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Panel on Information Technology and Broadcasting

Meeting on 12 July 2010

**Background brief on mid-term review of the domestic free television
programme service licences**

Purpose

This paper gives the background to the mid-term review of the domestic free television (TV) programme service licences, and also a summary of views and concerns expressed by Members in previous discussions.

Background

2. The domestic free TV programme service licences are granted under the Broadcasting Ordinance (BO) (Cap. 562) and are valid for 12 years. In general, the licences will be reviewed every six years in the mid-term review. The current domestic free TV programme service licences of the Asia Television Limited (ATV) and Television Broadcasts Limited (TVB) run from 1 December 2003 to 30 November 2015 (both dates inclusive). Under sections 4(1)(b) and 4(2)(b)(ii) of Schedule 4 to BO and Condition 3.2 of the licences of ATV and TVB, the Chief Executive (CE) 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.

3. In accordance with the established procedures and practices, the Broadcasting Authority (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 respect of their compliance with the statutory requirements, licence conditions and codes of practice promulgated by the BA, their financial commitments and investment plans for the coming six years (2010 to 2015) as well as public expectations on their performance in the provision of TV services. To gauge public views on the services provided by ATV and TVB, 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.

Previous discussions

4. Members followed closely the progress of the mid-term review of the two licensees since 2009. At the Council meetings on 6 January and 12 May 2010, Hon Emily LAU Wai-hing and Hon Frederick FUNG Kin-kee raised questions on the grant of domestic free TV programme service licence and the operation of ATV respectively.

5. The staff layoffs and the shareholders' disputes in ATV in 2009 had drawn public concern on the provision of domestic free TV programme service. The Panel on Information Technology and Broadcasting (the Panel) had repeatedly urged the Administration to expedite the mid-term review and report on the progress/outcome of the review. The Panel also urged the Administration to provide an update on the progress of the BA's investigation into the complaint of unfair competition lodged by ATV against TVB.

Staffing situation and editorial independence of the two licensees

6. At the Panel meeting held on 30 June 2009, members raised concern whether ATV and TVB were still capable, in terms of corporate competence, financial, technical and programming capability, of providing quality television programme services in accordance with the relevant requirements under the BO and the licence conditions, in view of a number of announcements of staff retrenchments by the two licensees. According to the representatives of ATV and TVB attending the Panel meeting, the retrenchment exercises were mainly due to changes in programming strategy, and mismatch between the skills of the existing employees and those required for business development. The Administration advised that licence condition provided that the licensees should, inter alia, provide and maintain adequate staff resources to ensure that any interruption to its licensed service was avoided or minimized.

7. Some Panel members expressed concern about editorial independence in news reporting. They asked whether there was self-censorship on the part of programme staff and undue influence from the management on reporting sensitive issues such as commemorative activities of the June Fourth Incident. Some members considered that TVB had selectively reported the activities/survey findings of certain political parties and called on the two TV stations to maintain political neutrality, uphold the principles of fair and balanced reporting and refrain from sensational reporting.

Programming

8. The Panel noted that 25% of the programme broadcast by ATV on weekdays were re-run, whilst 42% of its programme broadcast during prime-time on weekdays were non-local productions. Some Panel members expressed concern about the proportion of re-run programme and non-local productions. They opined that ATV should not rely heavily on outsourcing, but should explore

new competitive strategies in producing new types of programmes in order to establish its own market niche. Some members however considered that outsourcing would provide flexibility and cost-savings for the licensees and offer programme variety to the viewing public.

9. On gauging public views on the provision of television programme services by the licensees, some Panel members suggested that public hearings and public engagement exercises should be held on an annual basis to enable the licensees to be more attuned to public concern and expectation on programme standard and quality.

Competition

10. Some members raised concern whether ATV could effectively compete with TVB and provide an alternative choice to the viewing public, given its recent financial stringency, changes in the senior management and equity dispute among the shareholders. Some Panel members urged the Administration to monitor ATV's compliance with all the relevant statutory and licensing requirements, and consider not renewing or withdrawing the licence of ATV if such requirements were not met.

11. Regarding ATV's complaint about unfair competition that TVB had monopolized the majority of local singers and artists in the local entertainment business and advertising field, Panel members urged the Administration to investigate into the matter and provide an update on the progress of the investigation in due course.

12. On enhancing competition, some members were keen to ensure that the Administration would consider granting additional domestic free television programme service licences to bring in new entrants to the television programme service market thereby introducing more competition and increasing TV programming choices and quality. The Panel requested the Administration to make reference to the experience of South Korea, and take active steps in assisting the local television industry to increase the variety of quality programmes and explore the regional markets.

Recent developments

13. On 18 June 2010, the BA has received an application from ATV for shareholding changes. Without prejudice to the BA's deliberations on ATV's application, the BA subsequently recommended, and the CE in Council agreed, to impose an additional licence condition on ATV to submit on or before 31 December 2010 a statement of compliance to the satisfaction of the BA as to whether ATV is capable of complying with its investment plan, and to demonstrate to the satisfaction of the BA the means to deliver the investment plan.

14. At its meeting on 29 June 2010, the CE in Council approved the BA's recommendations in respect of the mid-term review, in particular, the new licence conditions to be imposed for the coming six years from 2010 to 2015.

Latest position

15. The Administration will brief the Panel on 12 July 2010 on the outcome of the mid-term review and the CE in Council's decision in respect of the domestic free TV programme service licences of ATV and TVB.

Relevant papers

Paper provided by the Administration for the Information Technology and Broadcasting Panel meeting on 30 June 2009

<http://www.legco.gov.hk/yr08-09/english/panels/itb/papers/itb0630cb1-2017-6-e.pdf>

Supplementary paper provided by the Administration for the Information Technology and Broadcasting Panel meeting on 30 June 2009

<http://www.legco.gov.hk/yr08-09/english/panels/itb/papers/itb0630cb1-2017-7-e.pdf>

Minutes of Information Technology and Broadcasting Panel meeting on 30 June 2009

<http://www.legco.gov.hk/yr08-09/english/panels/itb/minutes/itb20090630.pdf>

Question No. 4 at the Council meeting on 6 January 2010 on "Domestic free television programme service licence"

<http://www.info.gov.hk/gia/general/201001/06/P201001060148.htm>

Question No. 6 at the Council meeting on 12 May 2010 on "Operation of Asia Television Limited"

<http://www.info.gov.hk/gia/general/201005/12/P201005120218.htm>

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