

**For information on
25 January 2013**

**Legislative Council Panel
on Information Technology and Broadcasting**

**Applications for Domestic Free Television
Programme Service Licences**

Purpose

This paper reports the progress of processing the three applications for domestic free television programme service licence (the free TV licence applications).

Background

2. Hong Kong Television Network Limited¹, Fantastic Television Limited and HK Television Entertainment Company Limited submitted the free TV licence applications on 31 December 2009, 15 January 2010 and 31 March 2010 respectively. At the Panel meeting held on 22 July 2010, we briefed Members on the framework for processing the free TV licence applications. At the same meeting, the Panel also received views from Members and deputations on these applications. At the Panel meeting held on 11 June 2012, we reported to the Panel the progress in processing the free TV licence applications.

Prevailing Broadcasting Policy and Licensing Regime

3. The Government's broadcasting policy objectives have all along been to broaden programme choices, encourage innovation, maintain Hong Kong's competitiveness and enhance its position as a regional broadcasting hub. In 1998, the Government conducted a comprehensive review of television policy. The public was consulted during the review process. Upon completion of the review, the Government announced in 1998 its decision to open up the television market. This policy remains unchanged up to now.

¹ City Telecom (HK) Limited has been renamed as Hong Kong Television Network Limited with effective from 10 January 2013.

4. In line with the above published policy, the Broadcasting Ordinance (BO) (Cap. 562) enacted in July 2000 has not specified any limit on the number of free TV licences to be issued by the Chief Executive (CE) in Council. Section 9(2) of the BO provides that the Communications Authority (or the Broadcasting Authority before 1 April 2012²) (the Authority) shall consider applications for a domestic free television programme service licence and make recommendations thereon to the CE in Council.

5. Section 9(3) of the BO further provides that the Authority shall consult the public on the application by publishing a notice in the Gazette stating the name of the applicant and the type of licence sought by the applicant together with such other particulars as the Authority thinks fit. Interested members of the public may forward their representations on the application to the Authority by a date specified in the notice, being a date not less than 21 days after the notice is published. The Authority shall consider the representations received.

6. Section 10(1) of the BO provides that after considering recommendations made by the Authority, the CE in Council may grant a domestic free television programme service licence, subject to such conditions as it thinks fit specified in the licence.

Processing of the Free TV Licence Applications

7. Earlier on, the Authority completed the assessment in accordance with the BO and established procedures, and made recommendations to the CE in Council on the free TV licence applications.

8. As set out in the “Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong”, the Authority assessed the free TV licence applications in accordance with the following criteria –

- (a) financial soundness and commitment to investment;
- (b) proven managerial and technical expertise;
- (c) the variety, quantity and quality of programmes;
- (d) technical soundness and a satisfactory quality of service;

² The Broadcasting Authority has been replaced by the Communications Authority since 1 April 2012, with the latter taking over all functions of the former and becoming a unified regulatory body tasked with overseeing the broadcasting and telecommunications sectors.

- (e) speed of service roll-out;
- (f) minimum inconvenience to members of the public;
- (g) benefit to the local broadcasting industry, viewers/customers and the economy as a whole; and
- (h) quality control and compliance.

9. The Authority also took into account the public views received in processing the free TV licence applications. Pursuant to the BO and its consultation guidelines, the Authority published notices on the free TV licence applications on 9 July 2010 in the Gazette, one Chinese newspaper and one English newspaper, and uploaded them onto its website. By the end of the two-month consultation on 8 September 2010, the Authority received a total of 256 submissions, covering a large number of areas such as the variety and quality of programmes, technical viability, commitment to investment and impact on the broadcasting industry and the viewing audience, etc. The Authority had regard to all views gathered when formulating its recommendations and submitted a summary of such views to the CE in Council for consideration.

10. Since the Authority's submission of its recommendations, the Government has been processing each free TV licence application expeditiously and prudently in accordance with established procedures and the requirements under the BO. The processing of the free TV licence applications involve complicated issues, including those relating to the statutory requirements and procedural fairness, the handling of which is time-intensive. During the process, new developments emerge, such as an interested party's attempt to appeal to the CE in Council by way of petition against the Authority's recommendation and the subsequent judicial review against the CE in Council's relevant decision. It takes time to handle these issues which concern statutory requirements and procedures.

11. The CE in Council will continue to process the free TV licence applications in strict compliance with the relevant procedures. The outcome will be announced as soon as possible after a decision is made by the CE in Council.

Advice Sought

12. Members are invited to note the content of this paper.

**Commerce and Economic Development Bureau
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