

**For discussion  
on 26 October 2012**

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

**Issues relating to the discontinuation of broadcasting services by  
Digital Broadcasting Corporation Hong Kong Limited**

**Purpose**

The dispute among shareholders of Digital Broadcasting Corporation Hong Kong Limited (DBC) has affected the broadcasting service of the company. This paper briefs Members on the background and latest developments of the issue, and updates Members on the actions taken by the authorities.

**Background**

2. In March 2011, the Chief Executive in Council granted sound broadcasting licences to DBC, Metro Broadcast Corporation Limited (Metro) and Phoenix U Radio Limited (Phoenix U) in accordance with section 13C of the Telecommunications Ordinance (TO) (Cap. 106) to provide digital audio broadcasting (DAB) services. The three commercial companies, together with Radio Television Hong Kong (RTHK), provide a total of 18 DAB channels in phases, offering a wide variety of programme choices covering music, lifestyle, current affairs, finance, community and art and culture. The Communications Authority (CA), as an independent statutory regulatory body, is responsible for monitoring the licensees in complying with the requirements of the relevant legislation and licence conditions according to its powers under the law.

3. The sound broadcasting licences of the three commercial companies require them to formally launch their service within 18 months after the licence grant date (i.e. on or before 21 September 2012). In the licence of DBC, the company is required to provide seven 24-hour programme channels (including a “Talk Radio” Channel, an Ethnic Minorities Channel and two Music Channels, and three other channels which can be a News and Market Update Channel, Leisure Life Channel, Community Channel or Music Channel) at its formal launch. DBC soft

launched its service in August 2011 and had formally launched its service in September 2012, before the deadline as required by the licence. As regards the other three DAB companies / operator (i.e. Metro, Phoenix U and RTHK), they have also formally launched a total of eight programme channels, and this number will progressively increase to 11. Please refer to **Annex** for information on the launch of service by the three commercial companies and RTHK.

Annex

### *Developments of the Incident*

4. The media first reported in late July that a dispute had arisen among the shareholders of DBC over the injection of capital, leading to a lack of working capital. Nevertheless, DBC notified the CA in late August that it would formally launch all seven channels on 21 September 2012 as required under its licence. DBC paid to CA its annual licence fee of about \$3.8 million in early September 2012 and formally launched all seven channels on 21 September 2012.

5. The Office of the Communications Authority (OFCA) received a written notification in the afternoon of 10 October 2012 from DBC on matters relating to its cessation of operation as from 8 p.m. that day. The broadcasting service of DBC ceased at 8 p.m. that day. OFCA immediately issued a letter to the company that evening to reiterate the licence requirements and request the company to provide details on the incident. In the afternoon of 12 October 2012, OFCA received a written notification from DBC that it would resume broadcasting on 15 October 2012, and the service of DBC resumed at 7 a.m. on 15 October 2012. OFCA immediately issued a letter to the company within the same day the written notification was received to obtain detailed information on the resumption of broadcasting service, and remind the company the need to comply with licence conditions and the TO. DBC notified OFCA on 16 October 2012 that its resumption of broadcasting would continue until further notice, and undertook that its service would comply with the relevant statutes, licence conditions and codes of practice. OFCA again wrote to DBC on 15 October 2012 to inform the company that there was a prima facie case of a possible breach of licence conditions regarding the cessation of service between 10 and 14 October 2012. OFCA also wrote to DBC on 18 October 2012 to invite the representations of DBC to CA on the possible breach of licence conditions arising from its earlier cessation of broadcasting service. OFCA issued another letter to the interim receiver of DBC on 19 October 2012, requesting DBC to clarify press reports that it would cease operations again from 11 p.m. on 21 October 2012.

6. The CA will handle any possible breaches in accordance with established procedures. For breaches, penalties available to the CA include administrative sanctions (e.g. advice and warning), financial penalty and suspension of licence.

7. The media reported on 17 October 2012 that a DBC shareholder had successfully applied to the High Court for appointing Deloitte Touche Tohmatsu as the interim receiver of DBC. This Bureau has subsequently contacted DBC and confirmed the appointment of the accounting firm as interim receiver. After DBC has been taken over by the interim receiver, the Bureau and OFCA have written to the company to ascertain any impact on the company's operation arising from the appointment of interim receiver.

8. It is the duty of a licensed broadcasting company to properly manage its own internal affairs. It is inappropriate for the Administration to interfere with the internal operation of broadcasting companies, nor to play the role of commercial mediator to resolve disagreements among the shareholders of a private company. Nonetheless, the CA as the statutory independent regulatory body has closely followed up on developments, kept a close watch on the compliance of DBC of its licence condition and the TO, and taken follow up actions in accordance with the law.

#### *Actions of the Bureau*

9. It is the policy of the Commerce and Economic Development Bureau to support the development of DAB. We have all along maintained liaison with all licensed DAB companies. With regard to DBC, we have met with the management of DBC upon their request for more than once. The management of DBC updated us on issues relating to the operations of the company, including the disagreement among its shareholders. We made it clear in the meeting that it was inappropriate for the Administration to intervene in the disagreements among shareholders of a private company, and reminded the company the need for DBC to comply with licence conditions and the TO.

10. Since the incident, we have written to DBC for a number of times to request the company to account for matters concerning its operation and compliance with licence conditions. We requested in the letters that DBC should clarify the news that it might cease operations. We have also issued a number of written reminders to the company to prompt for a reply but a satisfactory reply remains outstanding as of now.

11. To keep the public informed of developments and our follow up actions, we have issued press releases on the matter for a number of times. The Secretary for Commerce and Economic Development met the media to respond to the issue, and explained the follow up actions of the Government at interviews and radio phone-in programmes on 10 and 11 October 2012.

#### *Latest developments*

12. From around 11 p.m. on 21 October 2012, DBC's broadcasting service is limited to the playing of music. As DBC is now under receivership, OFCA has written to the interim receiver on 22 October 2012 to remind him the requirements in the licence conditions regarding the channels to be provided, and to request for more details on the latest arrangement on DBC's broadcasting service so as to ascertain the company's compliance with licence conditions.

13. We have time and again appealed to the shareholders of DBC to resolve their disagreement in a pragmatic manner.

#### **Conclusion**

14. It has all along been the Government's policy to support the development of DAB and to strive to enhance the DAB service standard. This policy remains unchanged despite the recent incident. The recent disagreement among shareholders of DBC has resulted in operational problems in the company and affected the development of DAB. However, RTHK and the other two licensed companies are currently providing DAB service according to their plan or licence requirements. We hope that the audience will allow time and space for this new service to continue to develop.

15. Members are invited to note the contents of the paper.

**Commerce and Economic Development Bureau  
October 2012**

**Launch of service**  
**by the three commercial broadcasters and RTHK**

	<b>Launch of service</b>
<b>DBC</b>	All seven channels were formally launched on 21 September 2012 (service ceased between 8 p.m. on 10 October 2012 and 7 a.m. on 15 October 2012, and only music is played since 11 p.m. on 21 October 2012.)
<b>Phoenix U</b>	Two channels were formally launched on 18 January 2012 and 18 October 2012.  The other channel will be launched by 21 September 2013.
<b>Metro</b>	One channel was formally launched on 19 September 2012.  Two other channels will be launched by 18 September 2013 and 18 September 2014 respectively.
<b>RTHK</b>	All five channels were formally launched on 17 September 2012.