

LEGISLATIVE COUNCIL BRIEF

Telecommunications Ordinance
(Chapter 106)

Application for a Sound Broadcasting Licence to Operate Community Radio Service

INTRODUCTION

At the meeting of the Executive Council on 12 December 2006, the Council ADVISED and the Chief Executive ORDERED that having considered the recommendations made by the Broadcasting Authority (BA) under section 13C(1) of the Telecommunications Ordinance (the Ordinance)(Cap. 106) and the representations submitted by the Ocean Technology Limited (the applicant), the application made by the applicant for a sound broadcasting licence under the Ordinance to establish and maintain a community radio service should be rejected.

JUSTIFICATIONS

Application for Licence

2. On 8 September 2005, the applicant submitted an application to the BA, under section 13B of the Ordinance, for a sound broadcasting licence. The applicant subsequently amended the application in writing on 15 December 2005. The sole shareholder of the applicant is Mr Tsang Kin-shing.

3. The applicant applied to operate a non-commercial and non-profit making radio station known as "Citizens' Radio Station". At the initial stage, it would operate an FM community radio station covering individual communities.

4. The applicant submitted that a team of experienced radio programme hosts, unionists and community leaders would manage the station and provide diversified programming; the technical support department would be responsible for operation of its radio station facilities;

it planned to launch digital audio broadcasting by 2008; and being a non-profit making station, its main source of funding would be shareholder's contribution and public donation and no commercial advertisement would be allowed.

Due Process

5. It is the first time that the BA has received an application for a sound broadcasting licence other than in response to invitation for applications by the Government. As the applicant did not submit sufficient information at the beginning, the BA has requested the applicant to submit more information on its technical, financial and managerial capabilities to facilitate the assessment of the application. Upon receipt of the required information, the BA considered the application under section 13C of the Ordinance and made recommendations to the CE-in-Council.

6. In order to ensure a fair hearing, upon receipt of BA's recommendations in August 2006, the Administration wrote to the applicant to convey to it the BA's recommendations and the Administration's views, and asked if the applicant would like to make any representation on the same to the CE-in-Council. The applicant submitted its representations on 15 November 2006.

Decision by the CE-in-Council

7. Having duly considered the application made by the applicant, the views and recommendations from the BA, the representations submitted by the applicant in response to the BA's recommendations and the Administration's views, as well as whether there are any less restrictive means other than refusing to grant a licence to the applicant in order to meet the objections and concerns against the application that he thinks valid on technical and other grounds, the CE-in-Council decides to reject the application made by the applicant for a sound broadcasting licence.

8. The factors which the CE-in-Council took into account before reaching the decision include the feasibility of the applicant's technical proposal on the use of radio frequency spectrum, and the management, financial and technical capability of the applicant to establish and maintain a sound broadcasting service.

BACKGROUND

9. The licensing regime for sound broadcasting services is set out in Part IIIA of the Ordinance. Section 13F of the Ordinance provides that a licence may be granted to or held only by a corporation that is –

- (a) a company formed and registered in Hong Kong under the Companies Ordinance (Cap. 32);
- (b) not a subsidiary;
- (c) empowered under its memorandum of association to comply fully with the provisions of the Ordinance and the terms and conditions of its licence.

10. Section 13B of the Ordinance stipulates that an eligible corporation may apply to the BA, in such form as the BA may determine, for a licence to establish and maintain a sound broadcasting service. Section 13C(1) requires the BA to consider applications made under section 13B and to make recommendations thereon to the CE-in-Council. Section 13C(2) provides that having considered BA's recommendations in respect of an application for the licence, the CE-in-Council may grant a licence to the applicant subject to the terms and conditions he may specify.

ENQUIRIES

11. For enquiries, please contact Mr. Kevin Choi, Principal Assistant Secretary (A) for Commerce, Industry and Technology (Communications and Technology), at 2189 2236.

Communications and Technology Branch
Commerce, Industry and Technology Bureau
12 December 2006