

LegCo ITB Panel Special Meeting on 19 December 2008

Opening remarks of Permanent Secretary for Commerce and Economic Development (Communications and Technology)

The recent events surrounding the management changes in Asia Television Limited (ATV) have been played out in the full glare of media and public scrutiny and this has resulted in understandable public concern. The Government has been monitoring developments since 4 December 2008 closely and has taken steps to ensure that the public interest has been upheld throughout.

Licensing and Monitoring

2. The Government is committed to ensuring the efficient use of our frequency spectrum, which is a scarce public resource. We have long recognised the uniqueness of free-to-air television broadcasting in Hong Kong, which serves as a major source of information, education and entertainment for the general public. Like elsewhere in the world, we have a robust licensing and monitoring regime to ensure that free-to-air television operators are capable of providing services that are in compliance with the prevailing broadcasting standards to the viewing public. So that we are all on the same page on this, I will very briefly take Members through this mechanism.

Licence renewal and mid-term review

3. First, the provision of domestic free television programme services requires a licence issued under the Broadcasting Ordinance (BO), which is normally for a 12-year validity period. Licences are renewable and reviews, which include public hearings, have to be carried out by the Broadcasting Authority (BA) during renewals and at the mid term of the license period. In other words, every six years, free TV licensees are required to submit to the BA their long-term plan for investment and programming. The Government and the BA will examine the concerned licensee's corporate competence, financial, technical and programming capability. There is also a consultation exercise carried out to get feedback from the general public on the performance of the companies concerned.

Monitoring of licensee's performance

4. Licensees are required to comply with all the relevant statutory requirements under the BO and the provisions in their licence conditions. In order to monitor licensee's performance, free TV licensees are required to submit annual returns on their audited accounts and make a declaration on compliance with various statutory requirements by their key personnel (i.e. whether they are fit and proper and comply with disqualified persons requirements). Assisted by its secretariat (i.e. the Television and Entertainment Licensing Authority (TELA)), the BA will examine these documents and follow up with the company concerned if any regulatory concerns arise. Any

change to the licensee's commitment on investment and programming, as well as its shareholding structure, requires the approval of the BA.

5. It goes without saying that TELA holds close and regular liaison meetings with the licensees on top of the statutory contacts described earlier.

6. Concerning the corporate structure, the free TV licensees are required to submit to the BA a formal notice of any change in key personnel (including directors and principal officers) within 7 days, in accordance with the provisions in the BO. I wish to stress that this notification requirement is just one of many steps that are included in the monitoring mechanism I have described. We believe that it is in order to allow licensees a short time to complete this requirement. They are, after all, commercial entities. As we have seen this week, their boards of directors and administration have to be given some time to sort out their affairs (e.g., hold meetings and confirm appointments of key personnel) before notifying the regulator. Of course, we expect to be given early notice of any changes and will contact the companies direct ourselves if we feel that there is an issue on which we need more information.

ATV issue

7. Let me turn now to the recent incident in ATV. There was considerable confusion over the sequence of events that lead to the changes in top management of ATV that were formally announced on Wednesday. Inevitably and understandably, this has caused public concern. From the very start of the sequence of events, on 4 December, CEDB and TELA have been in close contact with key shareholders and senior management of ATV. ATV submitted notice in writing of the appointment of Linus Cheung and Ricky Wong on 4 December. In order to make clear Government's dissatisfaction over the subsequent sequence of events and to try to avoid unwarranted speculation while maintaining public confidence in ATV's ability to continue to provide free-to-air TV services, the Secretary for Commerce and Economic Development contacted the main shareholders and talked to senior management. She followed this up with a letter issued on 16 December to ATV. In this, she made it very clear that Government expected the company to move quickly to clarify the situation and sort out the management changes. ATV responded positively and, on 17 December following a Board meeting, submitted formal written notification of the changes. They also issued a press statement to announce the Board's decision.

8. ATV on their part have assured us that they will continue to broadcast the full range of services in compliance with their licensing obligation and the provisions of the BO. ATV's representatives may wish to supplement. The Government will continue to maintain close communications with the broadcasting licensees. The BA will continue to enforce the Broadcasting Ordinance and the concerned broadcasting licence conditions.