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Panel on Information Technology and Broadcasting

Meeting on 12 December 2011

**Background brief on issues relating to editorial independence of the
News Department of Asia Television Limited**

Purpose

This paper summarizes previous discussions by Members on issues relating to editorial independence of the News Department of Asia Television Limited (ATV).

Background

2. In the light of an erroneous report by ATV on the death of the former national leader Mr JIANG Zemin and the subsequent resignation of Mr LEUNG Ka-wing, Senior Vice President (News and Public Affairs) of ATV, Members expressed grave concern about the editorial independence of the News Department of ATV.

Previous discussions

Panel on Information Technology and Broadcasting

3. The Panel on Information Technology and Broadcasting (the Panel) held a special meeting with the Administration on 19 September 2011 to discuss issues relating to editorial independence of the News Department of ATV. Representatives from the Broadcasting Authority (BA), Mr James SHING (Executive Director of ATV), Mr Stephen LUAN (Director and Senior Vice President, Mainland Operation of ATV), Mr LEUNG Ka-wing (former Senior Vice President (News and Public Affairs) of ATV) and Ms

TAM Wai-yi (Vice President (News and Public Affairs) of ATV) were invited to attend the meeting.

Misreporting of death news of the former national leader and involvement of Mr WONG Ching in the management of ATV

4. The Panel noted that in the few days prior to 6 July 2011, rumours about the death of the former national leader were rife and flying all around. Local media organizations were busy preparing for the reporting of the death news should it be proven correct. At around 6.15 pm on 6 July 2011 during the commercial break of the evening news programme of ATV, a subordinate rushed into the office of Mr LEUNG Ka-wing and conveyed the message from a source that the former national leader had died, and that the news should be announced immediately. Mr LEUNG tried to withhold the news until he was able to confirm it with alternative sources. However, he was unable to confirm the news during the ensuing 10 minutes. Finally, he mistakenly believed what the source had told him and decided to broadcast the news. Some Panel members expressed concern whether someone outside the senior management of ATV had exerted influence on the News Department which caused the erroneous report to be broadcast. Mr LEUNG said that his decision to air the news was not made under any pressure, hidden reasons, nor interference from the suspected person. In the absence of protection by the privileges and immunities provided under the Legislative Council (Powers and Privileges) Ordinance and in accordance with the journalistic principles, he would not disclose the source of the erroneous report.

5. Some Panel members expressed concern that the management of ATV might have interfered with the editorial independence of the News Department. Executive Director of ATV advised that the senior management of ATV had always respected the editorial independence of the News Department, and had never interfered with nor put pressure on its operation. He stressed that neither himself, Mr WONG Ching, nor Senior Vice-President Mr KWONG Hoi-ying was the source of the death news.

6. The Administration advised that BA was handling the complaints about the misreporting of death news in accordance with established procedures. BA would consider whether ATV was in breach of the Generic Code of Practice on Television Programme Standards (TV Programme Code), including whether ATV had made reasonable efforts to ensure the accuracy of the factual contents of the news. BA would make known the investigation result at an appropriate time.

7. Noting that Mr WONG Ching was neither a shareholder, director nor principal officer of ATV, some Panel members expressed grave concern about the blatant involvement of Mr WONG Ching in the management of ATV. These members opined that as a domestic free television programme service licensee, ATV should be subject to all regulatory requirements applicable to it under the Broadcasting Ordinance (Cap. 562), its licence and the codes of practice issued by the BA. In this connection, these members expressed objection to the renewal of ATV's domestic free television programme service licence.

8. Director and Senior Vice President, Mainland Operation of ATV advised that Mr WONG Ching served as the personal advisor of the Executive Director of ATV and was invited by the latter to attend the regular weekly meetings of ATV.

9. The Administration advised that Mr WONG Ching did not have any capacity or rights to exercise control of ATV or participate in its day-to-day management. In view of public concerns and relevant complaints, BA was conducting an investigation into the role played by Mr WONG Ching in the control and management of ATV, including his role in ATV's misreporting of death news, to ascertain whether ATV was in breach of any relevant statutory provisions or licence conditions.

Inclusion of advertising materials in ATV's programme "Wealth Blog"

10. The Panel noted that BA had received complaints about the programme "Wealth Blog". The complainants were dissatisfied with the inclusion of excerpts of the programme "Corporate Excellence", which contained advertising elements, in the programme "Wealth Blog". In this connection, some Panel members expressed concern about the allegations against the practice of touting for "paid news" by a reporter of the News Department. These members urged ATV to be aware of such practice, so as not to compromise the principle that all programmes produced by the News Department must not contain any advertising elements.

11. ATV advised that it had conducted an investigation into the programme "Wealth Blog" and found neither any evidence of "paid business" nor "paid news". At members' request, ATV subsequently provided a report on the incident to the Panel on a confidential basis (issued vide LC Paper No. CB(1)406/11-12(01) on 21 November 2011).

12. According to the Administration, the TV Programme Code stipulated that no bona fide news programmes might be sponsored, and that no advertising matter should be offered as news or included in the contents of a

news programme. The Generic Code of Practice on Television Advertising Standards (TV Advertising Code) stipulated that news programmes must not be sponsored. Whilst financial or current affairs programmes could be sponsored, they were subject to stringent requirements under the relevant Codes. BA was handling the complaints about the inclusion of advertising materials in the programme "Wealth Blog" in accordance with the established procedures, and would announce the investigation result at an appropriate time.

House Committee

13. At the House Committee meeting on 7 October 2011, Members discussed the proposal of Hon Emily LAU concerning the appointment of a select committee to inquire into issues relating to ATV's misreporting on the death of Mr JIANG Zemin and its improper broadcast of "paid news". Given the diverse views expressed by Members at the meeting, the Chairman of the House Committee put the proposal to vote. The proposal was not supported.

Council meetings

14. At the Council meeting on 19 October 2011, Hon Emily LAU moved the following motion:

"That this Council appoints a select committee to inquire into whether managerial staff and investors of Asia Television Limited ('ATV') or other persons have acted unduly in the misreporting of the death of Mr JIANG Zemin to interfere with ATV's editorial freedom with an aim to influence ATV's news report; to inquire into whether ATV has added advertisement content into news and information programmes being broadcast which unduly produces 'paid news'; and to inquire into whether the above incidents have violated broadcasting rules or regulations and related laws of Hong Kong, as well as related matters, and based on the results of the above inquiries, to make recommendations on the regulation of domestic free television programme service by the Government and the safeguarding of editorial freedom of the press, and other related matters; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance."

The motion was negatived.

15. At the Council meeting on 23 November 2011, Hon Emily LAU moved a motion on defending the freedom of the press. The Member urged the Administration, among others, to inquire into whether anyone had interfered with the editorial independence of the News Department of ATV and forced the Department to broadcast false information and "paid news" in news programmes, and study whether the continued holding of a domestic free television programme service licence by ATV was in the interest of the public. The motion was negatived.

Recent developments

16. On 5 December 2011, BA issued a press release summarizing the outcome of BA's deliberations in November 2011, including its investigation into the three complaint cases about non-compliance by ATV with the relevant codes of practice on programme and advertising standards (issued vide LC Paper No. CB(1)529/11-12(01) on 5 December 2011).

17. Regarding the complaints about the misreporting of news on the death of former national leader Mr JIANG, BA found the complaints about inaccurate news reporting and late correction of factual errors substantiated. BA regretted that ATV had adopted an irresponsible approach in its response to BA's inquiry. BA decided that a financial penalty of \$300,000 should be imposed on ATV.

18. As for the complaints about the television programme "Wealth Blog", BA decided that ATV should be seriously warned to observe more closely the relevant provisions in the TV Programme Code. Regarding the complaints about the advertising magazine "Corporate Excellence", BA decided that ATV should be warned to observe more closely the relevant provisions in the TV Advertising Code.

19. According to BA, it did not consider it advisable, in discharge of its role as regulator, to inquire into the relationship between ATV's management and its News Department, or draw any conclusion regarding the alleged interference by ATV's management with the Department. As the editorial independence of the news team within ATV was not a matter regulated by BA, BA made no findings on the issue. As for the role of Mr Wong Ching, BA found no direct evidence to ascertain his role in the misreporting incident. BA had initiated an investigation into the role played by Mr Wong Ching in the control and management of ATV. That investigation was continuing as a separate exercise.

Latest position

20. The Administration and BA will brief the Panel on 12 December 2011 on the outcome of the BA's investigation into the complaints against ATV.

Relevant papers

Paper provided by the Administration for the Information and Broadcasting Panel special meeting on 19 September 2011

<http://www.legco.gov.hk/yr10-11/english/panels/itb/papers/itb0919cb1-3010-1-e.pdf>

Minutes of the Information and Broadcasting Panel special meeting on 19 September 2011

<http://www.legco.gov.hk/yr10-11/english/panels/itb/minutes/itb20110919.pdf>

Verbatim record of the Information and Broadcasting Panel special meeting on 19 September 2011

http://www.legco.gov.hk/yr10-11/chinese/panels/itb/minutes/itb20110919_verbatim.pdf

Minutes of the House Committee meeting on 7 October 2011

<http://www.legco.gov.hk/yr10-11/english/hc/minutes/hc20111007.pdf>

Hon Emily LAU's motion on "Appointment of a select committee" at the Council meeting on 19 October 2011 and the Administration's reply

<http://www.legco.gov.hk/yr11-12/english/counmtg/hansard/cm1019-translate-e.pdf>

Hon Emily LAU's motion on "Defending the freedom of the press" at the Council meeting on 23 November 2011 and the Administration's reply

<http://www.legco.gov.hk/yr11-12/chinese/counmtg/floor/cm1123-confirm-ec.pdf>

Press release by the Broadcasting Authority on the findings of the complaints against ATV

<http://www.legco.gov.hk/yr11-12/english/panels/itb/papers/itb1212cb1-529-1-e.pdf>

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