

Public Service Broadcasting in Selected Places

31 October 2006

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Executive Summary

1. Public service broadcasting is commonly defined as providing universal access to a wide range of programmes that inform, educate and entertain the general public. Nonetheless, public service broadcasting models are diverse, particularly in terms of the corporate status and financing of the public service broadcasters.

Hong Kong

Radio Television Hong Kong

2. Established in 1928, Radio Television Hong Kong (RTHK) is the only public service broadcaster in the territory. It is a government department headed by the Director of Broadcasting and no governing legislation applies. Instead, a Framework Agreement is in place, specifying the working relationship between the Secretary for Commerce, Industry and Technology and the Director of Broadcasting, their respective responsibilities, services and the aims and mission of RTHK. Editorial independence of RTHK is mainly safeguarded by the Framework Agreement.
3. RTHK is funded by government appropriations and is accountable to the Government through the Secretary for Commerce, Industry and Technology who puts forward RTHK's budget and expenditure proposal to the Finance Committee of the Legislative Council for scrutiny and approval.
4. In January 2006, the Government started the review of public service broadcasting in the territory and the report is expected to be completed by end-2006.

The United Kingdom

The British Broadcasting Corporation

5. The British Broadcasting Corporation (BBC) was established in 1922. It is a body corporate subject to no governing legislation. Instead, its activities are governed by a Royal Charter and the accompanying Framework Agreement, which also guarantee editorial independence of the BBC.
6. Since the current Royal Charter will expire in 2006, a new Charter review has commenced in 2003. In September 2006, the Royal Charter was sealed for the continuation of the BBC.

7. In 2005-2006, the BBC derived 77% of its funding from the licence fee paid by households possessing televisions and 16% from its commercial activities. The remaining 7% came from the grant-in-aid provided by the Foreign and Commonwealth Office to the BBC for running its World Service. The BBC is answerable to the BBC Board of Governors appointed by the Queen on advice from the government. In 2007, the BBC Board of Governors will be replaced by the BBC Trust formed under the new Charter.
8. The BBC is accountable to Parliament by submitting its Annual Report and Accounts to Parliament through the Secretary of State for Culture, Media and Sport. It is also accountable to the public by publishing Statements of Programme Policy and benchmarking its performance with the stated goals.

Channel 4

9. Channel 4, a public service broadcaster established in 1981, was transformed into a statutory corporation in 1993. Its public service remit is governed by the *Broadcasting Act 1990*, the *Broadcasting Act 1996* and the *Communications Act 2003*. Although there is no legal document explicitly safeguarding editorial independence of Channel 4, due impartiality on news and matters of political or industrial controversy reporting is stipulated in the *Broadcasting Code* published by the Office of Communications (Ofcom), the independent regulatory body of the communications industry in the United Kingdom (UK).
10. Channel 4 is funded entirely by advertising and its own commercial activities. It is answerable to its Board appointed by Ofcom.
11. Channel 4 is accountable to Parliament by submitting its Annual Report and Accounts to the Secretary of State for Culture, Media and Sport who lays copies of it before each House of Parliament.
12. In 2003, Ofcom conducted a review of public service broadcasters in the UK, including Channel 4. The findings show that Channel 4 will face competitive pressures in the coming years and need to explore other funding options in order to deliver its public service broadcasting remit in full.

Canada

The Canadian Broadcasting Corporation

13. Established in 1936, the Canadian Broadcasting Corporation (CBC) is the only national public service broadcaster in Canada. It is a Crown corporation operating under the *Broadcasting Act 1991*. CBC's editorial independence is mainly safeguarded by the *Broadcasting Act 1991* and the Canadian Charter of Rights and Freedoms.

14. In 2004-2005, CBC derived 63% of its funding from parliamentary appropriations. The remaining 37% came from advertising and other sources. It is answerable to the Board of Directors appointed by the Governor in Council.
15. CBC is accountable to Parliament by submitting its annual report to Parliament through the Minister of Canadian Heritage. CBC also keeps the public informed of its policies via its website, and establishes two ombudsmen to address complaints about its programming.
16. In 2003, the Standing Committee on Canadian Heritage of the House of Commons conducted a comprehensive review of the broadcasting system of Canada, including CBC. In 2005, the Standing Committee called for a further review on CBC and the result of the review will serve as input for consideration of CBC's licence renewal in 2007.

The United States

The Corporation for Public Broadcasting

17. The United States (US) does not have any national public service broadcaster. Instead, the Corporation for Public Broadcasting (CPB) was established in 1967 to fund the growth and development of public radio and television broadcasting in the US. CPB is a private, non-profit-making corporation operating under the *Public Broadcasting Act of 1967*. It is specifically charged by Congress with the duty of protecting public service broadcasters' editorial independence.
18. CPB is financed mainly by the general federal appropriations. The activities of CPB are overseen by its Board of Directors appointed by the US President and confirmed by the Senate.
19. CPB is accountable to Congress by submitting to Congress its annual report detailing its operation, activities, financial condition and accomplishments as well as a list of organizations receiving grants from CPB.
20. In May 2005, CPB conducted a review of its corporate governance and identified serious weaknesses in the system. As a result, three new standing committees have been established to strengthen its governance, accountability and transparency in the operation of the organization.

The Public Broadcasting Service

21. Established in 1969, the Public Broadcasting Service (PBS) is a private, non-profit-making membership organization providing a distribution channel for national programmes to its member public television stations. PBS is governed by both the *Communications Act of 1934* and the *Public Broadcasting Act of 1967*. Editorial independence of PBS is mainly safeguarded by both the *Communications Act of 1934* and the First Amendment to the US Constitution.
22. In 2004-2005, PBS derived 48% of its funding from annual fees paid by its member stations and 21% from CPB and federal government grants. Licence fees paid by cable and satellite providers, investment income, video rental and sale and other revenues accounted for the remaining 31% of PBS's total funding. PBS is answerable to its Board of Directors which is composed of representatives of member stations and the general public.
23. PBS's member stations are accountable for the funding received from CPB by holding open meetings, establishing advisory boards, conducting biennial audits, and making financial records available.
24. In 2005, PBS commissioned a special committee to review the PBS Program Policies. The special committee recommended that the editorial standard of PBS should apply to all PBS's content, not just television programming.

The National Public Radio

25. The National Public Radio (NPR) was established in 1970. It is a private, non-profit-making membership organization producing news, information and cultural programmes for its member public radio stations and serving as a co-ordinator for national programming distribution. The governing legislation of both the organization and editorial independence is the same as that of PBS.
26. In 2004-2005, NPR derived 38% of its funding from the programming fees paid by member stations and 36% from grants, contributions and sponsorships. Programme distribution services, investment income and other revenues accounted for the remaining 26% of NPR's total funding. NPR is answerable to its Board of Directors which is composed of representatives from member stations and the general public.
27. NPR's member stations are accountable for the funding received from CPB by holding open meetings, establishing advisory boards, conducting biennial audits, and making financial records available.
28. Although no major review on NPR has been conducted, the organization revised its in-house ethics guide in 2004, updating the guidelines governing issues of ethical conduct in public radio broadcasting journalism.

Public Service Broadcasting in Selected Places

Chapter 1 – Introduction

1.1 Background

1.1.1 At a special meeting on 25 January 2006, the Panel on Information Technology and Broadcasting (Panel) requested the Research and Library Services Division (RLSD) to conduct a research on public service broadcasting (PSB) in selected places. The research serves to provide reference for the Panel's deliberation on PSB in Hong Kong. The Panel aims at publishing its own report, to which the Committee on Review of Public Service Broadcasting in Hong Kong can refer before concluding its review by end-2006. The Committee on Review of Public Service Broadcasting in Hong Kong is set up by the Government with a view to making recommendations on the structure, funding, governance, management, programming, monitoring and accountability of the public service broadcaster in the territory.

1.2 Definition of public service broadcasting

1.2.1 There is no universal definition of PSB. In any event, some of the selected places under studied define PSB in terms of its characteristics and purposes. In a nutshell, PSB seeks to provide universal access to a wide range of programmes that inform, educate and entertain the general public. Nonetheless, PSB models in the selected places vary, particularly in terms of the corporate status and financing of the public service broadcasters.

1.3 Scope of research

1.3.1 RLSD proposes to study models of PSB in four places, namely Hong Kong, the United Kingdom (UK), Canada and the United States (US).

1.3.2 In Hong Kong, Radio Television Hong Kong (RTHK) is the sole publicly-funded public service broadcaster. It is a government department funded by government appropriations.

1.3.3 In the UK, both the British Broadcasting Corporation (BBC) and Channel 4 are national public service broadcasters. Funding of the BBC comes mainly from television licence fees. In contrast, Channel 4 is funded entirely by its own commercial activities, principally through the sale of advertising time.

1.3.4 In Canada, the Canadian Broadcasting Corporation (CBC) is established as a Crown corporation to operate national public broadcasting in the country. It is funded mainly by parliamentary appropriations, supplemented by revenue from advertising and other sources.

1.3.5 There is no national public service broadcaster in the US. The Corporation for Public Broadcasting (CPB) is established as a statutory funding organization to provide financial support to local public television and radio stations, which are mostly members of the Public Broadcasting Service (PBS) and the National Public Radio (NPR).

1.4 Methodology

1.4.1 This research adopts a desk research method, which involves Internet research, literature review, documentation analysis and correspondence with relevant authorities and organizations.

Chapter 2 – Hong Kong

2.1 Definition of public service broadcasting

2.1.1 In Hong Kong, there is no official definition of PSB. The Committee on Review of Public Service Broadcasting established by the Government on 17 January 2006 has provided some examples of PSB definitions.¹ One of the examples quoted by the Committee comes from the United Nations Educational, Scientific and Cultural Organization (UNESCO).

2.1.2 According to UNESCO:

"Public Service Broadcasting (PSB) is broadcasting made, financed and controlled by the public, for the public. It is neither commercial nor state-owned, free from political interference and pressure from commercial forces. Through PSB, citizens are informed, educated and also entertained. When guaranteed with pluralism, programming diversity, editorial independence, appropriate funding, accountability and transparency, public service broadcasting can serve as a cornerstone of democracy."²

2.2 Broadcasting policy

2.2.1 The Government states that the objectives of the policies on the broadcasting industry are:

- (a) to promote programme choice and diversity through competition;
- (b) to facilitate introduction of new, innovative broadcasting services;
and
- (c) to enhance Hong Kong's position as a regional broadcasting hub.³

¹ These examples include definitions from (a) the United Nations Educational, Scientific and Cultural Organization (UNESCO); (b) the World Radio and Television Council of UNESCO; (c) *Model Public Service Broadcasting Law* of the European Broadcasting Union; and (d) Wikipedia, a web-based free encyclopaedia.

² See *United Nations Educational, Scientific and Cultural Organization* (2006).

³ See *The Government of the Hong Kong Special Administrative Region* (2004).

2.3 Overview of the broadcasting services

Television

2.3.1 There are over 230 television channels, including free and pay television channels as well as free-to-air satellite television channels in Hong Kong.⁴

2.3.2 The two domestic free television broadcasters, namely Asia Television Limited and Television Broadcasts Limited, both broadcast on one Chinese and one English channels. Domestic free television is received by more than 99.6% of the population, i.e. more than 6.8 million viewers or 2.2 million households.⁵

2.3.3 Additionally, there are three domestic pay television broadcasters. They are the Hong Kong Cable Television Limited, PCCW Media Limited and TVB Pay Vision Limited, providing more than 230 pay television channels to over 1.3 million subscribers.⁶

Radio

2.3.4 There are 13 radio channels in Hong Kong. Three channels are operated by the Hong Kong Commercial Broadcasting Company Limited, three by the Metro Broadcast Corporation Limited and seven by RTHK, the public service broadcaster. Table 1 shows the market share of radio channels among listeners aged 15 or above.

Table 1 — Market share of radio channels among listeners aged 15 or above

Channel	%
Commercial Radio 1	24.2
Commercial Radio 2	19.7
RTHK Radio 1	17.9
RTHK Radio 2	17.8
FM 997 Metro Showbiz	9.2
RTHK Radio 5	4.3
FM 104 Metro Finance	3.6
Others	3.3

Source: MDR Technology Limited (2005).

⁴ See *Communications and Technology Branch, Commerce, Industry and Technology Bureau* (2006).

⁵ Ibid.

⁶ Ibid.

Regulatory framework

The Commerce, Industry and Technology Bureau

2.3.5 Policies relating to broadcasting matters fall within the purview of the Communications and Technology Branch of the Commerce, Industry and Technology Bureau headed by the Secretary for Commerce, Industry and Technology.

The Broadcasting Authority

2.3.6 The Broadcasting Authority (BA) is an independent statutory body established under the Broadcasting Authority Ordinance (Cap. 391) in 1987 for the regulation of the broadcasting industry in Hong Kong. It is supported by its executive arm, the Television and Entertainment Licensing Authority. The functions of BA include:

- (a) safeguarding proper standards of television and sound broadcasting with regard to both programme and advertising content and technical performance;
- (b) publishing codes of practice on programmes, advertising and technical performance which broadcasters have to observe;
- (c) enforcing the competition provisions under the Broadcasting Ordinance (Cap. 562); and
- (d) making recommendations to the Chief Executive-in-Council on applications for and renewals of sound broadcasting, domestic free television and domestic pay television licences.

The Telecommunications Authority

2.3.7 Another regulator involved in broadcasting is the Telecommunications Authority, a public officer appointed by the Chief Executive pursuant to the Telecommunications Ordinance (Cap. 106). Its executive arm is the Office of the Telecommunications Authority, a government department operating under the Trading Funds Ordinance (Cap. 430). The major functions and responsibilities of the Telecommunications Authority include:

- (a) managing the radio spectrum;
- (b) licensing all telecommunications services and transmission facilities (including those for broadcasting) and enforcing licensing conditions;

- (c) regulating the economic and technical aspects of telecommunications services;
- (d) supporting BA in the technical regulation of broadcasting services;
- (e) exercising control on the import and export of radio communications transmitting apparatus and their use to prevent interference; and
- (f) enforcing the competition provisions in the Telecommunications Ordinance (Cap. 106).

2.4 Public service broadcasting

Organizations involved in broadcasting government information

2.4.1 In Hong Kong, the broadcasting of government information is delivered by both RTHK and the domestic commercial free-to-air broadcasters. As specified in the respective licences, BA is empowered to direct domestic free television broadcasters to broadcast programmes produced by RTHK as well as announcements in the public interest (APIs) supplied by the Government. Under similar provisions in the respective licences, BA is also empowered to direct sound broadcasters and domestic pay television broadcasters to broadcast APIs. RTHK, which is not subject to the licensing regime, has formally undertaken the broadcasting of APIs since 2001.

Authority for dissemination of government information

2.4.2 The Information Services Department (ISD) serves as the Government's public relations consultant, publisher, advertising agent and news agency. It provides the link between the Government and the media, and, through dispatching information to the latter, enhances public understanding of government policies, decisions and activities.

Arrangement of announcements in public interest broadcasting

2.4.3 Under the conditions of the relevant licences to broadcast, the two domestic free television broadcasters and the two domestic free radio broadcasters are required to broadcast APIs on each of their channels for periods not exceeding one minute in each hour. The domestic pay television broadcaster is required to broadcast less than one and a half hours per week of APIs, including weather-related messages provided by the Hong Kong Observatory, in selected channels. RTHK, which is not subject to the licensing regime, broadcasts APIs in every hour on Radio 1, Radio 2, Radio 3, Radio 5 and Radio 7.

2.4.4 ISD co-ordinates and compiles the API broadcast schedules which are sent to RTHK and the domestic commercial broadcasters on a weekly basis and copied to the Television and Entertainment Licensing Authority for information purposes. Messages requiring immediate and wider attention of the community are accorded priority broadcasting by ISD.

Arrangement of broadcasting of other government programmes

2.4.5 Apart from APIs, policy bureaux and departments sponsor, on an ad hoc basis, RTHK to produce television or radio programmes to disseminate information of public interest or enhance the public's understanding of matters of public interest.

2.4.6 According to RTHK, if the programme is a joint project between RTHK and the sponsoring bureau/department, the involved parties will discuss the time frame of production, transmission arrangement, funds involved, duration of the programme and other technical requirements. RTHK co-ordinates and charts out the transmission schedule of the programme for both television and radio broadcast. However, for programmes relating to public events or events of public interest, only pool feed signals are provided to broadcasters, and the transmission of the programmes is solely at the discretion of the broadcasters.

2.4.7 In the event that several bureaux/departments approach RTHK requesting the production of television programmes simultaneously and RTHK does not have the capacity to accommodate such demand, RTHK has adopted the following criteria to accord priority to the production of the requested programmes:

- (a) nature of the request, whether it is of public interest;
- (b) availability of resources;
- (c) in-house commitment;
- (d) scale of the project;
- (e) production time allowed;
- (f) availability of transmission slots; and
- (g) past co-operation experiences between the bureau/department and RTHK.

2.4.8 For radio programmes, if the requests are not required to be broadcast in one channel/unit, RTHK is normally able to serve several bureaux/departments at the same time.

2.4.9 The broadcasting of television programmes, including RTHK programmes, supplied by the Government is subject to the maximum hour limits of broadcasting and scheduling restrictions specified in the Broadcasting Ordinance (Cap. 562). In particular, the broadcasting of government programmes via domestic free broadcasters should not exceed 12 hours per week on each Cantonese channel and six hours per week on each English channel. Regarding scheduling restrictions, the broadcasting of these programmes should not exceed 30 minutes during 7 pm to 10 pm from Monday to Friday and 2.5 hours on any one day.

2.4.10 Domestic pay television broadcasters are not required to broadcast RTHK programmes. In any event, domestic pay television broadcasters have reached a mutual agreement with RTHK to broadcast some RTHK programmes.

Funding for announcements in public interest and government publicity campaigns

2.4.11 Individual bureaux/departments allocate resources for publicity campaigns on various subjects. The campaigns may include the production of APIs. While advertising agencies and production houses in the private sector are usually commissioned to produce individual APIs, ISD provides support and advice to bureaux/departments in the selection process and production work. On some occasions, bureaux/departments may sponsor RTHK to produce thematic programmes on matters of public interest, such as voter registration, building management and anti-smoking.

2.5 Radio Television Hong Kong

Background

Prior to 1976

2.5.1 The history of broadcasting in Hong Kong dates back to 1928 when the Government took over radio broadcasting and launched its first English broadcast under the call-sign GOW. At that time, the management, operation and control of the service were all handled out of a room in the General Post Office.⁷ The broadcasting hours were short. Transmission was confined to the evenings and there was no Chinese service. Listeners were required to pay an annual licence fee of HK\$5 per radio for receiving the transmission.⁸

⁷ The broadcasting services were first carried out by the Electrical and Wireless Telegraphy Office of the Public Works Department. In 1929, the responsibilities for wireless traffic and operation were transferred from the Public Works Department to the Post Office, while the responsibilities for installation and maintenance of wireless plants remained with the Public Works Department.

⁸ In 1967, the Government abolished the annual radio licence fee system as the system was not considered as an effective means of revenue collection.

2.5.2 In 1934, a Chinese channel was established. In 1939, the Postmaster General was made fully responsible for the broadcasting service in the territory. The service was renamed Radio Hong Kong in 1948, and the responsibility of broadcasting was transferred to the Public Relations Office in 1951. In 1954, Radio Hong Kong became an independent government department under the Controller of Broadcasting.

2.5.3 In 1970, the Public Affairs Television Unit was established under Radio Hong Kong, producing public affairs programmes aired on licensed commercial television stations. In 1973, the Government decided that both the Chinese and English services should compile their own news bulletins without the aid of the Government Information Services (which was later renamed ISD). Accordingly, Radio Hong Kong was allowed to have direct control of its own news output.

After 1976

2.5.4 In 1976, Radio Hong Kong was renamed RTHK, reflecting the increasing television output. It also set up the Educational Television Unit, producing educational television programmes for schools.

2.5.5 In 1989, a proposal for corporatization of RTHK was developed. However, it was decided in 1993 that the proposal was placed on hold.

2.5.6 Announcing that in consideration of phenomenal changes of the broadcasting market, the Chief Executive of the Hong Kong Special Administrative Region appointed an independent committee on 17 January 2006 to review PSB in Hong Kong. The role and purposes of RTHK will also be covered in the review.

Public service mandate

2.5.7 There is no public service mandate for RTHK. However, the Framework Agreement between the Secretary for Commerce, Industry and Technology and the Director of Broadcasting stipulates that:

"the overall aim [of RTHK] is to provide to the people of Hong Kong high-quality radio, television and new media services which inform, educate and entertain. [RTHK] will strive to reflect the views of all sectors of the community of Hong Kong."

Mission

2.5.8 The mission of RTHK, as stipulated in the Framework Agreement, is as follows:

- (a) "To inform, educate and entertain audiences through multi-media programming;
- (b) To provide timely, impartial coverage of local and global events and issues;
- (c) To deliver programming which contributes to the openness and cultural diversity of Hong Kong;
- (d) To provide a platform for free and unfettered expression of views; and
- (e) To serve a broad spectrum of audiences and cater to the needs of minority interest groups."

Services

2.5.9 The Framework Agreement specifies that the following activities can be undertaken by RTHK and overseen by the Commerce, Industry and Technology Bureau:

- (a) the provision of multi-channel radio services;
- (b) the provision of public service television productions; and
- (c) the provision of new media services.

2.5.10 As regards television broadcasting, RTHK does not have a dedicated television channel, and its programmes are broadcast on both free-to-air and pay television channels. Both RTHK television and radio programmes are also available on its website.

Programme diversity

2.5.11 RTHK operates seven radio channels providing a comprehensive range of programmes in Cantonese, Putonghua and English. Table 2 shows the radio services and broadcasting language of RTHK by channel.

Table 2 — Radio services and broadcasting language of RTHK by channel

Channel	Service	Broadcasting language
Radio 1	News, information and general programming	Cantonese
Radio 2	Youth and entertainment programming and popular music	Cantonese
Radio 3	News, information and general programming	English
Radio 4	Classical music and fine arts programming	Bilingual (Cantonese/English)
Radio 5	Elderly, cultural and education programming	Cantonese
Radio 6	BBC World Service relay	English
Radio 7	General programming, news and finance	Putonghua

2.5.12 As regards television programming, RTHK identifies five strands of production, namely current affairs, educational programmes, general programmes, servicing and documentary, that it provides.

2.5.13 RTHK regularly reviews its programming strategy to preserve its identity of providing public services. For instance, in the context of aligning programmes with the public service remit, it decided to cease the relay of horse racing at the end of the 2004-2005 season to reallocate resources for knowledge-based programmes.

Accessibility of programmes for persons with hearing impairments

2.5.14 To ensure that RTHK television programmes are accessible to people who have hearing impairments, starting from 2005-2006 onwards, all prime-time RTHK television programmes have been providing subtitling in compliance with the licensing requirement of the commercial broadcasters.

Production

2.5.15 RTHK produces most of its television and radio programmes in both Chinese and English. While television productions focus on current affairs, documentaries, social dramas and general education programmes, radio productions include a comprehensive range of programmes.

2.5.16 RTHK also produces programmes on seven subjects⁹ for students in primary and secondary schools to be broadcast via the two free local television stations on weekdays from 8 am to 4 pm during school terms. These programmes can also be viewed online at "eTVonline" and at the Hong Kong Education City website as well as on VCDs.

2.5.17 To enhance the development of the independent television programme production industry in Hong Kong, RTHK commissions the following types of programmes from local producers:

- (a) documentary and/or factual programmes;
- (b) dramas; and
- (c) shorts/animations.

Regulatory framework

Governing legislation

2.5.18 RTHK is a government department and thus there is no governing legislation. In any event, there is a Framework Agreement¹⁰ specifying the working relationship between the Secretary for Commerce, Industry and Technology and the Director of Broadcasting, their respective responsibilities, and services, the aims and mission of RTHK.

Regulatory authority

2.5.19 Although BA is a statutory body established for regulating licensed television and radio broadcasters in Hong Kong, RTHK is not regulated by BA as it is a government department. In any event, RTHK has proclaimed that it adheres, on a voluntary basis, to the programme standards set by BA under the Memorandum of Understanding signed by the Director of Broadcasting, the then Secretary for Information Technology and Broadcasting, the then Secretary for Recreation and Culture and the Chairman of BA in September 1995. The Memorandum was revised in October 1999, with the two Secretaries being replaced by the Secretary for Commerce, Industry and Technology.

⁹ The seven subjects are Chinese Language, Putonghua, English Language, Mathematics, Science, General Studies, and Personal, Social and Humanities Education.

¹⁰ The first Framework Agreement signed between the then Recreation and Culture Branch and RTHK in 1993 was part of the Government's overall policy on reforming the services rendered by public sector organizations. The main aim of the policy was to enhance the resources management and service quality of the public sector organizations.

Editorial independence

2.5.20 RTHK's editorial operation is built around three sets of conventions:

- (a) the Framework Agreement;
- (b) the Memorandum of Understanding requiring compliance with the Codes of Practice issued by BA; and
- (c) the *Producers' Guidelines* issued by RTHK.

2.5.21 In particular, the Framework Agreement stipulates that RTHK is editorially independent. The Director of Broadcasting assumes the role of the Chief Editor and is responsible for ensuring that a system of editorial control is in place. The system of editorial control is developed in accordance with RTHK's *Producers' Guidelines* to provide fair, balanced and objective news, public affairs and general programming that inform, educate and entertain the public.

Sources of funding

2.5.22 RTHK is a government department and therefore is funded by government appropriations. Table 3 shows the level of funding to RTHK for the period 2002-2003 to 2006-2007.

Table 3 — Level of funding to RTHK between 2002-2003 and 2006-2007

Programme area	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007
	HK\$ million				
Radio	216.3	209.0	195.4	182.3	184.6
Public television affairs	246.3	225.3	215.0	198.3	208.0
School educational television production	52.4	47.2	42.0	37.6	35.4
New media	Not applicable	14.5	10.3	10.3	10.7
Total	515.0	496.0	462.7	428.5	438.9

Sources: The Government of the Hong Kong Special Administrative Region (various years).

2.5.23 To ensure that RTHK's editorial independence is not affected by any commercial elements, RTHK is not allowed to accept commercial advertisements or commercial sponsorships under the current policy. However, it may accept sponsorships from non-profit-making organizations, provided that the following criteria are complied with:

- (a) editorial control as well as the scheduling of sponsored programmes being with RTHK;
- (b) no promotion on commercial products or services;
- (c) declaration of sponsorships at the beginning and/or ending of programmes so that listeners and viewers know who is paying/contributing; and
- (d) no sponsorships for news bulletins and current affairs programmes.

Corporate governance

2.5.24 RTHK is a government department under the Commerce, Industry and Technology Bureau. The Secretary for Commerce, Industry and Technology provides the Director of Broadcasting with the following policy guidance and support:

- (a) defining the programmes and providing consent to the underlying activities;
- (b) reviewing policy aspects of each programme¹¹;
- (c) securing resources for the programmes;
- (d) setting performance targets;
- (e) reviewing quarterly with the Director of Broadcasting the achievement of those targets set out in (d) above and any resulting actions required;
- (f) reviewing annually the achievement of targets, which becomes the basis for developing objectives and targets for the following 12 months and for establishing resource allocation priorities set out in (g) below;
- (g) establishing priorities for the allocation of new resources at an annual review of each programme area and the aspects set out in (b) above; and
- (h) speaking for the Government on policy matters about RTHK.

¹¹ The policy aspects of each programme include (a) the policy aim; (b) description; (c) operational objectives; (d) matters requiring special attention over the following 12 months; (e) performance targets; and (f) financial data.

2.5.25 The Director of Broadcasting is responsible to the Secretary for Commerce, Industry and Technology for managing the activities in each programme of RTHK on a day-to-day basis and establishing all the policy aspects for each programme.

Accountability

2.5.26 RTHK is accountable to the Government through the Secretary for Commerce, Industry and Technology who puts forward both the budget and the expenditure proposal of RTHK to the Finance Committee of the Legislative Council for scrutiny and approval.

Complaint mechanism

2.5.27 RTHK stipulates its complaint mechanism in the *Producers' Guidelines*. While most complaints and comments on programmes are handled by section or channel heads, presenters and/or producers associated with the programmes concerned are involved in drafting replies to ensure that they are aware of audience reactions.

2.5.28 A system for collecting statistics and information about complaints and how they are dealt with is in place at the management and divisional levels. Regular reports are presented to both Listeners Advisory Panels (ad hoc panels) and the TV Advisory Panel. A summary report is also included in the annual Performance Pledge.

2.5.29 In addition, viewers and listeners can lodge their complaints to BA. When a legitimate complaint is received, BA will investigate and examine information relating to the case to determine whether there is any possible breach of the relevant codes of practice. BA may impose appropriate sanctions according to the seriousness of the case, including advice, warning, correction and/or apology, financial penalty or suspension of licences, when there is evidence of a breach. All complaints will refer to RTHK for reference.

2.5.30 Between September 2004 and August 2005, BA received 192 complaints (151 cases) on RTHK radio programmes and 67 complaints (42 cases) on its television programmes. After investigation, one advice and one strong advice were issued to RTHK.¹²

Distinctiveness from commercial broadcasters

2.5.31 RTHK is a government department funded by government appropriations. As for television broadcasting, RTHK does not have its own channel and broadcasts its programmes through the free-to-air and pay television channels.

¹² See Broadcasting Authority (2005).

2.5.32 The Framework Agreement stipulates that the television services of RTHK shall carry the following objectives:

- (a) providing high-quality television productions principally for market segments not adequately served by commercial television broadcasters;
- (b) giving emphasis to the provision of balanced and objective public affairs programming;
- (c) providing a channel of communication for various sectors of the community and the Government to put forward their views on matters of public interest;
- (d) maintaining and developing programming designed to encourage audience participation and community involvement; and
- (e) providing programming designed for minority interest groups, including productions fostering interest in culture, music and the arts.

2.5.33 The Framework Agreement also stipulates the objectives of the radio services of RTHK, which are:

- (a) developing and implementing a strategy which gives a clear definition to channel identity and is appealing to various sectors of the community;
- (b) giving emphasis to the provision of balanced and objective news and public affairs programming;
- (c) providing a channel of communication for various sectors of the community and the Government to put forward their views on matters of public interest;
- (d) maintaining and developing programming designed to encourage audience participation and community involvement;
- (e) maintaining and developing programming designed to foster in the community an interest in fine music, culture and the arts; and
- (f) providing programming for the minority.

Review of public service broadcasting

Review conducted by the Broadcasting Review Board in 1984

2.5.34 In February 1984, the Governor-in-Council appointed the Broadcasting Review Board (BRB) to conduct a review, aiming at recommending broadcasting policies to be adopted by the Government following the expiry of the licences of commercial television and radio services in 1988 and 1989 respectively. Specifically, BRB was asked to focus on the following areas:

- (a) the long term programming needs of the public;
- (b) the organization and regulation of the broadcasting industry;
- (c) the future role of PSB;
- (d) the resources available to the industry; and
- (e) technical developments in broadcasting.

2.5.35 During the review, BRB and its sub-committees held 112 meetings. It also consulted the public and the broadcasting industry by inviting written submissions, conducting public hearings and commissioning a public opinion survey concerning the provision of television and radio programmes. Some members of BRB also conducted overseas duty visits to the UK, Australia, France, Belgium, the US, Japan, Singapore, Macao and Guangzhou.

2.5.36 The *Report of the Broadcasting Review Board* was published in 1985. Based on the recommendations made by BRB, the Government examined the feasibility of setting up a PSB service. Two options had been considered but eventually not adopted:

- (a) allocating a separate television channel for a public service broadcaster; and
- (b) replacing one of the English language television channels with a PSB channel.

2.5.37 The reasons for not adopting option (a) were:

- (a) no obvious demand for a separate television channel for PSB;
- (b) enormous funding for a separate television channel¹³; and
- (c) technically not feasible.

¹³ The Government estimated that the start-up costs would be around HK\$100 million, and the annual recurrent costs, if the station were to broadcast for four hours each night, would be about HK\$200 million.

- 2.5.38 The reasons for not adopting option (b) were:
- (a) the English service had considerable educational value and contributed greatly to the cosmopolitan and bilingual nature of Hong Kong;
 - (b) audiences for the English channel continued to grow;
 - (c) both of the free television stations would be reluctant to lose their English service; and
 - (d) the standard of the English service might deteriorate in the absence of competition.

Consideration for dedicated television channels for government programmes in 1993

2.5.39 In 1993, when the Government awarded the franchise for pay television to the Wharf Cable, it inserted a licensing condition that the Wharf Cable should make available to the Government, free of charges and expenses, the use of not more than three channels subject to the availability of radio frequency spectrum.

- 2.5.40 An inter-departmental Working Group was set up in April 1994 to examine:
- (a) when and how to make the best use of the government channels; and
 - (b) whether the concepts of both PSB and public access services could be pursued in Hong Kong.

2.5.41 The policy intention for reserving channels from the Wharf Cable's network for the Government's use was to ensure that public affairs and community information and education programmes, which were normally not commercially attractive to commercial broadcasters, might have an avenue for broadcasting. Based on the recommendations made by the inter-departmental Working Group¹⁴, the Government aborted to pursue the provision of PSB on the Wharf Cable's network, and RTHK remained the main provider of PSB programmes.

¹⁴ The Working Group did not support the introduction of public access services on the proposed government channels on the basis of cost-effectiveness. However, it suggested that the possibility of RTHK to provide PSB on the Wharf Cable's network could be further examined.

2.5.42 According to the Government, the advantages of having dedicated television channels to be run by RTHK were that:

- (a) it would offer more viewing choices to the public, which was in line with the central policy plank, as there was a lack of "serious" television programming in Hong Kong (e.g. in-depth treatment of current affairs, and culture and arts programming) to match that provided by RTHK on radio;
- (b) it would raise the profile of RTHK both locally and overseas, making it more comparable to the level of its overseas counterparts, virtually all of whom run public television channels; and
- (c) the channels made available to RTHK would be fully utilized.

2.5.43 The Government stated that the disadvantages of having dedicated government channels were that it would be expensive and might not be cost-effective given the limited audience reached by the Wharf Cable. To run a proper public broadcasting service on cable, it was estimated that a maximum of 16 hours of programming (including repeats of programmes) per day and 30 hours of new programmes a week would be required, implying a recurrent cost of over HK\$60 million per year and as much in capital start-up costs.¹⁵

Review of public service broadcasting in 2006

2.5.44 On 17 January 2006, the Government set up an independent committee to review PSB in Hong Kong. The Committee will examine the justifications for PSB in the development of Hong Kong's broadcasting market, as well as its role and purposes against the resources required for such broadcasting. It will discuss issues concerning public accountability of PSB on editorial impartiality, programming policies and good governance. Measures for the Government to evaluate the effectiveness of PSB with the participation of the public will also be covered. The review will provide recommendations for an appropriate arrangement for the provision of PSB in Hong Kong as well as plans for implementing such an arrangement in the short, medium and long terms. It is expected to be completed by end-2006.

¹⁵ See Recreation and Culture Branch (1995a).

Review of Radio Television Hong Kong

1956 to 1984

2.5.45 Since the separation of Radio Hong Kong from the Public Relations Office in 1954, the status of RTHK has been brought up for discussion at least once in a decade. Appendix I summarizes the major discussions on the status of RTHK between 1956 and 1984 extracted from the *Report of the Broadcasting Review Board*.

1985

2.5.46 Following the publication of the *Report of the Broadcasting Review Board* in 1985, the Government examined three types of corporate status for RTHK:

- (a) a statutory corporation operating under a Charter with its own Board of Governors¹⁶ appointed by the Governor of Hong Kong;
- (b) remaining as a government department and broadcasting at specified times via the two local free television stations; and
- (c) an arrangement between (a) and (b) whereby RTHK remained as a government department but operated under a Board of Governors so as to enhance its editorial independence.

2.5.47 The Government stated that it was in favour of option (c) and would conduct further studies on this option. It also provided some reasons for not supporting option (a), in particular.

Doubts on enhancing editorial independence

2.5.48 Since RTHK had already had high degree of autonomy in programming, its disestablishment from a government department into a statutory corporation with a view to enhancing editorial independence would be superficial.

Doubts on the desirability and practicability of financing by advertising revenue

2.5.49 Although the disestablishment would give RTHK financial autonomy, it was not necessary that it could enjoy full editorial independence and flexibility as its programmes would inevitably be subject to commercial pressure. If RTHK were to be financed by advertising revenue, it might reduce the advertising revenue of commercial broadcasters, which in turn might affect the quality of programmes produced by commercial broadcasters.

¹⁶ Please refer to Appendix II for the proposed composition and functions of the Board of Governors.

Speculation on the commitments of the Government in the run-up to 1997

2.5.50 There had been speculation that the Government was pulling out of its commitments in the run-up to 1997 by gradually disestablishing a number of government departments including the Post Office, the Water Supplies Department and the Housing Department. The disestablishment of RTHK might adversely affect the morale of civil servants in the event that the suspicion gathered momentum.

Consideration of greater flexibility to RTHK

2.5.51 RTHK had been enjoying more freedom than most other government departments in its employment of manpower. It could also employ professional staff either on departmental contracts or on a free-lance basis. Consequently, to give RTHK greater flexibility, the Government might have to further relax the *Civil Service Regulations*.

1989

2.5.52 In 1989, a consultancy was commissioned to recommend an optimum organizational structure for a corporatized RTHK. Although the Government recognized that corporatization was the best option for RTHK in terms of economic and operational efficiency, it decided to defer the implementation of this arrangement due to some political factors.

Review of the Framework Agreement in 2005

2.5.53 The Framework Agreement was revised and renewed on 1 August 2005. It was decided that the Agreement should be subject to review and renewal by the Secretary for Commerce, Industry and Technology in consultation with the Director of Broadcasting once every two years.

2.6 Digitization

Digital television

2.6.1 According to the Commerce, Industry and Technology Bureau, digital television services are available to viewers via cable, satellite and broadband networks. To tie in with the Olympic Games to be held in Beijing in 2008, the Government requires the two local free television stations to start simulcasting their existing television services in analogue and digital formats in 2007. It aims at switching off analogue broadcasting in five years after the commencement of simulcast.

2.6.2 The Government will set up a government-industry working group to provide a forum for co-ordinating the migration from analogue to digital terrestrial television at various stages. The Government will also collaborate with the industry to disseminate information about digital terrestrial television such as product availability and compatibility, work out plans to promote consumer take-up, and ensure a smooth analogue switch-off.

Digital radio

2.6.3 In early 1998, the Government in conjunction with the radio broadcasters commenced the first phase of the technical trials of digital audio broadcasting (DAB). From a technical perspective, those trials were successful. To address the problems identified in the first phase report, the Government conducted the second phase of trials in early 1999. Although there were problems of building penetration and coverage, the Office of the Telecommunications Authority believed that those problems could be resolved.

2.6.4 In January 2000, the Government published the Final Report – *Digital Audio Broadcasting in Hong Kong*. The report focuses on technology comparisons and business economics that would help the Government formulate policies promoting the successful implementation of DAB in Hong Kong.

2.6.5 The report finds that although DAB has the potential to bring perceived benefits for Hong Kong and help reinvigorate the radio broadcasting industry, it is not economically justified to develop DAB solely on radio broadcasting in the short term due to the high cost of DAB receivers.

2.6.6 In addition, the report suggests that the Government has to develop a more liberal framework for the implementation of DAB. In the event that more constraints are imposed on the providers, such as the provision of new radio content and the limitation of offering certain commercial data services, it is less likely that DAB will be successfully implemented in Hong Kong. As of the publication of this report, no information is available as to the further development of the planned implementation of DAB.

2.7 Public access channels

1985

2.7.1 The proposal for the introduction of public access channels can be traced back to the 1980s. In the *Report of the Broadcasting Review Board* published in 1985, BRB recommended BA to assist in setting up pilot schemes to test the feasibility of local radio stations with the introduction of a territory-wide VHF/FM radio plan.

1995

2.7.2 At the meeting of the Executive Council on 9 May 1995, noting the recommendations of the *Report of the Working Group on Government Broadcast Channels*, the Government aborted the idea of pursuing the establishment of public access channels. The given reasons were as follows:

- (a) only a limited section of the general public had access to the Wharf Cable's network;
- (b) public access channels could be misused for political, commercial or even pornographic purposes if they were not properly regulated;
- (c) it could be expensive if a central, independent body were to be set up to operate the public access service; and
- (d) there might not be sufficiently wide public interest to sustain such a service after the initial novelty died down.

2.7.3 In response to the questions on public access channels raised by Members of the Legislative Council on 18 February 2004, the Government reiterated that the justifications for not supporting the establishment of public access channels in 1995 were still valid under the then existing circumstances. The Government stated that in a city like Hong Kong with a highly concentrated population, where public and commercial broadcasters could provide a variety of services on the one hand, and government departments and public-sector organizations could either co-operate flexibly with broadcasters when necessary or provide various information and television programmes through new forms of media on the other hand, it was not necessary for the Government to reserve any channel for the introduction of digital terrestrial television broadcasting, nor was there any need to earmark any resources for the establishment of a public access channel.

Chapter 3 – The United Kingdom

3.1 Definition of public service broadcasting

3.1.1 In the UK, the Office of Communications (Ofcom) report on the review of public service television broadcasting issued on 8 February 2005, *Phase 3 – Competition for Quality*, provides the latest definition of PSB in terms of its purposes and characteristics:

3.1.2 "The purposes of PSB [are]:

- (a) to inform ourselves and others and to increase our understanding of the world through news, information and analysis of current events and ideas;
- (b) to stimulate our interest in and knowledge of arts, science, history and other topics through content that is accessible and can encourage informal learning;
- (c) to reflect and strengthen our cultural identity through original programming at UK, national and regional level, on occasion bringing audiences together for shared experiences; and
- (d) to make us aware of different cultures and alternative viewpoints, through programmes that reflect the lives of other people and other communities, both within the UK and elsewhere.

3.1.3 The characteristics of PSB content [are]:

- (a) high quality – well funded and well produced;
- (b) original – new UK content, rather than repeats or acquisitions;
- (c) innovative – breaking new ideas or re-inventing exciting approaches, rather than copying old ones;
- (d) challenging – making viewers think;
- (e) engaging – remaining accessible and enjoyed by viewers; and
- (f) widely available – if content is publicly funded, a large majority of citizens need to be given the chance to watch it."

3.2 Overview of public service broadcasting

3.2.1 In the UK, PSB commenced in the early 1920s when the British Broadcasting Company (later renamed the British Broadcasting Corporation or the BBC) was established. PSB programmes were initially delivered through radio and later television as well.

Television

3.2.2 The UK government aims at encouraging the development and dispersion of PSB to ensure that all consumers have access to quality programming. In this connection, several public service television broadcasters are allowed to operate alongside each other. They are:

- (a) the BBC – a body corporate funded mainly by the television licence fee;
- (b) Channel 4 – a statutory corporation funded by advertising revenues;
- (c) S4C – a public corporation broadcasting for the fourth channel in Wales, funded by grant-in-aid from the government and advertising revenues; and
- (d) Channel 3 (ITV), Channel 5 (Five) and Teletext – commercial television companies funded by advertising revenues.

In addition, over 800 licences have been granted for commercial television services.¹⁷

3.2.3 Table 1 shows the market share of major television channels in the UK in 2005-2006. The BBC's services accounted for the largest portion of the total television services in the UK.

Table 1 — Market share of major television channels in the UK in 2005-2006

Television channel	% share
BBC One	22.9
ITV 1	21.1
Channel 4	9.8
BBC Two	9.4
Five	6.3
Other channels	30.5

Source: British Broadcasting Corporation (2006).

¹⁷ See *Department for Culture, Media and Sport* (2006).

Radio

3.2.4 There are over 350 analogue and digital radio stations, including both national and local services, in the UK.¹⁸ The national networks operated by the BBC are the most prominent ones. Table 2 shows the market share of major radio channels in the UK in 2005-2006.

Table 2 — Market share of major radio channels in the UK in 2005-2006

Radio channel	% share
BBC Radio 2	15.9
BBC Radio 4	11.7
BBC Local Radio	10.9
BBC Radio 1	9.3
All local commercial radio channels	32.8

Source: British Broadcasting Corporation (2006).

3.3 The British Broadcasting Corporation

Background

3.3.1 The BBC came into existence in 1922 as the British Broadcasting Company. It was formed by a group of wireless manufacturers including the radio pioneer, Guglielmo Marconi¹⁹.

3.3.2 In 1927, the company was reconstituted as the British Broadcasting Corporation with the grant of a Royal Charter. Radio was initially the sole broadcasting medium. In 1936, the company began to offer regular television service. Its services had not been popular until the early 1950s when an estimated 20 million viewers watched the coronation of the Queen through television broadcasting. In 2005-2006, 94.3% of the UK population tuned in to the BBC.²⁰

3.3.3 The BBC's activities are governed by a Royal Charter which sets out its role, functions and structure. Since 1927, a review has been conducted once every 10 years to benchmark its services with its objectives and to consider its future.

¹⁸ See *Department for Culture, Media and Sport* (2006).

¹⁹ Guglielmo Marconi arrived in England from Italy in 1896. He developed wireless telegraphy and formed the Marconi Company. He was awarded the Nobel Prize for work on radio signals.

²⁰ See *British Broadcasting Corporation* (2006).

3.3.4 On 14 March 2006, the Secretary of State for Culture, Media and Sport published a White Paper entitled *A public service for all: the BBC in the digital age*, depicting various aspects of the BBC, from its programming and production to its governance, regulation and accountability to the public. On 19 July 2006, the Queen in Council accepted the new Royal Charter, with most clauses taking effect on 1 January 2007. The ensuing sections provide information on both the current situation and the changes as stipulated in the new Royal Charter.

Public service mandate

3.3.5 Under Article 3(a) of the existing Royal Charter, the BBC has the following objectives:

"To provide, as public services, sound and television broadcasting services (whether by analogue or digital means) and to provide sound and television programmes of information, education and entertainment for general reception in Our United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man and the territorial waters thereof, and on board ships and aircraft (such services being hereinafter referred to as "the Home Services")."

Purposes

Existing purpose

3.3.6 The purpose of the BBC in the current language is "to enrich people's lives with programmes and services that inform, educate and entertain".²¹

Proposed purposes

3.3.7 Listed below are six purposes established for the BBC in the new Royal Charter. They are:

- (a) "sustaining citizenship and civil society;
- (b) promoting education and learning;
- (c) stimulating creativity and cultural excellence;
- (d) representing the UK, its nations, regions and communities;
- (e) bringing the UK to the world and the world to the UK; and
- (f) in promoting its other purposes, helping to deliver to the public the benefit of emerging communications technologies and services and, in addition, taking a leading role in the switchover to digital television."

In this connection, each activity that the BBC undertakes is expected to aim at meeting one or more of the above purposes.

²¹ See British Broadcasting Corporation (2006).

Services

3.3.8 The BBC provides eight interactive television channels, 10 radio networks, over 50 local television and radio services and the website of bbc.co.uk. Local and national news, documentaries, arts, dramas, entertainment, live music and children's programmes are provided by these platforms. The BBC also runs social action, education and minority-language programmes. Appendix III provides information on the media services of the BBC.

3.3.9 As regards international services, BBC World Service provides international news, analysis and information in English and 42 other languages on radio and via the Internet.

3.3.10 In addition to the media services, the BBC also operates commercial subsidiaries which sell goods and services relating to the BBC brand and its services around the world under the BBC Commercial Holdings Limited.

Programme diversity

Programmes for minority

3.3.11 The BBC broadcasts in English, Gaelic, Welsh, Irish and Ulster Scots. Its local radio stations in the UK also provide a wide range of specialist-language programmes²², while BBC World Service provides 32 vernacular radio services and eight online vernacular languages.

Programmes for disabled persons

3.3.12 To ensure that the BBC's services are accessible to people who have visual, hearing, motor or cognitive impairments, some of the BBC's programmes are captioned, signed or have audio descriptions.

Commitment to programme diversity

3.3.13 During the recent Charter review, the BBC submitted two documents to the Independent Panel on Charter Review setting out its role in representing nations, regions and communities. In these documents, the BBC states that it has committed to:

- (a) providing programmes and services to meet the needs and interests of audiences in different parts of the UK;

²² These programmes are broadcast in Bengali, Cantonese, Cornish, Guernsey French, Gujarati, Hindi, Mandarin, Mirpuri, Polish, Portuguese, Punjabi, Somali and Urdu.

- (b) ensuring that programme-making talents from all parts of the UK give proper contributions to the BBC's UK-wide services; and
- (c) developing a positive and active presence in communities across the UK.

3.3.14 Reflecting these commitments, the BBC's programmes encompass the following elements:

- (a) relevant national/regional/local news;
- (b) platforms for community debates and creating community connections;
- (c) localized learning opportunities to enhance and complete the network provision of the BBC;
- (d) national/regional/community talent, culture and events;
- (e) drive for people to be active and creative citizens; and
- (f) platforms for people to create a richer cultural experience.

Production

Independent television production

3.3.15 Although the BBC has in-house production, it has sourced external production as well. In fact, it has created a Window of Creative Competition (WOCC), opening up a portion of its network for external producers.

3.3.16 While 50% of the production of the BBC's programmes is in-house, 25% of the production is offered exclusively to independent production companies. The remaining 25% is open up for competition amongst the BBC's in-house production, independent producers and other external producers.

Independent radio production

3.3.17 The arrangements adopted by the BBC in radio production are similar to those for television, based on the principle that listeners should get the best possible content, via the right mix of in-house and external production. For many years, the BBC has outsourced some 10% of its radio programmes for independent radio production across a range of qualifying genres.

Arrangement under the new Charter

3.3.18 Under the new Charter, a "triple lock" system will be established to ensure the highest standards in the BBC's production.

3.3.19 First, every service will be run according to a new, detailed service licence issued by a new body replacing the existing Board of Governors, i.e. the BBC Trust. The service licence will set out the key characteristics of the service, how it helps meet the BBC's purposes and what the public can expect from it.

3.3.20 Second, new criteria of quality, originality, innovation, challenge and engagement will be established for each service to help meet the BBC's purposes/objectives.

3.3.21 Lastly, any significant change in or establishment of new services of the BBC will undergo detailed scrutiny via a Public Value Test to determine how it will serve the public interest, which will be weighed against any impact on the market. The Public Value Test involves a Public Value Assessment conducted by the BBC Trust, and a Market Impact Assessment overseen by a Joint Steering Group comprising Ofcom, the BBC and possibly independent members.

Regulatory framework*Governing legislation*

3.3.22 There is no governing legislation for the BBC. The BBC is established by a Royal Charter and its accompanying Framework Agreement. While the Royal Charter is granted by the Queen under the Royal Prerogative, the accompanying Framework Agreement is a contract between the BBC and the Secretary of State for Culture, Media and Sport. The Charter sets out the objectives of the BBC in broad terms and establishes its power and responsibilities. The Agreement supplements the Charter in various ways, including:

- (a) establishing the independence of the BBC;
- (b) defining its right to the licence fee;
- (c) addressing the sound and television broadcasting services, either by analogue or digital means, and giving the Secretary of State for Culture, Media and Sport a role in approving changes;
- (d) setting out in more detail the remit of the BBC's services; and
- (e) imposing various regulatory requirements and giving Ofcom a regulatory role in relation to some of them.

3.3.23 The existing Framework Agreement stipulates that any changes to the Agreement are subject to approval by the House of Commons. In practice, both the Charter and the Framework Agreement are put before both Houses of Parliament for debate as part of the Charter renewal process.

Arrangement under the new Charter

3.3.24 The legal status of the BBC is one of the major concerns during the review. While the Culture, Media and Sport Select Committee suggests that the BBC should be established as a statutory body by an Act of Parliament, the government states that greater government intervention will be imposed on the BBC if it becomes a statutory body. Table 3 lists the arguments for and against the Chartered and statutory status of the BBC.

Table 3 — Arguments for and against the Chartered and statutory status of the BBC

	Arguments for	Arguments against
Chartered status	<ul style="list-style-type: none"> (a) Preserving the BBC's independence since a Charter cannot normally be revoked during its Charter period; (b) Preserving the BBC from inappropriate legislative interference; (c) Certainty of time limit on a Charter allowing the BBC and its commercial rivals to plan accordingly, while allowing a fundamental review at expiry; and (d) Charter and Agreement providing flexibility for the government and the BBC to agree on detailed changes as issues arise, without a full Parliamentary process. 	<ul style="list-style-type: none"> (a) Less direct relationship between Parliament and the BBC, despite scrutiny of Annual Reports by a Select Committee; and (b) Expiry of a Charter periodically exposing the BBC in its entirety to intervention from the government.
Statutory status	<ul style="list-style-type: none"> (a) Giving the BBC the same legal status as most other public bodies; and (b) Allowing more direct accountability to Parliament as any periodic review is subject to a full Parliamentary procedure. 	<ul style="list-style-type: none"> (a) No guarantee of long-term existence or independence as the relevant legislation is subject to repeal and/or repeated amendment; (b) Lack of stability possibly compromising the BBC's independence; (c) Parliamentary process involved creating uncertainty, particularly since a shortened interim Charter is required for the duration; and (d) Charter possibly written in plainer English, but legislation is unlikely to be as comprehensible to the general public.

Source: Department for Culture, Media and Sport (2005b).

3.3.25 In the new Charter, the BBC is given another 10 years to engage in its operation. The new Charter and Framework Agreement set out in detail the purposes, responsibilities, duties and obligations of the BBC and, within the BBC, the Trust and the Executive Board. The BBC will probably be open to judicial review for failure to comply with its Charter and Framework Agreement on the same basis as other statutory public bodies which fail to comply with their statutory frameworks. The Charter, for the first time, refers explicitly to the scope for judicial review to play such a role.

Regulatory authorities

The Department for Culture, Media and Sport

3.3.26 The Department for Culture, Media and Sport (DCMS) is responsible for policies relating to the broadcasting and creative industries in the UK. DCMS has a role in a range of broadcasting issues²³, such as:

- (a) working closely with the regulators, the broadcasting industry, viewers and listeners to increase viewers' choice, ensure a healthy competition and maintain programme standards and quality;
- (b) looking after policies on the allocation of frequencies for television and radio broadcasting, together with reception matters, in liaison with Ofcom²⁴;
- (c) setting the BBC licence fee; and
- (d) working with the industry and consumer groups to achieve the switchover from analogue to digital television.

Responsibilities of the Department for Culture, Media and Sport in relation to the BBC

3.3.27 DCMS has a role in the BBC's governance with regard to:

- (a) conducting review of the BBC's Royal Charter once every 10 years; and
- (b) signing the Framework Agreement and proposing occasional amendments to it.

²³ See *Department for Culture, Media and Sport* (2006).

²⁴ Ofcom has overall control of the management of frequencies.

The Office of Communications

3.3.28 Ofcom is the independent regulator and competition authority for the communications industry in the UK, with responsibilities across television, radio, telecommunications and wireless communications services. Its specific duties fall into five areas:

- (a) ensuring the optimal use of the electro-magnetic spectrum;
- (b) ensuring the availability of a wide range of electronic communications services, including high speed data services, throughout the UK;
- (c) ensuring a wide range of high quality and wide appeal television and radio programmes;
- (d) maintaining plurality in the provision of broadcasting; and
- (e) applying adequate protection for audiences against both offensive or harmful materials as well as unfairness or infringement of privacy.

Responsibilities of the Office of Communications in relation to the BBC

3.3.29 Ofcom does not directly regulate the BBC, but it maintains some roles in the regulation of the BBC, which are:

- (a) monitoring the BBC's compliance with Ofcom's fairness code, programme standards code and competition policies;
- (b) considering complaints on the BBC programme standards;
- (c) imposing penalty on the BBC in the event of a breach of relevant Ofcom codes;
- (d) enforcing the BBC's obligations relating to independent production quotas; and
- (e) assessing the effectiveness of public service broadcasters, including the BBC, once every five years.

Editorial independence

3.3.30 According to the new Royal Charter and Framework Agreement: "[t]he BBC shall be independent in all matters concerning the content of its output, the times and manner in which this is supplied, and in the management of its affairs." In this connection, the BBC is protected from any editorial interference from the government, Parliament and commercial organizations.

Sources of funding

3.3.31 The BBC receives most of its funding from the licence fee paid by households possessing televisions, supplemented by income generated from its commercial activities. BBC World Service is funded by direct funding from the Foreign and Commonwealth Office in the form of a grant-in-aid. Table 4 shows the sources of funding of the BBC in 2005-2006.

Table 4 — Source of funding of the BBC in 2005-2006

Source of funding	Amount (million)	% share
Licence fee	£3,101 (HK\$43,879) ⁽¹⁾	77
Revenues from commercial activities	£620 (HK\$8,773)	16
Direct funding from the Foreign and Commonwealth Office for BBC World Service	£239 (HK\$3,382)	6
Other income ⁽²⁾	£45 (HK\$637)	1
Total income	£4,005 (HK\$56,671)	100

Notes: (1) Based on the average exchange rate of HK\$14.15 per Pound Sterling in 2005.

(2) Other income includes (a) income from the provision of content and services to overseas broadcasters, concert ticket sales and exploitation of the programme archive; and (b) income generated from the sale of programmes, co-production deals, publishing activities and the provision of media monitoring services.

Source: British Broadcasting Corporation (2006).

Licence fee calculation

3.3.32 Effective from 1 April 2006, the annual licence fee for a colour television and a black and white television is £131.5 (HK\$1,781)²⁵ and £44 (HK\$596) respectively.²⁶ The annual rate of increase of the licence fee is set according to a formula announced by the government in February 2000, following a report on the future funding of the BBC by an independent review panel. Under the formula, the annual increase in the licence fee from 2000-2001 to 2006-2007 is set at the change in the Retail Prices Index level plus 1.5%.²⁷

²⁵ Based on the average exchange rate of HK\$13.54 per Pound Sterling in March 2006.

²⁶ See Department for Culture, Media and Sport (2006c).

²⁷ Ibid.

Alternative funding options

3.3.33 As there are concerns on the reliance of the BBC's funding on the licence fee, the government has, in its Green Paper, examined alternative funding options for the BBC. The alternative funding options examined are as follows:

- (a) direct funding from the government;
- (b) commercial funding for a free-to-air service through advertising and sponsorship; and
- (c) commercial funding for a pay-television service through subscription²⁸.

Arguments for and against various funding options

Direct government funding

3.3.34 There are views that government funding is fairer than the licence fee arrangement in that the tax system behind government funding is progressive – each individual in effect contributes according to his or her income. This way of funding turns the BBC into a government spending item like other public services. However, there are also objections to this arrangement, which are made on the grounds that the BBC should be treated as a public service like no others, and direct government funding may threaten both:

- (a) the independence of the BBC – if the government holds the purse strings; and
- (b) its stability and security – if its funding is subject to review through the biennial Government Spending Review process.

Advertising and sponsorship

3.3.35 A full-blown competition for advertising funds by the BBC may push down advertising rates since the total amount of money spent on advertising may not rise significantly but more advertisement spots would become available. The resulting income of the BBC and the existing advertising-funded broadcasters, including other public service broadcasters, such as ITV and Channel 4, may both be reduced.

²⁸ Commercial funding through subscription may not be feasible for radio services.

3.3.36 Advertising may also create conflicting incentives for the BBC as the requirement to fulfil public purposes will have to be weighed against the need to generate revenue. This may affect the direction of programming. Ofcom has pointed out that such a conflict of incentives already exists for ITV 1, Channel 4 and Five, and that it will be increasingly difficult to regulate in the future as commercial competition intensifies.

3.3.37 Trends in the television advertising market are uncertain. For instance, new digital technology, particularly personal video recorders, increasingly allows audiences to skip through advertising breaks. Therefore, it may be unwise to increase the dependency of PSB on advertising revenue.

3.3.38 As regards the BBC taking sponsorship for its programmes, the government has found out that some audiences feel that they will be distracted if commercial messages are attached to their favourite programmes of the BBC. In addition, sponsorship alone may not deliver sufficient income to sustain the BBC without other sources of funding.

Subscription

3.3.39 There are views that funding through subscription may undermine the BBC's principle of universal access in the event that the BBC provides its services at different prices depending on their newness or exclusivity. As such, the content of the BBC's services will no longer be free at the point of use. If such content is not universally available, the potential benefit of the BBC's services to the society will be reduced.

3.3.40 There are also significant practical problems in relation to the adoption of subscription in the short term. In mainstream radio services, there is no subscription facility available. In addition, while a television subscription service is functional in satellite and cable homes, there is presently no way of controlling access to individual channels for most terrestrial viewers, including most digital terrestrial or Freeview²⁹ homes. As such, new subscription technology of the sort used in satellite and cable homes, such as code-protected cards for conditional access, will need to be installed in most digital terrestrial equipment before any subscription system can function for the BBC.

Funding by licence fee for the next Charter period

3.3.41 After examining the alternative funding options for the BBC, the government decides that the licence fee funding model will continue for the lifetime of the new Charter. The government also confirms that it will review the scope for alternative funding mechanisms around the end of the digital switchover.

²⁹ Freeview is a free digital television service in the UK. It offers over 30 television channels and 20 radio stations for a one-off payment and no contract is required. Freeview is received through normal rooftop aerial.

Collection of licence fee

3.3.42 The BBC adopts a wide range of methods for payment of the television licence fee. In 2005-2006, 59% of licence holders paid by Direct Debit, with the BBC aiming at maximizing the use of this facility.³⁰ It also actively promotes online payment. In 2004-2005, the combined costs of evasion, collection and enforcement of the licence fee were about 11% of the licence fee income, or £300 million (HK\$4,062 million).³¹ The government intends to examine the problem on the licence fee collection further in the context of the next settlement of the licence fee.

Corporate governance*The BBC Board*

3.3.43 Under the existing Charter, the BBC is answerable to the BBC Board of Governors which is appointed to act as the trustee for the public interest and to ensure that the organization is properly accountable while maintaining its independence. The Governors are responsible for:

- (a) approving objectives for the BBC services, programmes and other activities and monitoring their performance;
- (b) holding the BBC accountable to the terms of the Framework Agreement and its fair trading commitment;
- (c) determining strategies and key management appointments and remuneration;
- (d) ensuring that comments, proposals and complaints are properly handled;
- (e) making sure that the BBC fulfils its legal and contractual obligations, particularly regarding impartiality and standards of taste and decency, and that it complies with any directions from Ofcom; and
- (f) publishing the BBC Annual Report and Accounts.

3.3.44 There are 12 BBC Governors, all of whom are appointed by the Queen on advice from the government in accordance with the Nolan Principles that public appointments should be made on merit.

³⁰ See Department for Culture, Media and Sport (2006a).

³¹ See Department for Culture, Media and Sport (2005b).

The Executive Board

3.3.45 The day-to-day management of the BBC is handled by the Executive Board and three sub-boards, namely the Creative Board, the Journalism Board and the Commercial Board. The Executive Board, made up of nine directors and chaired by the Director-General, is answerable to the Board of Governors. The Director-General is the chief executive and editor-in-chief of the BBC, and is appointed by the Board of Governors.

Arrangement under the new Charter

3.3.46 Under the new Charter, the government will change the governance structure of the BBC, with the Board of Governors being replaced by the BBC Trust. The BBC Trustees are responsible for:

- (a) representing the interests of licence fee payers;
- (b) ensuring that the independence of the BBC is maintained;
- (c) assessing the views of licence fee payers;
- (d) exercising rigorous stewardship of public money;
- (e) monitoring the competitive impact of the BBC's activities on the wider market; and
- (f) ensuring that the BBC observes high standards of openness and transparency.

3.3.47 The existing Executive Board will also be reconstituted into a new Executive Board, which is responsible for the delivery of the BBC's services within the framework set by the Trust. Appendix IV provides information on the functions of both the Trust and the new Executive Board.

Composition and appointment of the BBC Trust

3.3.48 The BBC Trust will be composed of a Chairperson, a Vice-Chairperson and 10 members, appointed by Order in Council. In other words, they will, like the current Governors, be appointed by the Queen on the advice of the government. All new positions will be advertised and filled according to the Nolan Principles. The term of office of a Trustee shall not exceed five years, and can be re-appointed for a further term, in line with best practice in public appointments. The Trust will have its own supporting staff.

Composition and appointment of the Executive Board

3.3.49 The Executive Board will be composed of eight to 12 members, and at least four are non-executive members. It will be chaired by the Director-General or, at the discretion of the Trust, a non-executive member.

3.3.50 In line with best practice, the Executive Board shall set up at least three committees, namely audit, remuneration and nominations committees. The audit and remuneration committees are made up of non-executive members only.

3.3.51 Executive members of the Executive Board will be appointed on the recommendation of the nominations committee. For the purposes of appointing executive members, the nominations committee will be made up of the Director-General, an executive and two non-executive members. Where necessary, the Director-General will have a casting vote.

3.3.52 Non-executive members will be appointed according to the Nolan Principles subject to the approval of the Trust. The terms of office of non-executive members will be decided and made available to the public by the Trust.

Accountability

To Parliament

3.3.53 The BBC's accountability to Parliament is specified in the Royal Charter and the Framework Agreement. Under the Charter, the BBC is required to submit its Annual Report and Accounts to the Secretary of State for Culture, Media and Sport who lays copies of them before Parliament. The Annual Report and Accounts are presented to the Culture, Media and Sport Select Committee for scrutiny before being made public. The BBC is also subject to inquiry by the Culture, Media and Sport Select Committee.

To the National Audit Office

3.3.54 The BBC is accountable to the National Audit Office, an independent organization which scrutinizes public spending on behalf of Parliament, and the Public Accounts Committee of the House of Commons for the value-for-money audit of the collection and enforcement arrangements of the television licensing system but not for the delivery of value for money across its activities as a whole.

To the public

3.3.55 The BBC is accountable to the public through publishing Statements of Programme Policy and benchmarking its performance with the stated goals. In addition, the Broadcasting Councils for Scotland, Wales and Northern Ireland and the Regional Advisory Councils appointed by the BBC Board also help advise the Board on programme and service objectives and monitor the delivery of the BBC's services. The views of these Councils are reflected in the Annual Reviews of the BBC Scotland, Wales, Northern Ireland and the English Regions.

Accountability of BBC World Service

3.3.56 Although BBC World Service is, strictly speaking, editorially and managerially independent under the Charter and Agreement, its funding comes from the Foreign and Commonwealth Office. In this connection, BBC World Service is accountable to the government for its expenditure against performance-related targets. Similarly, it is also subject to scrutiny by the House of Commons Foreign Affairs Committee.

Distinctiveness from commercial broadcasters

3.3.57 Unlike commercial broadcasters, the BBC is primarily financed by the licence fee collected from people in the UK.

3.3.58 According to the White Paper entitled *A public service for all: the BBC in the digital age*, the content of the BBC's programmes shall offer something distinct from other broadcasters. In other words, even when the BBC provides genres already available in the market, the content shall stand out clearly as the BBC's. In addition, the BBC's approach to acquire programmes and films shall also seek to offer licence fee payers something different from what is available to them from other broadcasters.

3.3.59 Listed below are the five characteristics³² that the BBC aims at distinguishing its programming from other broadcasters:

- (a) high quality – the BBC's programming shall be recognized by licence fee payers as standing out from others;
- (b) challenging – it shall make audiences think;
- (c) original – it shall strive to offer the right level of new or originated content;
- (d) innovative – it shall present new ideas or invent exciting approaches, rather than copying old ones; and
- (e) engaging – it shall draw audiences in with fascinating and entertaining subject matter.

Review of the British Broadcasting Corporation

3.3.60 In December 2003, the government published a consultation document, *Review of the BBC's Royal Charter*, seeking views from the public. During the consultation period, around 5 500 responses were received.

3.3.61 In July 2004, a summary of the consultation and research findings entitled *What You Said about the BBC* was published. On 2 March 2005, the government published a Green Paper conducting further consultation. Around 4 500 responses were received.

3.3.62 On 14 March 2006, the government published the White Paper entitled *A public service for all: the BBC in the digital age*, containing decisions on the future of the BBC. In response, the BBC welcomes the changes associated with the renewal of its Charter and the continuation of its existing funding model, which should last until 2016. In particular, it considers that the structural changes should help ensure the independence of the BBC. In September 2006, the Royal Charter was sealed for the continuation of the BBC.

³² See Department for Culture, Media and Sport (2006a).

3.4 Channel 4

Background

3.4.1 The Channel 4 service was established under the *Broadcasting Act 1981* and was originally a subsidiary of the Independent Broadcasting Authority³³. In 1993, the Channel Four Television Corporation was established under the *Broadcasting Act 1990* and all the publisher/broadcaster functions of Channel 4 were transferred to the new corporation.

Public service mandate

3.4.2 Section 265 of the *Communications Act 2003* stipulates the public service remit for Channel 4. The Channel is required to provide a broad range of high quality and diverse programmes, embracing the following elements:

- (a) demonstrating innovation, experiment and creativity;
- (b) appealing to the tastes and interests of a culturally diverse society;
- (c) providing an educational nature and educative value; and
- (d) exhibiting a distinctive character.

Mission

3.4.3 The mission of Channel 4 is "to provide a range of innovative, creative and distinctive programming to cater for the ever-changing society the UK people live in today."

Services

3.4.4 In addition to the broadcasting services offered on Channel 4, the Channel engages in the following commercial activities:

- (a) E4 and FilmFour Channels – subscription-based television channels specializing in entertainment programming and films respectively;

³³ The Independent Broadcasting Authority and the Cable Authority which had regulated the radio broadcasting industry were replaced by the Independent Television Commission and the Radio Authority respectively in 1991. In 2003, these regulators were replaced by Ofcom under the *Communications Act 2003*.

- (b) 4 Rights – exploiting secondary rights through the sale of Channel 4 programmes and associated products such as DVDs and books;
- (c) 4 Learning – managing the Channel's education and support materials across all media;
- (d) 4 Services – providing Internet advertising and telephony services;
- (e) 4 Creative – providing creative design and production services; and
- (f) 124 Facilities – providing post-production and studio facilities for lease.

3.4.5 In 2005, Channel 4 made E4 free to air on the Freeview platform, and also launched a new free to air terrestrial channel, More4, on the same platform.

Programme diversity

3.4.6 Channel 4 broadcasts in England, Scotland, and Northern Ireland. In Wales, a mix of Channel 4 programmes along with some Welsh-language programmes is run by S4C, which is set up by the government and is independent from Channel 4.

Programmes for minority

3.4.7 Channel 4 provides a wide range of programmes that reflect the diversity and complexity of the modern UK, including programmes on children of new immigrants, African immigration to the UK and Sharia TV. Its core audiences are those aged 16-34.³⁴

Programmes for disabled persons

3.4.8 Programmes dealing with disability such as Progeria, Primordial Dwarfs, Alzheimer's and speech disorders are available on the Channel.

Commitment to programme diversity

3.4.9 Channel 4 encourages diverse casting in all its programmes, and is committed to extending the range of voices and presenters across its programmes. It also encourages its suppliers to improve diversity at all levels of production, and supports black and Asian production companies.

³⁴ See Channel Four Television Corporation (2006).

Production

3.4.10 Channel 4 does not produce its own programmes but commissions more than 300 independent companies across the UK to produce programmes for it. Nevertheless, many programmes are seen to belong to Channel 4. In fact, it is the first broadcaster in the world to put its name on the introduction or credits of programmes produced by others.

3.4.11 To ensure Channel 4's accountability to the public for the delivery of its public service requirements, the *Communications Act 2003* requires the Channel to publish annually a Statement of Programme Policy setting out its goals and benchmarking its performance against the goals.

Regulatory framework

Governing legislation

3.4.12 While the Channel Four Television Corporation was established by the *Broadcasting Act 1990*, its public service remit is governed by both the *Broadcasting Act 1996* and the *Communications Act 2003*.

Regulatory authority

3.4.13 As discussed in the case of the BBC, the government's responsibility for policies relating to the broadcasting and creative industries lies with DCMS. At the same time, under the provisions of the *Communications Act 2003*, Ofcom is the single regulator for the broadcasting media.

Responsibilities of the Office of Communications in relation to Channel 4

3.4.14 Ofcom monitors Channel 4's compliance with its licence obligations, including compliance with the regulatory codes, and deals with all complaints about its programmes such as complaints concerning standards in programmes and complaints of unfair treatment and/or infringement of privacy.

Editorial independence

3.4.15 According to the *Broadcasting Code* published by Ofcom, news, in whatever form, shall be reported with due accuracy and presented with due impartiality. The *Broadcasting Code* also states that due impartiality on matters of political or industrial controversy and matters relating to current public policies must be preserved on the part of any person providing a broadcasting service.

3.4.16 In the event that a broadcaster breaches the *Broadcasting Code*, Ofcom will publish a notice in its *Broadcast Bulletin* stating the causes of the breach. If the broadcaster deliberately, seriously or repeatedly breaches the *Code*, Ofcom will impose statutory sanctions against the broadcaster concerned.

Sources of funding

3.4.17 Channel 4 is a statutory corporation funded entirely by advertising and its own commercial activities. In addition, the Channel has access to a free spectrum of video frequencies, which is in effect a form of indirect government support, for fulfilling its public service obligations.

Development of the funding model

3.4.18 When Channel 4 was established in 1981, the Channel was managed by the Independent Broadcasting Authority. Access to programmes was by subscription from ITV licence holders³⁵. Both solicitation of advertising on Channel 4 and collection of the revenue thus generated were handled by the ITV regions. This arrangement removed the need for Channel 4 to establish its own relationships with advertisers, and kept it from competing too closely with ITV.

3.4.19 The *Broadcasting Act 1990* has transformed Channel 4 into a statutory corporation. As a result, the Channel has to manage its own financing and advertising. In any event, Channel 4 is guaranteed a minimum income level, which is set equal to 14% of the total television revenues generated from the following parties:

- (a) all holders of Channel 3 or Channel 5 licences;
- (b) the Welsh Authority; and
- (c) Channel 4 itself.

3.4.20 In the event that the aggregate amount of Channel 4's revenue and its reserve fund³⁶ is less than the minimum income level, the Independent Television Commission will make up for the outstanding amount. However, the amount covered by the Commission is limited to 2% of the estimated amount of the total television revenues for that year. This arrangement is financed by imposing a monthly levy on all Channel 3 licencees, which was phased out in two stages in 1998 and 1999. In any event, Channel 4 has avoided recourse to this provision previously.

³⁵ Before 1993, ITV comprised a group of 15 independent companies, providing programmes in 14 independent television regions. In 1993, the group was replaced by Channel 3 under the *Broadcasting Act 1990*. At present, ITV plc is a leading UK media company, owning all of the regional Channel 3 licences in England and Wales.

³⁶ The reserve fund of Channel 4 was established under the *Broadcasting Act 1990*.

Challenges ahead

3.4.21 In 2003, Ofcom conducted a review on PSB and looked into the current and future financial situation of Channel 4. The review reveals that although Channel 4 continues to benefit from a loyal, youthful and upmarket audience combined with one of the most powerful brands in the media sector, with the digital switchover, Channel 4 is facing the following challenges:

- (a) increase in multi-channel penetration;
- (b) audience fragmentation due to increasing penetration of digital platforms;
- (c) decrease in advertising revenues due to audience fragmentation;
- (d) increase in programme cost due to competition for premium acquisitions; and
- (e) constraints in commercial alliances with other parties due to its PSB remit.

Financial outlook

3.4.22 The challenges described above may have a cumulative effect of undermining Channel 4's ability to deliver its PSB remit. In fact, Channel 4 has announced an expected deficit of £100 million (HK\$1,354 million) per annum by 2009-2010. As a result, it may have to broadcast more popular and commercially successful programmes, which is likely to push its PSB programmes to the margin of the schedule.

Funding options

3.4.23 To assess Channel 4's ability to meeting its PSB remit, Ofcom has examined the financial position of Channel 4 for the period between 2004 and 2009. While the result shows that Channel 4 is expected to remain commercially viable in the medium term, there are ongoing and fundamental risks to the Channel's business model. In this connection, Ofcom has proposed some self-help measures and regulatory support to secure Channel 4's position as a public service broadcaster.

3.4.24 The proposed self-help measures include:

- (a) continuing to exploit the Channel's strong brand, audience loyalty and relationships with independent producers to deliver its PSB remit and generate profits;
- (b) pursuing further operational efficiencies and reducing non-programming costs;

- (c) diversifying its portfolio of digital channels;
- (d) capitalizing on commercial opportunities in new media;
- (e) investing its cash reserves and forming a reserve fund to finance PSB programming investment on the core channel in the event of unforeseen deterioration in performance; and
- (f) exploring the scope for alliances and partnerships with other organizations.

3.4.25 The proposed regulatory support includes:

- (a) extending the PSB status to a wider range of Channel 4's activities;
- (b) developing proposals for funding some of the cost involved in the implementation of Digital Terrestrial Television (DTT) transmission;
- (c) increasing the capacity on digital platforms, including DTT; and
- (d) exempting spectrum charges.

3.4.26 Ofcom is also exploring three possible ways of supporting Channel 4 to enable it to meet its PSB remit in the long run. They are:

- (a) providing indirect financial support, such as exemption from spectrum charges or a grant of additional spectrum capacity;
- (b) providing direct funding; and
- (c) collaborating with a public service publisher³⁷.

3.4.27 In any event, the government considers that the regulatory support for Channel 4 should be subject to further review in the light of Ofcom's statutory duties and in compliance with the UK and the European Union laws. Accordingly, Ofcom will review the situation of Channel 4 in 2006-2007.

³⁷ A public service publisher is a new type of PSB providers. It uses all communication platforms to achieve reach and impact, from broadband to mobile platforms as well as digital television. It also provides fully-converged content, linking together a wide selection of broadband and interactive content in innovative ways.

Regulation of advertising

3.4.28 Channel 4, like other statutory organizations, is subject to both domestic and European competition laws, and is regulated by Ofcom. In addition, from 1 November 2004 onwards, Channel 4 has been under the regulation of the Advertising Standards Authority which enforces Ofcom's *Advertising Standards Codes* for television and radio broadcasting and handles related complaints.

Corporate governance

Roles of the Board

3.4.29 The Channel Four Television Corporation is overseen by its Board. The roles of the Board are as follows:

- (a) providing entrepreneurial leadership for the Corporation;
- (b) approving the Corporation's strategic objectives; and
- (c) ensuring that the Corporation's responsibilities are discharged in accordance with all applicable laws and regulations.

Roles of the Chairman and the Chief Executive

3.4.30 The Chairman of the Board is responsible for leading the Board in setting the values and standards of the Corporation and maintaining a relationship of trust with and between the executive and non-executive members.

3.4.31 The Chief Executive is responsible for running the Corporation under the delegated authority from the Board and implementing the policies and strategy agreed by the Board. He/she also ensures an effective communication between the Corporation and Ofcom as well as other key stakeholders.

Composition and appointment of the Board

3.4.32 The Board comprises the Chairman, eight non-executive members and four executive members. The existing Chairman was appointed by the then Independent Television Commission (the duties of which being taken over by Ofcom) in 2003. While non-executive members are appointed by Ofcom in consultation with the Chairman and subject to the approval of the Secretary of State for Culture, Media and Sport, executive members are nominated jointly by the Chief Executive and the Chairman and appointed by Ofcom. The term of office of non-executive members shall not exceed five years.³⁸

³⁸ See *Broadcasting Act 1990. Chapter 42.*

Accountability

3.4.33 Under the *Broadcasting Act 1990*, Channel 4 is accountable to Parliament by submitting its Annual Report and Accounts to the Secretary of State for Culture, Media and Sport who lays copies of them before each House of Parliament.

Distinctiveness from commercial broadcasters

3.4.34 The *Broadcasting Act 1990* stipulates that Channel 4's programmes shall contain a suitable proportion of matter that appeals to tastes and interests not generally catered for by Channel 3, and that innovation and experiments in the form and content are encouraged.

Review of Channel 4

3.4.35 The review of PSB conducted in 2003 concludes that Channel 4 shall remain as a commercially-funded public service broadcaster up to the switchover to digital broadcasting and beyond. However, Ofcom indicates that in the longer term, Channel 4 will face competitive pressures which may reduce its capacity to deliver its PSB remit in full. As such, Ofcom has proposed several funding options for Channel 4 (see paragraphs 3.4.23 – 3.4.27).

3.5 Review of public service broadcasting

Review of public service broadcasting – television

3.5.1 The *Communications Act 2003* stipulates that Ofcom shall conduct a review of PSB – television at least once every five years. In this connection, Ofcom began its first review in October 2003. The review sought to address the following issues:

- (a) "What are the current purposes and definitions of PSB and are they appropriate going forward?"
- (b) How best can Ofcom quantify and measure delivery of PSB, including its impact on individuals and society as a whole?
- (c) How effectively are the purposes of PSB being delivered by PSB channels taken together?
- (d) What are the costs of provision and how do those costs compare with the benefits derived?
- (e) What are the key market, technology, and audience changes that will impact upon the market as a whole in the future?

- (f) How will this affect public service broadcasters, their competitive position and their funding?
- (g) What are the implications for the purposes, benefits and costs of PSB? and
- (h) What are the most effective methods of maintaining or strengthening PSB television in this changing environment?"

Recommendations

3.5.2 The review was conducted in three phases. The final report, Phase 3, was published on 8 February 2005. It sets out proposals to help maintain and strengthen the quality of PSB – television as the UK moves into the digital age. There are recommendations for the government and other relevant parties to follow in order to achieve this goal. The recommendations are as follows:

- (a) the Charter Review shall examine further the possibility of using the licence fee to support PSB across a range of broadcasters in the future;
- (b) the government shall develop detailed proposals for public service publishers, including funding options and implementation plans;
- (c) the BBC shall be asked, as part of the Charter Review, to develop proposals for local and regional programming, and help provide more well-funded television programming for the English Regions to complement its plans for the Nations;
- (d) the BBC shall consider further steps to increase its out-of-London production;
- (e) all relevant broadcasters shall start planning for the delivery of indigenous language broadcasting through dedicated channels; and
- (f) the Charter Review shall consider further the structure of internal governance and external oversight for the BBC.

Review of public service broadcasting – radio

3.5.3 In December 2004, Ofcom commenced its Phase 1 consultation on the review of PSB – radio. The consultation document entitled *Radio – Preparing for the Future* put forward proposals about the development of digital radio and the provision of localness on commercial radio and raised the issue of whether there might be a set of public purposes for radio in the 21st century.

3.5.4 In October 2005, Ofcom published its second consultation paper setting out the regulatory framework for radio for the years ahead. The consultation closed on 11 January 2006, and the government published a report entitled *Radio – Preparing for the Future Phase 2: Implementing the Framework* on 15 February 2006.

3.6 Digitization

3.6.1 The UK has the highest digital penetration in the world.³⁹ As of 31 December 2005, digital television⁴⁰ had been viewed by 17.5 million households possessing television (70% of the total number of households possessing television), comparing to less than 50% in other European countries.

Development of digitization

3.6.2 In September 1999, the then Secretary of State for Culture, Media and Sport stated that the switchover from analogue to digital in broadcasting would be subject to the following two criteria:

- (a) everyone who received public service channels in analogue form could receive them through digital means; and
- (b) switching to digital was an affordable option for the vast majority of people.

3.6.3 The criteria were reaffirmed in the White Paper entitled *A New Future for Communications* published in December 2000. In another White Paper *Opportunity for all in a world of change* published in February 2001, the government stipulated that "[o]ur aim is for the UK to have the most dynamic and competitive market for digital TV in the G7, as measured by take-up, choice and cost. As the first part of our strategy to achieve this, we will:

- (a) bring together key public and private sector stakeholders to develop a comprehensive digital TV action plan;
- (b) work with the broadcasters and others to launch a series of digital TV projects in 2001, giving participating communities the opportunity to help shape the future of Digital TV;
- (c) work with the broadcasters to promote public understanding of the benefits Digital TV can offer; and
- (d) work with the industry to ensure clearer and more informative labeling of digital TV services and equipment."

³⁹ See Office of Communications (2006).

⁴⁰ Digital television offers three types of interactive service: (a) stand-alone information; (b) transactional services such as shopping, banking and email; and (c) enhanced programming, where viewers can access additional audio and video features. These services can be delivered either through television channels or as video on demand.

3.6.4 The government worked with broadcasters, manufacturers, retailers and consumer organizations on creating the Digital Television Action Plan, which was published in January 2002. In early 2004, the government invited the commercial terrestrial broadcasters and the BBC to work with the government itself and Ofcom on achieving a complete switchover and establishing an appropriate timetable in liaison with other stakeholders. An Action Plan was completed in November 2004.

3.6.5 In the Green Paper on the Charter Review for the BBC published on 2 March 2005, the government re-affirmed its policy of extending the benefits of the digital revolution to all the UK households. The government also decided that one of the conditions of the new licence fee settlement would be that the BBC should play a leading role in the process of switching Britain over fully from analogue to digital television. The government plans to achieve digital switchover between 2008 and 2012.

The role of the British Broadcasting Corporation in digitization

3.6.6 Under the new Charter and Agreement, the BBC is asked to undertake the following:

- (a) extending the digital network – the BBC will be required to achieve, through the digital switchover, substantially the same level of coverage as what is currently existing in analogue;
- (b) playing a leading role in the public information campaign of the switchover; and
- (c) assisting in establishing and funding schemes for the most vulnerable consumers to make the switch.

Digitization of Channel 4

3.6.7 At present, Channel 4 is extending the fulfilment of its remit to digital channels. The plan of digitization in Channel 4 is expected to progress in the follow way:

- (a) strengthening the programmes of More4;
- (b) increasing the investment in originated drama-docs across both More4 and Channel 4; and
- (c) seeking new cross-platforms to extend access of programmes broadcasting on both More4 and Channel 4.

Digital radio

3.6.8 There are around 44 million people in the UK living in areas where national digital radio services are available. Ofcom has awarded one national commercial multiplex licence carrying eight programme services. It has also awarded licences for 44 local digital multiplexes, which together carry about 300 commercial radio services.

3.7 Community radio

3.7.1 Community radio is a third tier of radio distinct from public and commercial radio. It came into existence in the UK in early 2005. Community radio stations are locally owned and accountable to their audiences. They operate on public service principles for community benefit and are non-profit-making. As at September 2006, the total number of licensed community radio stations in the UK was 107.⁴¹

3.7.2 Community radio enables local communities to use the medium of radio to create opportunities for regeneration, employment, learning, social cohesion and inclusion as well as cultural and creative expression. Community radio stations are usually run by local people, most of whom are volunteers.

Governing legislation

3.7.3 The legislative and regulatory framework for community radio is provided for by the *Communications Act 2003*, the *Community Radio Order 2004* and regulations set by Ofcom.

Regulatory authority

3.7.4 Ofcom is responsible for the licensing of community radio stations. It is Ofcom's responsibility to ensure that these stations operate in accordance with the relevant legislation and regulations. Ofcom also handles their applications for the Community Radio Fund⁴².

⁴¹ See *Community Media Association* (2006).

⁴² The Community Radio Fund is established to help fund the core costs of running a community radio station. Between 2004-2005 and 2007-2008, DCMS will provide £500,000 (HK\$6,770,000) each year to the Community Radio Fund administered by Ofcom for the funding of community radio services.

Community radio licensing

3.7.5 On 1 September 2004, Ofcom invited applications for community radio licences, and 194 applications were received by 23 November 2004. The first licence was awarded to Forest of Dean Community Radio on 11 March 2005.

Sources of funding

3.7.6 Funding for community radio stations comes from a number of sources, including:

- (a) advertising and sponsorship;
- (b) public funding from the local or central government, other government agencies, the European Union and the National Lottery or charities; and
- (c) grant from the Community Radio Fund.

Chapter 4 – Canada

4.1 Definition of public service broadcasting

4.1.1 In Canada, the *Broadcasting Act 1991* provides a definition of PSB based on the purposes of CBC and the sorts of programming CBC produces to realize those purposes. CBC is the national public service broadcaster in Canada.

4.1.2 According to Section 3(1) of the *Broadcasting Act 1991*, CBC is established as the national PSB organization to "provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains".

4.1.3 More specifically, the programmes provided by CBC should:

- (a) be predominantly and distinctively Canadian;
- (b) reflect Canada and its regions to national and regional audiences, while serving the special needs of those regions;
- (c) actively contribute to the flow and exchange of cultural expression;
- (d) be in English and French, reflecting the different needs and circumstances of each official language community, including the particular needs and circumstances of English and French linguistic minorities;
- (e) strive to be of equivalent quality in English and French;
- (f) contribute to shared national consciousness and identity;
- (g) be made available throughout Canada by the most appropriate and efficient means and as resources become available for the purpose; and
- (h) reflect the multi-cultural and multi-racial nature of Canada.

4.2 Historical development of public service broadcasting

4.2.1 PSB commenced in Canada in 1927 when the first public radio station received a provincial grant to offer educational radio programmes. In 1928, the federal government established the Royal Commission on Radio Broadcasting to study the state of the Canadian broadcasting system. At that time, radio broadcasting suffered from signal interference and overcrowded airwaves due to a lack of spectrum management policy.⁴³ There was also a concern over the disproportionate number of Canadians receiving and listening to radio programmes broadcast from the US, amid the growing dominance of US broadcasting over the Canadian airwaves.⁴⁴

4.2.2 In 1929, the Royal Commission on Radio Broadcasting issued a report concluding that radio broadcasting had a cultural and educational function in Canada. The report also recommended the creation of a national, publicly-owned corporation to air its own programmes and oversee all radio broadcasting in Canada. Three years after the release of the report, Parliament passed the *Canadian Radio Broadcasting Act* to create the Canadian Radio Broadcasting Commission as Canada's first national public service broadcaster, mandated with the responsibilities of regulating and providing Canadian broadcasting throughout the country.

4.2.3 In 1936, the Canadian Radio Broadcasting Commission became a Crown corporation⁴⁵ and was renamed CBC. While CBC continued to be responsible for both the regulation and provision of broadcasting in Canada, it was given more funding as well as greater autonomy for its day-to-day operation. CBC's broadcasting was extended to the platform of television in 1952 alongside radio broadcasting. In 1958, CBC's regulatory responsibility was removed, following the passage of a new broadcasting act and the creation of a new regulator for the broadcasting industry. Since then, CBC has performed its role solely as the national public service broadcaster in Canada.

⁴³ See Standing Committee on Canadian Heritage of the House of Commons (2003).

⁴⁴ During the 1920s, many private radio stations in Canada affiliated with the US networks and rebroadcast popular US entertainment programmes. In addition, Canadians living in the border could enjoy over-the-air broadcasts from the US.

⁴⁵ In Canada, a Crown corporation is a corporation established by the federal government to deliver public policies when it considers that government departments, other levels of government or the private sector cannot adequately do so. A Crown corporation is wholly owned either directly or indirectly by the federal government. On a day-to-day basis, a Crown corporation operates at arm's length from the federal government. It has its own Board of Directors responsible for the strategic direction and management performance of the corporation. See Canada Online (2006).

4.3 Market players in Canada's broadcasting industry

4.3.1 In addition to CBC, there are other public service broadcasters in Canada. Many provinces have established their own public service broadcasters, which are not CBC sub-entities and operate on distinct networks. Some local communities also operate non-commercial broadcasting stations funded by corporate and individual donors. Furthermore, many cable companies operate non-commercial local community channels in their respective licensed markets.

4.3.2 As regards private broadcasting, more than 500 private radio stations are currently on air to broadcast English- and French-language programmes in Canada. There are also three national television networks operating in the country, with one broadcasting in French and the other two in English.

4.3.3 In 2004-2005, the audience share for CBC's English and French television networks during the prime-time period (7 pm to 11 pm) stood at 6.9% and 22.5% respectively. The corresponding figure for CBC's English and French radio networks was 9.1% and 12.6% respectively.

4.4 Canadian Broadcasting Corporation

Background

4.4.1 CBC was created in 1936 as the national public service broadcaster in Canada. It is financed mainly through parliamentary appropriations, supplemented by revenue on advertising and other sources. Nevertheless, CBC, as a Crown corporation, operates at arm's length from the federal government in its day-to-day operation.

Public service mandate

4.4.2 Section 3(1) of the *Broadcasting Act 1991* sets out the public service mandate of CBC in terms of its purposes and programming requirements (see paragraphs 4.1.2-4.1.3 for details).

Mission

4.4.3 CBC sets out its mission as follows:

- (a) telling Canadian stories which reflect the reality and diversity of Canada;
- (b) informing Canadians about news and issues of relevance and interest;
- (c) supporting Canadian arts and culture; and
- (d) building bridges among Canadians, regions and the English and French communities of Canada.

Services

4.4.4 CBC currently delivers its programmes in English and French across Canada through the following two platforms:

Television

4.4.5 CBC operates the following television services:

- (a) two national television networks with 23 regional stations and 17 affiliated stations, delivering (i) general and special interest programmes in English and French across the country; and (ii) services to northern Canada in English, French and eight Aboriginal languages;
- (b) two 24-hour news and information television services financed entirely by subscriptions and advertising revenues; and
- (c) three speciality television channels.⁴⁶

Radio

4.4.6 The radio services operated by CBC include:

- (a) four commercial-free national networks and 81 regional stations broadcasting in English and French, offering a mix of information, general interest, music and cultural programmes;
- (b) services to northern Canada in English, French and eight Aboriginal languages;
- (c) a shortwave radio service – Radio Canada International – broadcasting internationally in nine languages;
- (d) Galaxie – a 24-hour, 45-channel digital pay-audio service; and
- (e) a subscription satellite radio service launched in partnership with other broadcasters.

⁴⁶ These three speciality television channels are: Country Canada (providing information and entertainment programmes from a rural perspective), ARTV (specializing in the arts and culture programmes), and the Documentary Channel (broadcasting documentary programmes on a 24-hour basis).

Programme diversity

4.4.7 As Canada's national public service broadcaster, CBC currently delivers a wide range of programmes through its radio and television networks. CBC's English and French schedules not only include news and public affairs programmes, but also feature sports, drama, music/dance, documentaries, variety, comedy, science, history, game and children shows, and religious programming. In 2005, CBC's English-language television networks provided 15 different genres of programming to its audience.

4.4.8 In addition, CBC produces regional programmes featuring local and regional news and current affairs, and coverage of social and cultural life on a regional basis. In particular, CBC's Northern Television Service serves the local native population living in the most northerly reaches of Canada and broadcast in several native languages.

4.4.9 CBC also provides descriptive video programming and captioning for disabled people to facilitate their access to its programmes.⁴⁷ For example, 126 hours of CBC's English-language television programmes were aired with descriptive video in 2004-2005, doubling the figure in 2003-2004. In addition, the full-day schedule of CBC's English-language television network was close-captioned in 2004-2005.

Production

4.4.10 While CBC serves as a full-service broadcaster offering a variety of content genres and schedules of mixed programming designed to appeal across all audiences, it is also required to broadcast a certain percentage of Canadian content that is at least partly written, produced, presented, or otherwise contributed to by persons from Canada.⁴⁸ For example, CBC's English-language television network is committed to broadcasting a minimum of 75% Canadian content over a broadcast day and 80% in the evening. For its English-language radio network, CBC devotes not less than 50% of its general popular music selections to the broadcasting of Canadian programmes.

4.4.11 CBC is also required under its licence conditions to broadcast a minimum quantity of regionally-produced television programmes during the peak viewing period. These programmes must fall within one of the following categories: (a) drama; (b) music and dance; (c) variety; (d) long-term documentary; or (e) entertainment magazine show.

⁴⁷ Section 3(1)(p) of the *Broadcasting Act 1991* states that "programming accessible by disabled persons should be provided within the Canadian broadcasting system as resources become available for the purpose."

⁴⁸ Canada's broadcasting regulations require radio and television broadcasters, including CBC, to broadcast a minimum percentage of programmes of Canadian content.

4.4.12 In addition to creating in-house programmes, CBC sources programmes from independent producers in order to fulfil the aforementioned programming requirements. Indeed, independent production plays an essential role in providing programming to CBC, accounting for 81% of non-news and sports programmes of CBC's English-language television service in 2004-2005.

4.4.13 CBC has set out guidelines for programme co-production/collaboration, programme procurement and other special programme arrangements with outside parties. All these arrangements are subject to the terms and conditions established by CBC or as required by law, and all programmes produced or procured under such arrangements are subject to pre-broadcast acceptance by CBC and on such terms and conditions as CBC may decide (or as may be required by law).⁴⁹

Regulatory framework

Governing legislation

4.4.14 CBC operates under the *Broadcasting Act 1991* which defines the basic mandate and philosophy for broadcasting in Canada, as well as identifying CBC as an instrument of public policies for meeting the cultural and broadcasting policy objectives, the national interest and regional needs. The *Act* also sets out CBC's public service mandate as well as its independence in the journalistic, creative and programming decisions.

Regulatory authorities

The Department of Canadian Heritage

4.4.15 CBC reports to Parliament through the Minister of Canadian Heritage, who is responsible for national policies and programmes relating to arts and heritage, broadcasting, cultural industries, new media, Canadian identity, multi-culturalism, official languages, sport, citizens' participation and youth.

4.4.16 The Minister of Canadian Heritage heads the Department of Canadian Heritage, under which the Broadcasting Policy and Innovation Branch is responsible for formulating policies, proposing legislation, and designing and administering programmes for the Canadian broadcasting system. The focus of the Branch's efforts is to support the development of the national broadcasting system and advise the government on regulatory issues, including Canadian content, access to services and competition. In addition, the Branch has the responsibility for advising the Minister of Canadian Heritage on the government policies relating to CBC and other broadcasters.

⁴⁹ For example, programmes acquired from independent producers must comply with CBC's standards of quality and journalistic principles.

The Canadian Radio-television and Telecommunications Commission

4.4.17 The Canadian Radio-television and Telecommunications Commission (CRTC) is the regulator for the telecommunications and broadcasting industry in Canada. It was established in 1968 as a public authority to operate independently of the government and report to Parliament through the Minister of Canadian Heritage.

4.4.18 CRTC is run by up to 13 full-time commissioners (including the Chairperson and the Vice-Chairperson of broadcasting, and the Vice-Chairperson of telecommunications) and six part-time commissioners. The commissioners are all appointed by the Cabinet for renewable terms of up to five years. Only full-time commissioners can participate in the decision making process for telecommunications issues, whereas all commissioners are involved in broadcasting decisions.

4.4.19 CRTC is vested with the authority to regulate and supervise all aspects of the Canadian broadcasting system, as well as the telecommunications network and service operators that fall under federal jurisdiction. In particular, CRTC is responsible for issuing licences to broadcasters and enforcing their compliance with licence conditions. For example, CBC is required to file an annual report with CRTC relating to its performance on the conditions, requirements and expectations set out in its broadcasting licences. CRTC also issues regulations governing the broadcasting of commercial messages on radio and television stations.

Editorial independence

4.4.20 Section 46(5) of the *Broadcasting Act 1991* sets out CBC's editorial independence by stipulating that "[t]he Corporation shall, in the pursuit of its objects and in the exercise of its powers, enjoy freedom of expression and journalistic, creative and programming independence." CBC's editorial independence is further safeguarded by Section (2) of the Canadian Charter of Rights and Freedoms, which guarantees freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication.

4.4.21 CBC has developed an in-house ethics guide – the Journalistic Standards and Practices – to provide the policy framework within which CBC's journalism seeks to meet its expectations and obligations. For example, the Journalistic Standards and Practices set out the guidelines to govern the acceptance of programme funding from other sources. In particular, CBC should not enter into those funding arrangements which may allow funding sources to inappropriately influence a programme or create the perception that editorial influence has been exercised by someone other than the producers.⁵⁰

⁵⁰ Furthermore, the Journalistic Standards and Practices stipulate that "CBC is committed to the principle of transparency of financing of all information programs. Audiences must be confident that decisions are made only for good editorial reasons, not as a result of pressure, be it political, commercial or special interest. CBC's integrity must never be compromised by any financial pressure or commercial inducement from any outside organization or interest group. To protect credibility [CBC] should acknowledge all sources of funding on air."

Sources of funding

4.4.22 CBC is funded mainly through federal appropriations approved annually by Parliament. In 2004-2005, CBC received CAN\$937 million (HK\$6,016 million)⁵¹ or 63% of its total revenue from parliamentary appropriations, being followed by revenue from advertising and programme sales (22%), and miscellaneous income from sources such as cable subscription fees, speciality channels and interest income (15%). It also received additional parliamentary appropriations of CAN\$96 million (HK\$616 million) in capital funding and CAN\$4 million (HK\$26 million) in working capital funding in 2004-2005.

4.4.23 The parliamentary appropriations for CBC have been on the decline in recent years. According to CBC, its parliamentary appropriations recorded a 29% decrease, in constant dollars terms, during the 1990-2004 period. Increased revenue from advertising and subscription fees for CBC's speciality television services, coupled with some cost-saving measures⁵², helped offset the shortfall. Nevertheless, CBC's President has recently voiced the funding difficulties and the need for a long-term stable funding from the government.⁵³

Corporate governance

4.4.24 The *Broadcasting Act 1991* and CBC's by-laws govern the composition and functions of CBC's Board of Directors. The Board consists of up to 12 members, who are selected from among citizens eminent in fields such as law, accounting, business, education or the arts. All Directors, including the Chairman and the President are appointed by the Governor in Council⁵⁴ for renewable five-year terms.⁵⁵ The Chairman presides at meetings of the Board, and may exercise such powers and perform such duties and functions as are assigned to him/her by the by-laws of CBC. Meanwhile, the President serves as the Chief Executive Officer of CBC who is entrusted with the duty of managing the day-to-day operation of the corporation.

4.4.25 The Board of Directors is responsible for overseeing the conduct of CBC's operation, supervising its management, and ensuring that CBC communicates effectively with the government and other stakeholders. The Board has four committees, namely the Standing Committee on English and French Broadcasting, the Human Resources and Compensation Committee, the Governance and Nominating Committee and the Audit Committee.

⁵¹ Based on the average exchange rate of HK\$6.42 per Canadian dollar in 2005.

⁵² For example, CBC has reduced the production of regional programmes amid the reduction in federal appropriations in recent years.

⁵³ See Canadian Broadcasting Corporation (2005b).

⁵⁴ The Canadian Governor General is the representative of the Queen of the United Kingdom in Canada. The Governor in Council is the Governor General acting on the advice of the federal Cabinet.

⁵⁵ According to the *Broadcasting Act 1991*, "the Chairperson and the President are eligible for reappointment on the expiration of any term of office but any other director who has served two consecutive terms is not, during the twelve months following the completion of the second term, eligible for appointment, except as Chairperson or President."

4.4.26 The *Broadcasting Act 1991* contains the following provisions governing the remuneration for the Board of Directors:

- (a) "[t]he Chairperson and the President shall be paid by the Corporation remuneration at the rate fixed by the Governor in Council; and
- (b) each director, other than the Chairperson and the President, shall be paid by the Corporation such fees for attendance at meetings of the Board or any committee of directors as are fixed by the by-laws of the Corporation."

4.4.27 CBC has also put in place a number of measures to safeguard its corporate governance, including setting up the Office of Ombudsman and establishing Advertising Standards and disclosure of wrongdoing policies.

The Office of Ombudsman

4.4.28 CBC has established the Office of Ombudsman with two ombudsmen, one for the English network and the other for the French network. Each investigates audience complaints and comments, and evaluates compliance with journalistic policies relating to CBC's radio, television and online programming. He/she serves as an impartial and independent appeal authority for complainants who are dissatisfied with responses from CBC's programme staff or management. The ombudsmen may also alert CBC's journalists and managers to issues causing public concerns based on comments and complaints received.

4.4.29 The Office of Ombudsman reports directly to the President of CBC and, through the President, to the Board of Directors. The ombudsman's appointment is for a term of five years, and may be extended for no more than five additional years. The ombudsman's contract cannot be terminated except for dereliction of duty or gross misconduct.

Advertising Standards

4.4.30 CBC sets out a series of criteria in its Advertising Standards to govern broadcasting of commercial messages on its programmes. All commercial messages must comply with the Advertising Standards before they are broadcast on CBC.⁵⁶ The requirement serves to ensure that all commercial messages broadcast are presented with integrity and good taste, and are not false, misleading, unfair, or exploitive of children.

⁵⁶ In addition to the Advertising Standards, commercial messages broadcast on CBC are also required to abide by the broadcasting regulations of CRTC and any applicable laws and regulations.

Corporate Policy on Disclosure of Wrongdoings

4.4.31 In 2004, the Board of Directors adopted the Corporate Policy on Disclosure of Wrongdoings to enhance transparency, accountability, financial responsibility and ethical conduct within CBC. The policy provides for a procedure under which a CBC employee could make a report of any wrongdoings without the risk of retaliation and with the assurance that the report is treated strictly confidential. The Board has appointed an Independent Officer to receive, record and review any disclosures of wrongdoings within CBC.

Accountability

4.4.32 As Canada's national public service broadcaster, CBC is subject to the following accountability arrangements with the federal government, Parliament and the public:

To the federal government

4.4.33 While operating independently of the federal government, CBC submits annual accountability reports to the Minister of Canadian Heritage and CRTC. These two reports detail, among other things, CBC's commitments and objectives, licence conditions, and the extent to which the corporation has met them.

Corporate plan

4.4.34 Section 54 of the *Broadcasting Act 1991* requires CBC to submit to the Minister of Canadian Heritage an annual corporate plan, which includes:

- (a) objectives for the next five years and for each year in that period, and the strategies CBC intends to employ to achieve them;
- (b) expected performance for the year in which the plan is submitted as compared with its objectives for that year;
- (c) capital budget for the following financial year;
- (d) operating budget for the following financial year; and
- (e) where CBC intends to borrow money in the next financial year, a general indication of the borrowing plans and strategies of CBC for that year.

Annual report

4.4.35 CBC is required by its licence conditions to submit an annual report to CRTC. The annual report provides detailed information on CBC's compliance with the conditions set out in its broadcasting licences, as well as the Canadian content in music and programming, and the extent of national coverage, cultural diversity, drama programming and regional news.

4.4.36 CRTC reports to Parliament on any alleged violation or non-compliance of the licence conditions committed by CBC. According to Section 25 of the *Broadcasting Act 1991*, CRTC will submit a report to the Minister of Canadian Heritage if it is satisfied that CBC has contravened or failed to comply with any condition of a licence, order or regulation. The Minister of Canadian Heritage will provide a copy of the report to each House of Parliament.

To Parliament

4.4.37 Section 41 of the *Broadcasting Act 1991* makes CBC formally accountable to Parliament through the Minister of Canadian Heritage for the conduct of its affairs. The *Act* further requires CBC to submit an annual report to the Parliament, through the Minister of Canadian Heritage, on its operation. The annual report includes a discussion of CBC's activities during the year, financial highlights, and audited financial statements.

4.4.38 In addition, CBC's directors and officers could be called upon to testify before the Standing Committee on Canadian Heritage of the House of Commons on CBC's operation and its use of public resources.

To the public

4.4.39 CBC keeps the public informed of its policies through the posting of relevant papers and documents on its website. In addition, CBC has appointed two ombudsmen to act as an impartial and independent appeal body, to which the public can address their complaints against the national public service broadcaster.

Distinctiveness from commercial broadcasters

4.4.40 The *Broadcasting Act 1991* sets out different mandates for commercial broadcasters and CBC. The requirements on commercial broadcasters concentrate on production, such as making maximum use of Canadian creative and other sources in the creation and presentation of programming.

4.4.41 The mandate for CBC centres on programming and policy requirements, focusing on the needs of audiences in terms of (a) predominantly and distinctively Canadian programming; (b) programming broadcasting in English and French, and reflecting the different needs and circumstances of each official language community; and (c) programming contributing to shared national consciousness and identity, as well as reflecting the multi-cultural and multi-racial nature of Canada.⁵⁷

4.4.42 Compared with commercial broadcasters, CBC is subject to a higher level of Canadian content requirement. As discussed in paragraph 4.4.10, CBC's English-language television network is committed to broadcasting, at the minimum, 75% Canadian content over a broadcast day and 80% in the evening. For commercial broadcasters, the Canadian content requirements are 60% over a broadcast day and 50% in the evening.

4.4.43 In any event, both CBC and commercial broadcasters are financed by advertising revenue, albeit to different extent. Commercial broadcasters support themselves primarily by advertising revenue, while CBC derives about 22% of its revenue from advertisement and programme sales. As such, CBC comes under criticism from other market players on the fairness of its business practices, since it competes with commercial broadcasters for advertising revenue, while simultaneously receiving parliamentary appropriations.⁵⁸

Reviews of the Canadian Broadcasting Corporation

4.4.44 A number of studies have looked at various components of the Canadian broadcasting system over the past few years. A comprehensive report published by the Standing Committee on Canadian Heritage in 2003, entitled *Our Cultural Sovereignty: The Second Century of Canadian Broadcasting*, was the first major industry review since the passage of the *Broadcasting Act 1991*. It represented a two-year effort made by the Standing Committee to study every aspect of the broadcasting environment and propose new initiatives and measures that would strengthen the Canadian broadcasting system.

4.4.45 The report expressed concerns about the situation of PSB in Canada. In particular, CBC's audience share had sharply decreased in previous years and CBC had spent "much of its talent and energy searching for the right formula, the right approach, to ensure its place in Canadian life." The report concluded that "American programming dominates the airwaves to an extent that is largely unknown and unimaginable in any other country outside of the United States itself."

⁵⁷ See Canadian Broadcasting Corporation (1997).

⁵⁸ See Wikipedia (2006a) and Office of the Auditor General of Canada (2005).

4.4.46 Against the above background, the report advocated the replenishment and refocusing of CBC. It set out several recommendations, such as providing CBC with increased and stable multi-year funding (three to five years) so that it could adequately fulfil its mandate prescribed in the *Broadcasting Act 1991*.⁵⁹ The report also recommended that CBC should deliver a strategic plan, with estimated resource requirements, to Parliament on how it would fulfil its public service mandate to (a) deliver local and regional programming; (b) meet its Canadian programming objectives; and (c) deliver new media programming initiatives.

4.4.47 In October 2005, the Standing Committee on Canadian Heritage went further to call for the government to (a) set up an independent task force to review the mandated role and services of CBC; and (b) establish the role CBC must have, and the services the national public service broadcaster must provide in the light of the new media environment and technological advances. In addition, the review should be commenced immediately so that the task force report could be completed and made public in a timely fashion as input for the consideration of renewal of CBC's broadcasting licence in 2007.

4.5 Digitization

Digital radio

4.5.1 *A Policy to Govern the Introduction of Digital Radio*, a policy document issued by CRTC in October 1995, provides the policy framework for issuing "transitional digital radio licences" to broadcasters for launching digital radio services. In Canada, digital radio broadcasting is primarily a simulcast of existing AM and FM programmes, and only a maximum of 14 hours per week of separate programming for the purpose of experimentation is permitted.

4.5.2 As at 1 May 2006, there were 76 transitional licences issued by CRTC for digital radio broadcasting in Canada. Of these licences, 18 have been issued to CBC to operate digital radio services in Montreal, Victoria, Windsor, Toronto, Ottawa and Vancouver.

⁵⁹ In response, the Canadian government only agreed to provide additional funding to CBC in 2005-2006, without making any commitment on the funding recommendation. See Standing Committee on Canadian Heritage of the House of Commons (2005).

Digital television

4.5.3 A *Licensing Policy to Oversee the Transition from Analog to Digital, Over-the-air Television Broadcasting*, a policy document issued by CRTC in June 2002, sets out the policy framework for licensing digital television broadcasting in Canada. The policy framework allows for a voluntary, market-driven transition model, without specifying any mandated deadlines for launching digital television services in Canada. In other words, CRTC has not specified a date for the transition to digital broadcasting to be in effect, opting to allow broadcasters to decide when the switchover should take place.

4.5.4 The policy framework also provides for the arrangement of issuing transitional digital television licences for digital television broadcasting in Canada. Transitional digital television licensees are allowed to broadcast a maximum of 14 hours per week of high definition television (HDTV) programming that is not duplicated on the analogue version of the service.

4.5.5 CBC has received transitional digital television licences from CRTC to operate over-the-air digital television services in major cities. CBC began broadcasting in HDTV in 2005 in both Toronto and Montreal, and is currently in the process of rolling out the service to other cities in Canada.

4.5.6 According to the 2005-2006 corporate plan, CBC plans to spend half of its capital budget over the next three years on production infrastructure, with the major initiatives including replacing failing obsolete analogue equipment with digital standards, and investing in HDTV production and presentation facilities.

4.6 Community radio broadcasting

4.6.1 In 2000, CRTC issued a policy document, revising the policy framework which had governed the operation of community radio broadcasting in Canada since 1992.⁶⁰ According to the policy document, a community radio station is defined as a radio station "owned and controlled by a not-for-profit organization, the structure of which provides for membership, management, operation and programming primarily by members of the community at large. Programming should reflect the diversity of the market that the station is licensed to serve".

⁶⁰ See Canadian Radio-television and Telecommunications Commission (2000a).

4.6.2 CRTC's policy document also provides for the licensing framework for two different types of community stations – types "A" and "B" – operating in Canada. Type A licences are for community stations that provide the only private radio service in English or French in a locality. In some cases, they provide the only radio station in those markets. Type B licences are for community stations that operate in competition with other private radio services, where at least one other service operates in the same language.

4.6.3 There are some differences in the rules and regulations applying to these two types of licences, mainly in relation to programme content. Type A stations are expected to devote at least 15% of airtime in each broadcast week to "spoken word" programmes⁶¹, with an emphasis on community-oriented "spoken word" programmes. For type B stations, CRTC imposes a minimum weekly requirement of 25% "spoken word" programmes, with an emphasis on community-oriented "spoken word" programmes.

4.6.4 In Canada, community radio stations are allowed to air advertisements. They also derive revenue from other sources, such as listener donations and contributions from students (for campus-based stations).

4.7 Community channel

4.7.1 A community channel, in Canadian broadcasting, is a television channel airing programming of local community interest. According to CRTC, the role of the community channel should be primarily of a public service nature, fostering the development of programming that reflects the community and promotes active participation by its citizens.

4.7.2 CRTC also requires community channels to provide programmes that complement those provided by conventional broadcasters. In particular, local community television programming should consist of programmes that are reflective of the community and produced by the licensee in the licensed area, or by members of the community from the licensed area.

4.7.3 In Canada, community channels are financed by the cable industry. According to CRTC's Broadcasting Distribution Regulation, cable companies in general contribute 3%-5% of their gross revenues derived from broadcasting activities in the broadcast year to support community programming. Community channels also derive their revenue from sponsorship as well.

⁶¹ In general, a spoken word programme is a programme that contains primarily speeches and no music other than as background music or musical themes.

Chapter 5 – The United States

5.1 Definition of public service broadcasting

5.1.1 In the US, the *Public Broadcasting Act of 1967* provides a definition of PSB based on its characteristics and purposes. According to the *Act*, PSB is an expression of diversity and excellence, and its programming involves creative risks and addresses the needs of unserved and underserved audiences, particularly children and minorities. In addition, a private corporation should be created with maximum protection from extraneous interference to facilitate the development of PSB in the US.

5.1.2 The *Public Broadcasting Act of 1967* defines the roles of various independent entities, as well as their relationships, in the provision of PSB in the US. These entities include CPB, PBS and NPR, as well as local public radio and television stations. Indeed, PSB in the US can be described as a decentralized system characterized by the sum of the activities and efforts of these separate entities.⁶²

5.1.3 Public radio and television stations are known as "non-commercial educational broadcast stations" or "public broadcast stations" in the US. According to the *Public Broadcasting Act of 1967*, a non-commercial educational broadcast station or public broadcast station is referred to as a non-commercial educational radio or television broadcast station owned and operated by:

- (a) a public agency or non-profit-making private foundation, corporation or association; or
- (b) a municipality to transmit only non-commercial programmes for educational purposes.

5.2 Historical development of public service broadcasting

5.2.1 PSB commenced in the US in the 1920s, with the first radio stations coming on the air to broadcast instructional and cultural programmes. In 1953, the first public television station began its operation in the US, made possible by the advent of television broadcasting in the 1940s and a 1952 decision by the Federal Communications Commission (FCC), the broadcasting industry regulator, to reserve some channels for non-commercial educational television stations. The development of PSB in the ensuing years was characterized by a loose association of educational broadcast stations scattered across the country with little federal funding support.

⁶² See Public Broadcasting Service (2005d).

5.2.2 In 1967, the Carnegie Commission on Educational Television⁶³ issued a report calling for Congress to establish a national "corporation for public television". The report chose the word "public" to emphasize its recommendations for an inclusive service embracing not only formal instruction and classroom television, but also a broad cultural/informational service intended for the public. The recommendations from the Carnegie Commission were subsequently adopted in the *Public Broadcasting Act of 1967*, which set out the current policy framework for the national public broadcasting system in the US. The *Act* authorizes, among other things, federal appropriations for public radio and television stations through CPB.

5.2.3 CPB was established under the *Public Broadcasting Act of 1967* as a private, non-profit-making corporation to facilitate the growth and development of public radio and television stations to broadcast instructional, educational and cultural programmes. At present, CPB provides funding to more than 1 000 public radio and television stations in the US. These public stations make use of the funding received from CPB to acquire programmes distributed by PBS, NPR and independent producers/distributors.

5.2.4 As regards private broadcasting, more than 6 200 commercial FM stations are on the air in the US. In the television market, there are three long-established national commercial television networks currently running in competition with several aspiring younger networks which came on stream in the 1980s and 1990s.

5.3 The Corporation for Public Broadcasting

Background

5.3.1 Unlike many developed places, the US does not have the establishment of a national public service broadcaster. Instead, CPB has been set up under the *Public Broadcasting Act of 1967* as a private, non-profit-making corporation to fund the growth and development of public radio and television stations in the US.

Public service mandate

5.3.2 The *Public Broadcasting Act of 1967* sets out the public service mandate of CPB. CPB is charged with facilitating "the full development of public telecommunications in which programs of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature."⁶⁴

⁶³ The Carnegie Commission on Educational Television was a national commission formed in 1965 with the sponsorship of the Carnegie Corporation to study the financial needs of educational television in the US.

⁶⁴ See Section 396(g)(1)(A) of the *Public Broadcasting Act of 1967*.

5.3.3 CPB is charged with carrying out its purposes and functions and engaging in its activities in ways that most effectively assure the maximum freedom of the public telecommunications entities and systems from interference with, or control of, programme content or other activities. In particular, CPB should perform solely an advisory role without exercising any control over the daily operation of the public radio and television stations funded by CPB.

Mission

5.3.4 The mission of CPB is to facilitate the development of, and ensure universal access to, non-commercial high-quality programming and telecommunications services. The programmes and services so provided should inform, enlighten and enrich the public, involve creative risks and address the needs of unserved and underserved audiences, particularly children and minorities.

Services

5.3.5 CPB's principal function is to receive and distribute the federal appropriations from Congress to support the operation of public radio and television stations, particularly the production and/or acquisition of programmes for broadcasting. CPB also funds the development of interconnection facilities used for distributing and transmitting programming materials to the public broadcast stations.

5.3.6 CPB is prohibited from (a) owning or operating any radio or television station, system or network; and (b) producing, scheduling or disseminating programmes to the public.⁶⁵ Such an arrangement is due to the congressional concern over creating a government-controlled broadcasting system that can be used for political advantage or to spread propaganda.⁶⁶

5.3.7 The federal appropriations to CPB is allocated through a distribution formula established in its authorizing legislation, which directs CPB to allocate 6% of the appropriations for "system support"⁶⁷ and not more than 5% for its administrative expenses. Of the remaining funds, 75% is allocated to public television and 25% to public radio.

⁶⁵ See Section 396(g)(3)(A) of the *Public Broadcasting Act of 1967*.

⁶⁶ See Stavitsky, A.G. & Dvorkin, J. (2004).

⁶⁷ System support is largely used to pay for the cost of interconnection facilities and other expenses, and if available funding permits, for projects and activities that will enhance PSB.

Programme diversity

5.3.8 Although CPB is prohibited from producing, scheduling or disseminating programmes to the public, it supports the production of radio and television programmes which serve the need of minorities. For example, CPB has provided financial support to several Minority Consortia⁶⁸, which function as developers, producers and distributors of radio and television programmes that appeal to diverse audiences and harnesses the creative talents of minority communities. CPB also supports the Independent Television Service, which provides funding to independent television producers for the development of programmes that meet the need of unserved and underserved audiences.

Production

5.3.9 Since its inception, CPB has been prohibited from producing any programmes for broadcasting.

Regulatory framework

Governing legislation

5.3.10 The *Public Broadcasting Act of 1967* establishes the legal status of CPB as a private, non-profit-making corporation. The *Act* also sets out the organization structure, funding, public service mandate, independence and accountability of CPB.

Regulatory authorities

5.3.11 CPB is not a federal government agency, nor is it a national public service broadcaster producing any programmes. Furthermore, Section 398 of the *Public Broadcasting Act of 1967* states that nothing in the *Act* "shall be deemed...to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision or control over educational television or radio broadcasting, or over the Corporation or any of its grantees or contractors". The above provisions limit the jurisdiction of the federal agencies, including FCC, over the operation of CPB. Nevertheless, CPB is still subject to the accountability arrangements with Congress.

⁶⁸ These Minority Consortia include the National Asian American Telecommunications Association, the National Black Programming Consortium, the Native American Public Telecommunications, Pacific Islanders in Communications and the Latino Public Broadcasting.

Editorial independence

5.3.12 CPB is specifically charged by Congress with protecting public service broadcasters' editorial independence while ensuring their objectivity and balance. In addition, CPB funds projects relating to the development of ethical standards and editorial independence for PSB in the US. For example, it has funded NPR to update its in-house ethics guide, which deals with some of the most important ethical issues that confront public radio journalism on a daily basis.

Sources of funding

5.3.13 CPB is financed mainly by the general federal appropriations from Congress, which accounted for US\$387 million (HK\$3.01 billion)⁶⁹ or 81% of its total revenue in 2004-2005. It also received additional federal appropriation of US\$40 million (HK\$311 million) or 8% of the total revenue to fund the development of interconnection facilities in 2004-2005. More recently, Congress has approved additional funding to CPB for assisting public service broadcasters in their conversion from analogue to digital transmission. These funds accounted for US\$39 million (HK\$303 million) or 8% of the total revenue in 2004-2005.⁷⁰

5.3.14 Congress authorizes funding for CPB in three-year advance cycles, granting the approval of the federal appropriations two years ahead of the fiscal year in which they are to be spent. For example, Congress approves the fiscal year 2008 funding level for CPB during the fiscal year 2006 appropriation process. Such an arrangement is to help insulate CPB from politically motivated interference with its programming.⁷¹ The advance appropriation also provides public radio and television stations with lead time to produce and acquire programmes.

Corporate governance

5.3.15 The *Public Broadcasting Act of 1967* stipulates the composition of CPB's Board of Directors. The Board consists of up to nine members, appointed by the US President and confirmed by the Senate for renewable six-year terms. No more than five members of the Board may be members of the same political party. The Board elects one of its members as the Chairman and another the Vice-Chairman of the organization.

⁶⁹ Based on the average exchange rate of HK\$7.777 per US dollar in 2005.

⁷⁰ Apart from the federal appropriations, CPB also derived 3% of its total revenue from sources such as investment income and grants from foundations and the US Department of Education in 2004-2005.

⁷¹ As explained by CPB, "if funding for public broadcasting were on the regular appropriations cycle, it might encourage attempts to influence program content through current-year appropriations. With a two-year buffer in place, such influence is less likely to occur because funding for the next two years is already secured." See Corporation for Public Broadcasting (2006b).

5.3.16 The Board of CPB is expected to have broad representation throughout the country. As such, Board members are selected from among those US citizens eminent in fields such as education, cultural and civic affairs, or the arts. It is also required to select two Board members from specific sectors, one representing public radio stations and the other public television stations.

5.3.17 The Board is responsible for setting policies for CPB. It also appoints the President and Chief Executive Officer, who in turn names other officers to handle CPB's day-to-day operation. According to the *Public Broadcasting Act of 1967*, no officer or employee of CPB may be compensated at an annual rate of pay which exceeds the rate of basic pay in effect from time to time for Level I of the Executive Schedule.⁷²

5.3.18 The Board has four standing committees, namely:

- (a) the Audit and Finance Committee;
- (b) the Corporate Governance Committee which is tasked with improving checks and balances within CPB, defining the respective roles of the Board and senior management, and achieving greater transparency to the public;
- (c) the Executive Compensation Committee which is entrusted with reviewing CPB's executive compensation plans, policies and programmes and developing recommendations to the Board on those matters; and
- (d) the Public Broadcasting Awareness Committee which is responsible for enhancing awareness and appreciation of PSB's achievements and potential for future services.

5.3.19 CPB has also put in place a number of initiatives to safeguard its corporate governance, including setting up the Office of the Ombudsmen and the Office of the Inspector General, and establishing the Code of Ethics for Directors of the Corporation for Public Broadcasting.

The Office of the Ombudsmen

5.3.20 In April 2005, CPB's Board of Directors established the Office of the Ombudsmen to (a) act as an evaluator of journalistic integrity, balance and objectivity; (b) review comprehensively public complaints of bias; and (c) assist CPB in fulfilling its statutory "objectivity and balance" obligations. The Board has appointed two ombudsmen who are tasked with initiating their own reviews and responding to the programming issues raised by the public, government officials and the broadcasting community.

⁷² The Executive Schedule is divided into five pay levels, the lowest of which is Level V. At present, the annual salary for Executive Schedule Level I is US\$183,500 (HK\$1.43 million).

The Office of the Inspector General

5.3.21 CPB's programming and operation are subject to the scrutiny by its internal Office of the Inspector General⁷³, an independent department established to deter and prevent fraud, waste and mismanagement in CPB's day-to-day operation. The Office of the Inspector General will inform Congress as well as CPB's Board of Directors and senior management of any significant problems found at CPB.

The Code of Ethics for Directors of the Corporation for Public Broadcasting

5.3.22 CPB has put in place the Code of Ethics for Directors of the Corporation for Public Broadcasting, which aims at, among other thing, assuring that CPB's Board of Directors acts in the best interest of PSB, without being partial to any particular organization or the Board members' own personal interests. The Code of Ethics covers (a) the obligation to refrain from using relationships for personal benefit; (b) the directors' fiduciary duty of loyalty and care; (c) the avoidance of conflict of interest; (d) the prohibition against use of confidential and non-public information; and (e) the stewardship of CPB's resources.

Accountability

5.3.23 Although CPB is established as a private, non-profit-making corporation, it remains subject to the following accountability arrangements with Congress and the public.

To Congress

5.3.24 CPB is being held accountable for the federal appropriations approved annually by Congress. As stipulated in the *Public Broadcasting Act of 1967*, the federal appropriations should be used in a prudent and financially responsible manner, solely for CPB's grants, contracts and administrative costs.⁷⁴ In addition, the *Act* provides for a number of directives on the use of the appropriations, including the need for attention to minority services and independent production, the requirement for objectivity and balance in programmes funded directly by CPB that address controversial issues, and the importance of protecting public service broadcasters from political intrusion.

⁷³ Under the *Inspector General Act of 1978*, the Office of the Inspector General was established as an independent organization within each of 12 government departments and federal agencies to audit and investigate the operation of the department/federal agency concerned. In 1988, Congress amended the *Inspector General Act* to require the establishment of the Office of the Inspector General in 33 designated entities, including CPB.

⁷⁴ See Section 396(k)(2)(A) of the *Public Broadcasting Act of 1967*.

5.3.25 CPB is also required to submit an annual report to Congress, which includes:

- (a) a comprehensive and detailed account of its operation, activities, financial condition and accomplishments; and
- (b) a list of organizations each of which receives a grant from CPB to produce programmes, the name of the producer of any programme produced under such grant, the title or description of any programme so produced, and the amount of such grant.

5.3.26 In addition, the *Public Telecommunications Act of 1988* requires CPB to report annually to Congress on the provision of services to minority and diverse audiences by public broadcast stations. The *Act* also requires CPB to compile a triennial assessment of the needs of these audiences.

5.3.27 The financial transactions of CPB are also subject to the audit of the General Accounting Office⁷⁵, the investigative arm of Congress. A report of such an audit shall be made by the Comptroller General (the head of the General Accounting Office) to Congress. The report contains such comments and information as the Comptroller General may deem necessary to inform Congress of the financial operation and condition of CPB, together with such recommendations with respect thereto as he/she may deem advisable.

5.3.28 CPB's directors and officers could be called upon to testify before appropriate congressional committees with respect to the reports submitted to Congress, or any other matters which such committees may determine.

To the public

5.3.29 As mentioned in paragraph 5.3.20, CPB established the Office of the Ombudsmen in April 2005 to review public complaints. CPB is also required by Congress to implement measures to gather public comment to assess the quality of the national PSB programming, and factor this information into its grant-making process. Specifically, Section 19 of the *Public Telecommunications Act of 1992* requires CPB to provide reasonable opportunities for the public to comment on the quality, diversity, creativity, excellence, innovation, and objectivity and balance in dealing with controversial issues of PSB.

⁷⁵ The General Accounting Office examines the use of public funds, probes for waste, fraud and inefficiency, and evaluates federal programmes and activities. It also provides analyses, recommendations and other assistance to help Congress make effective oversight, policy and funding decisions.

5.3.30 To carry out the above statutory responsibility, CPB has implemented the Open to the Public Initiative to seek and gather public comment on the quality, objectivity and balance of the programmes provided by public broadcast stations. Audiences can voice their opinions about public service broadcasters' services directly to CPB's Board of Directors and management through avenues, such as open forums, a dedicated e-mail address and voicemail facilities that support a dedicated, toll-free, 24-hour telephone line.

5.3.31 CPB is also required under the *Public Broadcasting Act of 1967* to conduct consultations and periodic reviews with public service broadcasters for its grant-making policies. As such, having developed eligibility criteria for its competitive grants, CPB periodically reviews these criteria in consultation with public service broadcasters or their designated representatives.

Distinctiveness from commercial broadcasters

5.3.32 CPB is a funding organization, without owning or operating any radio or television station, system or network, and does not produce, schedule or disseminate any programme to the public.

Review of the Corporation for Public Broadcasting

5.3.33 CPB conducted a review of its corporate governance in May 2005, after the Office of the Inspector General had received a request from two Congressmen to investigate CPB's alleged violation of the *Public Broadcasting Act of 1967*. The investigation focused, among other things, on the allegations of the former Chairman of CPB interfering with the content and distribution of public programming, and using "political tests" in the hiring of the President of CPB. The Office of the Inspector General released its report in November 2005, providing evidence in support of the above two allegations.

5.3.34 The report also identifies serious weaknesses in the corporate governance system of CPB, which are:

- (a) lack of specificity in CPB's by-laws regarding the roles and responsibilities of the Board and senior management;
- (b) insufficient checks and balances on CPB's Chairman and other executives; and
- (c) lack of transparency in decision-making within the Board, between CPB leadership and the Board, and within CPB's management structure.

5.3.35 The investigation by the Office of the Inspector General was followed by the resignation of CPB's former Chairman⁷⁶ and the set-up of three standing committees to strengthen and enhance governance, accountability, and transparency in the operation of CPB. The three standing committees so established are the Corporate Governance Committee, the Executive Compensation Committee and the Public Broadcasting Awareness Committee.

5.3.36 CPB's Board of Directors has also adopted a number of measures to further improve and strengthen CPB's corporate governance and operation. These measures include:

- (a) a reaffirmation of CPB's commitment to ensure greater transparency through its open meeting procedures;
- (b) a revised Code of Ethics policy and new conflicts of interest policy for the Board of Directors;
- (c) a clarification of the roles and responsibilities of the Board of the Directors, the Chairman of the Board, and the President of CPB in directing CPB's affairs; and
- (d) policies and procedures instituted to prevent the use of political tests in employment actions.

5.4 Digitization

5.4.1 Since 2001, CPB has received appropriations from Congress to support the conversion from analogue to digital transmission for both public radio and television stations. These appropriations assist public service broadcasters to acquire equipment needed to transmit digital signals and engage in research and development of new content and services. By end-January 2006, Congress had provided CPB with nearly US\$220 million (HK\$1,711 million) in special funding to support 461 public radio stations and 285 public television stations to convert from analogue to digital broadcasting.⁷⁷

⁷⁶ On 3 November 2005, the Office of the Inspector General gave an initial briefing of its report to CPB's Board of Directors. At the conclusion of that meeting, the then Chairman of CPB resigned from the Board.

⁷⁷ According to CPB, public television digital programming reached 95% of the country's households by February 2006, and the household penetration rate for public radio digital programming was 76%.

5.5 The Public Broadcasting Service

Background

5.5.1 PBS was established in 1969 as a private, non-profit-making membership organization to provide a distribution channel for national programmes to the member public television stations, as well as operating and managing the related interconnection infrastructure. PBS is owned by 348 member stations, which are operated by non-profit-making community organizations, colleges/universities, and state and local authorities.⁷⁸

Public service mandate

5.5.2 The US broadcasting and telecommunications legislation does not set out any public service mandate for PBS.

Mission

5.5.3 PBS's mission is to use the power of non-commercial television, the Internet and other media to enrich the lives of the US people through quality programmes and services that inform, inspire and educate.

5.5.4 In addition, PBS provides public services to the viewers via its programmes, works with its member stations to offer a unique voice in their communities, and is committed to the needs of PBS's audiences and their families regardless of commercial concerns or pressures.

Services

5.5.5 PBS funds the creation and acquisition of television programmes, and distributes them to its member stations through a satellite interconnection system.

5.5.6 In addition, PBS operates the following services and activities:

- (a) educational services, including the Adult Learning Service (broadcasting college-credit television courses) and the Ready to Learn Television Service (providing educational and entertaining children's programming);

⁷⁸ These 348 PBS member stations are operated by 169 non-commercial educational licencees, of which 86 are community organizations, 57 are colleges/universities, 20 are state authorities and six are local educational or municipal authorities.

- (b) PBS Enterprises, a wholly-owned commercial subsidiary selling goods and services to raise funds for PBS and its member stations;
- (c) National Datacast, Inc., offering high-speed data delivery to homes and businesses;
- (d) PBS Video which sells, rents, and licenses video cassettes to schools, libraries and other public institutions;
- (e) PBS Home Video which markets and distributes programmes on video cassettes and DVDs to consumers;
- (f) PBS Engineering which researches and develops technical systems for PBS and its member stations; and
- (g) PBS Foundation which enlists philanthropic support of public broadcasting through establishing special initiative funds and a permanent endowment to promote and enhance PBS's public broadcasting programmes and services.

5.5.7 PBS is prohibited by its articles of incorporation from producing any programmes for broadcasting. When PBS was created in 1969, its founders sought to ensure that local stations, responsive to the diverse needs of the communities which they were licensed to serve, would retain ultimate control over their programming. Accordingly, PBS is governed and funded by its member stations and does not produce the programmes it distributes.

Programme diversity

5.5.8 PBS acquires and distributes programmes that commercial television stations are less likely to air, such as educational, documentary, cultural and news/public affairs programmes, as well as programmes of particular interest to ethnic minority audiences. In addition, PBS has adopted "diversity" as one of the guiding principles in editorial decision making, under which PBS sources its programmes from different producers to prevent the programme content from being dominated by any single point of view.

5.5.9 Each member station operates independently of PBS and retains the discretion for the programmes it chooses to broadcast. In addition, they may produce their own programmes catering for the interest of the local audience. The programming discretion enjoyed by PBS's member stations contributes to the variety of programmes they broadcast.

5.5.10 PBS provides descriptive video services and captioning for disabled people to facilitate their access to its programmes. In addition, PBS's Ready To Learn Television Service helps prepare children aged from zero to eight for success in school through support programmes and activities, such as educational television programmes and community workshops for parents and teachers. The Ready To Learn Television Service targets at the parents and teachers of children most at risk of not ready for success at school, particularly those in families of low income and limited literacy. The Service also provides programmes focusing on those families that do not use English as their primary language, have young children with disabilities, or live in rural areas.

Production

5.5.11 PBS does not produce any television programmes. Programmes distributed by PBS are obtained from PBS's member public television stations, independent producers, and domestic and international distributors. The National Programming Service, the major package of programmes that PBS distributes to its member stations, features children's, cultural, educational, history, nature, news, public affairs, science and skills programming.

Regulatory framework

Governing legislation

Communications Act of 1934

5.5.12 The *Communications Act of 1934* establishes FCC to regulate inter-state and international communications by radio, television, wire, satellite and cable.

Public Broadcasting Act of 1967

5.5.13 The *Public Broadcasting Act of 1967* specifically proscribes the broadcasting of announcements by public broadcast stations to promote sale of goods and services of commercial entities in return for consideration paid to the stations. In other words, public service broadcasters are prohibited from airing advertisements.

5.5.14 According to the *Public Broadcasting Act of 1967*, "advertisement" means any message or other programming material which is broadcast or otherwise transmitted in exchange for any remuneration, and which is intended to:

- (a) promote any service, facility, or product offered by any person who is engaged in such offering for profit;

- (b) express the views of any person with respect to any matter of public importance or interest; or
- (c) support or oppose any candidate for political office.

Regulatory authorities

5.5.15 FCC, established under the *Communications Act of 1934*, is the regulator for the broadcasting and telecommunications industry in the US. In particular, FCC administers a comprehensive regulatory regime overseeing various components of the US broadcasting system. Every entity that wishes to use the radio frequency spectrum in the US for broadcasting must first apply for a licence from FCC, which administers extensive rules concerning transmission standards, interference protection and to a more limited degree the content of programmes broadcast, while striving to maintain the greatest degree of editorial independence for broadcast licensees.

5.5.16 FCC is governed by five Commissioners appointed by the US President and confirmed by the Senate for five-year terms. The US President designates one of the Commissioners to serve as the Chairperson. Only three Commissioners may be members of the same political party. None of the Commissioners can have a financial interest in any Commission-related business.

5.5.17 FCC has six bureaux, of which the Media Bureau develops, recommends and administers the policy and licensing regime relating to radio and television broadcasting in the US. In particular, the Media Bureau has the authority to issue licences, including those for PSB. The issuance of a licence for PSB is based on the condition that the grant serves the public interest and convenience, and is based on engineering standards that prevent interference among stations. The Media Bureau also has the right to set certain eligibility requirements for licencees, as well as renewing broadcasting licences if the renewal would serve the public interest and the licencee has no significant violations of the *Communications Act* or FCC's regulations.

Editorial independence

5.5.18 The First Amendment to the US Constitution proscribes censorship of broadcasting materials and interference with freedom of expression in broadcasting. According to the First Amendment, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

5.5.19 Public broadcast stations are also protected under the *Communications Act of 1934*, which prohibits FCC from censoring broadcast materials and making any regulation that would interfere with freedom of speech. For example, FCC cannot interfere with a broadcaster's selection and presentation of materials for the news and/or its commentary. Nevertheless, FCC does regulate content in some narrow areas, as the regulator will fine a station or revoke its licence if it has, among other things, aired obscene language, broadcast indecent language when children are likely to be in the audience, broadcast some types of lottery information, or solicited money under false pretences.

5.5.20 PBS has issued in-house guidelines governing the acceptability of funding arrangement from third parties to finance, in whole or in part, the production or acquisition of a PBS programme. Sponsorship of PBS's distributed programmes could be accepted if:

- (a) editorial control of programming remains in the hands of the programme producers;
- (b) funding arrangements will not create the perception that editorial control has been exercised by someone other than the producers; and
- (c) the non-commercial character of public broadcasting is protected and preserved.

5.5.21 PBS's guidelines also govern how underwriters of PBS's distributed programmes may be identified on air after a funding arrangement has been approved. The requirements apply specifically to credit content, duration and placement of the underwriter's acknowledgement. For example, the maximum duration for all underwriters' acknowledgments may not exceed 60 seconds. For a single underwriter's acknowledge, it may not exceed 15 seconds.⁷⁹

Sources of funding

5.5.22 In 2004-2005, member programme and service assessments accounted for 48% of PBS's total operating revenue. These assessments are the annual fees paid by PBS's member stations for using the interconnection service and accessing to, and the related broadcast rights of, PBS's National Programming Service. In 2004-2005, PBS also derived its operating revenue from (a) CPB and federal government grants (21% of the total); (b) licence fees received from cable and satellite providers, investment income and others (16%); and (c) video rental/sales (15%).

⁷⁹ See Rule 10 of PBS National Program Funding Standards and Practices.

5.5.23 PBS is subsidized through Donated Broadcast Rights in the acquisition of programmes for distribution to its member stations. Donated Broadcast Rights represent the donation(s) paid directly to producers by corporations, foundations and other resources to help offset programme production cost, so that PBS can acquire broadcast rights at a cost estimated to be lower than the programmes' fair market values. In 2004-2005, the amount of Donated Broadcast Rights totalled US\$191 million (HK\$1,485 million).

Corporate governance

5.5.24 PBS is governed by a Board of Directors which is responsible for setting policies for PBS. The Board consists of 27 members, namely:

- (a) nine lay members who represent PBS's member stations but are not employed by the stations;
- (b) 13 professional members who are station managers of PBS's member stations;
- (c) four general directors who are representatives of licensees of non-commercial educational television stations or the general public⁸⁰; and
- (d) the President of PBS.

5.5.25 The Board appoints the President of PBS, who also serves as the Chief Executive Officer and names other corporate officers to assist him/her in PBS's day-to-day operation.

Ombudsman

5.5.26 In October 2005, PBS appointed an ombudsman, a newly created position, to ensure that PBS upholds its own standards of journalistic ethics for the programmes distributed to its member stations. The ombudsman also serves as a contact point for PBS's viewing public to have their observations, comments, complaints or compliments heard by an independent arbiter. The reports and commentaries prepared by the ombudsman are posted on PBS's website.

⁸⁰ PBS's member stations elect the professional and lay directors, who in turn elect four general directors to sit on the Board.

Accountability

5.5.27 As mentioned above, PBS does not produce any programmes. Instead, programmes distributed by PBS are produced by people who are not employed by PBS and thus over whom PBS exercises no direct authority. While producers bear responsibility for content production decisions, PBS has established itself as the arbiter of deciding whether to accept and distribute the content, as well as deciding when to schedule it for national distribution. PBS places its logo at the conclusion of each programme, identifying the programme as one being accepted and distributed by PBS. In so doing, PBS makes itself accountable to its viewers and member stations for the quality and integrity of the content of the programmes distributed by PBS. PBS has become accountable to the public further by appointing an ombudsman in October 2005 to uphold its journalistic ethics and handle public complaints.

5.5.28 A committee of the PBS Board, which is made up of station managers and lay representatives, provides ongoing oversight and governance of PBS's National Programming Service, including approving an annual content strategy. In addition, there are other committees of station representatives, independent producers and others, which meet regularly to discuss PBS's programming services.

5.5.29 The *Public Broadcasting Act of 1967* prohibits the distribution of CPB's funding to any public broadcast station unless such a station complies with the following requirements:

Internal audit and reporting requirements

5.5.30 A CPB-funded public broadcast station, such as one of PBS's member stations, is required to:

- (a) keep its books, records, and accounts in such a form as may be required by CPB;
- (b) undergo a biennial audit by independent certified public accountants in accordance with the standards developed by CPB; and
- (c) submit a copy of the audit report to CPB, and provide other financial information as CPB may require.

Other requirements

5.5.31 The *Public Broadcasting Act of 1967* also requires a CPB-funded public broadcast station to establish an advisory board and hold open meetings preceded by a reasonable notice to the public.

5.5.32 The advisory board is typically composed of members representing a diverse cross-section of the local community, such as teachers, social workers and business executives. The advisory board reviews the operation of the public broadcast station concerned in terms of its programming goals, services provided and significant policy decisions rendered. The advisory board also advises the governing body of the public broadcast station concerned with respect to whether the programming and other policies of such a station are meeting the specialized educational and cultural needs of the communities served by the station, and may make recommendations as it considers appropriate to meet such needs.

Distinctiveness from commercial broadcasters

5.5.33 While prohibited from producing any programmes for broadcasting, PBS acquires and distributes programmes that commercial television stations are less likely to air.⁸¹ In addition, PBS is primarily funded by (a) membership fees; (b) CPB and federal government grants; (c) licence fees received from cable and satellite providers, royalties and investment income; and (d) video rental/sales.

5.5.34 PBS's member stations also differ from commercial television stations in terms of programming and revenue sources. Compared with commercial broadcasters, public television stations feature more educational, documentary, cultural and news/public affairs programmes. In addition, programmes catering for ethnic minority audiences are also broadcast on public television stations both in prime time and in other schedules.

5.5.35 In the US, commercial television stations generally support themselves by advertising. In contrast, public television stations are prohibited from airing advertisements. Nevertheless, FCC allows public broadcast stations to receive corporate sponsorship and acknowledge such contributions or underwriting donations. Such acknowledgements may be made for identification purposes only, and should not promote the contributors' products, services or business. Specifically, such announcements should not contain comparative or qualitative descriptions, price information, calls to action, or inducements to buy, sell, rent or lease.⁸² According to CPB, public television stations (including PBS's member stations) received 13% of their revenue from corporate underwriting in 2003.

⁸¹ According to the British Broadcasting Corporation (2004), "[d]ifferent countries have very different definitions of public service broadcasting. In the US, for example, public service broadcasting is quite simply what the commercial market will not do. This is why PBS, the sole American public service television broadcaster, is a marginal broadcaster showing minority programmes in which commercial television has no interest".

⁸² FCC only allows contributions or underwriting donations with announcements naming and generally describing the entity, which include (a) logograms or slogans which identify and do not promote; (b) location information; (c) value neutral descriptions of a product line or service; and (d) brand and trade names and product or service listings. See Federal Communications Commission (1986).

5.5.36 Apart from underwriting revenue, public television stations also derive their revenue from other sources. In 2003, the federal, state and local funding accounted for 26% of their total revenue, followed by contributions from viewers (23%), CPB allocations (17%), supports from educational institutions (9%), foundations (7%) and others (5%).

Review of the Public Broadcasting Service

5.5.37 In October 2004, PBS appointed a special committee to review the PBS Program Policies, which had been in place since April 1987. The PBS Program Policies articulate the broad principles – quality, integrity, fairness and accuracy – that serve as the foundation for PBS's editorial decision making. The special committee concluded that the PBS Program Policies required minimal changes and should only be altered to reflect evolving technology and journalistic norms. In particular, the PBS Program Policies should be "platform neutral" rather than focused exclusively on broadcast television programming. As such, the special committee recommended the amendment of the PBS Program Policies to make the editorial standards contained within applicable to all PBS's content, not just television programming, but also websites and blogs. In June 2005, PBS's Board of Directors adopted the special committee's recommendations and updated the PBS Program Policies accordingly.

5.6 Digital television

5.6.1 In March 2004, PBS launched the PBS HD Channel to provide a fully packaged channel with high definition and wide-screen television programmes 24 hours a day, seven days per week. The PBS HD Channel is offered to the public by PBS's member stations that have made the conversion to digital broadcasting, as well as through local digital cable providers that re-transmit the signals of their local public service broadcasters. By early 2006, more than 90% of PBS's member stations have converted to digital broadcasting, making public televisions' digital programming available in approximately 95% of all of the US households.

5.7 National Public Radio

Background

5.7.1 NPR was created in 1970 as a private, non-profit-making membership organization to produce news, information and cultural programmes for its member radio stations, and serve as a co-ordinator for national programming distribution. Today, NPR has developed into a membership organization of 809 separately licensed and operated public radio stations across the US.

Public service mandate

5.7.2 The US broadcasting and telecommunications legislation does not set out any public service mandate for NPR.

Mission

5.7.3 The mission of NPR is to work in partnership with its member stations to create a more informed public – one challenged and invigorated by a deeper understanding and appreciation of events, ideas and cultures.

Services

5.7.4 Unlike its public television counterpart, NPR is authorized to produce radio programmes for its members stations. It also provides and acquires radio programmes, and distributes them through its satellite programme distribution system to its member stations.

5.7.5 NPR also operates an international radio service – NPR Worldwide – to transmit its programmes to overseas audiences. As a membership organization, NPR is also charged with providing programming and technical support to its member stations and representing their interest before Congress, FCC and other government departments.

5.7.6 In addition, NPR established the NPR Foundation in 1992 for building a substantial endowment fund to help insulate NPR from difficult economic times and generate funds for new initiatives that might otherwise be deferred or foregone. The NPR Foundation Trustees are community and corporate leaders who provide volunteer fund-raising leadership and contribute their own resources to help build the endowment fund.

Programme diversity

5.7.7 NPR's member stations are not required to broadcast the programmes produced and/or distributed by NPR only. They can pick and choose NPR's programmes they wish to pay for and air. In addition, they can acquire and broadcast programmes from other distributors, and even produce their own programmes catering for the communities in which they operate.

Production

5.7.8 NPR produces and distributes more than 130 hours of original programming each week, featuring a variety of news, entertainment, music, talk and information programmes. NPR occasionally provides live coverage of news events such as major congressional hearings and presidential addresses.

Regulatory framework

5.7.9 NPR is subject to the same regulatory framework governing PBS (see paragraphs 5.5.12-5.5.17 for details).

Editorial independence

5.7.10 The First Amendment to the US Constitution and the *Communications Act of 1934* proscribe censorship of broadcast materials and interference with free speech in broadcasting.

5.7.11 NPR has also established its own NPR News Code of Ethics and Practices to ensure that the activities of NPR that fall outside journalism – corporate underwriting, foundation funding, marketing and promotional activities – do not jeopardize its journalistic independence or involve NPR's reporters, editors, hosts or producers in activities inappropriate for their role as journalists. For example, a firewall is maintained between NPR's journalists and funders. A NPR journalist may not discuss coverage and planning of the programmes with experts and officers who work at foundations that fund NPR. NPR's Vice President of News designates individuals who serve as contacts with funders for grant-making purposes or other communications.

Sources of funding

5.7.12 In 2004-2005, NPR received 38% of its total revenue from the station programming fees paid by its member stations. This was followed by grants, contributions and sponsorship (36%), charges for programme distribution services (11%), investment income (9%), and revenue from other sources such as membership dues and merchandising (6%).

Corporate governance

5.7.13 NPR is governed by a Board of Directors which is responsible for setting the policies and overall priorities of NPR's management, monitoring the performance of the organization, and providing financial oversight. The Board consists of 17 directors, ten of whom are managers of NPR's member stations and elected to the Board by their fellow member stations. The seven remaining directors comprise the President of NPR, the Chairman of the NPR Foundation, and five prominent members of the public selected by the Board and confirmed by NPR's member stations.

5.7.14 The Board appoints the President of NPR, who also serves as the Chief Executive Officer and names other corporate officers to assist him/her in NPR's day-to-day operation.

Ombudsman

5.7.15 In 2000, NPR established the post of Ombudsman to receive, independently investigate and respond to queries from the public regarding editorial standards in NPR's programming. The Office of the Ombudsman is completely independent of NPR's staff and management, reporting directly to the President of NPR and, through the President, to NPR's Board of Directors.

Accountability

5.7.16 CPB-funded public radio stations, such as NPR's member stations, are subject to a number of accountability arrangements with CPB and the public. These arrangements include holding open meetings, conducting biennial audits, establishing advisory boards and making financial records available (see paragraphs 5.5.30-5.5.32 for details).

5.7.17 NPR is also accountable to the public by appointing an ombudsman to handle queries from the public regarding editorial standards in NPR's programming.

Distinctiveness from commercial broadcasters

5.7.18 In the US, commercial radio stations generally support themselves by advertising. In contrast, NPR and public radio stations are prohibited from airing advertisement. NPR supports its operations through a combination of membership dues and programming fees from its member radio stations, sponsorship from private foundations and corporations, and revenue from other resources such as charges for programme distribution services, investment income and merchandising.

5.7.19 Same as NPR, public radio stations also derive their revenue from a variety of sources. According to CPB, contributions from listeners accounted for 34% of the revenue received by public radio stations in 2003, followed by underwriting revenue (19%), supports from educational institutions (14%) and CPB allocations (13%). In 2003, public radio stations also received their revenue from the federal, state and local funding (6% of the total), foundations (6%) and other sources (8%).

Review of the National Public Radio

5.7.20 In 2004, NPR updated its in-house ethics guide and released a new version entitled *Independence and Integrity II: An Updated Ethics Guide for Public Radio Journalism*. The ethics guide articulates issues of ethical conduct in the daily practice of public radio broadcasting journalism and provides practical and useful guidance to reporters, editors and executives in dealing with such matters should they arise.

5.8 Digital radio

5.8.1 In October 2002, FCC endorsed a technology for radio stations to adopt for their conversion from analogue to digital broadcasting. Shortly after FCC's decision, NPR announced the Tomorrow Radio project in January 2003, a multi-year undertaking with technology partners to test new digital technologies and services to operate within the FCC-endorsed digital radio system. A principal goal of the Tomorrow Radio project is to test multi-channel or "second audio" technology that could allow public radio stations to broadcast more programming and content using their existing spectrum. At present, there are 101 NPR member stations broadcasting on digital radio technology in the US.

5.9 Public access television

5.9.1 According to the *Communications Act of 1934*, local franchising authorities⁸³ may require cable operators to set aside channels for public, educational, or governmental (PEG) access. Public access channels are available for use by the general public to produce and distribute local- and community-initiated programming and content. They are usually administered either by the cable operator or a third-party designated by the franchising authority. Educational access channels are used by educational institutions for educational programming. For governmental access channels, they are used for programming of organizations of the local governments. In most jurisdictions, the local franchising authority directly controls these channels.

5.9.2 Franchising authorities may also require cable operators to provide services, facilities and/or equipment for the use of PEG channels.

⁸³ Local franchising authorities refer to governmental entities within cities, counties or municipalities empowered to enter into franchise agreements with cable operators.

Chapter 6 – Summary of key features of public service broadcasting in selected places

Table 1 — Public service broadcasting in the United Kingdom and Hong Kong

	The United Kingdom		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Radio Television Hong Kong (RTHK)
Year of establishment	1922	1981	1928
Corporate status	Body corporate	Statutory corporation	Government department
Relevant legislation	No governing legislation, but a Royal Charter and the accompanying Framework Agreement between the BBC and the Secretary of State for Culture, Media and Sport.	(a) <i>Broadcasting Act 1990</i> ; (b) <i>Broadcasting Act 1996</i> ; and (c) <i>Communications Act 2003</i> .	No governing legislation, but a Framework Agreement between the Secretary for Commerce, Industry and Technology and the Director of Broadcasting.
Regulatory bodies and their responsibilities in relation to the organization	The Department for Culture, Media and Sport is responsible for: (a) conducting review of the BBC's Royal Charter once every 10 years; and (b) signing the Framework Agreement and proposing occasional amendments to it. The Office of Communications (Ofcom) is responsible for: (a) monitoring the BBC's compliance with Ofcom's fairness code, programme standards code and competition policies; (b) considering complaints on the BBC's programme standards; (c) imposing penalty on the BBC for breach of relevant Ofcom codes; (d) enforcing the BBC's obligations relating to independent production quotas; and (e) assessing the effectiveness of public service broadcasters, including the BBC, once every five years.	Ofcom is the regulator for the communications industries in the United Kingdom (UK), with responsibilities across television, radio, telecommunications and wireless communications services. In relation to Channel 4, Ofcom monitors its compliance with the licence obligations and deals with all complaints about its programmes, including those concerning standards in programmes and complaints of unfair treatment and/or infringement of privacy.	The Broadcasting Authority (BA) is a statutory body established in 1987 under the Broadcasting Authority Ordinance (Cap. 391) to regulate licensed television and radio broadcasters in Hong Kong. RTHK is a government department, and is not regulated by BA. It has, however, proclaimed that it adheres, on a voluntary basis, to the programme standards set by BA under the Memorandum of Understanding signed by the Director of Broadcasting, the then Secretary for Information Technology and Broadcasting, the then Secretary for Recreation and Culture and the Chairman of BA in September 1995. The Memorandum was revised in October 1999, with the two Secretaries being replaced by the Secretary for Commerce, Industry and Technology.
Mission/purposes	To enrich people's lives with programmes and services that inform, educate and entertain.	To provide a range of innovative, creative and distinctive programming to cater for the ever-changing society the UK people live in today.	(a) To inform, educate and entertain audiences through multi-media programming; (b) To provide timely, impartial coverage of local and global events and issues; (c) To deliver programming which contributes to the openness and cultural diversity of Hong Kong; (d) To provide a platform for free and unfettered expression of views; and (e) To serve a broad spectrum of audiences and cater to the needs of minority interest groups.
Services	The BBC provides the following services: (a) eight interactive TV channels; (b) 10 radio networks; (c) over 50 local TV and radio services; (d) the website of bbc.co.uk ; (e) BBC World Service providing international news, analysis and information in English and 42 other languages on radio and via the Internet; and (f) commercial services selling goods and services related to the BBC.	In addition to the broadcasting services offered on Channel 4, the Channel engages in the following commercial activities: (a) E4 and FilmFour Channels – subscription-based TV channels specializing in entertainment programming and films respectively; (b) 4 Rights – exploiting secondary rights through the sale of Channel 4 programmes and associated products such as DVDs and books; (c) 4 Learning – managing the Channel's education and support materials across all media; (d) 4 Services – providing Internet advertising and telephony services; (e) 4 Creative – providing creative design and production services; and (f) 124 Facilities – providing post-production and studio facilities for lease.	Activities undertaken by RTHK are as follows: (a) the provision of multi-channel radio services; (b) the provision of public service television productions; and (c) the provision of new media services.

Table 1 — Public service broadcasting in the United Kingdom and Hong Kong (cont'd)

	The United Kingdom		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Radio Television Hong Kong (RTHK)
Programme diversity	<p>The BBC broadcasts in English, Gaelic, Welsh, Irish and Ulster Scots. Its local radio stations also provide a wide range of specialist-language programmes.</p> <p>The BBC's programmes encompass the following:</p> <ul style="list-style-type: none"> (a) relevant national/regional/local news; (b) platforms for community debates and creating community connections; (c) localized learning opportunities to enhance and complete the network provision of the BBC; (d) national/regional/community talent, culture and events; (e) drive for people to be active and creative citizens; and (f) platforms for people to create a richer cultural experience. <p>The BBC also produces programmes with audio description and captioning for people who have visual, hearing, motor or cognitive impairments.</p>	<p>Channel 4 provides a wide range of programmes that reflect the diversity and complexity of the modern UK, including programmes on children of new immigrants, African immigration to the UK and Sharia TV.</p> <p>The Channel encourages its suppliers to improve diversity at all levels of production, and supports black and Asian production companies.</p> <p>Programmes dealing with disability such as Progeria, Primordial Dwarfs, Alzheimer's and speech disorders are also available.</p>	<p>While RTHK's Radios 1, 2 and 5 are Chinese channels, Radio 3 is an English channel.</p> <p>Radio 4 provides bilingual presentations of fine music, and the Putonghua Channel offers music programmes, talk shows and hourly news reports.</p> <p>Radio 6 relays BBC World Service 24 hours a day.</p> <p>All prime-time RTHK television programmes provide subtitling for people who have hearing impairments.</p>
Production	<p>The proportion of production by the BBC is as follows:</p> <ul style="list-style-type: none"> (a) 50% in-house production; (b) 25% by independent production companies; and (c) 25% open to competition among the BBC in-house production, independent producers and other external producers. 	<p>Channel 4 does not produce its own programmes but commissions more than 300 independent production companies across the UK to produce programmes for it.</p>	<p>RTHK produces most of its own programmes in both Chinese and English. It also commissions documentaries, dramas and short/animations programmes from local producers.</p> <p>Television productions include current affairs, documentaries, social dramas and general education programmes. Radio productions include a comprehensive range of programmes. It also produces educational television programmes for schools.</p>
Market share	<ul style="list-style-type: none"> (a) BBC television (34% in 2005-2006); and (b) BBC radio (57.9% in 2005-2006). 	<p>9.8% in 2005-2006.</p>	<p>No information is available on the market share of television services of RTHK as it broadcasts its television programmes through the free-to-air and pay television channels.</p> <p>According to the Broadcasting Services Survey 2005, the proportion of persons aged 15 or above listened to RTHK channels were as follows:</p> <ul style="list-style-type: none"> (a) RTHK Radio 1 (17.9%); (b) RTHK Radio 2 (17.8%); and (c) RTHK Radio 5 (4.3%).
Editorial independence	<p>Editorial independence of the BBC is guaranteed under the Royal Charter and the accompanying Framework Agreement.</p>	<p>According to the <i>Broadcasting Code</i> published by Ofcom, news, in whatever form, shall be reported with due accuracy and presented with due impartiality. The <i>Code</i> also states that due impartiality on matters of political or industrial controversy and matters relating to current public policies must be preserved on the part of any person providing the service.</p>	<p>RTHK's editorial operation is built around three sets of conventions:</p> <ul style="list-style-type: none"> (a) the Framework Agreement; (b) the Memorandum of Understanding requiring compliance with the Codes of Practice issued by BA; and (c) the <i>Producers' Guidelines</i> issued by RTHK. <p>In particular, the Framework Agreement stipulates that RTHK is editorially independent. The system of editorial control is developed in accordance with RTHK's <i>Producers' Guidelines</i>.</p>

Table 1 — Public service broadcasting in the United Kingdom and Hong Kong (cont'd)

	The United Kingdom		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Radio Television Hong Kong (RTHK)
Sources of funding	In 2005-2006, the BBC was funded by: (a) the licence fee from households possessing televisions (77%); (b) revenues from commercial activities (16%); and (c) direct funding from the Foreign and Commonwealth Office for BBC World Service (6%).	Channel 4 is funded entirely by advertising and its own commercial activities.	RTHK is funded by government appropriations.
Governing structure	<p>The BBC is answerable to the BBC Board of Governors which is responsible for the following:</p> <p>(a) approving objectives for the BBC's services, programmes and other activities and monitoring their performance;</p> <p>(b) holding the BBC accountable to the terms of the Framework Agreement and its fair trading commitment;</p> <p>(c) determining strategies and key management appointments and remuneration;</p> <p>(d) ensuring that comments, proposals and complaints are properly handled;</p> <p>(e) making sure that the BBC fulfils its legal and contractual obligations, particularly regarding impartiality and standards of taste and decency, and that it complies with any directions from Ofcom; and</p> <p>(f) publishing the BBC Annual Report and Accounts.</p> <p>The day-to-day management is handled by the Executive Board and three sub-boards, namely</p> <p>(a) the Creative Board;</p> <p>(b) the Journalism Board; and</p> <p>(c) the Commercial Board.</p> <p>Under the new Charter, the Board of Governors will be replaced by the BBC Trust and the Executive Board will be reconstituted in 2007.</p>	<p>The Channel Four Television Corporation is overseen by its Board. The Board's main roles are as follows:</p> <p>(a) providing entrepreneurial leadership for the Corporation;</p> <p>(b) approving the Corporation's strategic objectives; and</p> <p>(c) ensuring that the Corporation's responsibilities are discharged in accordance with all applicable laws and regulations.</p> <p>The Chairman of the Board is responsible for leading the Board in setting the values and standards of the Corporation and maintaining a relationship of trust with and between the executive and non-executive members.</p> <p>The Chief Executive is responsible for running the Corporation under the delegated authority from the Board and implementing the policies and strategies agreed by the Board. He/she also ensures an effective communication with Ofcom and other key stakeholders.</p>	<p>RTHK is a government department under the Commerce, Industry and Technology Bureau. The Secretary for Commerce, Industry and Technology provides the Director of Broadcasting with the following policy guidance and support:</p> <p>(a) defining the programmes and providing consent to the underlying activities;</p> <p>(b) reviewing policy aspects of each programme;</p> <p>(c) securing resources for the programmes;</p> <p>(d) setting performance targets;</p> <p>(e) reviewing quarterly with the Director of Broadcasting the achievement of the targets set out in (d) and any resulting actions required;</p> <p>(f) reviewing annually the achievement of targets, which becomes the basis for developing objectives and targets for the following 12 months and for establishing resource allocation priorities set out in (g) below;</p> <p>(g) establishing priorities for the allocation of new resources at an annual review of each programme area and the aspects set out in (b) above; and</p> <p>(h) speaking for the Government on policy matters about RTHK.</p> <p>The Director of Broadcasting is responsible to the Secretary for Commerce, Industry and Technology for managing the activities in each of RTHK's programmes on a day-to-day basis and establishing for each programme all the policy aspects.</p>
Board composition	<p>There are 12 BBC Governors, appointed by the Queen on advice from the government in accordance with the Nolan Principles that public appointments should be made on merit.</p> <p>The Director-General is the BBC's chief executive and editor-in-chief. He is appointed by the Board of Governors.</p>	<p>The Board consists of the Chairman, eight non-executive members and four executive members.</p> <p>The existing Chairman was appointed by the then Independent Television Commission whose duties being taken over by Ofcom since 2003.</p> <p>While non-executive members are appointed by Ofcom in consultation with the Chairman and subject to the approval of the Secretary of State for Culture, Media and Sport, executive members are nominated jointly by the Chief Executive and the Chairman and appointed by Ofcom.</p> <p>The Chief Executive is appointed by the Board.</p>	Not applicable.

Table 1 — Public service broadcasting in the United Kingdom and Hong Kong (cont'd)

	The United Kingdom		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Radio Television Hong Kong (RTHK)
Accountability	<p>BBC is accountable to the following:</p> <p>(a) Parliament by submitting Annual Report and Accounts through the Secretary of State for Culture, Media and Sport;</p> <p>(b) the National Audit Office and the Public Accounts Committee of the House of Commons for the value-for-money audit regarding the collection and enforcement arrangements of the television system; and</p> <p>(c) the public by publishing Statements of Programme Policy and benchmarking its performance with the stated goals.</p> <p>BBC World Service is accountable to the Foreign and Commonwealth Office for its expenditure against performance-related targets, subject to scrutiny by the House of Commons Foreign Affairs Committee.</p>	<p>Under the <i>Broadcasting Act 1990</i>, Channel 4 is accountable to Parliament by submitting its Annual Report to the Secretary of State for Culture, Media and Sport who lays copies of it before each House of Parliament.</p>	<p>RTHK is accountable to the Government through the Secretary for Commerce, Industry and Technology who puts forward both the budget and the expenditure proposal of RTHK to the Finance Committee of the Legislative Council for scrutiny and approval.</p>
Distinctiveness from commercial broadcasters	<p>(a) Primarily financed by the licence fee collected from the general public.</p> <p>(b) Characteristics that the BBC aims at distinguishing its programmes from other broadcasters include:</p> <p>(i) high quality – the BBC's programming should be recognized by licence fee payers as standing out from others;</p> <p>(ii) challenging – it should make audiences think;</p> <p>(iii) original – it should strive to offer the right level of new or originated content;</p> <p>(iv) innovative – it should present new ideas or invent exciting approaches, rather than copying old ones; and</p> <p>(v) engaging – it should draw the audience in with fascinating and entertaining subject matter.</p>	<p>The <i>Broadcasting Act 1990</i> stipulates that Channel 4 programmes shall contain a suitable proportion of matter that appeals to tastes and interests not generally catered for by Channel 3, and that innovation and experiment in the form and content of programmes are encouraged.</p>	<p>RTHK is a government department which is funded by government appropriations. As for television broadcasting, RTHK does not have its own channel and broadcasts its programmes through the free-to-air and pay television channels.</p> <p>The Framework Agreement stipulates that RTHK shall provide high-quality television productions principally for market segments not adequately served by commercial television broadcasters. It shall also provide programming designed for minority interest groups, including productions fostering interest in culture, music and the arts.</p> <p>As regards radio services, RTHK shall develop and implement a strategy which gives a clear definition to channel identity and is appealing to various sectors of the community.</p>
Reviews conducted	<p>Since the current Royal Charter and Framework Agreement will expire in 2006, the Department for Culture, Media and Sport started the new Charter Review process in 2003. A White Paper was published on 14 March 2006 and the following consultation closed on 28 April 2006. The new Charter was sealed in September 2006.</p>	<p>Ofcom is required by the <i>Communications Act 2003</i> to carry out a review of public service broadcasting (PSB) – television at least once every five years. Channel 4 is one of the public service broadcasters under review.</p> <p>The recent review has concluded that Channel 4 shall remain as a commercially-funded public service broadcaster up to the digital switchover and beyond. However, in the longer term, Channel 4 will face competitive pressures which may reduce its capacity to deliver its PSB remit. As such, Ofcom has proposed that Channel 4 shall develop self-help measures and the government shall explore other funding options.</p>	<p>The <i>Report of the Broadcasting Review Board</i> published in 1985 recommended the Government to establish a PSB service. The recommendation was abandoned after consideration.</p> <p>Following the publication of the <i>Report of the Broadcasting Review Board</i>, the Government examined different corporate status for RTHK. In 1989, it commissioned a consultancy to recommend an optimum organizational structure for RTHK. However, it decided to defer the implementation of corporatization due to some political reasons.</p> <p>The Framework Agreement was revised and renewed on 1 August 2005, and is subject to review and renewal by the Secretary for Commerce, Industry and Technology in consultation with the Director of Broadcasting once every two years.</p> <p>Claiming that due to phenomenal changes of the broadcasting market, on 17 January 2006, the Chief Executive appointed an independent committee to review PSB in Hong Kong. The review is expected to be completed by end-2006.</p>

Table 2 — Public service broadcasting in Canada and the United States

	Canada		The United States	
	Canadian Broadcasting Corporation (CBC)	Corporation for Public Broadcasting (CPB)	Public Broadcasting Service (PBS)	National Public Radio (NPR)
Year of establishment	1936	1967	1969	1970
Corporate status	Crown corporation	Private, non-profit-making corporation	Private, non-profit-making membership organization owned by 348 member television stations	Private, non-profit-making membership organization owned by 809 member radio stations
Relevant legislation	<i>Broadcasting Act 1991.</i>	<i>Public Broadcasting Act of 1967.</i>	<i>Communications Act of 1934 and Public Broadcasting Act of 1967.</i>	
Regulatory bodies and their responsibilities in relation to the organization	<p>The Department of Canadian Heritage is responsible for:</p> <ul style="list-style-type: none"> (a) formulating policies, proposing legislation, and designing and administering programmes for the Canadian broadcasting system; and (b) advising on the government policies relating to CBC and other broadcasters. <p>The Canadian Radio-television and Telecommunications Commission (CRTC) is responsible for:</p> <ul style="list-style-type: none"> (a) regulating the telecommunications and broadcasting industry in Canada; (b) issuing licences to broadcasters and enforcing their compliance with licence conditions; and (c) regulating the broadcasting of commercial messages on radio and television stations. 	<p>Not applicable. CPB is neither a federal government agency nor a national public service broadcaster. Therefore, the jurisdiction of the federal agencies, including the Federal Communications Commission (FCC), is limited over the operation of CPB.</p> <p>Nevertheless, CPB is subject to the accountability arrangements with Congress.</p>	<p>FCC is responsible for:</p> <ul style="list-style-type: none"> (a) regulating inter-state and international communications by radio, television, wire, satellite and cable; (b) administering a comprehensive regulatory regime overseeing various components of the broadcasting system in the United States (US); (c) developing, recommending and administering the policy and licensing regime relating to radio and television broadcasting in the US; and (d) monitoring compliance of broadcasters with FCC's regulations. 	
Mission/purposes	<ul style="list-style-type: none"> (a) Telling Canadian stories which reflect the reality and diversity of Canada; (b) Informing Canadians about news and issues of relevance and interest; (c) Supporting Canadian arts and culture; and (d) Building bridges among Canadians, regions and the English and French communities of Canada. 	To facilitate the development of, and ensure universal access to, non-commercial high quality programming and telecommunications services.	<p>To use the power of non-commercial television, the Internet and other media to enrich the lives of the US people through quality programmes and services that inform, inspire and educate.</p> <p>To provide public services to PBS's viewers via its programmes and work with the member stations to offer a unique voice in their communities.</p>	To work in partnership with member stations to create a more informed public – one challenged and invigorated by a deeper understanding and appreciation of events, ideas and cultures.
Services	<p>CBC operates:</p> <ul style="list-style-type: none"> (a) two national television networks; (b) two 24-hour news and information television services; (c) three speciality television channels; (d) four commercial-free national radio networks; (e) radio services to northern Canada; (f) an international shortwave radio service; (g) a digital pay-audio service; and (h) a subscription satellite radio service. 	Serving as a statutory organization receiving and distributing the federal appropriations from Congress to support the operation of public radio and television stations.	<p>PBS is tasked with:</p> <ul style="list-style-type: none"> (a) funding the creation and acquisition of television programmes for distribution to the member stations; and (b) operating other services such as educational services, PBS Enterprises (a commercial subsidiary), video rental/sale, data delivery, engineering and technology development, and PBS Foundation (a fundraising foundation). 	<p>NPR is tasked with:</p> <ul style="list-style-type: none"> (a) producing radio programmes for the member stations; (b) providing and acquiring radio programmes, and distributing them through its satellite programme distribution network to the member stations; (c) operating an international radio service – NPR Worldwide – which transmits NPR's programmes to overseas audiences; (d) providing programming and technical support to the member stations and representing their interest before Congress, FCC and other government departments; and (e) managing NPR Foundation to raise charitable contributions for the benefit of NPR.

Table 2 — Public service broadcasting in Canada and the United States (cont'd)

	Canada	The United States		
	Canadian Broadcasting Corporation (CBC)	Corporation for Public Broadcasting (CPB)	Public Broadcasting Service (PBS)	National Public Radio (NPR)
Programme diversity	<p>CBC is mandated to provide programmes that should:</p> <ul style="list-style-type: none"> (a) inform, enlighten and entertain; (b) strive to be of equivalent quality in English and French; (c) appeal to varied and various audiences; (d) cover topics of broad appeal and specialist interest; and (e) reflect the multi-cultural and multi-racial nature of Canada. <p>CBC also produces:</p> <ul style="list-style-type: none"> (a) regional programming featuring local and regional news and current affairs, and coverage of social and cultural life on a regional basis; and (b) programmes with descriptive video and captioning for disabled persons. 	<p>Not applicable. CPB does not produce any programmes. Instead, it provides funding support to independent producers to develop programmes serving the needs of unserved and underserved audiences.</p>	<p>PBS acquires and distributes programmes that commercial television stations are less likely to air.</p> <p>PBS sources its programmes from various producers, including those produce programmes of particular interest to ethnic minorities.</p> <p>Each member station operates independently of PBS and retains the discretion for the programmes it chooses to broadcast.</p> <p>PBS also provides:</p> <ul style="list-style-type: none"> (a) descriptive video services and closed captioning for disabled persons; and (b) educational television programming targeting at families of low income and limited literacy, and those not using English as their primary language, having young children with disabilities, or living in rural areas. 	<p>Each member station can pick and choose the NPR programmes it wishes to pay for and air. In addition, member stations can acquire and broadcast programmes from other distributors, and even produce their own programmes.</p>
Production	<ul style="list-style-type: none"> (a) Mandated to provide a wide range of programmes; (b) Required to broadcast a certain percentage of Canadian content and regionally-produced programmes; and (c) Sourcing its programmes from in-house production and independent producers. 	<p>Not applicable.</p>	<p>Prohibited from producing any television programmes for broadcasting.</p> <p>Programmes distributed by PBS are acquired from the member stations, independent producers, and domestic and international distributors.</p> <p>The National Programming Service, the major package of programmes distributed by PBS, features children's, cultural, educational, history, nature, news, public affairs, science and skills programming.</p>	<p>Producing and distributing more than 130 hours of original programming each week, featuring a variety of news, entertainment, music, talk and information programmes.</p>
Market share	<ul style="list-style-type: none"> (a) CBC television: 6.9% for English network and 22.5% for French network in 2004-2005; and (b) CBC radio: 9.1% for English network and 12.6% for French network in 2004-2005. 	<p>Not applicable.</p>	<p>Information not available.</p>	<p>Information not available.</p>
Editorial independence	<p>Editorial independence of CBC is safeguarded by the <i>Broadcasting Act 1991</i>, the Canadian Charter of Rights and Freedoms, and CBC's in-house Journalistic Standards and Practices.</p>	<p>CPB is required under the <i>Public Broadcasting Act of 1967</i> to protect public service broadcasters' editorial independence while ensuring their objectivity and balance.</p>	<p>Both the First Amendment to the US Constitution and the <i>Communications Act of 1934</i> prohibit FCC from censoring broadcast materials and interfering with free speech in broadcasting.</p> <p>PBS and NPR develop their own in-house ethic guidelines to safeguard editorial independence.</p>	

Table 2 — Public service broadcasting in Canada and the United States (cont'd)

	Canada	The United States		
	Canadian Broadcasting Corporation (CBC)	Corporation for Public Broadcasting (CPB)	Public Broadcasting Service (PBS)	National Public Radio (NPR)
Sources of funding	<p>In 2004-2005, CBC was funded by:</p> <p>(a) parliamentary appropriations (63%); (b) advertising and programme sales (22%); and (c) miscellaneous income from sources such as cable subscription fees, speciality channels and interest income (15%).</p> <p>CBC also received additional parliamentary appropriations for its capital expenditure and working capital requirement in 2004-2005.</p>	<p>In 2004-2005, CPB was funded by:</p> <p>(a) general federal appropriations (81%); (b) additional federal appropriations (16%); and (c) revenue from other sources such as investment income and grants (3%).</p>	<p>In 2004-2005, PBS was funded by:</p> <p>(a) annual fees paid by its member stations (48%); (b) CPB and federal government grants (21%); (c) licence fees received from cable and satellite providers, investment income and others (16%); and (d) video rental/sale (15%).</p>	<p>In 2004-2005, NPR was funded by:</p> <p>(a) programming fees paid by the member stations (38%); (b) grants, contributions and sponsorships (36%); (c) charges for programme distribution services (11%); (d) investment income (9%); and (e) other sources (6%).</p>
Governing structure	<p>CBC is answerable to its Board of Directors which is responsible for:</p> <p>(a) overseeing the conduct of CBC's operation; (b) supervising the management; and (c) ensuring that CBC communicates effectively with the government and other stakeholders.</p> <p>The Board has four committees, namely:</p> <p>(a) the Standing Committee on English and French Broadcasting; (b) the Human Resources and Compensation Committee; (c) the Governance and Nominating Committee; and (d) the Audit Committee.</p>	<p>CPB is answerable to its Board of Director, which is responsible for setting policies for CPB.</p> <p>The Board has four standing committees, namely:</p> <p>(a) the Audit and Finance Committee; (b) the Corporate Governance Committee; (c) the Executive Compensation Committee; and (d) the Public Broadcasting Awareness Committee.</p>	<p>PBS is answerable to its Board of Directors, which is responsible for setting policies for PBS.</p>	<p>NPR is answerable to its Board of Directors which is responsible for:</p> <p>(a) setting the policies and overall priorities of NPR's management; (b) monitoring the performance of NPR; and (c) providing financial oversight.</p>
Board composition	<p>The Board consists of up to 12 members. All directors, including the Chairman and the President, are appointed by the Governor in Council.</p> <p>Board members are selected from among citizens eminent in fields such as law, accounting, business, education or the arts.</p> <p>The President also serves as the Chief Executive Officer with the responsibility of handling CBC's day-to-day operation.</p>	<p>The Board consists of up to nine members appointed by the US President and confirmed by the Senate.</p> <p>Board members are selected from among those US citizens eminent in fields such as education, cultural and civic affairs, or the arts, including television and radio.</p> <p>The Board appoints the President, who also serves as the Chief Executive Officer of CPB.</p>	<p>The Board consists of 27 members:</p> <p>(a) nine lay members who represent member stations but are not employed by the stations; (b) 13 professional members who are station managers of member stations; (c) four general directors who are representatives of licensees of non-commercial educational television stations or the general public; and (d) the President of PBS.</p> <p>The Board appoints the President who also serves as the Chief Executive Officer of PBS.</p>	<p>The Board consists of 17 directors:</p> <p>(a) 10 are managers of NPR's member stations; (b) the President of NPR; (c) the Chairman of the NPR Foundation; and (d) five members from the general public.</p> <p>The Board appoints the President who also serves as the Chief Executive Officer of NPR.</p>

Table 2 — Public service broadcasting in Canada and the United States (cont'd)

	Canada	The United States		
	Canadian Broadcasting Corporation (CBC)	Corporation for Public Broadcasting (CPB)	Public Broadcasting Service (PBS)	National Public Radio (NPR)
Accountability	<p>CBC is accountable to:</p> <p>(a) the Parliament by (i) submitting an annual report through the Minister of Canadian Heritage; and (ii) sending its directors and officers to testify before the Standing Committee on Canadian Heritage;</p> <p>(b) the government by annually submitting a corporate plan to the Minister of Canadian Heritage and a performance report to CRTC; and</p> <p>(c) the public by (i) posting its policies on its website; and (ii) putting in place two ombudsmen to address complaints about its programming.</p>	<p>CPB is accountable to:</p> <p>(a) Congress by (i) using the federal appropriations in a prudent and financially responsible manner; (ii) submitting an annual performance report; and (iii) sending its directors and officers to testify before appropriate committees of Congress;</p> <p>(b) the General Accounting Office (the investigative arm of Congress) for the federal appropriations; and</p> <p>(c) the public by (i) gathering its comment on the quality, objectivity and balance of the national public broadcasting programming; (ii) establishing the Office of the Ombudsmen; and (iii) conducting consultations and periodic reviews for its grant-making policies.</p>	<p>PBS is accountable to the public by (a) placing its logo at the conclusion of each programme to identify the programme as one accepted and distributed by PBS; and (b) appointing an ombudsman to uphold its journalistic ethics and handle public complaints.</p> <p>PBS's member stations are accountable for the funding received from CPB by holding open meetings, establishing advisory boards, conducting biennial audits, and making financial records available.</p>	<p>NPR is accountable to the public by appointing an ombudsman to handle queries from the public regarding editorial standards in NPR's programming.</p> <p>NPR's member stations are accountable for the funding received from CPB by holding open meetings, establishing advisory boards, conducting biennial audits, and making financial records available.</p>
Distinctiveness from commercial broadcasters	<p>(a) Receiving the federal appropriations while simultaneously competing with commercial broadcasters for advertising revenue.</p> <p>(b) Subject to different programming requirements. CBC is required under the <i>Broadcasting Act 1991</i> to produce programmes that should:</p> <p>(i) be predominantly and distinctively Canadian;</p> <p>(ii) be in English and French, reflecting the different needs and circumstances of each official language community;</p> <p>(iii) contribute to shared national consciousness and identity; and</p> <p>(iv) reflect the multi-cultural and multi-racial nature of Canada.</p>	Not applicable.	<p>PBS's member stations are financed by sources different from commercial broadcasters, such as (a) federal, state and local funding; (b) contributions from viewers; (c) underwriting revenue; (d) CPB allocations; (e) support from educational institutions; and (f) foundations.</p> <p>Broadcasting the kinds of programmes that commercial television stations are less likely to air.</p>	<p>NPR's member stations are financed by sources different from commercial broadcasters, such as (a) federal, state and local funding; (b) contributions from listeners; (c) underwriting revenue; (d) CPB allocations; (e) support from educational institutions; and (f) foundations.</p>
Reviews conducted	In 2003, the Standing Committee on Canadian Heritage conducted a comprehensive review on the Canadian broadcasting industry, including CBC. Recently, the Committee has also recommended the government to initiate a review on CBC and the result of which will serve as input for consideration of CBC's licence renewal in 2007.	In 2005, CPB conducted an internal review on its corporate governance after receiving complaints against its violation of the <i>Public Broadcasting Act of 1967</i> . The review was followed by the resignation of its former Chairman and the set-up of three standing committees to strengthen CPB's corporate governance.	PBS commissioned a special committee in 2004 to review the PBS Program Policies, the basic principles for PBS's editorial decision making.	In 2004, NPR updated its in-house ethics guide, which articulates issues of ethical conduct in public radio broadcasting journalism.

Appendix I**Major discussion on the status of Radio Television Hong Kong**

(Paragraphs in quotations are extracts from the Report of the Broadcasting Review Board)

1956

A.I.1 In 1956, a review on the future of broadcasting in Hong Kong was conducted by the Government. The review examined the feasibility of Radio Hong Kong operating as a public corporation. At the conclusion of the review, the idea of a public corporation was not rejected. Nonetheless, the Government stated that it was not the right time for consideration as the then existing service was not up to a satisfactory standard, and, in the long run, Radio Hong Kong should obtain a public corporation status. In the *Report of the Broadcasting Review Board*, the Broadcasting Review Board stated that:

"Looking to the future, it may well be that the best course in the long run will be to transfer the station to the control of a public corporation which will combine the advantages of independent management with a responsibility to the public for the provision of balanced programmes of a reasonable standard without the need to show a profit to shareholders. Indeed, even though such a corporation continued to run commercial broadcasts, it might well require a subsidy from public funds, at least in the initial stages of its operation. It is, however, considered that this solution should not be considered until the existing service has been brought up to a satisfactory standard. The Government is at present seeking advice on the establishment of broadcasting corporations, and on the legislative basis on which they operate in various other countries."

1960

A.I.2 According to the *Report of the Broadcasting Review Board*:

"In 1960, a Working Party, under the chairmanship of the Director of Broadcasting, was established to consider the development of television. The Working Party recommended the introduction of a public corporation to take over Radio Hong Kong and run a television service "financed by commercial advertisements and managed by a consortium of commercial television management consultants". The Government did not accept the Working Party's recommendations and eventually decided that television should be operated by commercial interest and after a public tender in 1965, a licence was granted under the Television Ordinance to [Television Broadcasts Limited]."

Appendix I (cont'd)1971

A.I.3 In December 1970, the Governor-in-Council appointed the Working Party on the Future of Broadcasting to:

- (a) review the licences issued to Television Broadcasts Limited and Rediffusion Television Limited (now Asia Television Limited);
- (b) advise on future broadcasting policies; and
- (c) recommend whether additional television broadcasting licences should be granted and if so, under what conditions.

A.I.4 The Working Party submitted its report in October 1971 and recommended that there should be two more wireless television licensees.⁸⁴ The report also addressed the issues of the role of a public broadcaster and whether it should be established as a public corporation along the lines of the British Broadcasting Corporation. In the *Report of the Broadcasting Review Board*, it was stated that:

"The Working Party refused to recommend that there should be any extended role for a public broadcaster in television. They proceeded upon the basis that "the prime purpose of television in Hong Kong is to provide light entertainment and though we anticipate that eventually the public demand may be for more balanced programmes of a higher general standard, we do not see this change coming in the immediate future". That being so, it is understandable that they also refused to recommend that the public broadcaster should be established as a statutory corporation."

1983

A.I.5 According to the *Report of the Broadcasting Review Board*, the Government provided the following information on the status of Radio Television Hong Kong (RTHK) in its Information Note to the Executive Council on 6 December 1983 and in its General Circular No. 31/83.

⁸⁴ One licensee, which was required to operate two services, one in English and one in Chinese, was expected to provide direct competition to Television Broadcasts Limited. The third licensee was required to operate a single Chinese service and to offer programmes which would complement the overall programming pattern of the other two dual-channels operators.

Appendix I (cont'd)

"RTHK plays a key role in informing the public of the Government's policies and plans via its news, public affairs and informational programming. As Hong Kong values and is accustomed to a free press, RTHK cannot be seen to be a propaganda machine for the Government. To have credibility and therefore an audience, its reporting and public affairs programmes must as far as possible be balanced and objective. This requires that arguments are put from both sides – the Government and its critics. The need to attract and maintain an audience also requires that RTHK produces a mixed output of programming – entertainment as well as information and education."

The Government "sets down its policy guidelines for the station, invests in RTHK a degree of editorial control over the selection and treatment of material, but imposes responsibility for ensuring that what is broadcast in the way of information is truthful, balanced, fair and, in the case of public affairs programming, that it fully reflects the views of the people and the Government of Hong Kong."

Appendix II**Proposed Composition and Functions of the Board of Governors
of RTHK operating as a statutory corporation under a Charter**

(extracted from the Memorandum for Executive and Legislative Councils –
Recommendations of the Broadcasting Review Board, 26 November 1986)

Composition

A.II.1 A Board of Governors made up of a total of nine members was proposed. To ensure that the Board could reflect the views of various sectors of the community, and at the same time be seen to be independent, the Board should consist of a majority of non-officials. It was thus proposed that there be eight non-official members. The remaining member would be a public official, whose presence on the Board would serve to ensure that RTHK's activities remained consistent with the Government's overall broadcasting policies. The terms of appointment of Board members should initially be two years and renewable.

Functions

A.II.2 The Board would be charged with the following functions:

- (a) To decide and implement the Board policy objectives of RTHK within the ambit of RTHK's terms of reference, including:
 - (i) ensuring that a balance of radio and television programmes be produced by RTHK mainly to inform and to educate the public;
 - (ii) ensuring that the programmes produced by RTHK reflected fully, objectively and in a balanced manner, the views of the people and the Government of Hong Kong;
 - (iii) ensuring that as far as possible RTHK would provide a two-way channel of communication between the Government and the community;
 - (iv) ensuring that due emphasis would be given to the production of good-quality, balanced and objective public affairs programmes; and
 - (v) ensuring that the programmes produced by RTHK catered for minority needs.

Appendix II (cont'd)

- (b) Within the provisional acceptable level of expenditure, to examine and endorse the annual draft estimates of revenue and expenditure proposed by the Director of Broadcasting for submission to the Government for approval.

- (c) At the end of each financial year, to submit the audited accounts and a report on the activities of RTHK to the Governor, who should table them before the Legislative Council. The Board should discharge its functions through the Director of Broadcasting who should do all acts and things necessary for implementing all functions conferred onto the Board by the Radio Television Hong Kong Ordinance.

Appendix III

Services of the BBC

TELEVISION	
BBC One	a mixed-genre channel, with versions for Scotland, Wales and Northern Ireland and variations for the English Regions, providing a very broad range of programmes to the mainstream audience, with analogue Ceefax
BBC Two	a mixed-genre channel, with versions for Scotland, Wales and Northern Ireland and variations for the English Regions, carrying a broad range of programmes for the mainstream audience, but with a particular focus on factual programmes, innovative comedy and drama, with analogue Ceefax
BBC Three	a mixed-schedule channel aiming primarily at younger adult audiences
BBC Four	a channel providing an intellectually and culturally enriching alternative to mainstream programming on other BBC channels
CBeebies	a channel providing a range of programming to educate and entertain very young children
CBBC	a mixed-schedule channel for pre-teen children
BBC News 24	a 24-hour channel providing news, analysis and other informational programmes
BBC Parliament	a channel providing substantial live coverage of debates and committees of the UK's Parliaments and Assemblies, and other political coverage
BBCi	interactive digital functions, both in support of the other services and free-standing
RADIO	
Radio 1	principally a popular music service aiming at young audiences, with a commitment to the best new music, but also containing significant speech output
1Xtra	a service of contemporary black music, with a focus on new and live music, alongside significant speech output for young audiences
Radio 2	a service providing a broad range of popular and specialist music, and speech output including news, current affairs and factual programming
Radio 3	a service centring on classical music, alongside other music and art forms, and with a strong focus on live and specially recorded music
Radio 4	a speech-based service including news, current affairs, factual programmes, dramas, readings and comedies

Appendix III (cont'd)

RADIO (cont'd)	
BBC Five Live and Sports Extra	24-hour coverage of news and sport, with a part-time extension to the service providing additional coverage of sporting events
BBC 6 Music	a service of popular music outside the current mainstream, together with speech output which provides context for that music
BBC 7	a speech-based service offering comedies, dramas and readings, mainly from the BBC archive
BBC Asian Network	a service bringing debate, news, music, sport, entertainment and dramas to audiences of British Asians, predominantly in English but also employing a range of languages spoken by British Asians
BBC Radio Scotland	a radio service available throughout Scotland, with a mixed schedule of music and speech output
BBC Radio nan Gaidheal	a radio service of programming in the Gaelic language in Scotland
BBC Radio Wales	a radio service available throughout Wales, with a mixed schedule of music and speech output in the English language
BBC Radio Cymru	a radio service available throughout Wales, with programming in the Welsh language
BBC Ulster and BBC Radio Foyle	a radio service available throughout Northern Ireland, with a mixed schedule of music and speech output, in which Radio Foyle is available as an opt-out service for audiences in the western part of Northern Ireland
A number of local radio services for audiences in different parts of England, providing a mixture of music and speech output	
NEW MEDIA	
bbc.co.uk	a comprehensive online content service, with content serving the whole range of the BBC's public purposes
BBC jam	a service providing interactive curriculum-based materials for learners aged 5-16

Source: Department for Culture, Media and Sport (2006e).

Appendix IV

Functions of the Trust and Executive Board

(extracted from the Royal Charter for the Continuation of the BBC – July 2006)

- A.IV.1 The Trust has the general function of –
- (a) setting the overall strategic direction for the BBC within the framework set by the Charter and any Framework Agreement;
 - (b) approving high-level strategy and budgets in respect of the BBC's services and activities in the UK and overseas; and
 - (c) assessing the performance of the Executive Board in delivering the BBC's services and activities and holding the Executive Board to account for its performance.
- A.IV.2 In particular, the Trust has the following specific functions –
- (a) setting multi-year purpose remits, and approving strategies which include high-level budgetary allocations;
 - (b) defining suitable performance criteria and measures against which the effective promotion of the Public Purposes will be judged;
 - (c) issuing service licences for BBC services and monitoring compliance with them;
 - (d) approving guidelines designed to secure appropriate standards in the content of the BBC's services;
 - (e) approving individual strategic or financial proposals where they stand to have significant implications for the fulfilment of the purpose remits and strategies referred to in sub-paragraph (a) or for the overall financial position of the BBC;
 - (f) discharging the regulatory functions accorded to the Trust and holding the Executive Board to account for the BBC's compliance with applicable regulatory requirements and the general law;
 - (g) setting the framework within which the BBC should handle complaints (and the framework must provide for the Trust to play a role as the final arbiter in appropriate cases);
 - (h) where appropriate, conducting investigations into any activity of the BBC which it has grounds to suspect does not comply with requirements supervised by the Trust;
 - (i) commissioning value for money investigations into specific areas of the BBC activity;
 - (j) ensuring that the Executive Board addresses key operating risks for the BBC;

Appendix IV (cont'd)

- (k) adopting a statement of policy on fair trading and holding the Executive Board to account for compliance with it;
- (l) setting an approvals framework within which the Trust will assess proposals from the Executive Board for new services, significant changes to existing services, commercial services and other activities; and
- (m) ensuring that arrangements for the collection of the licence fee are efficient, appropriate and proportionate.

A.IV.3 The Trust shall play an executive role in relation to the Trust Unit. In addition, the Trust has all the functions expressly or impliedly conferred upon it elsewhere by or under the Charter or any Framework Agreement.

Functions of the Executive Board

A.IV.4 The Executive Board is the executive body of the BBC and is responsible for –

- (a) the delivery of the BBC's services in accordance with the priorities set by purpose remits and the framework set by service licences and any other strategies;
- (b) the direction of the BBC's editorial and creative output;
- (c) the operational management of the BBC (except the BBC Trust Unit);
- (d) ensuring compliance with all legal and regulatory requirements placed upon the BBC (including the initial handling of complaints about the BBC) except to the extent that they relate to the affairs of the Trust or the BBC Trust Unit;
- (e) ensuring compliance with requirements placed upon the Executive Board by the Trust (for example, through Protocols or the Trust's statement of policy on fair trading);
- (f) making proposals to the Trust for anything which is for the Trust to approve under article 24(2)(a), (d) or (e);
- (g) appointing, and holding to account, the management of the BBC and its subsidiaries;
- (h) the conduct of the BBC's operational financial affairs (except those relating directly to the affairs of the Trust and the BBC Trust Unit) in a manner best designed to ensure value for money; and
- (i) accounting to the Trust for its own performance and the performance of the BBC and its subsidiaries.

In addition, the Executive Board has all the functions expressly or impliedly conferred upon it elsewhere by or under this Charter or any Framework Agreement.

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