III)	Senior Programme Officer (MPS 34 to 39)
3	Production Assistant (DCS III)	PPO (MPS 40 to 44)

45. The Committee enquired:

- why the requirement of seeking prior approval had not been complied with;
- given that RTHK Circular No. 4/2002 already provided flexibility for staff to seek covering approval within one week if prior approval had not been obtained, why in the three cases identified by Audit, even such requirement had not been met; and
- about the follow-up actions that had been taken against those staff who repeatedly failed to observe the regulations and whether penalty had been imposed.

46. The **Director of Broadcasting** responded that the problem mainly concerned the Radio Division and PATV Division of RTHK. The staff members engaged in producing radio and TV programmes production were stronger on production, art and creative work. RTHK had therefore set up administration units since mid-2003 to assist these staff in complying with administrative procedures and regulations. The situation had improved gradually.

47. The **Assistant Director of Broadcasting (PATV)** supplemented that:

- RTHK had strictly controlled the compensation of OT work by OT allowance. Staff who worked OT were compensated by leave as far as possible, hence RTHK's overall expenditure on OT had significantly reduced in recent years. There was also a stringent procedure governing the granting of approval for OT work. For example, in the PATV Division, if OT work was required for finishing a day's filming, the director on site had to certify that the work was justified and approval had to be given by the producer afterwards;

- RTHK had followed up on the three cases in which OT approval was sought long after the OT work had been performed, and warned the three DCS concerned. The staff concerned were Production Assistants, which were front-line staff with a high turnover rate. At that time, they had newly joined RTHK and were not familiar with the procedure. They thought that their application for OT work had been properly authorised as the producers on site had already signed off their application. It was only when they wanted to take compensation leave before leaving service that senior officers discovered that their OT had not been duly authorised. After checking, it was subsequently confirmed that OT work had actually been performed by them. Taking into account the background of the cases and the fact that their application had been certified on site by less senior staff, RTHK considered that the warning was appropriate; and
- RTHK admitted that irregularities had been revealed in the three cases. RTHK had now issued a new instruction that compensation leave had to be taken within one month after OT work had been performed.

D. Management of outsourcing activities

Conflict of interest and scheduling of rest days of TSA staff

48. Paragraph 3.6 of the Audit Report stated that since 2000, RTHK had been contracting out part of the radio/TV outside broadcast (OB) services previously provided under the TSA. In 2004-05, three contracts at a total annual cost of \$734,078 were awarded to the OB Contractor (Company B), a related company of the TSA Contractor (Company A). Company B mainly employed TSA staff from RTHK during their rest time to provide OB services to RTHK under the contracts.

49. According to paragraph 3.16, as some of the employees of Company B were the same as those working for Company A, the ability of Company B in fulfilling its duty under the OB contract was subject to fulfilling the work schedule of Company A, and hence the work schedule of RTHK. The question of conflict of interest would arise when Company A tried to arrange for the most cost-effective staff scheduling on the one hand, and had to make available certain TSA staff to work for Company B on certain days of the week on the other. This would unavoidably undermine the interests of RTHK.

50. The Committee queried whether RTHK had considered the question of conflict of interest before awarding the three OB contracts to Company B.

51. **Mr Johnny MING Wai-yu, Controller of Production Services, RTHK,** responded that:

- RTHK had considered the question of conflict of interest when contracting out its OB services. In 2001, the contract was awarded to Company C, which offered the lowest price and met the tender requirements. Afterwards, the contract was again awarded to Company C despite the fact that its price was only the second lowest when compared to Company B's. This was because RTHK considered that there might be a question of conflict of interest if the contract was awarded to Company B; and
- in the tendering exercise of 2004-05, the price offered by the second lowest tenderer (Company C) was 50% higher than that offered by Company B. After considering the price, the experience of crew members as well as the staff scheduling of Company B, the contracts were awarded to it.

52. The Committee noted from paragraph 3.20 that a main source of conflict of interest for Company A lay in the scheduling of rest days. In order to reduce OT work to a minimum, there was a need to re-schedule the rest days of TSA staff to weekdays (instead of Sundays). However, in order that the staff could work for Company B on Sundays for OB services for "City Forum" and church services, Company A scheduled their work so that they rest on Sundays. Audit considered that this conflict of interest situation of Company A had, to a certain extent, compromised RTHK's efforts in re-scheduling rest days of TSA staff to reduce OT work to a minimum. The Committee asked about the position of RTHK on the situation.

53. The **Director of Broadcasting** and the **Controller of Production Services** responded that:

- the current TSA took effect from 1 January 1988 and would only expire on 30 September 2006. It was signed by the Government and Company A, and RTHK was only one of the user departments of the TSA services. As the TSA had not yet expired, there was little scope for requiring Company A to re-schedule the rest days of TSA staff; and
- despite the difficulties, RTHK had made considerable efforts in the past five years to negotiate with Company A with a view to effecting changes to its policies and practices. The fact that 39% of TSA staff had their rest days on Sundays, as highlighted in paragraph 3.20 of the Audit Report, was already an improvement due to the pressure exerted by RTHK on Company A. Other results of RTHK's efforts included a reduction of the administration charge (from 12% to 9.15%) charged by Company A on the total TSA staff costs, and a reduction of TSA staff working in RTHK from 171 in 2000-01 to 148 in 2004-05.

54. The Committee asked about Audit's comments on RTHK's response that as the TSA had not yet expired, there was little scope for requiring Company A to re-schedule the rest days of TSA staff. In his letter of 27 May 2006, the **Director of Audit** advised that:

- as mentioned in paragraph 4.7 of the Audit Report, in March 1999, Audit had conducted a review of the management of TSA services by government departments and the cost-effectiveness of the Government's spending under the TSA. The 1999 audit revealed that there was room for improvement in a number of areas, including the control of OT payment under the TSA in the Civil Aviation Department (CAD) and RTHK. Audit recommended in March 1999 that both the Director of Civil Aviation and the Director of Broadcasting should, inter alia, find ways of ceasing the practice of setting Sundays as rest days for the TSA staff;
- although there were no specific provisions in the TSA governing the working hours and rest days of the TSA staff, since the 1999 audit, RTHK had been able to reduce OT payments under the TSA by taking various measures. RTHK's OT payments under the TSA had decreased by 39%, from \$7.5 million in 2000-01 to \$4.6 million in 2004-05. While recognising RTHK's efforts in reducing OT payments under the TSA, Audit's recent review found that there was scope for RTHK to further reduce OT payments. In particular, Audit's analysis of the rest days of TSA staff in RTHK for the period September 2004 to March 2005 showed that 39% of TSA staff still had their rest days on Sundays. Taking into account RTHK's work pattern, Audit recommended that RTHK should urge Company A to consider re-scheduling the rest days on Sundays of TSA staff to better match with its work requirements (paragraph 4.23(a)(iii) of the Audit Report);
- it was relevant to point out that, in response to the audit recommendations in 1999, the CAD had reached an agreement with Company A to treat public holidays as normal working days, apart from curtailing the practice of setting Sundays as rest days for TSA staff and re-scheduling their working hours to minimise OT work. Audit considered that, if Sundays had been treated as normal working days for TSA staff in RTHK, a smaller percentage (compared with 39%) of TSA staff should have taken their rest days on Sundays; and
- notwithstanding that the TSA had not yet expired, given that 39% of TSA staff in RTHK still had their rest days on Sundays, there was still scope for RTHK to further negotiate with Company A to re-schedule some of the rest days of TSA staff to better match with the work requirements on Sundays, which constituted about 20% of the TSA workload.

55. In his letter of 26 May 2006, the **Director of Broadcasting** informed the Committee of the measures taken by RTHK since the 1999 audit to reduce OT payments under the TSA, including the introduction of a floating (irregular) rest-day scheme by Company A in 1999 in line with Audit’s recommendation, to cease the practice of setting of Sundays as rest days.

56. The Committee asked why, despite the introduction of the floating rest-day scheme by Company A in 1999, 39% of TSA staff still had their rest days on Sundays during the period September 2004 to March 2005.

57. The **Director of Broadcasting**, in his letter of 6 June 2006, replied that after the introduction of the floating rest-day scheme in 1999, there had been a significant reduction of rest days on Sundays. Now only 39% of TSA staff took Sunday as a rest day and this figure also included TSA staff who worked normal office hours, i.e. with rest days on Sundays, such as senior engineers and store-men.

58. According to paragraph 3.23(a) of the Audit Report, RTHK received an e-mail statement of undertaking from Company A on 6 June 2005 giving the assurance that there would be no conflict of interest. To ascertain whether the situation of TSA staff having rest days on Sundays had improved since Company A had given the assurance, the Committee asked:

- about the percentage of TSA staff who still had their rest days on Sundays from 6 June 2005 (when Company A gave the assurance) to 5 June 2006; and
- how the figure compared to the 39% during the period from September 2004 to March 2005, as reported by Audit.

59. The **Director of Broadcasting**, in his letter of 10 June 2006 in *Appendix 19*, replied that 32% of TSA staff had had their scheduled rest days on Sundays during the period 6 June 2005 to 5 June 2006. There had been a decrease when compared to the 39% reported by Audit.

Compliance with the terms of OB contracts

60. The Committee referred to paragraph 3.10 of the Audit Report which revealed that the average relevant experience of the crew members for the episode of “City Forum” broadcast on 27 February 2005 was 12.9 years, which was considerably lower than the average of 19.3 years of experience for the eleven core members specified in the tender document. Audit commented in paragraph 3.11(c) that if Company B had used those crew members with an average of 12.9 years of experience (i.e. the OB production team on

27 February 2005) as the core members specified in the tender document, Company B would not have been awarded the contract based on the marking scheme for the tender.

61. Noting that the high average experience (19.3 years) of core members was a main reason for awarding the contract to Company B, instead of to other tenderers, the Committee asked whether RTHK's failure to ensure Company B's full compliance with the terms of the contract (i.e. no more than five members of the OB production team could be replaced on each occasion) was unfair to other tenderers, and reflected RTHK's problems in managing the OB contracts.

62. The **Director of Broadcasting** and the **Controller of Production Services** replied that:

- the minimum relevant experience of the crew members required in the tender specifications ranged from five to ten years, depending on the job category. All the crew members who attended the OB on 27 February 2005 had reached the minimum years of experience required in the tender specifications. RTHK's production staff had all along been satisfied with the quality of the camera operators provided by Company B. Nevertheless, RTHK agreed that Company B had not complied with the terms of the contract;
- Company B admitted that the problem of replacing more than five core members specified in the contract had occurred due to negligence of the staff responsible for staff scheduling. As soon as the incidents were revealed, RTHK had requested Company B to provide the core members specified in the contract for the OB of "City Forum"; and
- according to the latest information provided by Company B, the relevant experience of the crew members of the OB production team on 27 February 2005 was longer than that mentioned in paragraph 3.10 of the Audit Report. Based on the experience of these crew members, Company B would still be awarded the contract.

63. As requested by the Committee, the **Director of Broadcasting** provided, in his letter of 6 June 2006, details of the marking scheme for the tender. He also said that the total scores obtained by Company B and Company C (the second most competitive tenderer) under the marking scheme were 100 and 87.3 respectively.

64. In view of RTHK's claim that based on the experience of the crew members of the OB production team on 27 February 2005, Company B would still be awarded the contract, which contradicted Audit's conclusion that Company B would not have been awarded the contract, the Committee invited Audit's comment on the validity of RTHK's claim.

65. In his letter of 27 May 2006, the **Director of Audit** advised that:

- at Audit's request, RTHK had confirmed with Company B that the average relevant experience of the crew members concerned was revised to 14 years (instead of 12.9 years), taking into account experience outside Company B. The 14 years' experience was counted up to August 2004 (i.e. when the contract was extended by one year after it was awarded in August 2003); and
- assuming that the revised figure of 14 years of average relevant experience (as at August 2004) had been used by Company B in the tender submission, Company B might have been awarded the contract. However, if Company B had used those crew members of the OB production team on 27 February 2005 as core members in the tender submission on 4 August 2003, Audit considered that the average relevant experience of the members should have been only about 13 years (i.e. 14 years less 1 year) at that time. Audit had re-calculated Company B's scores according to the marking scheme for the tender based on this revised figure of 13 years of average experience as at August 2003, and reached the same conclusion as stated in paragraph 3.11(c) of the Audit Report that Company B would not have been awarded the contract.

66. In his letters of 6 and 8 June 2006, the **Director of Broadcasting** informed the Committee that:

- the RTHK's return had used the date of the OB (i.e. 27 February 2005) as the basis, whereas Audit used the contractual date (i.e. 4 August 2003). RTHK did not have any further comments on Audit's conclusion; and
- RTHK had strengthened its contract monitoring procedures and required the OB contractor to provide the list of personnel who attended the productions. RTHK would check the personnel deployed on a monthly basis.

E. Management of OT work

Certification of journey details in vehicle logbooks and OT work of drivers during meal breaks

67. Paragraphs 4.29 to 4.31 of the Audit Report revealed that, unlike other RTHK's vehicles, the car assigned to Driver A was stationed at the Kwai Chung Depot after office hours. Audit also identified some cases in which there were discrepancies between Driver A's vehicle logbook and the actual in/out record at the Kwai Chung Depot.

68. To ascertain whether the arrangement of stationing Driver A's car at the Kwai Chung Depot (instead of at RTHK Headquarters) after office hours had violated any government regulations or had caused the driver to work more OT, the Committee asked about the government regulations in this respect and how the driver's off-duty time was taken.

69. The **Director of Broadcasting** stated, in his letters of 26 May 2006 and 10 June 2006, that:

- in relation to government guidelines or regulations on the parking location of a departmental vehicle after office hours, General Regulation 307 stipulated that: "Outside working hours all Government vehicles should be parked in a departmental garage or in a secure place off the public highway. It is the driver's responsibility to ensure that all doors and windows are closed and locked before leaving the vehicles."; and
- the off-duty time for Driver A was at the time when he finished his work after driving his vehicle back to the Kwai Chung Depot, including properly parking his vehicle, completing vehicle logbooks, conducting routine cleaning and inspection of the vehicle, etc.

70. The Committee noted that while stationing Driver A's car at the Kwai Chung Depot had not violated any government regulations, the arrangement had made it difficult for RTHK to guard against improper use of the departmental car concerned. The Committee therefore asked about the measures that RTHK would adopt to strengthen the supervisory controls over the use of the car.

71. The **Director of Broadcasting** said, at the public hearings and in his letter of 26 May 2006, that:

- RTHK agreed that there was a need to strengthen the supervisory controls over the use of Driver A's vehicle. With effect from 24 April 2006, Driver A had been required to park the vehicle in Broadcasting House, RTHK Headquarters, after his day's duties. This practice is in line with the arrangements for all vehicles in RTHK and was considered an effective measure as regards the supervisory control over the use of the vehicle. The arrangement would be reviewed in six months' time having due regard to operational considerations, efficiency, supervision of staff attendance, etc.;
- to further strengthen the supervision of Driver A and the use of the vehicle, the main user of the vehicle had also been certifying the vehicle logbook since November 2005. The Departmental Transport Officer (DTO) also regularly inspected the driver's attendance record, vehicle logbook record and OT work

register, in the same way as was required for all other drivers in the Transport Section and, where necessary, cross-checked the journey record with the tunnel record; and

- when the main user of the vehicle took leave or attended overseas duty visits, Driver A would be encouraged to take time-off-in-lieu or leave. Otherwise, he would be gainfully deployed to perform other driving duties.

72. According to paragraph 4.29 of the Audit Report, RTHK's Transport Office had stopped arranging for the certification of Driver A's vehicle logbook since October 2002. On the other hand, RTHK Administrative Circular No. 9/2003 issued in October 2003 stipulated that upon completion of a duty journey, the user would be requested to record the vehicle release time and to certify the journey details by signing on the logbook and jotting down his/her name and post. The Committee queried why RTHK's Transport Office had made the above arrangement, contrary to the requirement of the Administrative Circular.

73. In his letter of 26 May 2006, the **Director of Broadcasting** responded that:

- RTHK's records showed that the vehicle logbooks concerned used to be certified by the DTO since May 2000. When the former DTO took over the post in mid-June 2001, he was told by his predecessor to continue certifying the vehicle logbooks but he found that there was not any departmental guideline or instruction requiring him to do so. He also considered that he was not the appropriate officer to certify the logbooks on behalf of the main user of the vehicle as he did not have any information about the latter's daily journeys. With reference to other departments' practices, he thought that if the main user did not certify the logbooks himself, it was more appropriate for his personal secretary to do so;
- in late October 2002, the DTO assisted in reviewing the departmental guidelines on the use of departmental vehicles. The DTO claimed that he had taken the opportunity to ask Driver A to have the vehicle logbooks properly completed and certified, in accordance with the draft administrative circular which was finally promulgated in October 2003, but there was no written record of this. He thereafter stopped certifying the vehicle logbooks;
- as regards the rationale for his actions, the DTO concerned had advised that he respected the senior officers in the department and saw no need to raise any query on the journey records. The DTO, however, supplemented that he had taken adequate measures to counter-check the accuracy of details entered in the logbooks. He usually assigned an Assistant Clerical Officer in the Transport Section to make reference to all related records, including attendance books, duty roster, vehicle logbooks, fuelling records and tunnel

records in preparing the monthly OT allowance claims, and to report to him any irregularities spotted; and

- the DTO's explanation was believed to be truthful. It was regrettable that when the DTO found that the vehicle logbooks had still not been certified months later, he did not take action to have this rectified, e.g. bringing the issue up to his supervisors, thereby resulting in the logbooks not having been certified for three years.

74. The Committee understood that the Director of Broadcasting was the main user of Driver A's vehicle and questioned why he had not certified the vehicle logbooks concerned, even after RTHK Administrative Circular No. 9/2003 was promulgated.

75. In his letter of 10 June 2006, the **Director of Broadcasting** explained that the logbook for the vehicle concerned used to be certified by the DTO since May 2000. Therefore, he had all along been under the impression that the journey details entered therein had been properly certified, even after the issuance of RTHK Administrative Circular No. 9/2003.

76. The Committee noted from paragraphs 4.34 to 4.38 of the Audit Report that Audit had identified 52 cases of OT work of drivers during meal breaks. However, there was no documentation of the justifications for the drivers to perform OT work during normal meal break time. In paragraph 4.37(d), RTHK stated that in 11 of the 52 cases, the vehicle logbooks showed that the vehicles concerned were parked in RTHK premises at the time. RTHK agreed that there seemed to be some difficulty to convince others that the drivers in these cases could not be released for meal breaks. The Committee asked how RTHK would follow up those cases.

77. The **Assistant Director of Broadcasting (Radio)** replied that RTHK would thoroughly investigate each of the 11 cases to determine if any irregularity was involved. The results would be included in the report to be submitted to the Secretary for Commerce, Industry and Technology by the end of July 2006.

OT work of drivers for buying newspapers

78. According to paragraph 4.39 of the Audit Report, RTHK had adopted the practice of requiring a driver to work OT to buy newspapers early in the morning since 1976. In paragraph 4.42(e), Audit recommended that RTHK should review the cost-effectiveness of such arrangement and explore the option of using newspaper delivery service to meet RTHK's needs. Noting that RTHK had accepted Audit's recommendations, the

Committee enquired about the progress made by RTHK in implementing the recommendations.

79. The **Assistant Director of Broadcasting (Radio)** explained the reason for asking a driver to buy newspapers early in the morning. He said that:

- the vehicle concerned was used for newsroom services in the morning. Under normal circumstances, a driver would begin to stand by in RTHK at about 6:00 am or 7:00 am to provide support any time when required. Every day, the presenters for the morning news programme needed to have access to the 12 sets of Chinese and two sets of English newspapers in Hong Kong before 6:00 am in order to prepare the summary of news headlines and editorials for broadcast at 6:45 am;
- in order to ensure that RTHK would not miss any of the 14 sets of newspapers, RTHK had all along asked a driver to buy newspapers in the morning; and
- the Radio Division was conducting an exercise with a view to contracting out the early morning newspapers delivery service.

80. In his letter of 8 June 2006, the **Director of Broadcasting** added that the supply and delivery of newspapers for the newsrooms in early morning had been outsourced to a contractor on a trial basis for three months with effect from 1 June 2006. Performance had been satisfactory. Subject to review on the arrangement after one-month's operation, RTHK would launch a formal tendering exercise to outsource the service on a longer-term basis.

81. The Committee noted that the Director of Broadcasting had accepted all the recommendations made by Audit in paragraph 4.42 for tightening the control of OT work of drivers, including ceasing the practice of allowing a minimum period of four hours for drivers performing OT work on public holidays. The Committee asked, according to RTHK's estimate, how much expenditure on OT could be saved after the recommendations had been implemented.

82. The **Deputy Director of Broadcasting** responded that:

- RTHK had exerted a lot of efforts to reduce expenditure on OT in the last five years. The OT allowance paid to RTHK staff had decreased by 74% from \$4.3 million in 2000-01 to \$1.1 million in 2004-05. RTHK was still not yet satisfied with the results. As 64% of the OT allowance was paid to drivers, the Transport Office of RTHK would consider ways to improve the situation, such as by re-scheduling the shifts of drivers; and

- as a starting point, RTHK tentatively aimed to further reduce the expenditure on OT allowance by 10% from \$1.1 million in 2006 to \$1 million or less in 2007.

83. In response to the Committee's question, the **Secretary for Commerce, Industry and Technology** stated that the Government did not have a target for reducing OT expenditure because OT work should only be taken when it was strictly unavoidable. Nevertheless, he welcomed RTHK's initiatives to further reduce the expenditure on OT allowance.

F. Stores and procurement matters

84. According to paragraphs 5.4 to 5.6 of the Audit Report, the GLD completed a system survey on RTHK in August 2005, which revealed various irregularities in RTHK's supplies functions. In response to Audit's recommendation, the Director of Broadcasting said in paragraph 5.10(a) that RTHK would implement the GLD's recommendations made in its report of August 2005 as soon as possible. The Committee enquired when RTHK would fully implement the recommendations.

85. **Mr Gabriel LAU Chung-yin, Senior Treasury Accountant, RTHK**, replied that:

- RTHK had forwarded an implementation plan to follow up the GLD's recommendations for consideration by the GLD. Most of the recommendations would be completed within one year. It was expected that RTHK's system of procurement would be improved after implementing the recommendations; and
- RTHK had also redistributed the duties and responsibilities in the Supplies Office, as recommended by the GLD. An additional Assistant Supplies Officer post would be created to strengthen the Supplies Office. The proposal would be submitted to the GLD in two months' time, i.e. by mid-July 2006.

86. The Committee noted Audit's observation that there was room for improvement in planning for the handover of TSA inventories by 30 September 2006. Audit recommended in paragraph 5.57 of the Audit Report that RTHK should closely monitor the progress of the stocktaking of TSA inventories and, in consultation with the FSTB and Company A, work out an acceptable basis for assessing the indemnity for loss of TSA inventories as early as possible. The Committee asked about the progress that had been made.

87. The **Controller of Production Services** said that RTHK had been liaising with Company A over the stocktaking of TSA inventories and would complete the exercise before the expiry of the TSA.

88. In the letter of 15 June 2006 in *Appendix 20*, the **Secretary for Financial Services and the Treasury** advised that the FSTB had issued a memorandum to the Director of Broadcasting on 29 May 2006, seeking information and advice on, amongst others, the loss of their TSA inventories and Director of Audit's recommendation on the assessment of indemnity. Subject to the advice from the Director of Broadcasting, the FSTB would work out with RTHK, and in consultation with relevant departments, an appropriate basis for assessing the indemnity for loss of TSA inventories.

G. Entertainment expenses

Need to economise on entertainment and spring receptions

89. The Committee noted Audit's observations in paragraphs 6.21 and 6.22 that despite the general guideline issued by the Director of Administration in March 2003 that no more spring or annual receptions should be held unless with full justifications, RTHK organised six spring receptions/lunches/dinners costing a total of \$52,857 in 2004-05. As far as Audit could ascertain, RTHK did not document the full justifications for not complying with this general guideline, as required by the Director of Administration. Audit considered that organising six spring receptions a year appeared excessive.

90. It appeared to the Committee that RTHK, in holding six spring receptions without full justifications, had paid no regard to the relevant government guidelines. The Committee asked whether this was the case.

91. The **Director of Broadcasting**, the **Deputy Director of Broadcasting**, the **Assistant Director of Broadcasting (PATV)** and the **Assistant Director of Broadcasting (Radio)** stated that:

- RTHK noted the Director of Administration's guideline that departments should avoid holding spring or annual receptions as they might be perceived as lavish and not commensurate with the Government's economy drive. RTHK had not ignored the guideline but noted that it allowed Heads of Departments some flexibility to hold spring receptions where justified. The spring receptions held by RTHK were of small scale with guests carefully selected, and were certainly not lavish;

- the RTHK Lunar New Year Celebration 2005, attended by 220 to 250 guests, was an annual event to greet RTHK's close partners and guests, including all electronic media as well as Legislative Council Members and representatives of the Government. It was broadcast on radio and TV and was regarded as a programme. It should not be treated as spring reception which was different in nature;
- as for the other five spring lunches/dinners, more than 80 guests from various sectors were invited. Most of the guests had offered help and professional advice to RTHK for the whole year, and the opportunity was chosen after the Lunar New Year for RTHK to thank them for their support. The receptions could also be regarded as meetings for RTHK to consult professionals from different sectors on its programme direction in the coming year. Arrangement of five different occasions to meet RTHK's close partners and guests could enhance the quality of communication; and
- as the public was concerned about RTHK's organising five spring receptions, RTHK would consider whether to reduce the number in the future. On each occasion where there was a need to hold a reception, the justifications would be fully documented.

92. The Committee asked whether RTHK agreed with Audit's view that organising six spring receptions a year was excessive and whether it would continue to organise spring receptions next year. The **Director of Broadcasting** responded that:

- RTHK, being a public service broadcaster, operated seven radio channels, undertook a wide range of activities and produced a large amount of radio and television programmes. It was essential for RTHK to maintain contact and good relationship with different organisations and different people. As the Controlling Officer, he considered that the \$52,857 for organising the six receptions was well-spent; and
- RTHK was an organisation that faced the public. It would take into consideration the views of the public, including Audit and the Public Accounts Committee, in deciding the way forward in this regard.

93. According to paragraph 6.8 of the Audit Report, in 2004-05, RTHK's total expenditure on entertainment amounted to \$750,000, comprising official entertainment (\$390,000), and programme-related entertainment (\$360,000). The Committee asked:

- whether RTHK's expenditure of \$390,000 on official entertainment was on the high side or low side when compared to that of other bureaux and government departments; and

- whether, in the light of RTHK's explanations, the FSTB considered organising the six spring receptions excessive, and whether they were perceived as lavish and not commensurate with Government's economy drive.

94. The **Deputy Director of Broadcasting** and the **Assistant Director of Broadcasting (PATV)** responded that:

- as reported in Figure 5 in paragraph 6.8 of the Audit Report, RTHK's expenditure on entertainment (including both official and programme-related entertainment) in 2002-03 was \$530,000, and \$750,000 in each of 2003-04 and 2004-05. The expenditure had increased in the last two years because those were the post-SARS days, there were requests in the community and in the Government for more functions and events to be organised to boost the social atmosphere and to promote Hong Kong. Moreover, following the launch of CEPA, there had been more exchange activities with Mainland radio and TV stations. All these had led to an increase in entertainment functions and expenditure;
- RTHK's management also considered that RTHK had organised too many activities. For instance, 263 activities had been launched in 2004. The Director of Broadcasting had therefore directed that the number of various kinds of activities in 2005 should be reduced to 160. As a result, RTHK's total expenditure on entertainment had reduced by 37% from \$750,000 in 2004-05 to \$470,000 odd in 2005-06; and
- there was a genuine need for RTHK staff to be allowed to entertain artists, presenters and other guests to facilitate programme liaison. The artists and guests so entertained might have provided programme idea to RTHK for free or might be willing to work for RTHK for free or at fees below the market rates.

95. **Miss Amy TSE, Deputy Secretary for Financial Services and the Treasury (Treasury)**, said at the public hearing and in the Secretary for Financial Services and the Treasury's letter of 26 May 2006 (in *Appendix 21*) that:

- the expenditure of RTHK on official entertainment was charged under Head 160 Subhead 000 Operational expenses. The financial provision under this subhead operated as a one-line vote, covering all recurrent expenditure of RTHK. As Controlling Officer, the Director of Broadcasting was given autonomy and flexibility in deploying the funds within this subhead having regard to relevant rules and guidelines governing the proper use of resources. This was in line with the provision under section 12(2) of the Public Finance Ordinance that "a controlling officer shall be responsible and accountable for all expenditure from any head or subhead for which he is the controlling

officer, and for all public moneys and Government property in respect of the department or service for which he is responsible”;

- given the diversity of business nature and variation in size of budget among different bureaux/departments, the funding requirement of each Controlling Officer for official entertainment varied. As a general principle, bureaux/departments should exercise strict economy when entertaining guests and avoid accusations of extravagance. However, it was incumbent upon the Controlling Officers to decide and account for the use of their entertainment expenses. The FSTB was not in a position to determine whether the level of official entertainment expenses of an individual department was on the high or low side when compared to that of other government bureaux/departments; and
- for the above reasons, the need for organising spring or annual receptions in RTHK was an operational matter for the Director of Broadcasting to decide having regard to the operational needs of the RTHK as well as the relevant rules and guidelines. As far as spring receptions were concerned, a general guideline that spring or annual receptions could only be held with full justifications was clearly set out in the circular issued by the Director of Administration in March 2003. It was not for FSTB to advise whether the number of spring receptions held by RTHK was appropriate or not.

96. The **Permanent Secretary for Commerce, Industry and Technology (C&T)** said that:

- the guidelines issued by the Director of Administration did not mention that spring receptions could not be held at all. It stated that no spring receptions should be held, unless with full justifications. As a Head of Department, the Director of Broadcasting was delegated with the authority for deciding whether it was justifiable to hold a spring reception; and
- the crux of the problem, as identified in the Audit Report, was that RTHK had not complied with the requirement to document the justifications for holding spring receptions. If the reasons for holding the spring receptions/lunches/dinners had been documented clearly, there should not have been questions about the appropriateness of holding six spring receptions.

Cases exceeding spending limits

97. Paragraph 6.20 of the Audit Report revealed that there was a case in which two claims for reimbursement of entertainment expenses were made for two consecutive functions held in the same venue and attended by the same group of people. If one event had been held instead of two, the total cost of \$382 per head would have exceeded the financial ceiling of \$325 for dinner promulgated in RTHK Accounting Circular No. 2/2003. Audit was concerned about the absence of any documentary evidence to substantiate that the two events were really organised as two separate functions. The Committee asked about the improvement action that would be taken by RTHK in this regard.

98. The **Assistant Director of Broadcasting (Radio)** stated that:

- the spring reception and the spring dinner held on 4 March 2005 were two separate functions using the same venue. Holding the two functions in the same venue was less costly because discount had been offered. A cocktail reception was organised for guest presenters of Radio 3 and Radio 4 to meet the press. The reception was followed by a spring dinner, for which guests were invited in advance. Some of them attended the cocktail in the evening and some did not. However, as RTHK did not have an accurate record of the participants for the cocktail reception, it appeared that the guests for both functions were basically the same;
- RTHK agreed that, for the avoidance of doubt, it should have documented the justifications for such arrangement. It would do so in the future; and
- even if the two bills for the reception and the dinner were combined as one, the total cost per head (i.e. \$382) would still fall within the limit of \$400 per person for dinner.

99. The Committee noted that the limit of \$400 was the limit promulgated in the Director of Administration's guidelines. As pointed out by Audit in paragraph 6.20, the cost of \$382 per head would have exceeded the financial ceiling of \$325 for dinner promulgated in RTHK Accounting Circular No. 2/2003. The Committee asked why the Assistant Director of Broadcasting (Radio) referred to the limit of \$400, instead of the ceiling of \$325 stipulated in RTHK Accounting Circular No. 2/2003.

100. In his letter of 10 June 2006, the **Director of Broadcasting** stated that:

- RTHK had maintained a two-tier system for settlement of expenses on entertainment incurred from official duties. The financial ceilings for entertainment expenses incurred under the first tier, i.e. "Official Entertainment", were \$250 and \$400 for lunch and dinner per head

respectively. They referred to functions held at the corporate level. The ceilings followed those promulgated by the Director of Administration;

- the second tier, “Programme-related Entertainment”, required that the spending limits should be set at \$250 and \$325 for lunch and dinner per head respectively, as promulgated in RTHK Accounting Circular No. 2/2003. Claims for entertainment incurred from programme production were settled under this arrangement. The financial limits were internally set and used to be approved annually by the former Finance Branch. However, since 16 May 1995, the then Secretary for the Treasury had advised that there was no need to seek the Finance Branch’s approval; and
- the function on 4 March 2005 was held as a corporate event and therefore, the total expenses incurred could in principle be settled under the first tier, i.e. “Official Entertainment”.

101. The Committee further asked why RTHK had not upgraded its internal financial ceilings for lunch and dinner to the same level (i.e. \$250 and \$400 respectively) as stipulated in the Director of Administration’s guidelines, and whether it would consider doing so.

102. The **Director of Broadcasting** advised, in the same letter, that:

- the financial ceilings for lunch per head incurred from “Official Entertainment” and “Programme-related Entertainment” had remained at \$250, and that for dinner per head incurred from “Official Entertainment” at the level of \$400, in line with the limits promulgated by the Director of Administration;
- the only difference lay in the financial ceiling for dinner in the case of “Programme-related Entertainment”. In this respect, RTHK had considered in 2003 upgrading the ceiling to \$400, in line with the limit promulgated by the Director of Administration. However, taking into account the financial situation of the Government at that time, RTHK concluded at the time that it was not a good timing to increase the financial limit and decided that the ceiling for dinner should remain unchanged; and
- with a lapse of about three years since the last review, RTHK agreed that it was time to consider reviewing the internal financial ceilings on entertainment expenses, in line with the limits promulgated by the Director of Administration.

Entertainment for programme liaison

103. According to paragraphs 6.23 and 6.24 of the Audit Report, RTHK Accounting Circular No. 2/2003 stipulated that programme-related entertainment expenditure was chargeable to public funds in respect of hospitality for **no-pay** artists and guests. However, Audit found out that it was not uncommon for RTHK to incur entertainment expenditure during programme liaison/discussion with paid artists or prospective paid artists. Audit recommended that RTHK should devise clearer guidelines regarding entertainment expenses for paid artists for programme liaison. The Committee asked about the actions that RTHK would take.

104. The **Assistant Director of Broadcasting (Radio)** and the **Assistant Director of Broadcasting (PATV)** replied that:

- in practice, RTHK had had difficulties in complying with the above guidelines. This was because entertainment expenditure would inevitably be incurred during programme liaison/discussion with prospective paid artists. However, charging such expenditure to programme production costs was not in compliance with the guidelines; and
- RTHK would consider how the guidelines should be revised, taking into account the need to provide flexibility in programme production while ensuring prudence in the use of public funds.

Cases without prior approval

105. The Committee noted from paragraphs 6.12 to 6.16 that RTHK's procedures required that prior approval from the proper authority should be sought before the entertainment event. However, Audit identified that there was a high percentage of cases without prior approval. The Committee asked about the reasons for not seeking prior approval and for the approving officers to give covering approval.

106. The **Director of Broadcasting** and the **Assistant Director of Broadcasting (PATV)** explained that:

- currently, proposed official entertainment functions would be considered by RTHK's management at various senior-level meetings held regularly. For example, at the weekly management-level meeting chaired by the Director of Broadcasting, entertainment functions to be organised would be discussed. Approval-in-principle for holding the functions, which were considered justified, would be given verbally at those meetings;

- even if approval-in-principle had been obtained verbally, sometimes the details of the function would change, which was beyond the control of the staff concerned. For instance, the actual number of guests who turned up might be more or less than as originally anticipated. In such cases, the staff concerned would have to seek covering approval with the details after the function. To ensure that all staff would exercise due care in using public funds, RTHK had put in place stringent requirement for claiming reimbursement of official entertainment expenses. For cases exceeding \$500, the staff concerned was required to provide the menu to support the claim; and
- Audit had recommended that verbal approval was acceptable for urgent and exceptional cases, which should be clearly documented by the claimant on the claim form for record purposes. In implementing this recommendation, RTHK had to strike a balance between the need to comply with the guidelines and the practical difficulties faced by front-line staff. For example, when there was unforeseen change in the details of the function, such as a change in venue or in the number of guests, RTHK might allow the staff concerned to seek approval from the approving officer verbally who might record the situation in a logbook, rather than requiring the staff to complete a form. RTHK would issue clearer guidelines to staff. If necessary, RTHK would seek advice from the CITB and the FSTB.

H. Management of sponsorship

107. The Committee noted from paragraphs 7.26 to 7.33 of the Audit Report that, in accordance with CSB Circular No. 7/94, the Head of Department might personally approve sponsored visits to such events as conferences and demonstrations of new technology, except cases involving Taiwan in which case the Secretary for the Civil Service (SCS) remained the approving authority. However, Audit's examination of the 52 sponsored visits approved in 2004-05 by the Director of Broadcasting under CSB Circular No. 7/94 revealed two official visits to Taiwan, which were sponsored by non-profit-making organisations. As stated in paragraph 7.33(b), the CSB agreed that the SCS's approval should be sought for such visits to Taiwan in accordance with the requirement under CSB Circular No. 7/94.

108. The Committee asked why RTHK had not sought the SCS's approval for the two visits in question.

109. The **Assistant Director of Broadcasting (Radio)** and the **Assistant Director of Broadcasting (PATV)** explained that:

- the two visits to Taiwan were industry-related and the staff concerned, being experienced TV production professionals, were invited to attend the symposiums in their personal capacity, not their official capacity. As such, RTHK had misunderstood that it was not necessary to seek approval from the CSB; and
- after Audit had raised its concern, RTHK realised that it had overlooked the requirement. Covering approval was now being sought from the CSB. RTHK would comply with the relevant requirement in the future.

110. The Committee asked about the follow-up actions that the CSB had taken or would take regarding the two visits.

111. The **Secretary for the Civil Service**, in the letter of 10 June 2006 in *Appendix 22*, advised that:

- RTHK had written to the CSB earlier seeking covering approval for acceptance of the sponsorship for the two visits to Taiwan in 2004. The CSB had informed RTHK of its view that approval would have been granted if RTHK had consulted it before accepting the sponsorship in 2004;
- the Secretary for Commerce, Industry and Technology had earlier requested the Director of Broadcasting to submit a report by July 2006 after due investigation on:
 - (a) whether disciplinary proceedings should be instituted against the staff concerned in respect of cases covered in the Audit Report No. 46; and
 - (b) whether any managerial staff should take management responsibility and be held accountable; and
- depending on the investigation findings and the recommendations of the Director of Broadcasting in his report, the CSB stood ready to provide assistance to RTHK in taking appropriate follow-up actions, including the conduct of disciplinary proceedings, if necessary.

112. The Committee asked whether there was any upper limit for accepting sponsorships in kind from commercial organisations by the RTHK. The **Permanent Secretary for Commerce, Industry and Technology (C&T)** replied that, since 1997, RTHK had been forbidden to accept sponsorships from commercial organisations for its

programmes and this was still the existing government policy. Hence, there was no question of an upper limit for accepting sponsorships in kind.

I. Conclusions and recommendations

113. The Committee:

- expresses dissatisfaction and finds it unacceptable that it has been apparent from this fourth audit review relating to Radio Television Hong Kong (RTHK) that certain irregularities of different degrees of concern still exist in RTHK, although such irregularities had already been identified at different times in previous audit reviews conducted in 1997, 1999 and 2001, and in a number of internal and external reviews;
- recognises the special nature of RTHK as it is a public service broadcaster operating in a competitive media environment, but considers that this should not have been an excuse for non-compliance with applicable government rules and regulations, as exemptions should have been sought if justifiable on the ground of special circumstances;
- agrees with the Director of Audit that whilst the amounts involved in individual cases identified by the Audit Commission (Audit) might not be substantial, the irregularities are a cause for concern, taking into account their nature, prevalence, and the risks that they posed to the proper use of public funds;
- affirms the positive attitude of RTHK's top management, demonstrated at the Committee's public hearings, towards the need to achieve full compliance with government rules and regulations and its resolve to foster a compliance culture among staff, as illustrated by its proposed adoption of "compliance" as one of the core competencies under its proposed new staff appraisal system;
- strongly urges the Director of Broadcasting to take expeditious actions to rectify the irregularities identified in the audit and other reviews and to ensure that they will not recur;

Management of departmental contract staff (DCS) and service providers

- expresses serious concern:
 - (a) that the existing fee scale table of RTHK is not yet complete, because various issues relating to the benchmarking of the table against comparable civil service posts and the going market rates have not been properly addressed;

- (b) that various irregularities in the keeping of attendance records of departmental contract staff (DCS) and service providers were identified in the audit review; and
 - (c) about RTHK's undesirable practices of giving covering approval for overtime (OT) work and additional work, and of signing employment contracts after works had commenced;
- expresses grave concern that RTHK has continued to employ both full-time and part-time DCS III and the number of such staff has remained high, despite its commitments made in March 2000, in response to the audit review of February 1997, to regularise the employment of about 130 full-time DCS III by appointing them on non-civil service contract (NCSC) terms and to complete that exercise by the end of 2000;
 - acknowledges that RTHK:
 - (a) has made significant progress in reducing the number of long serving DCS I, and the number of such staff has been reduced from 120 in April 1998 to 18 in January 2006; and
 - (b) aims to migrate the remaining 18 DCS I and the 148 DCS III to the NCSC framework by June 2006 and December 2006 respectively despite the perceived difficulties involved;
 - notes that the Director of Broadcasting:
 - (a) has set up a Working Group on Fee Scale Review with the objectives of improving the fee scale table and implementing Audit's recommendations, and the revised fee scale table is expected to be implemented in early 2007; and
 - (b) has accepted the audit recommendations in paragraph 2.49 of Director of Audit's Report (Audit Report), which include:
 - (i) taking action to ensure that the controls over attendance records are strictly enforced; and
 - (ii) discouraging the practice of giving covering approval, and requesting RTHK staff to submit explanations if prior approval has not been sought;

Management of outsourcing activities

- expresses serious concern that:
 - (a) the contractor of the outside broadcast (OB) contracts did not always comply with the contract terms and, in some cases, staff members with the required experience and track records specified in the contracts were not provided to RTHK for the OB work;
 - (b) there was no documentary evidence to show that RTHK had formally considered the question of potential conflict of interest before awarding the OB contracts; and
 - (c) the conflict of interest situation has, to a certain extent, compromised RTHK's efforts in re-scheduling rest days of the Technical Services Agreement (TSA) staff to reduce OT work to a minimum;
- expresses concern that:
 - (a) some TSA staff who conducted OB work during their rest days had to work more than 12 hours continuously;
 - (b) the justification for RTHK to outsource the OB services on cost considerations may no longer be valid; and
 - (c) some of the TSA staff (e.g. camera operators and lighting operators) have significant standby time and have been under-utilised;
- notes that:
 - (a) RTHK has strengthened its contract monitoring procedures and required the OB contractor to provide the list of personnel who attended the productions, and RTHK will check the personnel deployed on a monthly basis;
 - (b) both the TSA contractor and the OB contractor have advised that they will provide undertaking statements to ensure no conflict of interest, before a contract is awarded in the future;
 - (c) RTHK will pursue, within the parameters of the new contracts replacing the current TSA on 1 October 2006, the audit recommendations to make better use of TSA staff to reduce outsourcing work, and to consider whether the OB work can be produced more cost-effectively under the TSA; and

- (d) the TSA contractor has advised that it would try its best to arrange for better utilisation of camera operators and lighting operators, subject to RTHK bookings;

Management of OT work

- expresses concern that:
 - (a) RTHK has not made sufficient efforts to further reduce OT payments under the TSA by ensuring that OT work is performed only where it is strictly unavoidable, re-scheduling rest days of TSA staff to better match with work requirements, and improving work scheduling to better utilise the TSA manpower resources, despite that the audit review of March 1999 had already highlighted the need and made recommendations for RTHK to minimise OT payments under the TSA;
 - (b) there was no documentation of the justifications for RTHK's drivers to perform OT work during normal meal break time;
 - (c) RTHK's practice of requiring drivers to work OT for buying newspapers early in the morning is not cost-effective; and
 - (d) RTHK's checking of OT work registers was inadequate;
- expresses serious concern about the cases in which the journey details recorded in the vehicle logbooks had not been certified by the vehicle users concerned. In particular, the Director of Broadcasting had not certified the journey details recorded in the logbook for the vehicle used mainly by him, even after the issuance of RTHK Administrative Circular No. 9/2003 which requires users of departmental transport to certify the journey details by signing on the logbook upon completion of a duty journey;
- does not accept the Director of Broadcasting's explanation that the logbook for the vehicle concerned used to be certified by the Departmental Transport Officer, he had therefore all along been under the impression that the journey details entered therein had been properly certified;
- notes that:
 - (a) RTHK has agreed to discuss with the TSA contractor to identify if there is any further room for arranging time-off in lieu of OT payments;
 - (b) RTHK has agreed to ensure effective monitoring of the provision of technical services under the new contracts replacing the TSA with effect from October 2006;

- (c) RTHK has contracted out the early morning newspapers delivery service, with a view to ceasing the practice of requiring drivers to buy newspapers early in the morning;
- (d) RTHK has accepted the audit recommendations in paragraphs 4.42 and 4.47 of the Audit Report and is taking positive action in implementing the recommendations to improve the control of OT work performed by its drivers; and
- (e) since November 2005, the Director of Broadcasting has been certifying the logbook for the vehicle used mainly by him;

Stores and procurement matters

- expresses serious concern that:
 - (a) the irregularities revealed by the Government Logistics Department's system survey of August 2005 highlighted a lack of compliance culture among staff of RTHK, as far as procurement matters are concerned;
 - (b) cases of non-compliance with the Stores and Procurement Regulations and other relevant guidelines were revealed by the audit review of the management of stores and inventory; and
 - (c) RTHK has not made sufficient efforts in planning for the handover of TSA inventories by 30 September 2006;
- notes that:
 - (a) the Director of Broadcasting has agreed to remind all staff concerned about the commitment of the top management of RTHK to strictly comply with the relevant government regulations and guidelines on procurement;
 - (b) the Director of Broadcasting has agreed to the audit recommendations in paragraphs 5.9, 5.20, 5.30, 5.39, 5.45 and 5.57 of the Audit Report; and
 - (c) RTHK and the TSA contractor are deploying resources to implement the handover of inventories according to the timetable;

Entertainment expenses

- expresses concern that:
 - (a) the high percentage of cases without prior approval shows that RTHK's approving officers may not be able to properly discharge their duties to ensure that the relevant regulations and guidelines on entertainment expenses are fully complied with;
 - (b) there were some cases which had exceeded the spending limits according to the Director of Administration's guidelines;
 - (c) there was a case in which two claims for reimbursement of entertainment expenses were made for two consecutive functions held in the same venue and attended by the same group of people, and if one event had been held instead of two, the total cost of \$382 per head would have exceeded the financial ceiling of \$325 for dinner promulgated in RTHK Accounting Circular No. 2/2003. However, there was no documentary evidence to substantiate that they were really organised as two separate functions;
 - (d) there was a lack of documentation of the full justifications for RTHK to organise six spring receptions in 2004-05;
 - (e) entertainment expenses for programme liaison and discussion may not comply with the relevant government guidelines; and
 - (f) RTHK had not made sufficient efforts to economise on official and programme-related entertainment;
- finds it unacceptable that in some cases, expenses relating to entertainment functions involving only government staff were charged to public funds;
- notes that:
 - (a) RTHK has issued guidelines to remind officers of the proper procedures for claiming entertainment expenses and will continue to closely monitor the spending against the recommended limits;
 - (b) RTHK will revisit carefully its rationale for holding spring receptions in the future and, on each occasion where there is a need to hold a reception, justifications will be documented;

- (c) RTHK will issue more detailed guidelines to facilitate the full understanding and compliance of staff regarding entertainment for programme liaison and, where necessary, consult the Financial Services and the Treasury Bureau;
- (d) RTHK has issued departmental guidelines to remind its staff of the general rule that expenses of entertainment functions attended only by government staff should not be charged to public funds; and
- (e) RTHK will remind all staff concerned of the need for entertainment expenditure to reflect well on RTHK, not only as a host, but also as a user of the taxpayer's money;

Management of sponsorship

- expresses serious concern that:
 - (a) RTHK's practice of accepting sponsorships in kind from commercial organisations is not in compliance with the existing government policy on sponsorship for programmes;
 - (b) RTHK's internal guidelines relating to the acceptance of gifts and prizes are not consistent with the principles and rules set out in the Commerce, Industry and Technology Bureau (CITB) policy guidelines; and
 - (c) cases of non-compliance with relevant government guidelines on sponsored visits were revealed by the audit review;
- expresses serious dismay and finds it unacceptable that the Secretary for the Civil Service's approval was not sought by RTHK for two official visits to Taiwan, violating the requirement under the Civil Service Bureau (CSB) Circular No. 7/94;
- notes that:
 - (a) the CITB has advised that the existing policy guideline issued in 1998 is clear that RTHK is permitted to accept sponsorship, in cash or in kind, for its programmes from non-profit-making organisations only;
 - (b) the CITB has advised RTHK to take into account international best practice, and to propose with detailed justifications the proper procedures for handling prizes donated by commercial organisations for further deliberations with the CITB;
 - (c) the CSB has advised RTHK on the proper procedures for the approval of sponsored visits;

- (d) in response to RTHK's seeking of covering approval for the two visits to Taiwan, the CSB has informed RTHK that approval would have been granted if RTHK had consulted it before accepting the sponsorship for the visits; and
- (e) the Director of Broadcasting has agreed to the audit recommendations in paragraphs 7.22 and 7.31 of the Audit Report; and

Follow-up action

- wishes to be kept informed of:
 - (a) the progress of actions taken by the Director of Broadcasting to rectify the irregularities identified in the audit and other reviews and to ensure that they will not recur; and
 - (b) the progress on the implementation of the audit recommendations.