

**For discussion
on 10 March 2014**

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

**Applications for Renewal of the Domestic Free Television
Programme Service Licences**

Purpose

The domestic free television programme service licences (“free TV licences”) of Asia Television Limited (“ATV”) and Television Broadcasts Limited (“TVB”) granted under the Broadcasting Ordinance (Cap. 562) (“BO”) will expire after 30 November 2015. In November 2013, ATV and TVB submitted respectively applications for renewal of their free TV licences (hereinafter referred to as collectively “the licence renewal applications”). This paper outlines the procedure and criteria by which the Communications Authority (“CA”) would process the licence renewal applications and the progress to date.

Background

Licensing Framework under the BO and the Established Procedures

2. Section 11 of the BO sets out the regime for extension or renewal of television programme service licences granted under the BO. A licensee shall submit to the CA an application for the extension or renewal of its licence not less than 24 months before the date on which the period of the validity of the licence expires. In respect of free TV licence, the CA shall as soon as practicable after the receipt of an application and, in any case, not later than 12 months before the expiry of the period of validity of the licence, submit recommendations to the Chief Executive in Council (“CE in C”) in relation to the extension or non-extension or renewal or non-renewal of the licence, and where appropriate, the conditions subject to which the licence may be extended

or renewed. The CE in C shall consider the recommendations of the CA, and as soon as practicable, extend or renew the licence to which they relate subject to such conditions as he thinks fit specified in the extended or renewed licence; or decide not to extend or renew the licence.

Processing the Licence Renewal Applications

3. In accordance with the BO and established practice for processing the licence renewal applications, the CA is carrying out a comprehensive assessment of the performance of ATV and TVB before making recommendations to the CE in C on the licence renewal applications on or before 30 November 2014 pursuant to section 11 of the BO.

Factors to be Considered

4. In assessing the performance of the two free TV licensees, the CA will consider the following aspects –

(a) Compliance with regulatory requirements

The CA will assess the performance of the licensees against the statutory requirements as well as requirements under the licences and the codes of practice promulgated by the CA in respect of the following –

- (i) compliance with programming requirements and standards. The CA will assess whether the programmes of ATV and TVB have complied with various requirements laid down in the licences and the code of practice on programme standards including positive programme requirements, language requirements, family viewing hours, accuracy and impartiality, etc.;
- (ii) compliance with regulatory requirements on advertising and non-programme materials including advertising time limit, broadcast of announcements in the public

interest and publicity material for the CA, as well as compliance with the code of practice on advertising standards in respect of the provisions relating to unacceptable products or services, factual claims and programme sponsorship, etc.;

- (iii) compliance with technical performance including service coverage, technical quality standard and service reliability, provision of digital terrestrial television services, etc.;
- (iv) compliance with the investment plans from 2003 to 2015 on capital and programming expenditure; and
- (v) compliance with regulatory requirements on corporate matters including the statutory requirements on fit and proper persons, disqualified persons, unqualified voting controllers, residence requirements of directors and principal officers, etc.

(b) Financial commitment of the licensees

In support of their applications for licence renewal, ATV and TVB are required to submit to the CA their proposed six-year investment plans for 2016 – 2021 on capital and programming expenditure. The CA will consider the proposed investment commitments of the licensees and assess whether they have the financial capability to deliver the commitments.

(c) Public views on the performance of the licensees

Free TV service is a pervasive medium and is a popular source of information and entertainment for the general public. The CA therefore attaches great importance to the public views on the performance of the licensees. In line with established practice, the CA has decided to conduct a public consultation exercise to collect public opinions on the

services provided by the two free TV licensees between 4 February 2014 and 3 April 2014. The public views will be collected through various means including holding public hearings and focus group discussions, conducting a comprehensive public opinion survey and inviting written submissions from members of the public.

5. In addition to the above assessment, the CA will also take into account the following when making recommendations to the CE in C –

- (a) submissions from ATV and TVB on the existing licence conditions, their views on the current broadcasting environment and any proposed changes to the licence conditions they consider necessary to help improve the operation of their free TV services;
- (b) views of relevant government bureaux/departments so that the CA can take into account the relevant policy and technical considerations to ensure that its regulatory approach meets the development needs of Hong Kong's broadcasting sector and is in line with international best practices; and
- (c) changes to the licence conditions that need to be recommended in the light of the evolving broadcasting environment and the aspirations of viewers

Progress of Work

Assessment of the Licensees' Performance

6. The CA has started to conduct its assessment as set out in paragraphs 4 and 5 above. It intends to complete the assessment in the next few months.

Public Views

7. In line with past practices, the CA has commissioned an independent survey firm to conduct a territory-wide opinion survey to gauge public views on the licensees' services, including programme standards and the quality and diversity of programmes, through face-to-face interview with around 3,000 households using a random sampling methodology. The fieldwork of the opinion survey is expected to be completed in April 2014.

8. A two-month public consultation exercise for the renewal of the free TV licences of ATV and TVB has started on 4 February 2014. Following past practices, the CA has widely publicised the consultation exercise and the public hearings through different means, including broadcast/publication of announcements on television and radio and at the websites of the CA and those of the two licensees, as well as at other websites and in newspapers. The CA has prepared an information booklet containing summaries of the licensees' services, complaints records, the licensees' investment plans and the current regulatory requirements for free TV licences (at **Annex**). The information has also been uploaded onto the CA's website.

9. As part of the public consultation exercise, three public hearings would be held in the Hong Kong Island, Kowloon and New Territories on 17 February, 7 and 10 March 2014 respectively. The Hong Kong Island session has been conducted and was attended by over 300 members of the public. Separately, the CA has arranged four sessions of focus group discussion within the consultation period to gauge the views from legislators, academics, TV production veterans, parent-teacher associations, social workers and members of Television and Radio Consultative Group ("TRCG")¹, etc. As per the discussion in this Panel earlier on, we have extended invitation to the Panel to attend the focus group discussions, and two Members have confirmed their attendance.

¹ TRCG is a territory-wide consultative scheme to gauge public opinions on television and radio broadcasting standards. Members join the scheme on a voluntary basis. TRCG currently comprises about 540 members, recruited largely on the basis of the population characteristics of the 18 districts supplied by the Census and Statistics Department.

10. As at end February 2014, the CA has received over 300 written submissions. The CA will publish a summary of public views collected and findings of the opinion survey in due course.

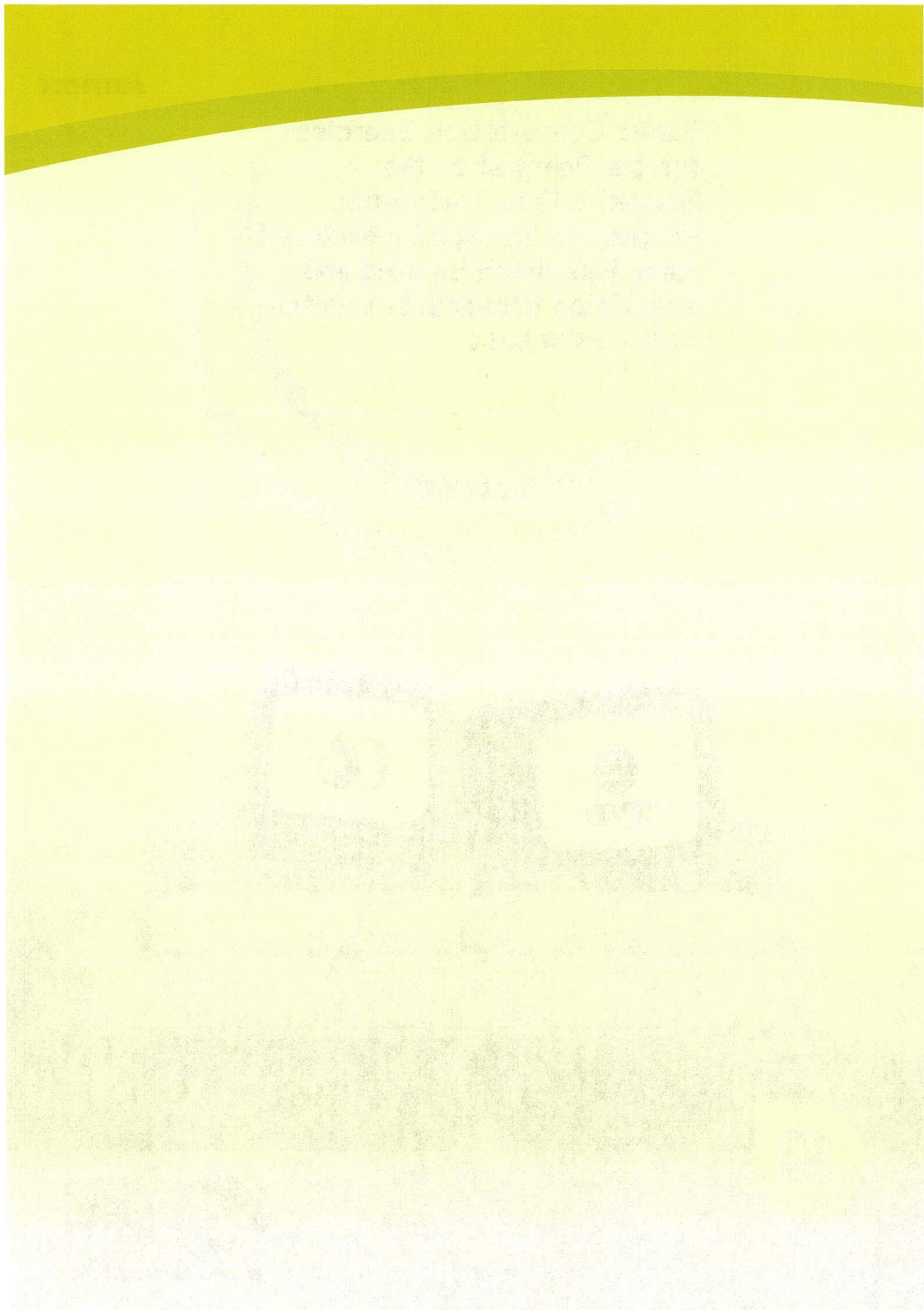
Advice Sought

11. Members are invited to note the progress of processing the licence renewal applications of ATV and TVB. Upon completion of the assessment, the CA will submit its recommendations on the licence renewal applications of ATV and TVB for the consideration of the CE in C.

**Office of the Communications Authority
February 2014**

**Public Consultation Exercise
for the Renewal of the
Domestic Free Television
Programme Service Licences of
Asia Television Limited and
Television Broadcasts Limited
4 FEB - 3 APR 2014**







Consultation Period:

4 February - 3 April 2014

Please give your views in writing:

Post: The Communications Authority

c/o Office of the Communications Authority

20/F, Wu Chung House, 213 Queen's Road East, Wan Chai, Hong Kong

Fax: 2507 2219

Email: consultation-atvtvb@ofca.gov.hk

The Public Hearings:

Hong Kong
Island
Session

Venue : Hong Kong City Hall Concert Hall
5 Edinburgh Place
Central, Hong Kong

Date : 17 February 2014 (Monday)

Time : 7:00p.m. - 9:00p.m.



Kowloon
Session

Venue : Ngau Chi Wan Civic Centre Theatre
2/F & 3/F, Ngau Chi Wan Municipal Services Building
11 Clear Water Bay Road, Kowloon

Date : 7 March 2014 (Friday)

Time : 7:00p.m. - 9:00p.m.

New
Territories
Session

Venue : Sha Tin Town Hall Cultural Activities Hall
1 Yuen Wo Road
Sha Tin, New Territories

Date : 10 March 2014 (Monday)

Time : 7:00p.m. - 9:00p.m.

Please call **2233 9388** or visit the Communications Authority's website at www.coms-auth.hk for reservation. Reservation for public hearings starts from 27 January 2014 (for Hong Kong Island Session) and 21 February 2014 (for Kowloon and New Territories Sessions). The public hearings will be conducted in Cantonese. English interpretation and sign language services may be provided upon request by participants when making reservation.

Background

In November 2002, the Chief Executive in Council (CE in Council) approved the renewal of the domestic free television programme service licences of Asia Television Limited (ATV) and Television Broadcasts Limited (TVB) for 12 years from 1 December 2003 to 30 November 2015, subject to mid-term review of the licences. Under the Broadcasting Ordinance (Cap.562) (BO), the Communications Authority (CA), the statutory body that regulates broadcasters in Hong Kong, shall process the applications of ATV and TVB for licence renewal and submit recommendations to the CE in Council. Following established practices, the CA will carry out a comprehensive assessment of the performance of ATV and TVB since December 2003, with a view to making recommendations to the CE in Council on the licence renewal.

Purpose

The purpose of the public consultation exercise is to obtain comments and opinions from members of the public on the performance of ATV and TVB. In line with established procedures, the CA has decided to gauge public views on the television programme services of ATV and TVB through various means including conducting public hearings and a territory-wide opinion survey and inviting written submissions from members of the public. The CA will take into account the public views received in making recommendations to the CE in Council on the licence renewal.



The Public Hearings

Basic rules to be observed

- The Chairman will decide on the order of speakers.
- In order to accommodate as many speakers as possible, each will have not more than 3 minutes to express their views.
- The public hearing is not intended to be question-and-answer sessions for the CA or the licensees. The public hearing is intended to obtain comments and opinions from members of the public on the performance of the licensees. The opinions expressed at the public hearing will be collated into a report for publication.
- Participants should respect the right of others to freely express their views at the hearing and should not disturb or interrupt the conduct of the hearing by whatever means, including holding up/waving placards or banners.

Programme rundown

6:45p.m.	Admission for members of the public
7:00p.m.	Welcoming remarks by the Chairman of the CA
7:10p.m.	Presentation by ATV
7:25p.m.	Presentation by TVB
7:40p.m.	Comments from the floor
9:00p.m.	End of public hearing

Written Submissions

Members of the public may also submit their opinions on the performance of ATV and TVB in writing to the CA Secretariat by post, by fax or by email (please refer to page 1 for details). Views received will normally not be treated as confidential. The CA may publish the submissions received in whole or in part (unless otherwise specified) without seeking the permission of or providing acknowledgement to the party making the submission.

Topics to be raised

Views will be sought on the performance of ATV and TVB and the television programme services they offered in the past. To assist members of the public to express their opinions on the licensees' services, a summary of the licensees' services, the current regulatory requirements, the complaints records and the licensees' investment plans are set out in this brochure for information.

The Licensed Services of ATV and TVB

Channels of ATV and TVB

Currently, ATV and TVB provide a total of 15 television channels. Four channels are simulcast in both analogue and digital formats and seven are digital channels, which include standard definition television (SDTV) and high definition television (HDTV). A full list of channels of ATV and TVB is set out below -

Name of Channel	Format	Channel Description
ATV¹		
Home	Analogue	A Cantonese dialect channel offering a variety of local and overseas productions
World	Analogue	An English language channel offering a variety of local and overseas productions
Home	SDTV	Digital simulcast of ATV Home channel
Asia	HDTV	A variety of HDTV programmes with local and overseas productions
Classic	SDTV	A collection of classic programmes produced by ATV
CCTV-1	SDTV	Satellite live feed of China Central Television Channel 1, an integrated channel originated from the Mainland
World	SDTV	Digital simulcast of ATV World channel
SZTV	SDTV	Satellite live feed of Shenzhen Satellite Television Channel, a channel originated from the Mainland
TVB		
Jade	Analogue	A Cantonese dialect channel offering a variety of local and overseas productions
Pearl	Analogue	An English language channel offering a variety of local and overseas productions
Jade	HDTV	Digital simulcast of TVB Jade channel
J2	HDTV	A variety of programmes targeting young viewers
iNews	HDTV	Programmes on news, finance and information
Pearl	HDTV	Digital simulcast of TVB Pearl channel
HD Jade	HDTV	A variety of HDTV programmes with local and overseas productions

Broadcast Hours

As at November 2013, ATV and TVB provided around 669 broadcast hours per week on the four analogue channels and 1,839 broadcast hours per week on the eleven digital channels. Nearly all channels were broadcast round-the-clock.

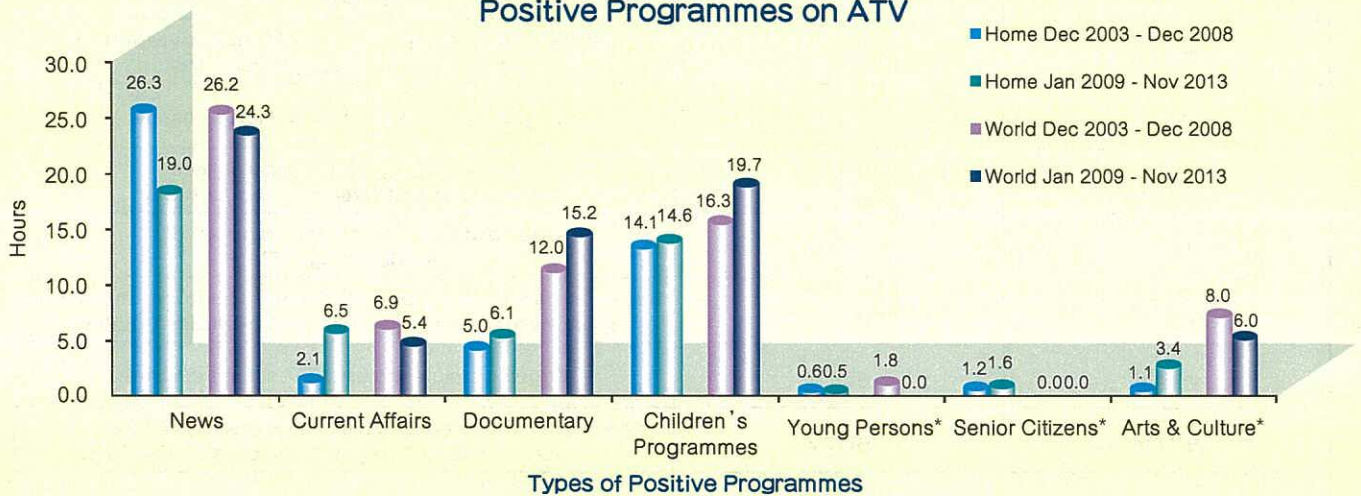
¹Since the launch of DTT service in December 2007, ATV had provided a number of SDTV channels which are no longer in service. Such channels had been replaced by "Classic", "CCTV-1" and "SZTV". Those terminated channels included, "News and Business", "His TV", "Her TV" and "Plus TV" which ceased to broadcast in 2009; "CCTV 4" and "CTI-Asia" which ceased to broadcast in 2011; and TV5 which ceased to broadcast in 2012.

Positive Programmes

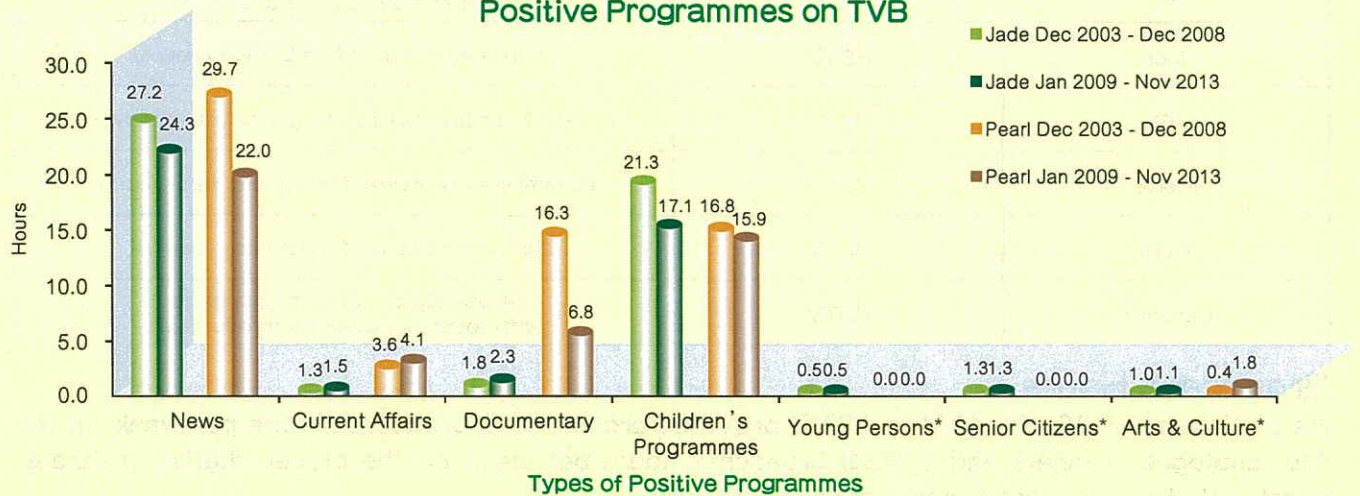
ATV and TVB are each required to broadcast at least 41.5 hours of positive programmes per week on their Chinese and English channels (i.e. ATV Home, ATV World, TVB Jade and TVB Pearl).

During the period from December 2003 to November 2013, the weekly average broadcast hours of positive programmes provided by ATV and TVB are shown in the following charts -

Weekly Average Broadcast Hours of Positive Programmes on ATV



Weekly Average Broadcast Hours of Positive Programmes on TVB



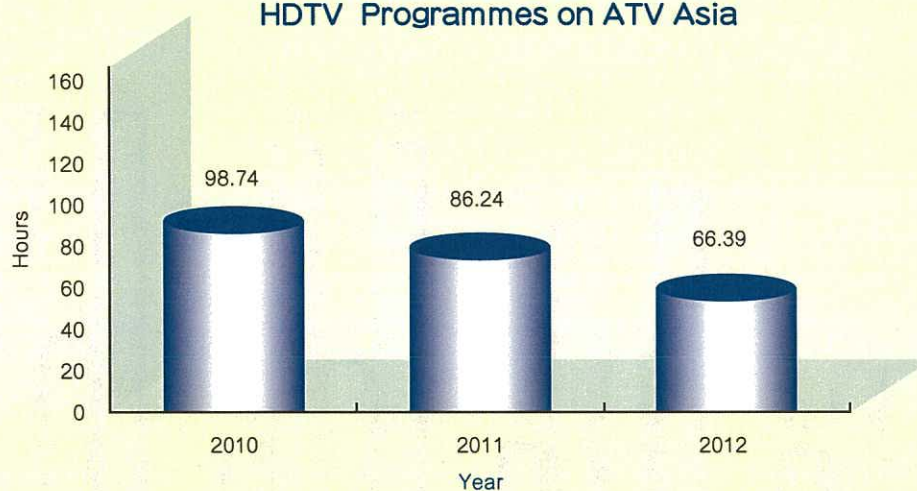
* The licensees are not required under their licences to broadcast Programmes for Young Persons and Senior Citizens and Arts and Culture Programmes on their English channels, i.e. ATV World and TVB Pearl.

HDTV Programmes

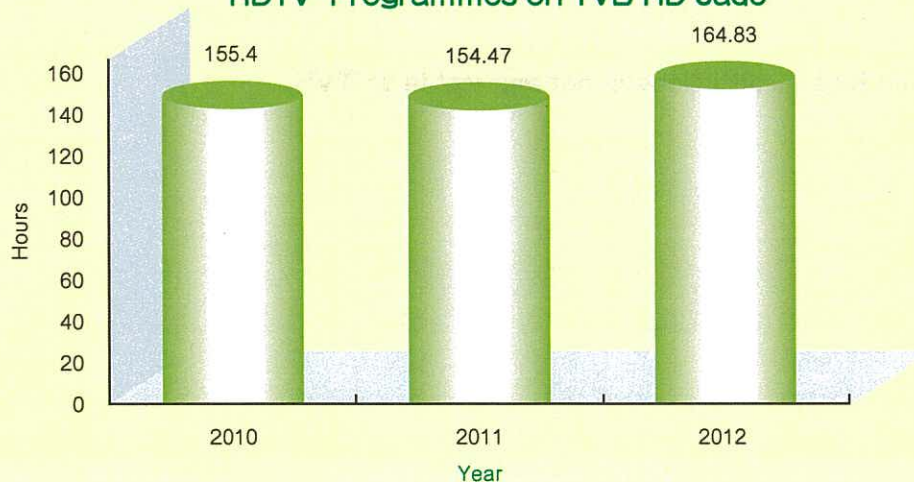
Before 2010, there was no requirement on the minimum amount of HDTV programmes to be broadcast by the licensees. Following the mid-term review of their licences in 2009, ATV and TVB are required to increase the amount of HDTV programming, from 14 and 20 hours per week in 2010 to 60 and 120 hours per week in 2015 respectively.

The weekly average broadcast hours of 2010 to 2012 are shown below -

Weekly Average Broadcast Hours of
HDTV Programmes on ATV Asia



Weekly Average Broadcast Hours of
HDTV Programmes on TVB HD Jade

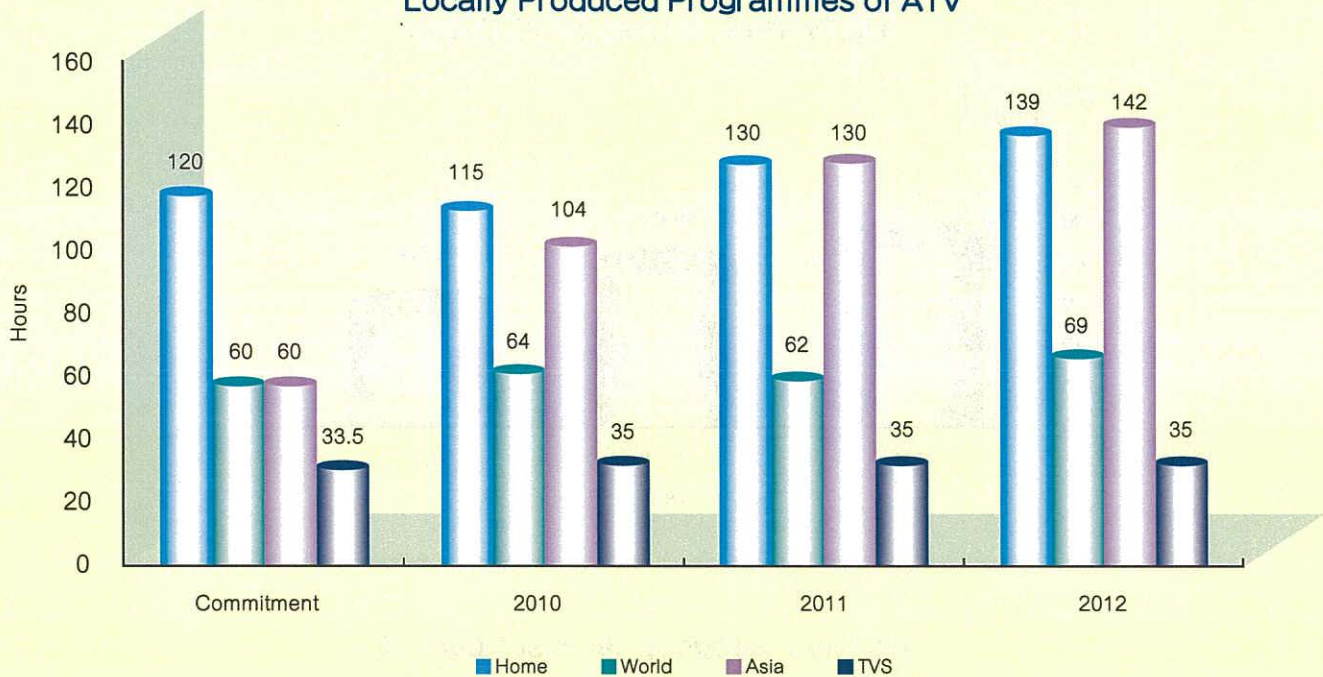


Note: The figures for 2013 are not available yet. In March 2013, TVB announced that all its digital channels, including the simulcast Jade and Pearl, are broadcast in high-definition format.

Locally Produced Programmes by ATV

Before 2010, there was no requirement on the amount of local productions to be broadcast by the licensee. Following the mid-term review of its licence in 2009, ATV is required to increase the total amount of locally produced programmes from 225 hours to 273.5 hours per week from 2010 to 2015. The weekly average broadcast hours of local productions on ATV for 2010 to 2012 are shown below -

Weekly Average Broadcast Hours of
Locally Produced Programmes of ATV

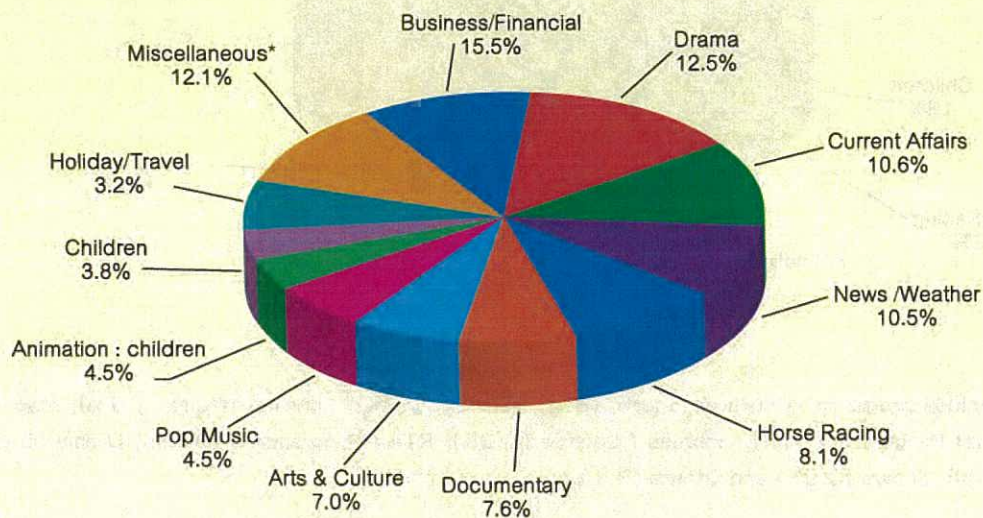


The requirement on local productions is not applicable to TVB.

Programme Types

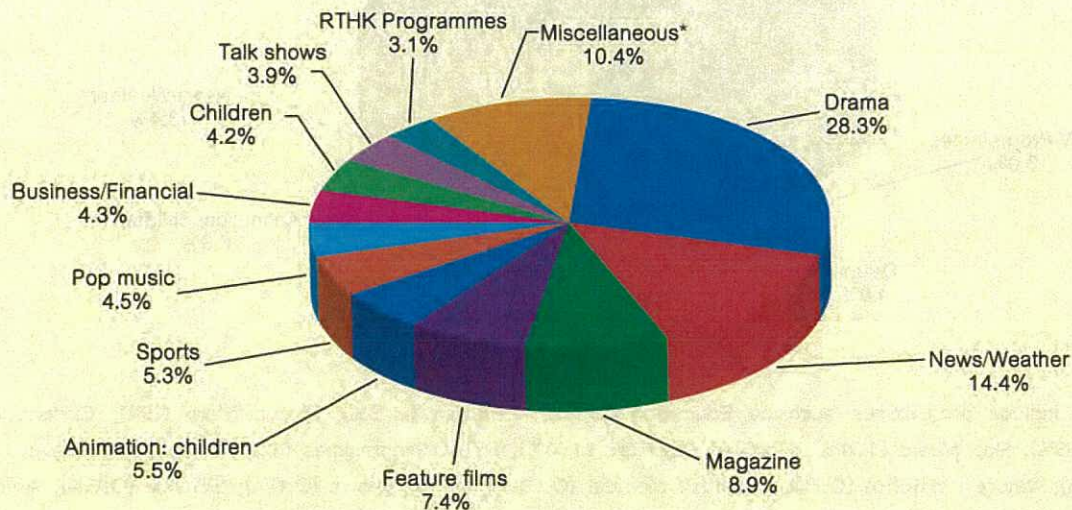
The different genres of programmes provided by ATV and TVB for November 2013 are shown in the following charts -

Programme Types on ATV Home for November 2013



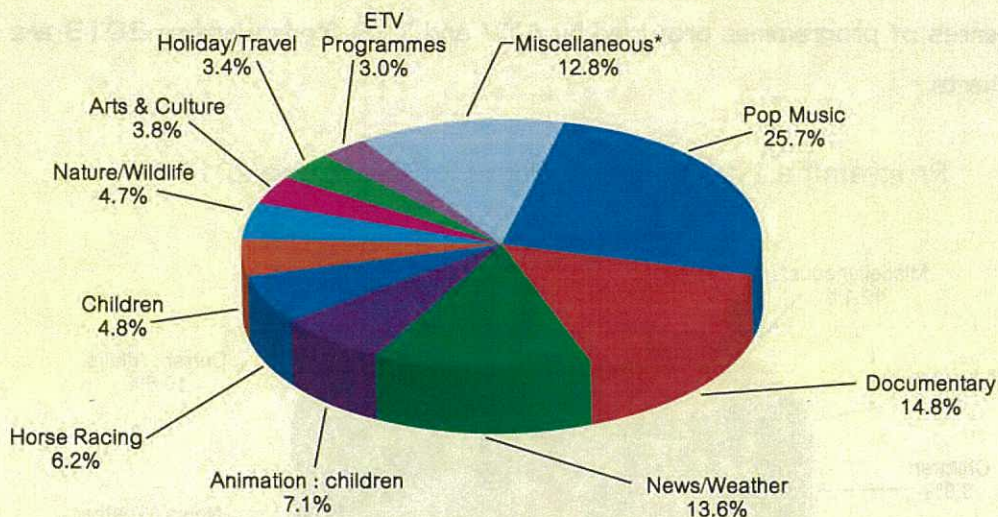
* Miscellaneous include programmes such as RTHK Programmes (2.6%), Feature Film (2.5%), Talk Shows (2.2%), Religious (1.1%), Variety Shows (0.9%), Hobbies / Leisure (0.7%), Advisory Programme for Young Persons & Senior Citizens (0.9%), Sports (0.4%) and Others (0.7%).

Programme Types on TVB Jade for November 2013



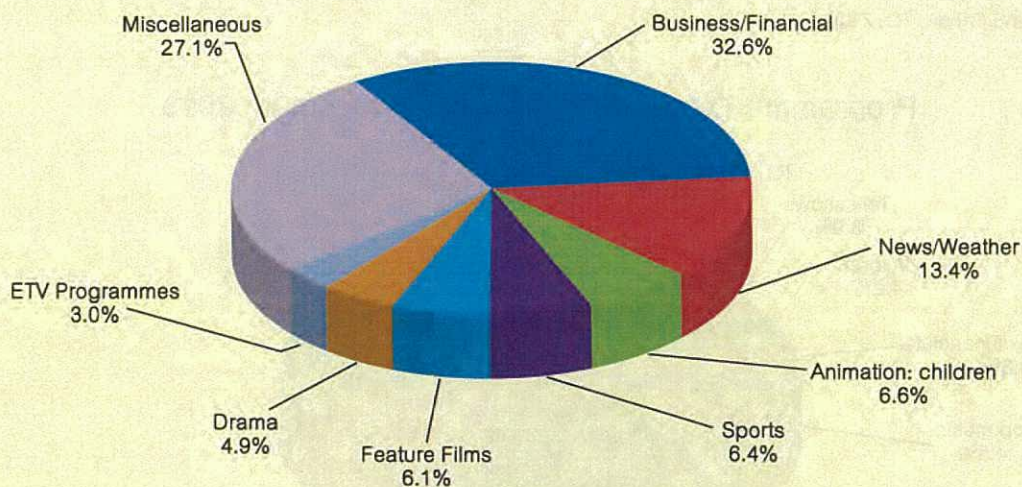
* Miscellaneous include programmes such as Quiz & Game Shows (1.5%), Documentary (1.5%), Animation : non-children (1%), Current Affairs (0.9%), Advisory Programmes for Young Persons & Senior Citizens (1.2%), Classified Advertisements (1.1%), Arts & Culture (0.7%), Holiday / Travel (0.6%), Cooking (0.6%), Advertising Magazines (0.2%) and Others (1.2%).

Programme Types on ATV World for November 2013



* Miscellaneous include programmes such as Sports (2%), Science (1.8%), Current Affairs (1.7%), Magazine (1.2%), Business / Financial Programmes (1%), Hobbies / Leisure (0.9%), RTHK Programmes (0.6%), Drama (0.6%), Health / Medical (0.6%), Talk Shows (0.3%) and Others (2.1%).

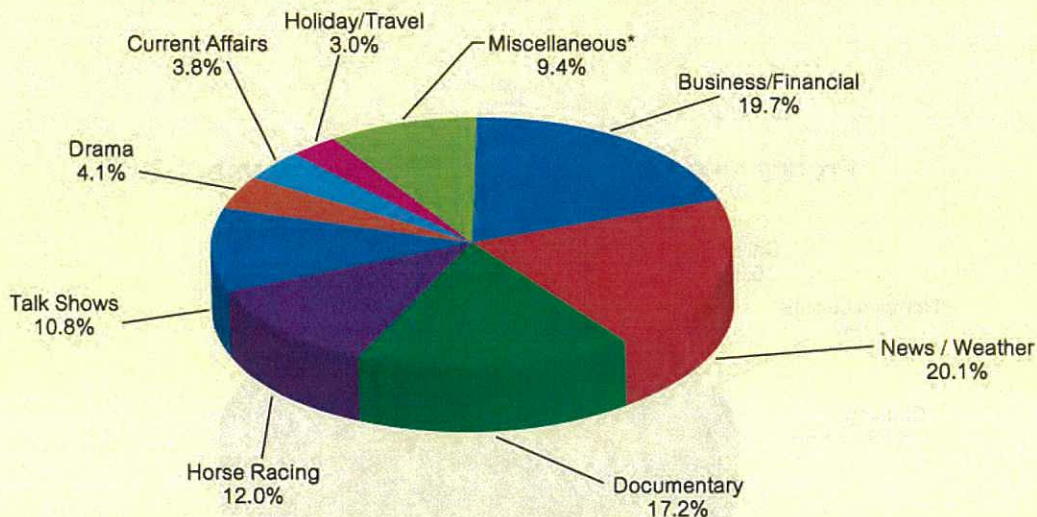
Programme Types on TVB Pearl for November 2013



* Miscellaneous include programmes such as Education (2.4%), Children (2.3%), Documentary (2%), Current Affairs Programmes (1.6%), Pop Music (1.4%), Hobbies / Leisure (1.4%), RTHK Programmes (1.2%), Holiday / Travel (1.2%), Magazine (0.9%), Nature / Wildlife (0.8%), Health / Medical (0.6%), Variety Shows (0.6%), Science (0.6%), Animation: non-children (0.5%), Cooking (0.3%), Situation Comedy Shows (0.4%) and Others (8.7%).

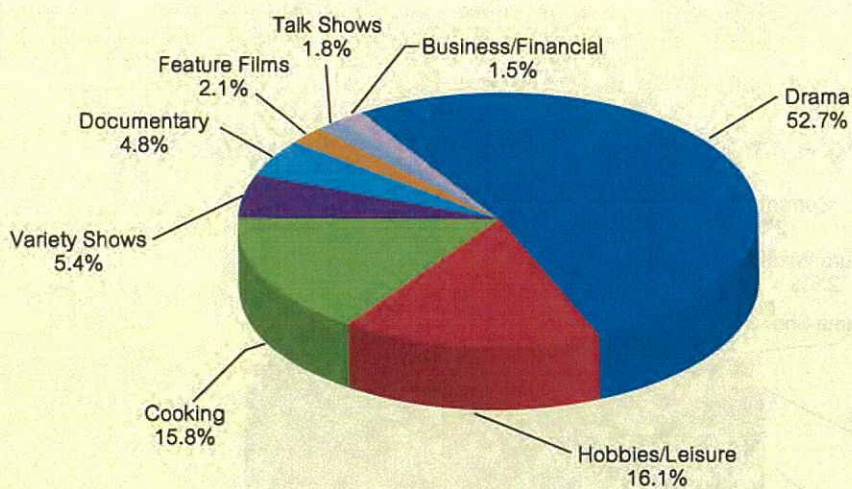


Programme Types on ATV Asia for November 2013

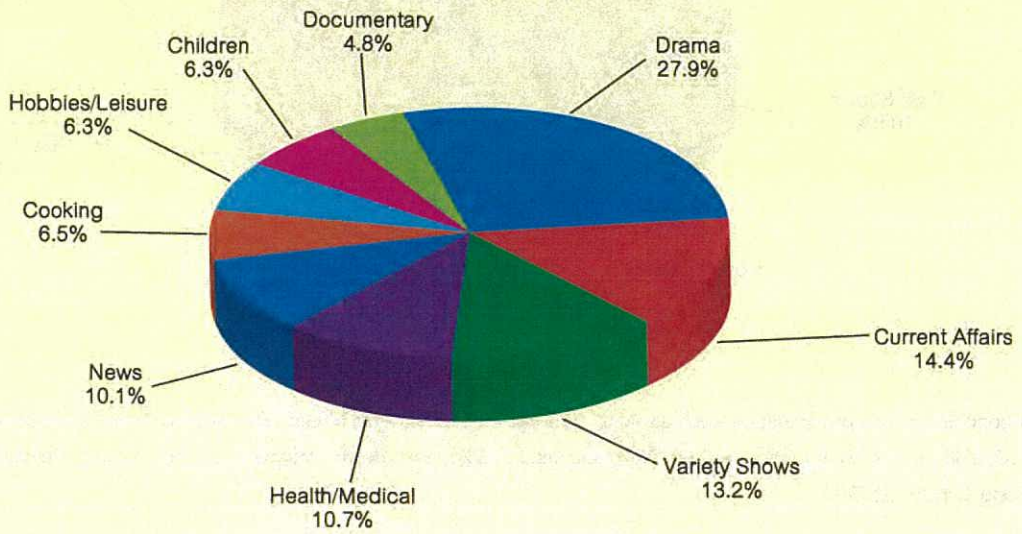


*Miscellaneous include programmes such as Arts & Culture (2.3%), Pop Music (2.1%), Hobbies / Leisure (1.5%), Quiz & Game Shows (0.9%), Cooking (0.6%), RTHK Programmes (0.6%), Advisory Programmes for Young Persons (0.3%), Magazine (0.3%) and Others (0.9%).

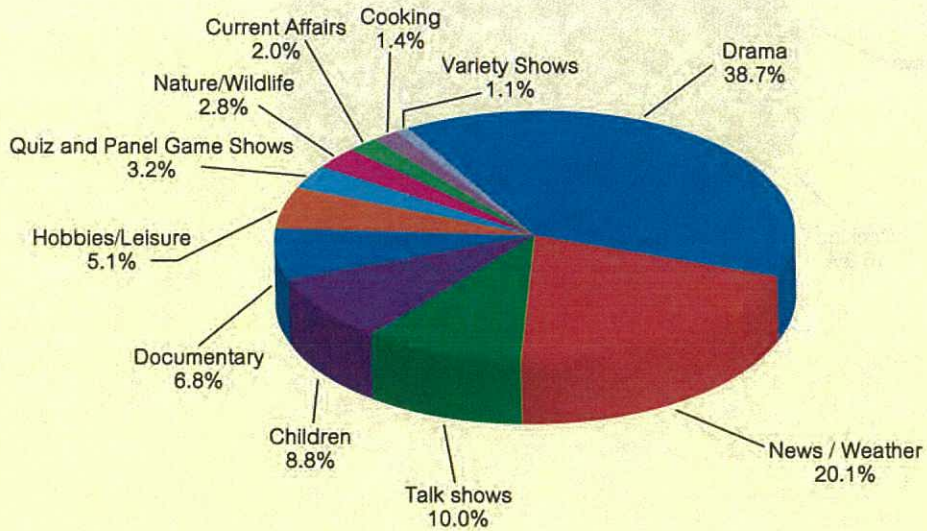
Programme Types on ATV Classic for November 2013



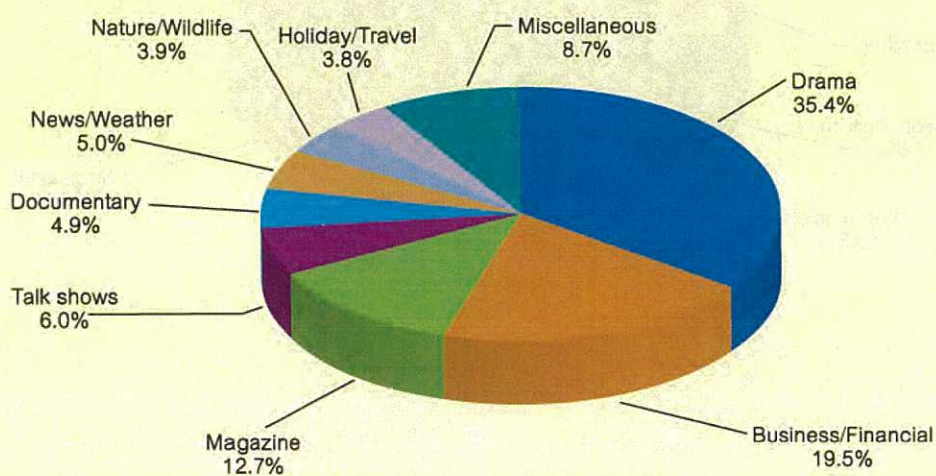
Programme Types on ATV SZTV for November 2013



Programme Types on ATV CCTV-1 for November 2013

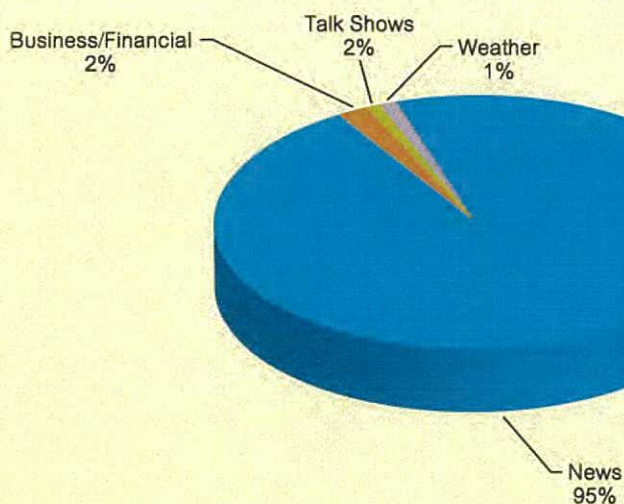


Programme Types on TVB HD Jade for November 2013

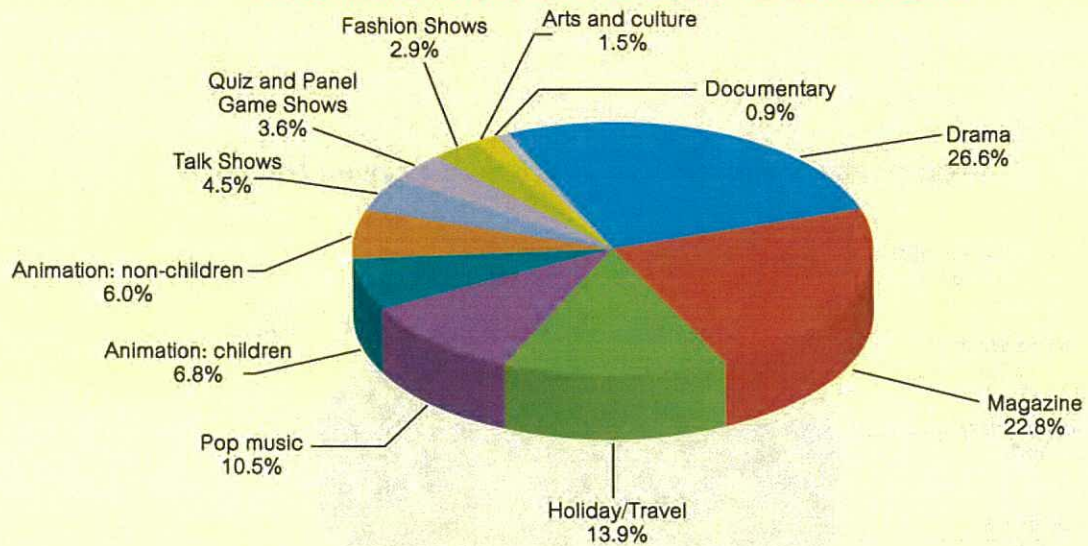


* Miscellaneous include programmes such as Feature Films (2.5%), Arts & Culture (1.8%), Pop Music (1.4%), Fashion (0.7%), Quiz & Game Shows (0.6%), Cooking (0.6%), Children's Programme (0.6%), Advisory Programme for Senior Citizens (0.3%) and Others (0.4%).

Programme Types on TVB iNews for November 2013



Programme Types on TVB J2 for November 2013



Complaints Records

Complaints about Programme Materials

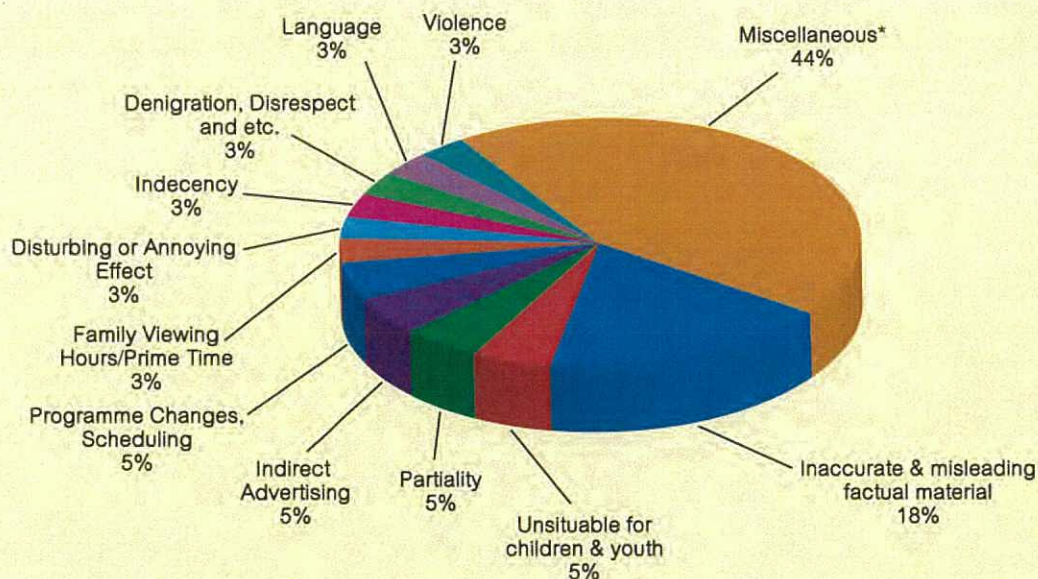
Details of the complaints relating to programme materials received by the former Broadcasting Authority (BA) (now Communications Authority (CA)², collectively referred to as “the Authority” below) during the period from December 2003 to November 2013 are highlighted below -

Complaints on	Number of Complaints	Number of Cases
ATV	50,248	2,321
TVB	53,043	6,661
ATV & TVB	732	243

The three cases attracted most complaints over the period are: “ATV Focus” (ATV焦點) (42,128 complaints on 5 episodes) provided by ATV in September 2012, “Scoop” (東張西望) (27,204 complaints) provided by TVB in November 2013, and “Caring HK Future” (關注香港未來) (2,200 complaints) provided by ATV in November 2012.

Detailed breakdowns of the complaint cases on programme materials by nature are as follows -

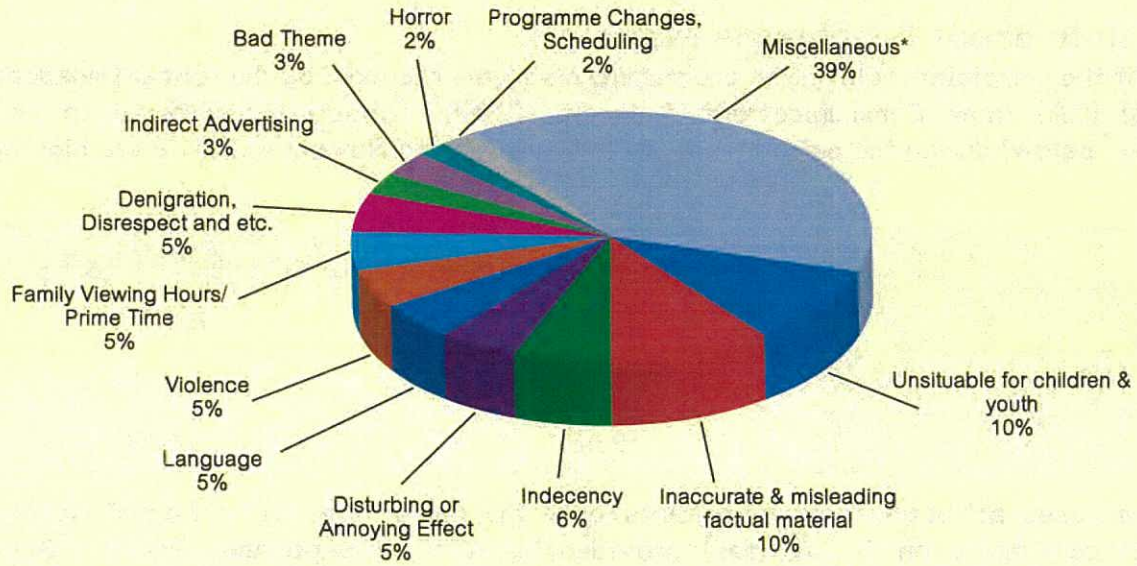
Nature of Complaints Cases on Programme Materials on ATV



* Miscellaneous include Subtitling, Horror, Superstition, Bad Theme, Sex, Drunkenness and Smoking, Advertising Time Restriction, Bad Taste, Editing and Technical Faults, Concurrent Broadcast/No Programme Choice, Adult Nature Material, Services/Products unacceptable to be advertised, Safety, Triad Theme and Others

² The CA was established on 1 April 2012 as the unified regulator for both broadcasting and telecommunications sectors by taking over the functions of the former BA and the Telecommunications Authority.

Nature of Complaints Cases on Programme Materials on TVB

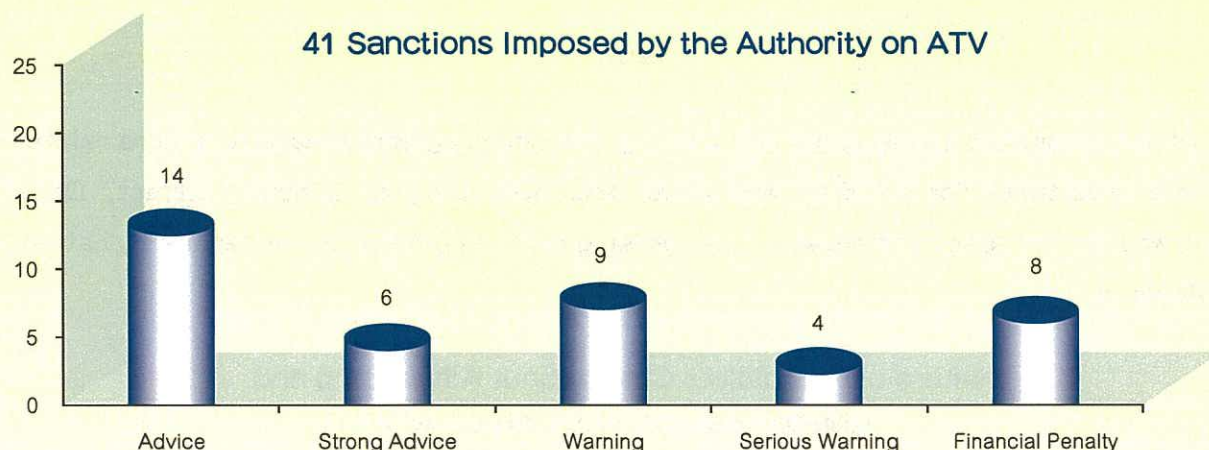


* Miscellaneous include Partiality, Sex, Subtitling, Bad Taste, Drunkenness and Smoking, Superstition, Editing and Technical Faults, Adult Nature Material, Advertising Time Restriction, Safety, Triad Theme, Concurrent Broadcast/No Programme Choice, Untrue, Contiguous Advertisements, Service/Products unacceptable to be advertised, Disparaging and Others.

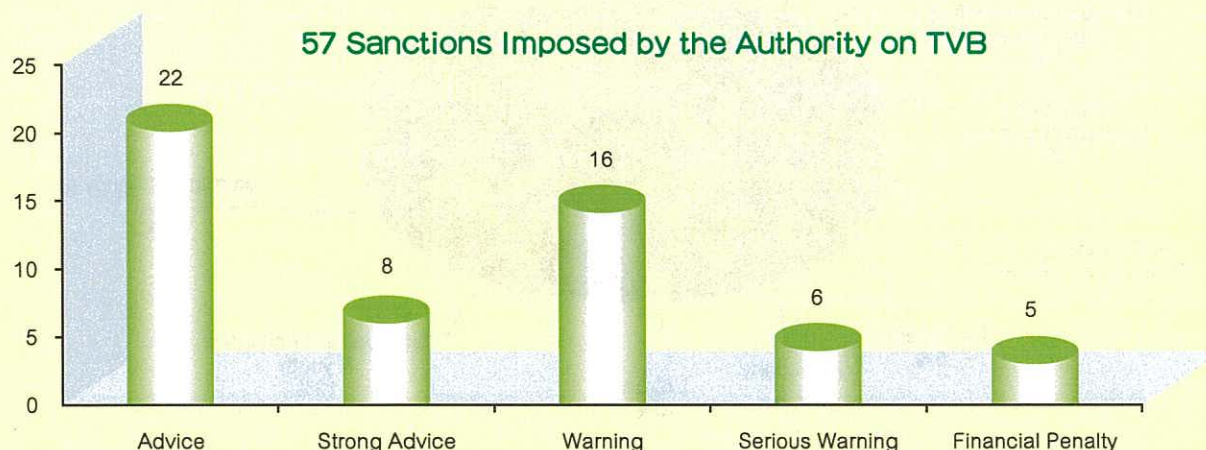
Sanctions Imposed on Complaints about Programme Materials

Of the 104,023 complaints (involving 9,225 cases) received during the period from December 2003 to November 2013, the Authority found more than 46,000 complaints substantiated and imposed 98 sanctions on the two licensees. Separately, 25,673 complaints have been classified as unsubstantiated, outside remit of the Authority or minor breaches by the former Commissioner for Television and Entertainment Licensing (CTEL) (now the Director-General of Communications (DG Com)³) under delegated authority⁴.

A breakdown of the sanctions is set out in the following charts -



Note: The eight financial penalties on ATV involved complaint cases of "Catering Specialist II"; misreporting of news on the death of a former national leader; "Caring Hong Kong's Future" ; a case of seven episodes of "ATV Focus" ; "6:00 News" & "Late News" and certain "Broadcast Materials" ; a case of three episodes of "ATV Focus" ; "Chimelong Resort Special: Fun at Panyu" ; and "Blog the World" . The financial penalties ranged from \$50,000 to \$300,000.



Note: The five financial penalties on TVB involved complaint cases of a case of 35 episodes of "Scoop" ; a case of 21 episodes of "Scoop" and 20 episodes of "Extra" ; "Jika Udon Special: All Star Spoof-off" ; "Guangzhou Chimelong Presents: Fever Summer Fun" and a case of 9 episodes of "Triumph In the Skies II" . The financial penalties ranged from \$40,000 to \$120,000.

³ The Television and Entertainment Licensing Authority headed by the CTCL has been replaced by the Office of the Communications Authority (OFCA) headed by the DG Com since 1 April 2012. The OFCA is the executive arm and secretariat of the CA.

⁴ Up to 30 November 2013, among the 9,225 cases involved, 160 cases are still being processed.

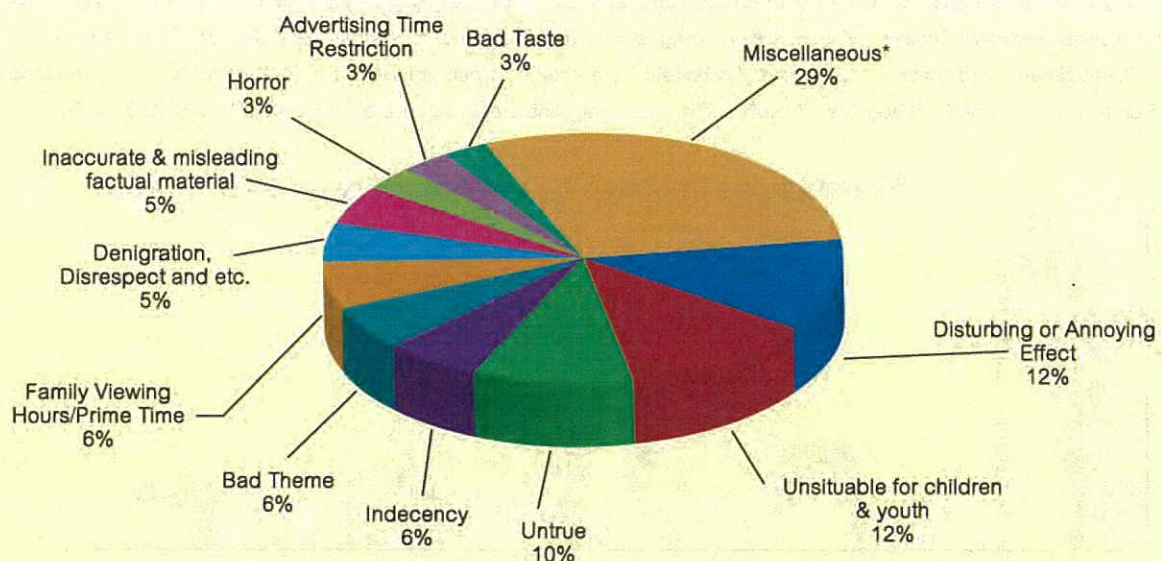
Complaints about Advertising and Non-programme Materials

Details of the complaints relating to advertising and non-programme materials received by the Authority during the period from December 2003 to November 2013 are highlighted below -

Complaints on	Number of Complaints	Number of Cases
ATV	298	124
TVB	4,740	1,415
ATV & TVB	902	110

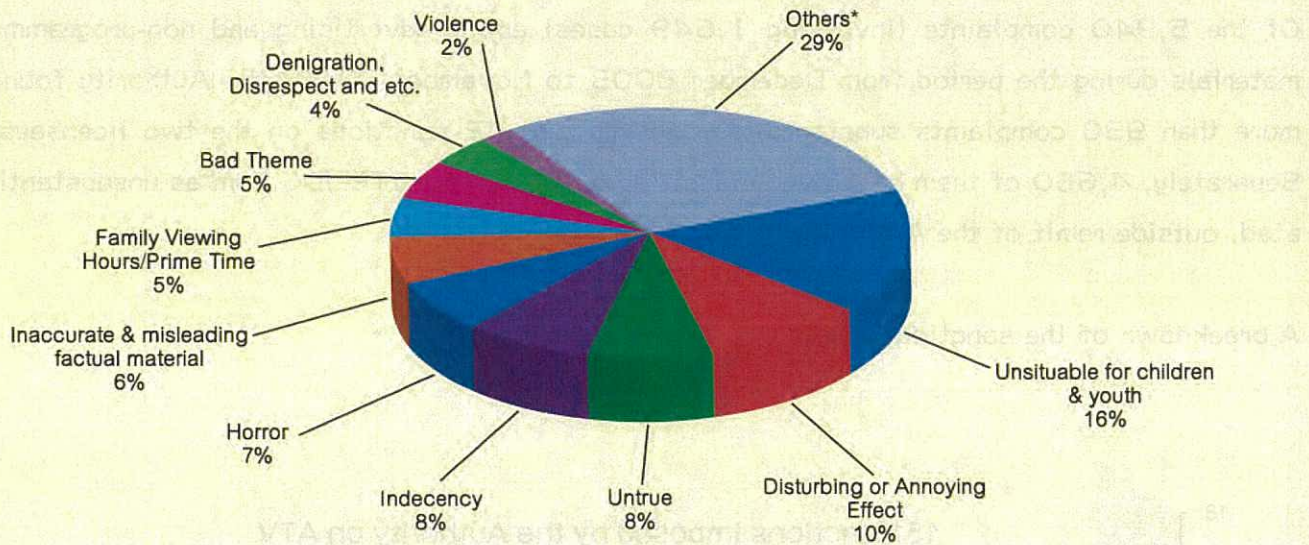
Most of the complaint cases about advertising and non-programme materials were related to materials unsuitable for children and youth and disturbing or annoying effect. Detailed breakdowns of the complaint cases on advertising and non-programme materials by nature are as follows -

Nature of Complaints Cases about Advertising and Non-programme Materials on ATV



* Miscellaneous include Services/Products unacceptable to be advertised, Violence, Safety, Language, Editing and Technical Faults, Contiguous Advertisements, Programme Changes/Scheduling, Sex, Superstition, Disparaging and Others.

Nature of Complaints Cases about Advertising and Non-programme Materials on TVB

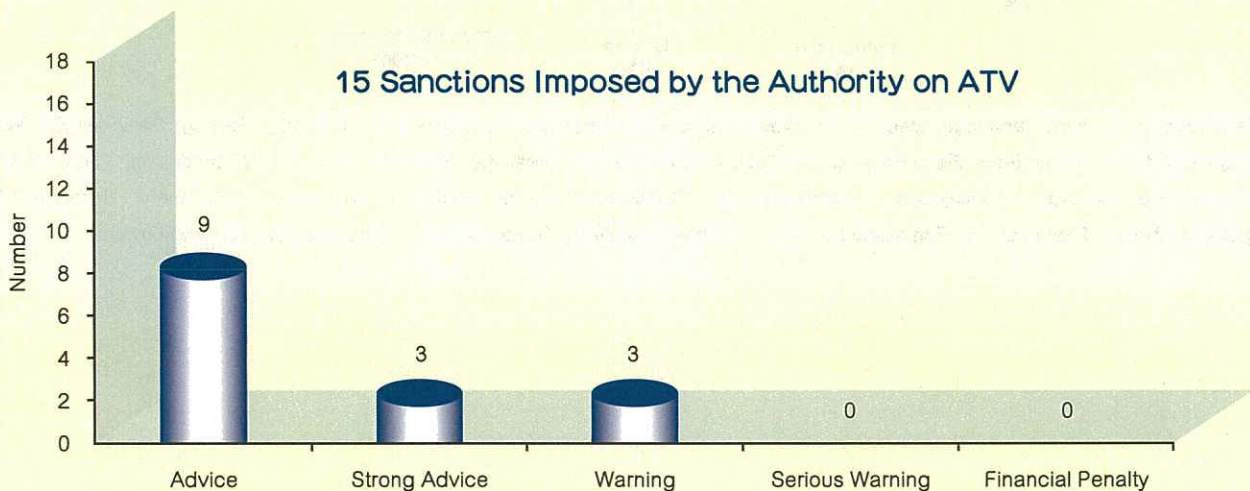


* Miscellaneous include Language, Bad Taste, Advertising Time Restriction, Indirect Advertising, Safety, Services/Products unacceptable to be advertised, Sex, Editing and Technical Faults, Disparaging, Programme Changes/Scheduling, Triad Theme, Subtitling, Superstition, Contiguous Advertisements, Drunkenness and Smoking, Partiality, Concurrent Broadcast/No Programme Choice, Professional Endorsement, Adult Nature Material, Tobacco Advertising Restriction and Others.

Sanctions Imposed on Complaints about Advertising and Non-programme Materials

Of the 5,940 complaints (involving 1,649 cases) about advertising and non-programme materials during the period from December 2003 to November 2013, the Authority found more than 930 complaints substantiated and imposed 42 sanctions on the two licensees. Separately, 4,660 of them have been classified by the former CTCL/DG Com as unsubstantiated, outside remit of the Authority or minor breaches⁵.

A breakdown of the sanctions is set out in the following charts -

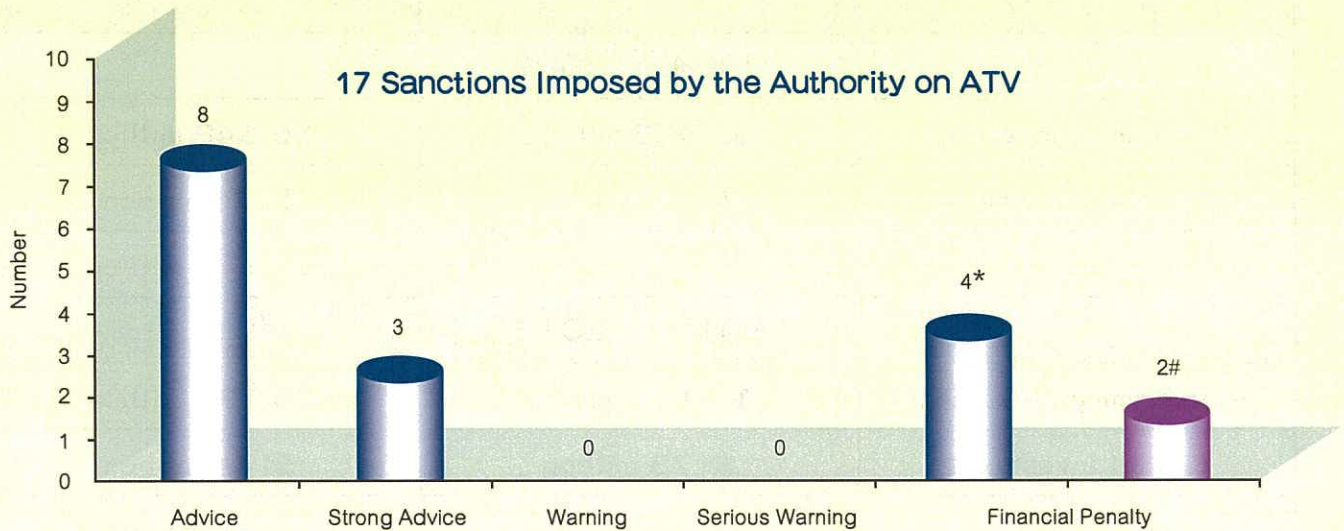


⁵ Up to 30 November 2013, among the 1,649 cases involved, 23 cases are still being processed.

Breaches of Statutory and Licensing Requirements

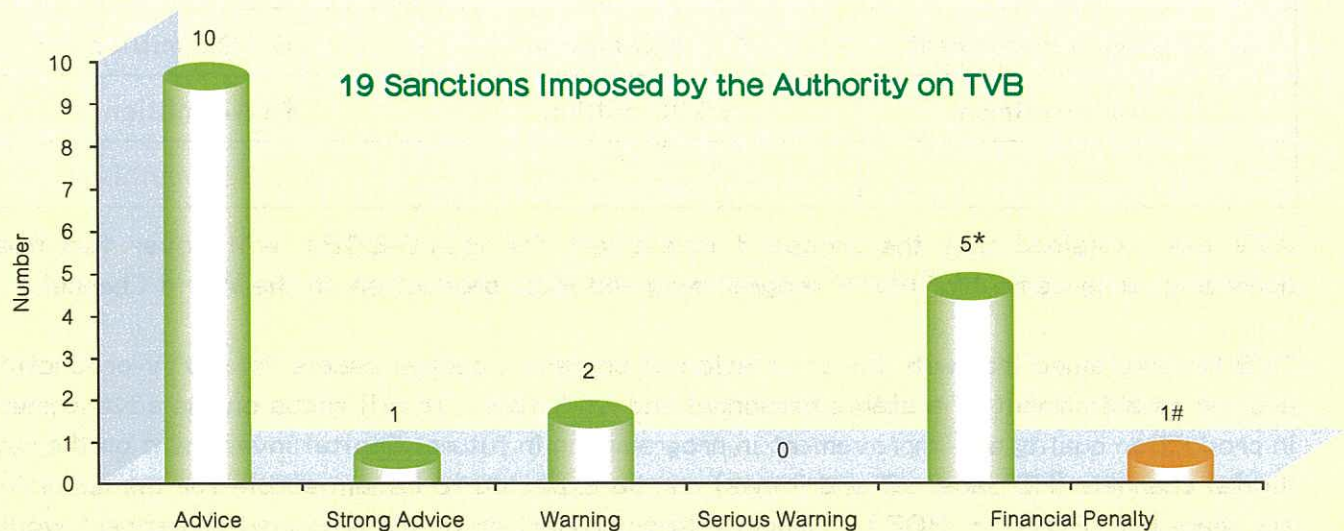
During the period from December 2003 to November 2013, the Authority imposed 17 sanctions on ATV, and 19 sanctions on TVB, for the non-compliance with the relevant legislative and licensing requirements.

A breakdown of the sanctions imposed is set out in the following charts -



Note*: The four financial penalties involved a breach of the disqualified person provision in the BO; late payment of licence fees of domestic free television programme service licence; a breach of licence condition in connection with the control and management of ATV; and non-compliance with the licensing requirement to submit annual audited accounts. The financial penalties ranged from \$50,000 to \$1,000,000.

Note#: The two financial penalties involved late payment of licence fee of its fixed carrier licence (FCL) issued under the Telecommunications Ordinance (TO); and a failure to share equally the transmission capacity in the Multiple Frequency Network (MFN), which contravened its FCL issued under the TO. The financial penalties were \$50,000 and \$200,000.



Note*: Of the five financial penalties, two involved TVB's exclusive supply of programme channels to Galaxy Satellite Broadcasting Limited (now renamed TVB Network Vision Limited (TVBNV)) without conducting an opening bidding process and undue preference on the non-exclusive supply of six channels to TVBNV; two involved breaches of the disqualified person provision in the BO; and one involved certain clauses in TVB's contracts with its artistes and singers and certain informal practices and policies pursued by TVB which violated the competition provisions of the BO. The financial penalties ranged from \$50,000 to \$900,000.

Note#: The financial penalty involved a failure to share equally the transmission capacity in the MFN, which contravened its FCL issued under the TO. The financial penalty was \$200,000.

ATV and TVB's Submissions on Investment Plans

ATV and TVB have respectively made investment commitments for the periods from 2004 to 2009 and from 2010 to 2015 as follows -

	ATV	TVB
2004 - 2009		
Programming investment	\$2,488 million	\$6,548 million
Capital investment	\$483 million	\$770 million
Total⁶	\$2,971 million	\$7,318 million
2010 - 2015		
Programming investment	\$2,178 million	\$6,192 million
Capital investment	\$173 million	\$144 million
Total	\$2,351 million	\$6,336 million

The proposed investments for the period from 2016-2021 made by ATV and TVB are as follows -

	ATV	TVB
2016 - 2021		
Programming investment	\$2,400 million	\$6,192 million
Capital investment	\$300 million	\$144 million
Total	\$2,700 million	\$6,336 million

ATV has explained that the proposed investment for 2016-2021 will cover facilities upgrading, enhancement of HDTV programming and local production on the World Channel.

TVB has explained that with the completion of upgrading capital assets for HDTV production and the establishment of a stable personnel and work force, it will focus on the advancement in production quality and improvement in programming in future. Capital investment on the new digital channels (HD Jade, J2 and iNews) can be expected to remain stable for the upcoming six years (i.e. 2016 - 2021). Hence, a large proportion of the proposed investment would be spent on programming.

⁶ ATV's actual expenditure of \$3,169 million exceeded its investment commitment for the period 2004-2009 (i.e. \$2,971 million). For TVB, the Authority approved in November 2010 that TVB's investment commitment for 2004-2009 be reduced to \$6,850 million, having considered TVB's explanation that the reduction in investment level was due to significant drop in equipment cost owing to technology advancement and its achievement of cost savings in production.

Highlights of Existing Regulatory Requirements

Programming Requirements

Language of Broadcast

1. The licensees 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. On the English language service only, the licensees may broadcast up to 20% of their programme material in other languages (except in Cantonese) outside the hours of 7:00p.m. to 11:30p.m. and a window of two continuous hours from 7:00p.m. to 11:30p.m. one day per week in other languages (except in Cantonese) with English subtitles. On the Chinese language service only, the licensees are allowed a quota of 10% broadcasting time of broadcast Putonghua programmes with Chinese subtitles.

Broadcast of Specified Types of Programmes (applicable to the analogue and simulcast digital services only)

3. The licensees shall broadcast a minimum of two comprehensive news bulletins, each of not less than 15 minutes duration, between 6:00p.m. and 12:00 midnight.
4. The licensees shall broadcast a minimum of 60 minutes of documentary programmes each week between 6:00p.m. and 12:00 midnight. Not less than 30 minutes of the programmes are to be wholly of Hong Kong origin.
5. The licensees shall broadcast a minimum of two half-hour current affairs programmes each week between 6:00p.m. and 12:00 midnight. Not less than 30 minutes of the programmes are to be wholly of Hong Kong origin.

6. The licensees shall broadcast two blocks of children's programmes (for children up to 15 years old): one of a minimum period of 1.5 hours daily between 4:00p.m. and 7:00p.m.; another of a minimum period of 30 minutes daily between 9:00a.m. and 7:00p.m. On the Chinese language services, at least 30 minutes of the children's programmes between 4:00p.m. and 7:00p.m. daily should be wholly of Hong Kong origin. On the English language services, there should be at least two hours of programmes per week with educational values targeting teenagers between 5:00p.m. and 7:00p.m.
7. The licensees shall broadcast on the Chinese language service a minimum of one half-hour programme per week between 8:00a.m. and 12:00 midnight intended and suitable for the education and proper development of young people (aged 16 - 24) in Hong Kong.
8. The licensees shall broadcast on the Chinese language service a minimum of 60 minutes of programming per week between 8:00a.m. and 12:00 midnight intended and suitable for the particular requirements of senior citizens (over the age of 60) in Hong Kong.
9. The licensees shall broadcast on the Chinese language service a minimum of 60 minutes of arts and culture programmes per week between 8:00a.m. and 12:00 midnight. Not less than 15 minutes of the programmes are to be wholly of Hong Kong origin.

Government Programmes

10. The licensees shall broadcast on the Chinese language service a minimum of 3.5 hours per week of government (RTHK) programmes.
11. In addition to the requirements in paragraphs 8, 9 and 10, the licensees shall broadcast on any language services in the Cantonese dialect an additional 90 minutes of government (RTHK) programmes per week, or, on any language services an additional 60 minutes of arts and culture programmes and programmes for senior citizens respectively per week between 8:00a.m. and 12:00 midnight.

Subtitling

12. The licensees shall provide, on the analogue/simulcast digital services, subtitling for all news, current affairs, weather programmes and emergency announcements. On the Chinese language service, Chinese subtitles must be provided for programmes shown between 7:00p.m. and 11:00p.m. and drama programmes (except for re-run of drama programmes which were first broadcast before 1 December 2003). On the English language service, all programmes shown between 8:00p.m. and 11:30p.m. and educational programmes for teenagers (two hours per week) shall carry English subtitles.

Family Viewing Hours and Information for Viewers

13. Nothing unsuitable for children shall be broadcast between 4:00p.m. and 8:30p.m. The restriction on the provision of material unsuitable for children should only be relaxed on a gradual and progressive basis after 8:30p.m.
14. Programmes which are not generally suitable for viewing by children must be classified into Parental Guidance Recommended (“PG” [家長指引]) and Mature (“M” [成年觀眾]) categories.
15. Programmes classified “PG” may contain adult themes or concepts but must remain suitable for children to watch under the guidance of a parent or guardian.
16. Programmes classified “M” are recommended for viewing by grown-up members of the family only and should only be shown between 11:30p.m. and 6:00a.m.
17. Aural and visual advice on the classification of programmes should be given before the start of the programme. A classification symbol signifying the classified category of the programme should also be superimposed on the screen.
18. An aural and visual statement must be given at the start of the programme describing the principal elements which have contributed to the classification and indicating their intensity and/or frequency.

Accuracy and Impartiality

19. The licensees should ensure that news is presented with accuracy and due impartiality. Correction of factual errors should be made as soon as practicable after the original error, or at the end of the current programme or the beginning of a subsequent programme.
20. The licensees must ensure that due impartiality is preserved as respects news programmes and any factual programmes or segments thereof dealing with matters of public policy or controversial issues of public importance in Hong Kong (except personal view programmes).

Fairness

21. The licensees have a responsibility to avoid unfairness to individuals or organisations featured in factual programmes, in particular through the use of inaccurate information or distortion.

Personal View Programmes

22. “Personal view programmes” are programmes in which the programme hosts and, sometimes, individual contributors put forward their own views. The nature of a personal view programme must be identified clearly at the start of the programme.
23. Facts must be respected and the opinion expressed, however partial, should not rest upon false evidence.
24. A suitable opportunity for response to the programme should be provided. Licensee should be mindful of the need for a sufficiently broad range of views to be expressed in any series of personal view programmes.

Gambling

25. The use of gambling devices or scenes relevant to the development of the plot or as an appropriate background should be presented with discretion, moderation and in a manner which does not encourage or offer instructions in gambling.

Crime

26. Criminal activities, when depicted, must be consistent with and reasonably related to plot and character development. Crime should not be portrayed in a favourable light and criminal activities should not be presented as acceptable behaviour, nor should criminals be glorified.
27. The presentation of criminal techniques in such a way as to be instructional or invite imitation should also be avoided.
28. Scenes containing detailed instructions for, or illustrations of, the use of illegal drugs, harmful devices or weapons are not permitted.
29. Scenes showing triad ceremonies, rituals, hand signs, etc., and triad expressions not generally accepted in daily language should be avoided.
30. Glorification of the power of triads and membership in a triad society should be avoided.

Use of Language

31. Bad language should not be used in programmes likely to be watched by a large number of children and young viewers. Downright offensive expressions and obscene or profane language are prohibited.

Sex and Nudity

32. The licensees should not include in its programmes any material which is indecent, obscene, or of bad taste which is not ordinarily acceptable to the viewers taking into consideration the circumstances in which the programme is shown. The portrayal of sex and nudity needs to be defensible in context and presented with tact and discretion. Explicit or gratuitous depiction of sexual violence is prohibited.

Violence

33. All depictions of violence should be relevant and necessary to the development of character, or to the advancement of theme or plot. No violence for its own sake or purely for dramatic attraction is allowed.

Indirect Advertising

34. No undue prominence may be given in any programme to a product, service, trademark, brand name or logo of a commercial nature or a person identified with the above so that the effect of such reference amounts to advertising. References to a sponsor and exposure of its product(s)/service(s) within programmes are subject to paragraph 5 and 6 of the advertising requirements below.

Advertising Requirements

Advertising Time

1. The aggregate advertising time shall not exceed 10 minutes per clock hour between 5:00p.m. to 11:00p.m. each day. At other times, the aggregate advertising time shall not exceed 18% of the total time the service is provided in that period.

Broadcast of Announcements in the Public Interest and CA Publicity Material

2. The licensees shall broadcast such announcements in the public interest as required by the CA provided that such announcements shall not exceed 1 minute in a clock hour on each language service. CA publicity material may be broadcast twice daily during the period 6:00p.m. to 11:00p.m. for not more than 1 minute on each channel up to a maximum limit of 5 minutes each week.

Designated Language (applicable to the analogue and simulcast digital services only)

3. Advertisements broadcast in languages other than the designated language of the service must carry subtitles in the designated language of that service. A maximum of 50% of the number of advertisements can be broadcast in non-designated languages on the English channels for the period from 7:00p.m. to 11:00p.m. No more than two advertisements may be broadcast in non-designated language on the Chinese language service in any clock hour.

Restrictions on Advertising Materials

4. Advertising material should be clearly identifiable as an advertisement. Distinctions must be maintained between advertisements and programmes.
5. A sponsored programme must be clearly identified as such.
6. The licensee may accept title sponsorship and product/service sponsorship subject to the basic principle that the sponsor identifications and/or exposure of the product(s)/service(s) within a programme are not obtrusive to viewing pleasure. In addition, the inclusion of the sponsored product(s)/service(s) within a programme should be clearly justified editorially.

7. News programmes and programmes, announcements or other material included at the direction of the CA, religious service or other devotional programmes must not be sponsored.
8. All factual claims and best-selling claims should be capable of substantiation.
9. Advertisements for the following products or services (including but without limitation to) are not acceptable:
 - (a) tobacco products;
 - (b) firearms and associated equipment;
 - (c) fortune-tellers and the like;
 - (d) undertaker or others associated with death or burial (except advertisements for columbaria);
 - (e) unlicensed employment services, registries or bureaux;
 - (f) organisations/companies/persons advertising for giving betting tips;
 - (g) betting (including betting pools) except advertisements for lotteries, football and horse race betting which are authorised by or under the Betting Duty Ordinance (Cap. 108) and related publications and pre-recorded information services;
 - (h) night clubs, dance halls, massage parlours, sauna houses, bath houses or similar establishments in which hosts/hostesses are employed for the primary purpose of attracting or entertaining customers or in which floor shows or other live performance or activities involving sexual behaviour are presented;
 - (i) escort and dating services targeting young persons under 18;
 - (j) pay per call information services which offer adult material of a sexual nature;
 - (k) medical preparations listed in Part I of the Schedule to the Poisons List Regulation (Cap. 138B) and Schedule I to the Antibiotics Regulations (Cap. 137A);
 - (l) smoking cessation (excluding nicotine replacement therapy);
 - (m) prevention or treatment for any disease of hair or scalp (excluding prevention or treatment of dandruff by means of external applications);
 - (n) pregnancy testing services;
 - (o) clinical laboratory testing services;
 - (p) relief or cure of alcoholism and drug addiction;
 - (q) cosmetic surgery and slimming or weight reducing measures involving the use of medial preparations; and
 - (r) procurement of miscarriage or abortion.

10. Indirect advertising of the unacceptable product or service is unacceptable.
11. Liquor advertising should not be included between 4:00p.m. and 8:30p.m. Such advertisements should not be shown in proximity to children's programmes or programmes targeting young persons under 18.
12. Advertisements of medical preparations and treatments should not contain any reference to a prize competition or promotional scheme such as gifts, premium offers and samples.
13. No advertisement for condoms should be shown between 4:00p.m. and 8:30p.m.
14. Subliminal advertising is not permitted.

Appendix - Definition of Programme Types

For the purpose of the domestic free television programme service licence, the various programme types the licensee is required to broadcast are defined as follows:

Arts and Culture Programmes

1. 'Arts and culture programmes' means programmes which promote the development or appreciation of -
 - (a) the literary, performing or visual arts; or
 - (b) other topics or activities of cultural value.

Children's Programmes

2. 'Children's programmes' means programmes which -
 - (a) are designed specifically for children of different age groups up to the age of 15;
 - (b) fulfill the special needs of children;
 - (c) can be easily understood or appreciated by children; and
 - (d) contribute to the social, emotional, or intellectual, or physical development of children.

Current Affairs Programmes

3. 'Current affairs programmes' means programmes, or segments of programmes, focusing on social, economic or political issues relevant to Hong Kong, and with detailed analysis or discussion of news stories that have recently occurred or are ongoing at the time of broadcast.

Documentary Programmes

4. 'Documentary programmes' means programmes presenting actuality - political, social or historical events or circumstances in a factual and informative manner, often consisting of actual news films and/or dramatic reconstruction accompanied by narration but does not include travelogues and current affairs programmes.

Programmes for Senior Citizens

5. 'Programmes for senior citizens' means programmes which aim at catering for the health, special informational or recreational needs of people over 60.

Programmes for Young Persons

6. 'Programmes for young persons' means programmes which offer assistance to young people aged 16 to 24 -
 - (a) to develop their capabilities, potentials or a proper sense of social values;
 - (b) to achieve the highest attainable standards of physical or mental health;
 - (c) to access information or guidance on services for youth, including family, health, welfare education, employment, sports or recreation services;
 - (d) to promote their knowledge of and respect for different cultures, human rights or the rule of law;
 - (e) to promote their love and respect for life, arts, science, nature or reason;
 - (f) to promote their concern for protection of the environment; or
 - (g) to encourage their participation in community affairs.

