

LEGISLATIVE COUNCIL BRIEF

Broadcasting Ordinance
(Chapter 562)

MID-TERM REVIEW OF THE DOMESTIC FREE TELEVISION PROGRAMME SERVICE LICENCES OF ASIA TELEVISION LIMITED AND TELEVISION BROADCASTS LIMITED

INTRODUCTION

At the meeting of the Executive Council on 29 June 2010, the Council ADVISED and the Chief Executive ORDERED that the following recommendations by the Broadcasting Authority (BA) in respect of the mid-term review of the domestic free television programme service licences of Asia Television Limited (ATV) and Television Broadcasts Limited (TVB) be accepted to improve the services of ATV and TVB for the period from 2010 to 2015 -

- (a) ATV and TVB are required to comply with their respective investment plans for 2010 to 2015 and submit by the end of 2011 updated investment plans for the period 2013 to 2015 for the BA's approval. In addition, ATV will have to increase the amount of locally-produced programmes from 225 hours to 273.5 hours per week from 2010 to 2015 (paragraph 12);
- (b) ATV and TVB are required to commit to enhanced programme requirements, namely, an additional 120 minutes per week of arts and culture programmes and programmes for senior citizens OR an additional 90 minutes of government (RTHK) programmes per week. In addition, ATV and TVB will have to broadcast an additional 60 minutes per week of RTHK programmes during weekends (paragraphs 13 and 14);
- (c) ATV and TVB will have to increase the amount of high definition television (HDTV) programming, namely, from 14 to 60 hours per week starting from 2010 for ATV and from 20 hours per week to 120 hours per week by 2015 for TVB (paragraph 15);

- (d) ATV and TVB will have to step up incrementally the subtitling service (paragraph 16);
- (e) ATV and TVB will have to participate in annual public engagement activities (in the form of focus group discussions) to be conducted by the BA (paragraph 17); and
- (f) ATV will have to submit a statement on or before 31 December 2010 to the satisfaction of the BA on whether it is capable of complying with the investment plan, and demonstrate to the satisfaction of the BA the means to deliver the investment plan (paragraph 18).

The amendments to the licences of ATV and TVB are set out in **Annex A**.

JUSTIFICATIONS

2. The Chief Executive in Council renewed the current licences of ATV and TVB in November 2002, with a validity period of 12 years from 1 December 2003 to 30 November 2015 (both dates inclusive). Pursuant to Sections 4(1)(b) and 4(2)(b)(ii) of Schedule 4 to the Broadcasting Ordinance (BO) (Cap.562) and Condition 3.2 of the licences of ATV and TVB, the Chief Executive in Council ordered on 26 January 2010 that the licences of ATV and TVB should be reviewed within the period from 29 January to 28 February 2010 (the Review).

3. In accordance with established procedure and practices, the BA has carried out a comprehensive assessment on the performance of the two licensees in the past six years (i.e. from 2004 to 2009). In particular, the BA has considered the following aspects in the assessment –

- (a) the two licensees' compliance with the statutory requirements, licence conditions and codes of practice promulgated by the BA;
- (b) their investment commitments¹; and
- (c) the public expectation on the two licensees' performance in the provision of television services.

¹ The licensees submitted their investment plans for 2004 – 2009 only in their applications for renewal of licence in 2002.

4. As requested by the BA, the two licensees have drawn up their investment plans for the remaining validity period under their licences. To gauge public views on the services provided by the two licensees, the BA conducted a public consultation exercise in 2009, including a territory-wide household opinion survey, three public hearings and seven discussion sessions with interested groups. The BA also received other views from the public during the Review.

5. Based on the assessment on the performance of the two licensees and the public views collected in the Review, the BA has formulated the recommendations in paragraph 1(a) – (f) above.

BA's Assessment

(A) Compliance with regulatory requirements

6. The BA examined the records of the licensees' compliance with the various regulatory requirements under the BO, the licence conditions and the codes of practices over the past six years. These included compliance with the corporate requirements such as disqualified persons and residence requirements, technical and coverage requirements, and requirements on programme and advertising standards. The BA noted that there were lapses on several occasions and the licensees were sanctioned by the BA. Nonetheless, the BA considered that the lapses were relatively infrequent and not serious. Having regard to the length of the service period and the number of broadcast hours² over the period, the BA considered that the two licensees generally complied with the regulatory requirements over the past six years.

(B) Investment commitments

7. The revised investment plans of ATV and TVB for **2004 to 2009**, which were updated upon the launch of digital terrestrial television (DTT) broadcasting in December 2007, are summarised as follows -

	ATV	TVB
Programming investment	\$2,488m	\$6,548m
Capital investment	\$483m	\$770m
Total:	\$2,971m	\$7,318m

² The total number of broadcast hours of the two licensees from December 2003 to December 2008 is 166,200 hours.

ATV's projected actual expenditure for 2004 to 2009 exceeds the revised investment commitment. As for TVB, its projected actual expenditure for 2004 to 2009 is less than the revised investment commitment. TVB has attributed the reduction in its capital expenditure to the significant drop in equipment costs owing to technological advancement and skilful price negotiations. On the reduction of programming expenditure, TVB explained that as it over-estimated the inflation rate in 2004 to 2008 in the preparation of the original investment plan, it could achieve an overall 13% reduction from the original projected investment. Having examined the detailed breakdowns of the relevant expenditure items submitted by TVB, the BA considered TVB's explanation acceptable.

8. The investment plans submitted by ATV and TVB for **2010 to 2015** are summarised as follows –

	ATV	TVB
Programming investment	\$2,160m	\$5,603m
Capital investment	\$172m	\$144m
Total:	\$2,332m	\$5,747m

The investment plans of both licensees for 2010 to 2015 represent about 21% decrease as compared with their original commitments for 2004 to 2009. On capital expenditure commitment, both licensees submitted that significant capital investment for launching DTT broadcasting were incurred during 2007 and 2009 and, as such, they would not need to devote as much capital investment in 2010-2015 as before. The BA considered the explanation acceptable. On programming expenditure commitment, ATV submitted that the savings could be mainly attributed to various cost-saving measures such as outsourcing and changing its programming strategy. TVB submitted that it had taken a cautious approach in preparing its proposed programming expenditure investment due to economic uncertainty worldwide at the time. Its reduction could be attributed to, among others, more synergy achieved through operating multiple channels. The BA consulted the public on the proposed investment plans and received opinions expressing considerable concern that the reduction in programming investment might affect the quality of programmes. The BA considered it necessary to discuss and review the proposed programming investment plans with the licensees and the BA's proposals are set out in paragraphs 11 and 12 below.

(C) Public expectation

9. To gauge public views on the services provided by the two licensees, the BA conducted an extensive public consultation exercise in May to August 2009, including a territory-wide household survey, three public hearings and seven discussion sessions with interested groups. The BA had also received 247 written submissions from members of the public³. The territory-wide household opinion survey commissioned by the BA covered 3,016 respondents. The findings of the survey showed that both licensees largely met the aspirations of the community. In sum, 91% considered the current standards on programme content appropriate. Less than 7% of respondents expressed dissatisfaction with programme quality, whereas about 12% were dissatisfied with programme variety or diversity offered by the two licensees. About 15% of respondents were dissatisfied with the amount of local productions in the Cantonese channels.

10. Views collected through the public hearings, discussion sessions and written submissions tend to be more in-depth and focused. Apart from concerns about reduced programming investment by the licensees, major points raised by the public, which are relevant to the Review, are summarised as follows –

- (a) there was considerable dissatisfaction over the programming of ATV which consisted mainly of imported dramas. ATV should be required to do more local productions;
- (b) the two licensees tended to broadcast too many drama series and entertainment programmes and some of these programmes were of poor quality. There should be greater programme diversity, in particular more educational/informational programmes and Radio Television Hong Kong (RTHK) programmes;
- (c) there should be more programmes in HDTV format to enhance viewing pleasure;
- (d) there were calls, particularly from the hearing impaired, for more subtitling to be provided in the programmes; and
- (e) some considered that the BA should conduct annual public hearings on the licensees' performance.

³ Including nine submissions received during the Review between 29 January 2010 and 28 February 2010.

Details of the views collected through the public hearings can be found in the BA's report on the public consultation exercise, which has been uploaded onto the BA website (<http://www.hkba.hk/en/>).

BA's Recommendations

(A) Investment commitments

11. The investment plans (capital and programming) submitted by ATV and TVB for 2010 to 2015 should be incorporated in their respective licences and will be binding on them. As the BA considered the licensees' justifications for the reduction in their capital investment acceptable, its discussion with ATV and TVB focused on their programming investment plans. The BA noted that the licensees' investment plans for 2010 to 2015 were prepared in late 2008 amidst the global financial crisis. TVB recorded a revenue of about \$4,000 million in 2009, a decrease of around 10% from about \$4,400 million in 2008. ATV had suffered losses for the period of 2004 to 2008. However, the BA considered it necessary to address public concerns that reduced programming investment might compromise the quality of the licensees' services.

12. After discussions with the BA, TVB agreed in September 2009 to increase its programming investment for 2010 to 2015, on par with the level as the licensee's actual programming expenditure in the previous six years. As for ATV, it had indicated clearly in August 2009 that it would not be able to increase its programme investment for 2010-2015. To address public concern, it had committed to increase the amount of **locally-produced programmes by 22% from 225 hours to 273.5 hours per week** in the coming six years. The revised investment plans as at December 2009 for 2010 to 2015 are as follows -

	ATV	TVB
Programming investment	\$2,160m	\$6,192m
Capital investment	\$172m	\$144m
Total:	\$2,332m	\$6,336m

As the investment plans of ATV and TVB for the next six years were prepared at a time of economic uncertainty in mid-2009, the BA recommended imposing a new licence condition to require the licensees to submit **by the end of 2011 updated investment plans** for the period 2013 to 2015 for the BA's approval. The BA will take into account the

prevailing economic climate and public aspirations on the services of ATV and TVB in considering the updated investment plans. TVB and ATV have both accepted this proposal.

(B) Programme Requirements

13. As the licensees are granted the rights to use frequency spectrum which are valuable public assets, the current licences impose obligations on the licensees to provide a mix of programme types in the form of “positive programming” requirements⁴ and to carry programmes produced by RTHK. This is to ensure that the free television programme services can cater for different needs of the community. To address public calls for a greater variety of programmes, particularly more educational/informational programmes and RTHK programmes, the BA considered it necessary to step up such requirements. The BA noted that with the digitalisation of domestic free TV programme services and the resultant increase of television channels from 4 to 15, the licensees are better equipped to accommodate such public demand without significantly affecting their own business plans and programming strategy. After discussion, the BA has proposed different options for the licensees to choose in order to meet the enhanced programme requirements, as follows -

- (a) **Option 1** – The licensee should be required to broadcast an **additional 120 minutes per week** of **arts and culture** programmes and programmes for **senior citizens**; or
- (b) **Option 2** – The licensee should be required to broadcast an **additional 90 minutes of government programmes** (i.e. RTHK programmes) on its service **per week**.

To allow greater flexibility in programme management, the BA considered that the licensees should be allowed to switch between the two options where appropriate as endorsed by the BA. Moreover, as an incentive to encourage the licensees to carry more RTHK programmes, the BA proposed that the additional RTHK programmes could be counted towards the fulfillment of the relevant positive programme requirements. In response, ATV indicated its wish to choose Option 1 whereas TVB indicated its wish to choose Option 2. As the new commitments of ATV and TVB will bring an improvement in programme diversity, the BA

⁴ The positive programme requirements comprise the minimum amount of news, documentary, current affairs programmes, and programmes for children to broadcast on each licensee’s service, and programmes for young people, senior citizens and on arts and culture, to be broadcast on the licensees’ Cantonese language services.

recommended incorporating the new commitments into the licences for ATV and TVB as appropriate.

14. ATV and TVB currently each broadcasts 2.5 hours per week of RTHK programmes according to directions issued by the BA. After discussion, both licensees agreed in the context of the Review to broadcast an **additional 60 minutes per week of RTHK programmes during weekends**. The BA recommended reflecting these new commitments in respect of RTHK programmes in the fresh directions to be issued by the BA to the two licensees when the amended licences come into effect.

(C) HDTV Programmes

15. One of the key drivers for the take-up of DTT broadcasting is the enhanced viewing pleasure of HDTV programmes. Due to the reduction in equipment prices, it is now becoming a world trend for more programmes to be produced in HD format. In response to increasing public demand, the BA considered that both licensees should follow the technological trend and be required to increase the amount of HDTV programming that is commensurate with their financial capability. After discussion, **ATV** has agreed to broadcast **60 hours per week starting from 2010**, as compared with 14 hours per week when ATV first launched DTT in end-2007, and **TVB** has agreed to gradually increase the broadcast of HDTV programmes from 20 hours per week in 2009 to **120 hours per week by 2015**. The BA recommended reflecting these new commitments in the Licensee's Proposals which will form part of the licences of ATV and TVB.

(D) Subtitling

16. The current licences of ATV and TVB already require the licensees to provide subtitling as directed by the BA⁵. Taking into account increasing public demand on the one hand and the financial implications of enhancing the subtitling requirement on the licensees on the other hand, the BA's recommendation is that the licensees' proposal to step up the service incrementally should be accepted. Their new commitments are that starting **from 2010**, they will provide subtitling for **all drama programmes** carried on the analogue/simulcast **Cantonese channels**; and by the **end of 2012**, they will provide **English subtitling** for **all programmes** broadcast on the analogue/simulcast **English channels**

⁵ The licensees are currently required to provide subtitling for all news, current affairs, weather programmes and emergency announcements on its analogue/simulcast digital channels. In addition, on the Cantonese channels, Chinese subtitles must be provided for programmes shown between 7:00pm and 11:00pm, and on the English channels, two hours per week of English programmes with educational value targeting teenagers shall carry English subtitles.

between 8:00 pm and 11:30pm, in addition to their existing obligations. The BA recommended reflecting these new requirements in the fresh directions to be issued by the BA when the amended licences come into effect.

(E) Public Engagement Exercise

17. Having considered public calls for the BA to seek public views on the licensees' services annually, the BA recommended **engaging the public**, on a **yearly basis**, in focus group discussions on the programme quality and variety of ATV and TVB. The two licensees have agreed to participate in these discussions.

(F) Shareholding Changes of ATV

18. Due to the uncertainty arising from the recent shareholders' disputes in ATV, there are concerns over whether there will be changes to the investment commitments pledged by ATV in December 2009. The latest development is that the BA recently received an application from ATV for shareholding changes. Without prejudice to BA's deliberations on ATV's application, BA recommended imposing an additional licence condition on ATV to **submit on or before 31 December 2010 a statement of compliance** to the satisfaction of the BA on whether it is capable of complying with its investment plan, and to **demonstrate** to the satisfaction of BA the **means to deliver** the investment plan. The additional licence condition, which has been accepted by ATV, is reflected in paragraph 1(f) above and incorporated as Condition 15.6 in **Annex A**.

(G) Proposed Amendments to the Licences

19. The BA has proposed to reflect the recommendations in paragraphs 11 to 18 above, where applicable, in the proposed amendments at Annex A or directions to be issued by the BA as appropriate to make them binding on the licensees. The opportunity is also taken to make some textual amendments and updating to the licences (e.g. refine the definition of investment plan to include programming investment, update the title of the policy secretary, etc). A copy of the proposed amended licences of ATV and TVB is at **Annex B**.

IMPLICATIONS OF THE PROPOSAL

20. The recommendations have no financial implications on revenue. The additional workload and resource requirements arising from the

recommendations of the BA including the amendments to the licences will be absorbed within the existing resources of the Commerce and Economic Development Bureau and the Television and Entertainment Licensing Authority. The recommendations therefore have no additional civil service implications. RTHK will absorb all the additional costs involved under the new arrangements within its existing resources. The recommendations have no significant economic implications. There are also no productivity, environmental or sustainability implications. The recommendations are in conformity with the Basic Law, including the provisions concerning human rights.

PUBLIC CONSULTATION

21. The BA has conducted a public consultation exercise to collect public opinion. In addition, the Administration also invited the public to submit views during the Review. The views gathered, where appropriate, have been taken into account in the formulation of the BA's recommendations. The Administration briefed the Legislative Council Panel on Information Technology and Broadcasting on the preparation of the Review in June 2009.

PUBLICITY

22. The Administration will issue a press release on 2 July 2010. We will also brief the Legislative Council Panel on Information Technology and Broadcasting. A spokesman will be available to answer media and public enquiries.

ENQUIRY

23. Enquiries about this brief can be directed to Mr Aaron Liu, Principal Assistant Secretary for Commerce and Economic Development (Communications and Technology)A, at 2189 2236 or aaronliu@cedb.gov.hk.

**Commerce and Economic Development Bureau
July 2010**

LEGISLATIVE COUNCIL BRIEF

MID-TERM REVIEW OF THE DOMESTIC FREE TELEVISION PROGRAMME SERVICE LICENCES OF ASIA TELEVISION LIMITED AND TELEVISION BROADCASTS LIMITED

Annexes

Annex A Proposed Amendments to the Domestic Free
Television Programme Service Licences of ATV
and TVB

Annex B Copy of Amended Licences of ATV and TVB

Proposed Amendments to the Domestic Free Television Programme Service Licences of ATV and TVB

	Item	Licence Condition	Proposed Amendments	Justifications
1	Investment Plan for 2010 - 2015	C1.5.1	<p>The definition of “Capital Investment Plan” to be replaced by the following:</p> <p>“Investment Plan” an investment plan as approved by the Broadcasting Authority regarding the Licensee’s commitment of capital expenditure, and non-capital expenditure in relation to programming, to be spent on the Service for the period from 1 January 2010 to 30 November 2015, which is contained in a letter dated [date] from the Licensee to the Broadcasting Authority, and as may be subsequently revised or modified pursuant to the directions of the Broadcasting Authority.’</p>	To commit the licensee to its new six-year investment plan for 2010 – 2015 as approved by the BA. The licensee must adhere to the plan unless otherwise approved by the BA.
2		C15	<p>Condition 15.1 to be replaced by the following:</p> <p>“Subject to Condition 15.2 and without affecting the generality of Condition 10.1, the Licensee shall implement the Investment Plan and comply at all material times with the statements (including statements of intention) and representations made by or on its behalf in or with reference to the Investment Plan. In the event that any part of the Investment Plan is inconsistent with the conditions of this Licence, any law or Ordinance, the conditions of this Licence, the law and</p>	Ditto.

	Item	Licence Condition	Proposed Amendments	Justifications
			Ordinance shall prevail and the Investment Plan shall be construed accordingly.”	
3	Submission of updated investment plan	C15	<p>New Conditions 15.4 and 15.5 to be added as follows:</p> <p>“15.4 Without affecting the powers of the Broadcasting Authority under Condition 15.3, the Broadcasting Authority may revise and modify the Investment Plan any time after 1 January 2012 as may be specified by Broadcasting Authority in writing after consultation with the Licensee.”</p> <p>15.5 Unless otherwise directed by the Broadcasting Authority, the Licensee shall, on or before 31 December 2011 and for the purpose of Condition 15.4, submit for approval by the Broadcasting Authority an updated Investment Plan for the period from 1 January 2013 to 30 November 2015, and any information related thereto as the Broadcasting Authority may reasonably require, in relation to the provision of the Service, including but not limited to the provision of digital television programme services.”</p>	To empower the BA to direct the licensee to submit the updated investment plan for the period 2013 – 2015 before 2012 and approve any changes in the investment plans arising therefrom.
4	Submission of statement of compliance	C15	<p>New Condition 15.6 to be added to only ATV’s licence as follows:</p> <p>15.6 Without prejudice to Condition 15.1, the Licensee shall, as</p>	

	Item	Licence Condition	Proposed Amendments	Justifications
	with investment plan		<p>soon as practicable, and in any case on or before 31 December 2010 -</p> <p>(a) submit a statement of compliance to the satisfaction of the BA on whether the Licensee is capable of complying with the Investment Plan as defined in Condition 1.5.1 and set out in a letter dated 24 December 2009 from the Licensee to the BA; and</p> <p>(b) demonstrate to the satisfaction of the BA the means to deliver the Investment Plan.</p>	
5	Licensee's Proposal	C1.5.1	<p>The current provision to be replaced by the following:</p> <p>“all statements and representations (including statements of intention) made to the Broadcasting Authority and the Government by or on behalf of the Licensee in relation to this Licence, including but not limited to the Investment Plan, and the letters dated [date] and [date] etc.”</p>	To incorporate the licensee's new investment and programming commitments for 2010 – 2015 in their respective licences.
6	Period of validity	C1.5.1	<p>To revise as follows:</p> <p>“1 December 2003 to 30 November 2015 (both dates inclusive), being the period specified by the Chief Executive in Council in a notice in the Gazette issued pursuant to section 4 of Schedule 4 to the</p>	To specify the validity period already specified by the CE in C in the gazette to make the provision self-explanatory.

	Item	Licence Condition	Proposed Amendments	Justifications
			Broadcasting Ordinance or such period as may be renewed or extended pursuant to section 11 of the Broadcasting Ordinance.”	
7	Submission of reports	C15A	<p>New Conditions 15A.1 and 15A.2 to be added as follows:</p> <p>“15A.1 The Licensee shall submit reports to the Broadcasting Authority on or before 31 March each year on the extent to which the programmes provided in the previous calendar year ending on 31 December have complied with the Licensee’s Proposal as set out in the Licensee’s letter dated [date].</p> <p>15A.2 The Broadcasting Authority may in its discretion make the reports publicly available in any manner as it thinks fit, in whole or in part.”</p>	To require the licensee to submit annual reports on compliance with its proposals regarding HDTV programmes as set out in the Licensee’s Proposal. The reports will be made available to the public by the BA as it thinks fit.
8	Additional Programme Requirements	Third Schedule	<p>New Third Schedule to be added as follows:</p> <p>“ THIRD SCHEDULE</p> <p>Additional Programme Requirements</p> <p>1.1 (a) In addition to any obligations and requirements that the Licensee may have or be subject to under any Ordinance or this Licence (including but not limited to those pursuant to Condition 13</p>	<p>To require the licensee to broadcast additional positive programmes or RTHK programmes to meet public demand on any of the analogue, simulcast or digital services.</p> <p>In line with similar provisions in the existing licence, the BA will be empowered to waive or modify the new programming requirements on a need basis.</p>

	Item	Licence Condition	Proposed Amendments	Justifications
			<p>of the First Schedule or Condition 18), the Licensee shall include in its Service not fewer than 90 minutes per week of television programmes or materials supplied by the government (Government Programmes) at such time and on such channel as may be directed by the Broadcasting Authority unless the Licensee shall have fulfilled the obligations specified in (b) below.</p> <p>(b) Subject to any directions issued by the Broadcasting Authority, the Licensee shall, in addition to the obligations and requirements set out in the First Schedule and Second Schedule, include in any language service in the Cantonese dialect provided on its Service, whether transmitted in the analogue form or digital form:</p> <p>(i) a minimum of 60 minutes of programming per week, between the hours of 8:00 a.m. and 12:00 midnight, which is intended and suitable for the particular requirements of senior citizens in Hong Kong over the age of 60 years in relation (but not necessarily limited) to their well being; and</p> <p>(ii) a minimum of 60 minutes of programming each week, between the hours of 8:00 a.m. and 12:00 midnight, which is intended and suitable for promoting the development and appreciation of the</p>	<p>To require the licensee to submit annual reports to the BA on compliance with the additional positive programmes as set out in this Schedule.</p>

	Item	Licence Condition	Proposed Amendments	Justifications
			<p>literary, performing and visual arts and other topics or activities of cultural value.</p> <p>1.2 Where the Government Programmes broadcast by the Licensee by virtue of this Schedule are, in the opinion of the Broadcasting Authority, children’s programmes, programmes for young persons, programmes for senior citizens or arts and culture programmes, as defined under this Licence and Code of Practice issued or revised by the Broadcasting Authority from time to time, such Government Programmes may count towards the fulfilment of the obligations and requirements imposed upon the Licensee under Conditions 7.1, 8.1, 9.1 or 10.1, as the case may be, of the First Schedule, provided that the total time which may be taken to count towards such obligations and requirements shall not exceed 90 minutes in the aggregate per week regardless of the amount of Government Programmes broadcast by the Licensee by virtue of this Schedule.</p> <p>1.3 By a direction the Broadcasting Authority may on the application in writing of the Licensee waive or modify the requirements specified in this Schedule in accordance with the terms of the direction.</p>	

	Item	Licence Condition	Proposed Amendments	Justifications
			<p>1.4 The Licensee shall submit reports to the Broadcasting Authority on or before 31 March each year on the extent to which the programmes and programming provided in the previous calendar year ending on 31 December pursuant to this Schedule have been able to achieve the respective intended objectives as set out in the aforesaid Conditions. The Broadcasting Authority may in its discretion make the reports publicly available in any manner as it thinks fit, in whole or in part.”</p>	
9	Obligation of Licensee	C12 of the First Schedule	<p>Condition 12 to be modified by the following:</p> <p>“Unless otherwise expressly stated in this Licence, the obligations and requirements imposed upon the Licensee to provide certain programmes at certain times and for certain periods pursuant to Conditions 4, 5, 6, 7, 8, 9 and 10 of this Schedule shall not be discharged or satisfied to the extent the programmes so provided comprise or include programmes produced, commissioned or supplied by Government.”</p> <p>New Condition 12A to be added as follows:</p> <p>“In addition to Condition 12 of this Schedule, unless otherwise directed by the Broadcasting Authority upon application in writing</p>	<p>To provide incentive for the licensee to include more RTHK programmes to meet public demand by allowing the licensee to count the additional RTHK programmes towards fulfilment of the relevant positive programme requirements, where applicable.</p>

	Item	Licence Condition	Proposed Amendments	Justifications
			by the Licensee, the obligations and requirements imposed upon the Licensee to provide certain programmes at certain times and for certain periods pursuant to Conditions 4, 5, 6, 7, 8, 9 and 10 of this Schedule shall not be discharged or satisfied to the extent the programmes so provided comprise or include programmes produced, commissioned or supplied by Government.”	
10	Renewed Licence	Front page of the Licence	Replace “Renewed Licence” by “Amended Licence”	To reflect that the licences are amended by the CE in C.
11	Registered Office	First page of the Licence	Replace “TV City, Clear Water Bay Road, Kowloon, Hong Kong” by “TVB City, No.77 Chun Choi Street, Tseung Kwan O Industrial Estate, Kowloon” in TVB’s licence. Replace “81 Broadcast Drive, Kowloon, Hong Kong” by “25 – 37 Dai Shing Street, Tai Po Industrial Estate, Tai Po, N.T. Hong Kong” in ATV’s licence	To update the registered office of ATV and TVB.
12	Secretary for Commerce,		Replace “Secretary for Commerce, Industry and Technology” by “Secretary for Commerce and Economic Development” wherever it	To update the title of the policy secretary.

	Item	Licence Condition	Proposed Amendments	Justifications
	Industry and Technology		appears in the licence	
13	Capital Investment Plan		Replace “Capital Investment Plan” by “Investment Plan” wherever it appears it appears in the licence.	To reflect that the investment plan as approved by the BA comprises capital expenditure and programme expenditure.

No. of THREE ORIGINALS

Domestic Free Television Programme Service Licence

Broadcasting Ordinance (Cap.562)

[Name of the Licensee]

Amended Licence

[Date]

**Department of Justice
The Hong Kong Special Administrative Region**

In exercise of the powers conferred by section 11(1) of the Broadcasting Ordinance (Cap.562) and all the powers enabling him in that behalf, the Chief Executive in Council hereby renews the licence (“this Licence”) granted on 1 December 1988 to Television Broadcasts Limited (“the Licensee”, which expression shall include its lawful successors and assigns), a company formed and registered under the Companies Ordinance (Cap.32), whose registered office is situated at [Address of the Licensee], Hong Kong, and as subsequently amended and renewed, on the following conditions.

Interpretation

- 1.1 Save where the contrary intention appears expressly or by necessary implication in this Licence, words and expressions used in this Licence shall bear the same meaning, if any, as in the Broadcasting Ordinance and in the Interpretation and General Clauses Ordinance (Cap. 1), and in the event of any conflict or inconsistency between their meanings, the meaning in the Broadcasting Ordinance shall prevail over that in the Interpretation and General Clauses Ordinance.
- 1.2 The headings and index used in this Licence shall not in any way vary, limit or extend the interpretation of this Licence.
- 1.3 This Licence shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of its objects according to its true intent, meaning and spirit.
- 1.4 The Schedule(s) hereto, shall form part of this Licence.
- 1.5.1 Save where the contrary intention appears expressly or by necessary implication in this Licence, the following words and expressions mean:

“auditor”	a professional accountant registered and holding a practising certificate under the Professional Accountants Ordinance (Cap. 50), who is neither an employee of the Licensee or its associate nor a person who is required to devote the whole or substantially the whole of his practice to the affairs of the Licensee or its associate.
“commencement date”	the date on which the period of validity commences.
“day”	a period of 24 hours beginning at midnight.
“digital form”	An arrangement of signals transmitted by telecommunications and represented by digits or similar discrete form as may be authorised or approved by the Secretary for Commerce and Economic Development as a digital form for reception by viewers.
“digital television programme service”	a television programme service with television programmes in digital form.

“Investment Plan”

an investment plan as approved by the Broadcasting Authority regarding the Licensee’s commitment of capital expenditure, and non-capital expenditure in relation to programming, to be spent on the Service for the period from 1 January 2010 to 30 November 2015, which is contained in a letter dated [date] from the Licensee to the Broadcasting Authority, and as may be subsequently revised or modified pursuant to the directions of the Broadcasting Authority.

“period of validity”

1 December 2003 to 30 November 2015 (both dates inclusive), being the period specified by the Chief Executive in Council in a notice in the Gazette issued pursuant to section 4 of Schedule 4 to the Broadcasting Ordinance or such period as may be renewed or extended pursuant to section 11 of the Broadcasting Ordinance.

“relevant Authority”

(a) the Broadcasting Authority in connection with either a condition of this Licence in respect of which the Broadcasting Authority is the regulator or similarly empowered under any law, Ordinance, determination, consent, notice, direction, authorisation or approval;

(b) the Telecommunications Authority in connection with either a condition of this Licence in respect of which the Telecommunications Authority is the regulator or similarly empowered under any law, Ordinance, determination, consent, notice, direction, authorisation or approval; or

(c) the Secretary for Commerce and Economic Development in connection with either a condition of this Licence in respect of which that Secretary is the regulator or similarly empowered under any law, Ordinance, determination, consent, notice, direction, authorisation or approval.

“Service”

the domestic free television programme service which the Licensee is authorised and required to provide in accordance with this Licence and any law or Ordinance, which shall include any digital television programme service that the Licensee may be authorised and required to provide during the period of validity.

“the Licensee’s Proposal”

all statements and representations (including statements of intention) made to the Broadcasting Authority and the Government by or on behalf of the Licensee in relation to this Licence, including but not limited to the Investment Plan, and the letters dated[date] and [date], etc.

- 1.5.2 The word “person” bears the same meaning as in section 3 of the Interpretation and General Clauses Ordinance and includes “the Government”.
- 1.5.3 The expressions “telecommunications”, “telecommunications installation”, “telecommunications line” and “telecommunications service” bear the same meaning as in the Telecommunications Ordinance (Cap.106).
- 1.6 In this Licence, save where the contrary intention appears expressly or by necessary implication, words and expressions:
- (a) which import one gender include the 2 other genders;
 - (b) which import the singular include the plural and vice versa; and
 - (c) extend to their grammatical variations and cognate expressions where those words and expressions are defined herein or by reference to any other definition.
- 1.7 If at any time any condition of this Licence is or becomes illegal, invalid or unenforceable in any respect, the legality, validity or enforceability of the remaining conditions shall not in any way be affected or impaired.
- 1.8 In this Licence, a reference to an Ordinance, whether the word is used by itself or as part of any title to an Ordinance, shall mean the Ordinance for the time being in force as well as any modification or substitution thereof, in whole or in part, and all subsidiary legislation, regulations, directions, codes of practice and instruments made thereunder and for the time being in force.
- 1.9 In forming an opinion or making a determination, direction or decision under this Licence, the relevant Authority shall:

- (a) only do so on reasonable grounds and having regard to relevant considerations; and
- (b) provide reasons for it in writing.

Terms of Licence

- 2.1
- (a) This Licence authorises and requires the Licensee to provide a Service in accordance with this Licence.
 - (b) The Secretary for Commerce and Economic Development may by notice served on the Licensee require the Licensee to provide the Service in both the existing analogue form and the digital form from a date as specified in the notice, the date being not less than 18 months of the date of the service of the notice.
 - (c) The Secretary for Commerce and Economic Development may by notice served on the Licensee require the Licensee to provide the Service in digital form in the entirety from a date as specified in the notice, the date being not less than 18 months of the date of the service of the notice.

2.2

This Licence is renewed subject to:

- (a) the provisions of the Broadcasting Ordinance, the Telecommunications Ordinance, the Broadcasting Authority Ordinance (Cap. 391) and, without limitation, any other Ordinance; and
- (b) the performance and observance of the several terms and conditions contained in the licence from time to time in force before the period of validity (“the Previous Licence”) and on the Licensee’s part to be performed and observed and of the provisions from time to time in force of the Broadcasting Ordinance, the Telecommunications Ordinance and any Ordinance enacted in place or substitution thereof and all subsidiary legislation, regulations, directions and Codes of Practice made thereunder during the term of the Previous Licence.

Commencement date and period of validity of Licence

- 3.1 Subject to the conditions of this Licence and any law or Ordinance, this Licence shall be valid for the period of validity.
- 3.2 Pursuant to section 4 of Schedule 4 to the Broadcasting Ordinance, this Licence may be reviewed by the Chief Executive in Council within such period after 1 December 2009 as may be specified by the Chief Executive in Council by notice in the Gazette.

Power to amend

- 4.1 The Chief Executive in Council may, if he considers it is in the public interest to do so, vary this Licence in accordance with the Broadcasting Ordinance.
- 4.2 Without prejudice to the aforesaid, the Chief Executive in Council may vary this Licence with the prior consent in writing of the Licensee at any time and from time to time during the period of validity.

Saving of rights granted

5. This Licence shall not in any way whatsoever abrogate or interfere with any rights, whether exclusive or otherwise, granted under any law or Ordinance to any person other than the Licensee.

Publication of Licence

- 6.1 Subject to Condition 6.3, the Licensee shall make available for inspection by members of the general public, free of charge, a certified true copy of this Licence at:
- (a) its registered office and principal place of business; and
 - (b) the principal office of the Television and Entertainment Licensing Authority.
- 6.2 The Government may in its discretion make this Licence publicly available in any manner it thinks fit, in whole or in part.

- 6.3 For the purposes of Condition 6.1 and without prejudice to Condition 6.2, the Licensee's Proposal may be excluded in the Licensee's discretion.

**Notification of
place of
business**

7. The Licensee shall promptly notify the Broadcasting Authority of any change in the address of its registered office or principal place of business, as the case may be.

**Prohibition on
assignment of
Licence**

8. This Licence or any interest in this Licence shall not be transferred, in whole or in part.

**Directions etc.
by the
Broadcasting
Authority and
Telecommunica
tions Authority**

- 9.1 Where any determination, consent, notice, direction, authorisation or approval of or from the relevant Authority is required for the doing of any matter or thing by or on behalf of the Licensee, or a notice or notification is required to be given by or on behalf of the Licensee to the Broadcasting Authority, the Telecommunications Authority or the Secretary for Commerce and Economic Development, that determination, consent, notice, direction, authorisation, approval or notification is valid only if given in writing and signed by a person with authority to do so and, subject to Condition 9.2, given before the doing of the said matter or thing in question. If a digital signature is used, it shall be supported by a recognised certificate under the Electronic Transactions Ordinance (Cap. 553). For the purpose of this Condition, “digital signature” shall bear the same meaning as in the Electronic Transactions Ordinance.
- 9.2 The relevant Authority may generally or specifically in relation to a particular matter or thing referred to in Condition 9.1 by notice in writing to the Licensee waive the requirement for its or his, as the case may be, determination, consent, notice, direction, authorisation or approval to be given before the doing of the matter or thing in question, provided that no such waiver shall estop the relevant Authority from withdrawing the waiver, with prospective effect, in whole or in part, or from requiring that the determination, consent, notice, direction, authorisation or approval, as the case may be, be required timeously in relation to other matters or things.

9.3 Without any limitation whatsoever on the rights and powers conferred by any law or Ordinance, where a relevant Authority gives any determination, consent, notice, direction, authorisation or approval to the Licensee, the same may be:

- (a) withdrawn, modified or replaced from time to time by the relevant Authority, in the same circumstances, and with the same effect, as if the withdrawal, modification or replacement were the giving of a determination, consent, notice, direction, approval or authorisation and the Licensee shall comply therewith;
- (b) given once or from time to time; and
- (c) made subject to such conditions as the relevant Authority may impose.

9.4 All references in this Licence to the doing of any matter or thing by a relevant Authority include any delegate thereof, or other agents, authorised in that regard by or under any law or Ordinance.

9.5 Unless otherwise provided by any law or Ordinance, any determination, consent, notice, direction, authorisation or approval moving from the relevant Authority to the Licensee shall be deemed validly served or given if:

- (a) it complies with the manner prescribed in section 40 of the Broadcasting Ordinance;
- (b) it is dispatched by facsimile transmission to the designated number of the Licensee; or
- (c) it is delivered by hand to the registered office or principal place of business of the Licensee.

**Licensee to
comply with
statements**

- 10.1 Subject to Conditions 10.2 and 10.4, the Licensee shall comply at all material times with the Licensee's Proposal. In the event that any part of the Licensee's Proposal is inconsistent with the conditions of this Licence, any law or Ordinance, the conditions of this Licence, the law and Ordinance shall prevail and the Licensee's Proposal shall be construed accordingly.
- 10.2 The Broadcasting Authority may generally or specifically in relation to a particular statement or representation referred to in Condition 10.1 by notice to the Licensee waive the requirement for the Licensee to comply with the said statement or representation and the proviso referred to in Condition 9.2 shall apply thereto mutatis mutandis.
- 10.3 The Licensee represents and warrants that the Licensee has the right to make use of the information and technology described as available to it in the Licensee's Proposal.
- 10.4 Without prejudice to any statutory and other regulatory requirements regarding the legal and beneficial interest in the voting control and shares in the Licensee, the Licensee shall inform the Broadcasting Authority about any change and series of changes:
- (a) involving 10% or more of the voting shares in the Licensee; and
 - (b) involving 1% or more of the voting shares in the Licensee of any person who holds 10% or more of the voting shares in the Licensee

within 14 days after:

- (i) the change or series of changes, as the case may be, takes place; or;
- (ii) the Licensee becomes aware of the change or series of changes,

whichever is earlier.

Waiver

11.1 Subject to any law or Ordinance and Condition 11.2, the Broadcasting Authority may by notice to the Licensee waive the requirement for the Licensee to observe or perform any of the conditions of this Licence for such period as the Broadcasting Authority sees fit if and so long as the Licensee satisfies the Broadcasting Authority that the failure to observe or perform those conditions is caused by an unforeseen event which:

- (a) renders it impossible for the Licensee to observe or perform the conditions;
- (b) is not caused or contributed to by the Licensee, or any officer, employee or associate of the Licensee; or any other person acting for or on behalf of the Licensee; and
- (c) in respect of which the Licensee has taken all actions as may be required, with due diligence and speed, to observe or perform the conditions of this Licence.

11.2 The Broadcasting Authority may, if it considers that the event referred to in Condition 11.1 has ceased to render it impossible for the Licensee to observe or perform the conditions of this Licence, direct by notice that the waiver given under Condition 11.1 shall cease to have any effect from the date specified in the notice notwithstanding that the period specified in the notice given under Condition 11.1 has not expired, and the Licensee shall (and without prejudice to the Licensee's obligations under this Licence), as soon as practicable and with due diligence and speed, take all actions as may be required to observe or perform the conditions of this Licence.

**Liability of
Licensee for
contraventions**

12. The Licensee shall ensure that the officers, employees and associates of the Licensee, and any other person acting for or on behalf of the Licensee, shall not act or permit any contravention of:

- (a) any provision of the Broadcasting Ordinance, the Telecommunications Ordinance or the Broadcasting Authority Ordinance;
- (b) any provision of any Code of Practice; or
- (c) any condition of this Licence,

and shall not be relieved from any liability notwithstanding that the contravention is due to the act or omission of the officers, employees or associates of the Licensee or any other person acting for or on behalf of the Licensee.

Indemnity

13. The Licensee shall indemnify and keep indemnified the Chief Executive, the Government, the Executive Council, the Broadcasting Authority, the Telecommunications Authority and the Secretary for Commerce and Economic Development against any and all losses, claims, charges, expenses, actions and demands whatsoever which he or it may incur or be subject to, as the case may be, as a result of or in relation to:
- (a) any breach or alleged breach of or failure or alleged failure to observe or perform any condition of this Licence by or on behalf of the Licensee; or
 - (b) any act or omission by or on behalf of the Licensee in the actual or purported operation or performance of the Service or the conditions of this Licence.

Licence fee

- 14.1 The Licensee shall pay to the Government every year during the period of validity such licence fee in advance as may be prescribed from time to time by regulation made under section 42 of and section 13 of Schedule 4 to the Broadcasting Ordinance.
- 14.2 The Licensee shall pay such other fees and charges as may be prescribed from time to time by regulation made under section 42 of and section 13 of Schedule 4 to the Broadcasting Ordinance.

- 14.3 In the event of a revocation, surrender or suspension of this Licence, no licence fees or other fees and charges paid or payable by the Licensee before the said revocation, surrender or suspension shall be repaid or cease to be payable, as the case may be.

Investment

- 15.1 Subject to Condition 15.2 and without affecting the generality of Condition 10.1, the Licensee shall implement the Investment Plan and comply at all material times with the statements (including statements of intention) and representations made by or on its behalf in or with reference to the Investment Plan. In the event that any part of the Investment Plan is inconsistent with the conditions of this Licence, any law or Ordinance, the conditions of this Licence, the law and Ordinance shall prevail and the Investment Plan shall be construed accordingly.
- 15.2 The Broadcasting Authority may generally or specifically in relation to a particular statement or representation referred to in Condition 15.1 by notice to the Licensee waive the requirement for the Licensee to comply with the said statement or representation and the proviso referred to in Condition 9.2 shall apply thereto mutatis mutandis.
- 15.3 The Licensee shall submit for approval by the Broadcasting Authority further information and updated investment plan in relation to the provision of new television programme services, including but not limited to the provision of digital television programme services, as may be directed by the Broadcasting Authority from time to time.

15.4 Without affecting the powers of the Broadcasting Authority under Condition 15.3, the Broadcasting Authority may revise and modify the Investment Plan any time after 1 January 2012 as may be specified by the Broadcasting Authority in writing after consultation with the Licensee.

15.5 Unless otherwise directed by the Broadcasting Authority, the Licensee shall, on or before 30 December 2011 and for the purpose of Condition 15.4, submit for approval by the Broadcasting Authority an updated Investment Plan for the period from 1 January 2013 to 30 November 2015, and any information related thereto as the Broadcasting Authority may reasonably require, in relation to the provision of the Service, including but not limited to the provision of digital television programme services.

15.6 Without prejudice to Condition 15.1, the Licensee shall, as soon as practicable, and in any case on or before 31 December 2010 -

- (a) submit a statement of compliance to the satisfaction of the BA on whether the Licensee is capable of complying with the Investment Plan as defined in Condition 15.1 and set out in a letter dated 24 December 2009 from the Licensee to the BA; and
- (b) demonstrate to the satisfaction of the BA the means to deliver the Investment Plan.

(Note: Condition 15.6 is only applicable to ATV's licence)

Submission of reports

- 15A.1 The Licensee shall submit reports to the Broadcasting Authority on or before 31 March each year on the extent to which the programmes provided in the previous calendar year ending on 31 December have complied with the Licensee's Proposal as set out in the Licensee's letter dated [date].
- 15A.2 The Broadcasting Authority may in its discretion make the reports publicly available in any manner as it thinks fit, in whole or in part.

The provision of a domestic free television programme service

- 16.1 The Licensee shall at all material times provide the Service in such manner as to enable the Service to be received throughout Hong Kong to the satisfaction of the BA.
- 16.2 The BA may, by notice in writing served on the licensee, exempt the licensee from complying with Condition 16.1 in relation to any parts of Hong Kong specified in the notice and during any period specified in the notice.
- 16.3 The Licensee shall ensure that each television programme service channel shall have a television programme service channel identification which, in the opinion of the Broadcasting Authority, is not confusingly similar to any existing channel identification of any television programme service licensed or deemed to be licensed under the Broadcasting Ordinance or of any sound broadcasting licensees licensed under the Telecommunications Ordinance.

16.4 The Licensee shall apply up-to-date technology to perfect the sounds and images that it broadcasts.

Comments and complaints

17.1 The Licensee shall receive and consider any comment or complaint from or on behalf of any person who believes himself to have been treated unjustly or unfairly in any material on the Service, or who comments or complains about the whole or part, in substance or in form, of the content, production, service coverage, technical aspects or time of viewing of the Service, without limitation, the quality of the sounds and images that it provides, the service afforded the complainant, or customer service.

17.2 The Licensee shall implement a procedure for dealing with comments and complaints from the public as may be required from time to time by the Broadcasting Authority.

17.3 The Licensee shall keep a complete record, in a form and manner approved by the Broadcasting Authority, of complaints received by it and submit the same to the Broadcasting Authority on a regular basis and on demand. The record shall be retained by the Licensee for not less than 2 years.

17.4 The Licensee shall comply with directions as may be given by the Broadcasting Authority to publish, in relation to the Licensee's domestic free television programme service and within such period as may be specified by the Broadcasting Authority in that direction, a summary of any comment or complaint referred to in Condition 17.1. The form and content of such summary shall be subject to approval by the Broadcasting Authority.

17.5 The Licensee shall supply recordings of good quality of all material on the television programme service that it provided during such period, and in such form, as the Broadcasting Authority may direct and require for examination.

Television programmes, publicity material and announcements in the public interest

18.1 The Licensee shall include in its Service such:

- (a) publicity material in order to promote knowledge and understanding of the activities and functions of the Broadcasting Authority; and
- (b) television programmes and other material in the public interest including but not limited to weather programmes and weather forecasts provided by the Government,

as the Broadcasting Authority may provide or direct and at such time, within such period, on such channel, within or without such programme and in such language or dialect as the Broadcasting Authority may direct.

18.2 The publicity material referred to in Condition 18.1(a) may be directed to be broadcast twice daily for a total of not more than one minute on each language channel between the hours of 6:00 p.m. and 11:00 p.m. subject to a maximum limit of 5 minutes in aggregate each week on each channel. This publicity material shall not be treated as counting towards the one minute total in Condition 18.3.

- 18.3 Notwithstanding Condition 18.1, the Licensee shall broadcast on each channel such announcements as the Broadcasting Authority shall require to be broadcast provided that such announcements shall not exceed one minute in total in any clock hour on each channel.
- 18.4 For the avoidance of doubt, the Licensee shall not, in the performance of this Condition, be:
- (i) responsible for the contents of the material included in the Service; and
 - (ii) entitled to charge the Broadcasting Authority or the Government.

**Intellectual
property rights**

19. The Licensee shall not do, or permit, any act or conduct in relation to the Service which is an infringement of any intellectual property right, including but not limited to any copyright.

**Books and
accounts to be
in
English or
Chinese**

20. All of the books and accounts of the Licensee shall be written in either the English or Chinese language.

Licensee to formulate general guidelines for employees and agents

- 21.1 The Licensee shall formulate written guidelines for all its officers, employees and agents concerned with the content of the Service stating the Licensee's principles regarding its responsibilities to the public, with particular reference to its obligations under the Codes of Practice relating to programme and advertising standards.
- 21.2 The Licensee shall ensure that all its officers, employees and agents are aware, and shall refresh their memory at reasonably regular intervals, of the guidelines referred to in Condition 21.1 and the Codes of Practice.
- 21.3 For the avoidance of doubt, nothing in Condition 21 shall relieve the Licensee from any obligation or liability to comply with the Codes of Practice.

Discipline and training

- 22. The Licensee shall ensure good discipline and training among its staff, officers, consultants and contractors, including script-writers, as regards adherence to the Codes of Practice relating to programme, advertising and technical standards.

Codes of practice

- 23. The Licensee shall monitor and ensure strict compliance with the Codes of Practice, and technical standards and directions issued by the Telecommunications Authority.

**Interference
with other
services**

- 24.1 The Licensee shall not use or operate any apparatus or equipment or permit or cause the same to be used or operated in any manner which causes interference with any authorised broadcasting or telecommunications services or apparatus operating in or outside Hong Kong.
- 24.2 In case of any such interference, the Licensee shall comply with all instructions given to it by the relevant Authority in respect of the use and operation of the apparatus and equipment.

**Information to
be provided**

- 25.1 The Licensee shall provide the relevant Authority within the period specified such information as the relevant Authority may properly require.
- 25.2 The Licensee shall submit to the Broadcasting Authority not later than 30 April in each year or upon request by the Broadcasting Authority a certified true copy of the latest annual audited accounts of the Licensee prepared by an auditor.

Provision of testing facilities

26.1 Without prejudice to section 38 of the Broadcasting Ordinance, the Telecommunications Authority may, for the purpose of exercising his functions under this Licence, require the Licensee to demonstrate to him that in establishing, providing or operating any means of telecommunications, telecommunications installation, telecommunications line or telecommunications service, if any, or any equipment, in relation to the Service, the Licensee is not in breach of any law, Ordinance, codes of practice, directions or conditions of this Licence.

26.2 For the purpose of Condition 26.1 , the Licensee shall provide adequate testing instruments and operating staff.

Standby equipment and spare parts

27 The Licensee shall provide and maintain adequate standby equipment (including but not limited to spare parts) and staff to ensure that any interruption to the Service under this Licence is avoided or minimised, and that necessary repairs or replacements are made or provided promptly.

Transmission of Service

28. Save where the contrary intention appears expressly or by necessary implication in this Licence including the requirement for the authorisation or approval of the Secretary for Commerce and Economic Development of a digital form, the Licensee may employ the means of transmission and the transmission arrangements for the Service as stated in the Licensee's Proposal. The Licensee shall apply to the Broadcasting Authority for approval for any substantial change in the means of transmission or transmission arrangements.

Other requirements

29. For the avoidance of doubt, the Licensee shall apply for such other licences, permissions, approvals, agreements or grants as may be required under any law or Ordinance if any such licence, permission, approval, agreement or grant is or becomes necessary for or in connection with the provision of the Service.

Granted on 1 December 1988
Amended on [date]
Renewed on 12 November 2002
Amended on [date]
Further amended on [date]

Clerk to the Executive Council
COUNCIL CHAMBER

Accepted by :
Signature :

Capacity :Date :

FIRST SCHEDULE

THIS SCHEDULE GOVERNS THE CHANNELS TRANSMITTED IN ANALOGUE FORM OF THE LICENSEE'S SERVICE. IT SHALL FORM AND BE READ AS AN INTEGRAL PART OF THIS LICENCE.

General Provisions

1. The Licensee shall :
 - (a) entertain, inform and educate; and
 - (b) ensure that its programming is balanced in content and provides an adequate and comprehensive service which is responsive to the diverse needs and aspirations of the community.

Language Broadcast of

- 2.1 Subject to Conditions 2.2 and 2.3 of this Schedule, the Licensee shall provide one language service in the English language ("the English language service") and one language service in the Cantonese dialect ("the Chinese language service").
- 2.2 The Licensee may, with the prior approval in writing of the Broadcasting Authority and subject to such conditions as may be imposed by it, provide the whole or any part of its language services in any other language or languages or dialect.
- 2.3 The Licensee may, with the prior approval in writing of the Broadcasting Authority and subject to such conditions as may be imposed by it, provide the whole or part of its language services using one or more accompanying sound channels in one or more languages.

Subtitling

- 3.1 The Licensee shall provide subtitling for its Service, as may be directed in writing by the Broadcasting Authority from time to time after consultation with the Licensee.
- 3.2 The Licensee may, with the prior approval in writing of the Broadcasting Authority and subject to such conditions as may be imposed by it, deviate from the requirements in Condition 3.1 of this Schedule.

News Programmes

4. Subject to the proviso, the Licensee shall provide on each language service a minimum of two comprehensive news bulletins, each of not less than 15 minutes duration, each evening between 6:00 p.m. and 12:00 midnight provided that upon application in writing by the Licensee the Broadcasting Authority may approve alternative arrangements for broadcasting news bulletins.

Documentary Programmes

- 5.1 The Licensee shall provide a minimum of 60 minutes of documentary programmes each week on each language service between the hours of 6:00 p.m. and 12:00 midnight, of which not less than 30 minutes are to be wholly of Hong Kong origin. For the purposes of this Licence “wholly of Hong Kong origin” means :
- (a) produced
 - (i) in substance and in form in Hong Kong; or
 - (ii) by the Licensee, by any

employee of the Licensee, by any company or employee of any company which, in relation to the Licensee, is a subsidiary company within the meaning given by section 2(1) of the Broadcasting Ordinance, or by any other independent production company engaged by the Licensee in or outside Hong Kong; and

- (b) the Broadcasting Authority is satisfied that it is produced primarily for the Hong Kong market.

5.2 For the purposes of Condition 5.1 of this Schedule, programmes other than travelogues and such other subjects as the Broadcasting Authority may determine, may be “documentary” if they are factual and consist wholly or substantially of real events.

5.3 Upon application in writing by the Licensee the Broadcasting Authority may approve alternative arrangements for broadcasting documentary programmes.

Current Affairs Programmes

6.1 The Licensee shall provide a minimum of two half-hour current affairs programmes each week on each language service between the hours of 6:00 p.m. and 12:00 midnight of which not less than 30 minutes are to be wholly of Hong Kong origin.

6.2 Upon application in writing by the Licensee the Broadcasting Authority may approve alternative arrangements for broadcasting current affairs programmes.

Children's
Programmes

7.1

Subject to the requirements regarding family viewing hours stipulated in the Code of Practice on Programme Standards and to any directions issued by the Broadcasting Authority, the Licensee shall provide:

- (a) two blocks of programmes intended and suitable for children in Hong Kong up to and including the age of 15 years ("children's programmes") of a minimum period of :
 - (i) 1.5 hours daily on each language service between 4:00 p.m. and 7:00 p.m. and
 - (ii) 30 minutes daily on each language service between 9:00 a.m. and 7:00 p.m. and
- (b) on the Chinese language service, at least 30 minutes of programmes daily which are wholly of Hong Kong origin in the blocks of children's programmes referred to in paragraph (a)(i); and
- (c) on the English language service, a minimum of 2 hours of programmes per week with educational values targeting teenagers between the hours of 5:00 p.m. and 7:00 p.m.. Notwithstanding any other provisions in this Licence, English subtitles shall be provided for programmes provided pursuant to this paragraph from 1 December 2004 and thereafter. For the purposes of paragraph (a)(i), programmes provided under this paragraph shall count towards the blocks of children's programmes referred to in that paragraph.

- 7.2 By a direction the Broadcasting Authority may on the application in writing of the Licensee waive or modify the requirements specified in paragraph (a) and (c) in Condition 7.1 of this Schedule in accordance with the terms of the direction.
- 7.3 The Licensee shall repeat the provision of any or all of the children's programmes referred to in paragraph (a) in Condition 7.1 of this Schedule at such times as may be directed by the Broadcasting Authority from time to time.
- 7.4 Apart from the repeats referred to in Condition 7.3 of this Schedule, children's programmes shall not be repeated more frequently than as may be specified by the Broadcasting Authority from time to time.
- 7.5 The Licensee shall inform the Broadcasting Authority in writing of the programme types and transmission schedules for children's programmes one week in advance of broadcasting. The Broadcasting Authority may waive the requirement of notification.

Programmes for Young Persons

- 8.1 Subject to the requirements regarding family viewing hours stipulated in the Codes of Practice on Programme Standards and to any directions issued by the Broadcasting Authority, the Licensee shall include in the Chinese language service a minimum of one half-hour programme per week, between the hours of 8:00 a.m. and 12:00 midnight, which is intended and suitable for the education and proper development of young people in Hong Kong aged 16 years to 24 years (inclusive).
- 8.2 Upon application in writing by the Licensee the Broadcasting Authority may approve alternative arrangements for broadcasting

the programming at Condition 8.1 of this Schedule.

Programmes for Senior Citizens

- 9.1 Subject to the requirements regarding family viewing hours stipulated in the Codes of Practice on Programme Standards and to any directions issued by the Broadcasting Authority, the Licensee shall include in the Chinese language service a minimum of 60 minutes of programming per week, between the hours of 8:00 a.m. and 12:00 midnight, which is intended and suitable for the particular requirements of senior citizens in Hong Kong over the age of 60 years in relation (but not necessarily limited) to their well being.
- 9.2 Upon application in writing by the Licensee the Broadcasting Authority may approve alternative arrangements for broadcasting the programming at Condition 9.1 of this Schedule.

Arts and Culture Programmes

- 10.1 Subject to any directions issued by the Broadcasting Authority, the Licensee shall include in the Chinese language service between the hours of 8:00 a.m. and 12:00 midnight a minimum of 60 minutes of programming each week intended and suitable for promoting the development and appreciation of the literary, performing and visual arts and other topics or activities of cultural value of which not less than 15 minutes are to be wholly of Hong Kong origin.
- 10.2 Upon application in writing by the Licensee the Broadcasting Authority may approve alternative arrangements for broadcasting the programming at Condition 10.1 of this Schedule.

Annual Reports

11.1 The Licensee shall submit reports to the Broadcasting Authority on or before 31 March each year on the extent to which the programmes and programming provided in the previous calendar year ending on 31 December pursuant to Conditions 7, 8, 9 and 10 of this Schedule have been able to achieve the respective intended objectives as set out in the aforesaid Conditions provided that the Licensee shall not be required to submit any such report for the year 2003.

11.2 The Broadcasting Authority may in its discretion make the reports publicly available in any manner as it thinks fit, in whole or in part.

Obligations of Licensee

12. Unless otherwise expressly stated in this Licence, the obligations and requirements imposed upon the Licensee to provide certain programmes at certain times and for certain periods pursuant to Conditions 4, 5, 6, 7, 8, 9 and 10 of this Schedule shall not be discharged or satisfied to the extent the programmes so provided comprise or include programmes produced, commissioned or supplied by Government.

12A In addition to Condition 12 of this Schedule, unless otherwise directed by the Broadcasting Authority upon application in writing by the Licensee, the obligations and requirements imposed upon the Licensee to provide certain programmes at certain times and for certain periods pursuant to Conditions 4, 5, 6, 7, 8, 9 and 10 of this Schedule shall not be discharged or satisfied to the extent the programmes so provided comprise or include programmes produced, commissioned or supplied by Government.

Programmes for Schools

13.1 The Licensee shall pursuant to section 19 of the Broadcasting Ordinance include in the Service such programmes for schools supplied by the Government as may be required by the Broadcasting Authority.

13.2 The programmes required under Condition 13.1 of this Schedule:

- (a) shall not exceed four hours per day unless the Broadcasting Authority otherwise requires by serving upon the Licensee a notice in writing of not less than 30 days; and
- (b) may be provided as part of the English language service unless the Broadcasting Authority otherwise requires by serving upon the Licensee a notice in writing of not less than 30 days.

SECOND SCHEDULE

Unless the Broadcasting Authority otherwise approves or directs, the requirements and standards stipulated in the FIRST SCHEDULE of this Licence shall apply to the digital television programme service to be provided by the Licensee, whether it is being provided as part of its simulcast or otherwise.

THIRD SCHEDULE

Additional Programmes requirements

- 1.1
- (a) In addition to any obligations and requirements that the Licensee may have or be subject to under any Ordinance or this Licence (including but not limited to those pursuant to Condition 13 of the First Schedule or Condition 18), the Licensee shall include in its Service not fewer than 90 minutes per week of television programmes or materials supplied by the government (Government Programmes) at such time and on such channel as may be directed by the Broadcasting Authority unless the Licensee shall have fulfilled the obligations specified in (b) below:

 - (b) Subject to any directions issued by the Broadcasting Authority, the Licensee shall, in addition to the obligations and requirements set out in the First Schedule and Second Schedule, include in any language service in the Cantonese dialect provided on its Service, whether transmitted in the analogue form or digital form:
 - (i) a minimum of 60 minutes of programming per week, between the hours of 8:00 a.m. and 12:00 midnight, which is intended and suitable for the particular requirements of senior citizens in Hong Kong over the age of 60 years in relation (but not necessarily limited) to their well being; and

 - (ii) a minimum of 60 minutes of programming each week, between the hours of 8:00 a.m. and 12:00 midnight, which is intended and suitable for promoting the development and appreciation of the

literary, performing and visual arts and other topics or activities of cultural value.

- 1.2 Where the Government Programmes broadcast by the Licensee by virtue of this Schedule are, in the opinion of the Broadcasting Authority, children's programmes, programmes for young persons, programmes for senior citizens or arts or culture programmes, as defined under this Licence and the Code of Practice issued or revised by the Broadcasting Authority from time to time, such Government Programmes may count towards the fulfilment of the obligations and requirements imposed upon the Licensee under Conditions 7.1, 8.1, 9.1 or 10.1, as the case may be, of the First Schedule, provided that the total time which may be taken to count towards such obligations and requirements shall not exceed 90 minutes in the aggregate per week regardless of the amount of Government Programmes broadcast by the Licensee by virtue of this Schedule.
- 1.3 By a direction the Broadcasting Authority may on the application in writing of the Licensee waive or modify the requirements specified in this Schedule in accordance with the terms of the direction.
- 1.4 The Licensee shall submit reports to the Broadcasting Authority on or before 31 March each year on the extent to which the programmes and programming provided in the previous calendar year ending on 31 December pursuant to this Schedule have been able to achieve the respective intended objectives as set out in the aforesaid Conditions. The Broadcasting Authority may in its discretion make the reports publicly available in any manner as it thinks fit, in whole or in part.