

For information

**Bills Committee on
Telecommunications (Amendment) Bill 2009**

**Information provided in response to the follow-up actions
arising from the discussion at the meeting on 22 December 2009**

At the Bills Committee meeting held on 22 December 2009, Members requested the Administration to provide information on the appeal mechanism in overseas jurisdictions.

2. This note sets out the response of the Administration to the above-mentioned issue.

Appeal mechanism in overseas jurisdictions

3. In advanced overseas economies like the United Kingdom (UK), the United States (US), Australia and Canada, the licensing authorities' decisions on award of sound broadcasting licences is subject to review by the court.

- In the UK, aggrieved parties can seek judicial review in respect of the licensing decisions of the Office of Communications.
- In the US, applicants whose applications are denied by the Federal Communications Commission (FCC) can file appeal to the US Court of Appeals against FCC's decisions and the court shall determine the appeal pursuant to the provisions on judicial review set out in the U.S. Code.
- In Australia, the decisions of the Australian Communications and Media Authority (ACMA) on grant of sound broadcasting licences are not subject to review by the Administrative Appeals Tribunal, and the applicants may make applications to the Federal Court of Australia for judicial review of ACMA's decisions.
- In Canada, on petition of any person, the Governor in Council may, by order, set aside a licensing decision of the

Canadian Radio-television and Telecommunications Commission (CRTC) or refer the decision back to the CRTC for reconsideration. An applicant may also apply to the Federal Court of Appeal for appeal against CRTC's decision on a question of law or a question of jurisdiction.

4. To conclude, it is a widely accepted practice in the overseas jurisdictions concerned for the court to review the lawfulness of the decisions by the licensing authorities in respect of sound broadcasting licences. Hong Kong also follows this approach in respect of our own sound broadcasting licensing system.

Commerce and Economic Development Bureau
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