

Press Releases

LCQ5: Domestic free television programme service licences

Following is a question by the Hon Charles Peter Mok and a reply by the Secretary for Commerce and Economic Development, Mr Gregory So, in the Legislative Council meeting today (October 9):

Question:

Quite a number of members of the public have relayed to me that since the Communications Authority (CA) has ruled earlier that the two existing licensees (TV stations) of domestic free television programme service licence (free TV licence) had violated the Broadcasting Ordinance, the authorities should prudently consider their licence renewal applications and conduct studies on how competition may be introduced into the free TV market. The Government should also expeditiously announce the vetting and approval results of the three applications for free TV licences. In this connection, will the Government inform this Council:

(a) whether it will make public the procedure for processing free TV licence applications, and when it will announce the commencement of the vetting and approval work on the licence renewal applications of the two existing free TV stations, to enable the public to understand the decision-making process and considerations of the authorities (including whether competition can be effectively induced) in processing the applications, so as to address concern; if it will, of the details; if not, the reasons for that;

(b) as the Secretary for Commerce and Economic Development, in response to a media question regarding a free TV station being ruled to have engaged in anti-competitive practices, stated that CA would process the licence renewal applications in accordance with the law and then submit its recommendations to the Chief Executive in Council, whether it knows if CA has planned to make recommendations, to the Chief Executive in Council, which are material to affect licence renewal in view of the two existing free TV stations having violated the Broadcasting Ordinance earlier; if CA has planned to do so, of the legal basis for making the recommendations and details of such recommendations; if not, the reasons for that; and

(c) as the authorities have stated that upon expiry of the existing third generation (3G) mobile services licences or 3G mobile services spectrum assignments, the persons concerned should not have legitimate expectation on any right of first renewal of such licences or spectrum assignments, and the authorities have recommended recalling the spectrum for re-allocation through a market-driven approach to induce competition, whether the Government will adopt the same principle and issue free TV licences through open tender or some other means upon expiry of the existing free TV licences, so as to promote market competition; if it will not, of the reasons for that?

Reply:

President,

Our reply to the Hon Charles Peter Mok's three-part question is as follows:

(a) and (b) Hong Kong Television Network Limited, Fantastic Television Limited and HK Television Entertainment Company Limited each submitted an application for a domestic free television programme service (free TV) licence on December 31, 2009, January 15, 2010 and March 31, 2010 respectively (hereinafter referred to as the "three applications"). The former Broadcasting Authority (i.e. the predecessor of the Communications Authority (CA)), after taking into account various relevant factors and in accordance with the Broadcasting Ordinance (Chapter 562) (BO) and established procedures, has earlier completed the assessment of the three applications, and submitted recommendations thereon to the Chief Executive (CE) in Council. The Administration has been processing the three applications expeditiously and prudently in accordance with the BO and established procedures. We have repeatedly explained to the public and the Legislative Council on various occasions the procedures for processing the three applications. The processing of the three applications involves complicated issues, including those relating to statutory requirements and procedural fairness, which require time for careful handling. The outcome will be announced after the CE in Council has made a decision on the three applications. At this stage, we are not in a position to disclose any details regarding the processing of the three applications, which are still being considered by the CE in Council.

The free TV licences of the two incumbent licensees will expire on November 30, 2015. Under section 11 of the BO, the CE in Council may, during the period of validity of a free TV licence, extend or renew the licence, in accordance with the provisions of the BO, to take effect upon expiry of the validity of the licence. The licensee concerned shall submit to the CA an application in the specified form for the extension or renewal of its licence; and the application shall be submitted not less than 24 months before the date on which the period of validity of the licence expires. In other words, the two existing licensees shall submit their applications to the CA by November 30, 2013 if they decide to apply for extension or renewal of their licences (the "Applications"). Under the BO, the CA shall, as soon as is 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 CE in Council 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. Where recommendations on the application are made by the CA, the CE in Council shall consider them and as soon as is practicable extend or renew the licence to which they relate subject to such conditions as he thinks fit specified in the licence, or decide not to extend or renew the licence. Where the CE in Council decides under section 11 of the BO not to extend or renew the licence, he shall cause notice in writing of the decision to be served on the licensee at least 12 months before the expiry of the validity of the licence.

As far as we know, the CA has not yet received the Applications from the licensees. The CA has already indicated that it will immediately process the Applications, upon receipt, in accordance with the law and established procedures. It is inappropriate for the Government to speculate on the

recommendations that the CA may make to the CE in Council. We understand that if any of the Applications is received, the CA plans to hold a large-scale public consultation in the first quarter of 2014, including public hearing, to gauge public views on the performance of the licensees concerned in order to make recommendations to the CE in Council.

We believe that the CA will consider a basket of factors when processing the Applications, including the licensees' operational, financial, technical and programming arrangements, future commitments, public opinions, and will fully assess the past performance of the licensees concerned in relation to their compliance with the statutory requirements, licence conditions and codes of practice.

(c) As I have mentioned just now, the CA has not received the Applications from the two incumbent licensees. We believe that the CA and the relevant authorities will take into account matters in relation to the frequency spectrum when processing the Applications.

As regards the re-assignment arrangements for the frequency spectrum upon expiry of the existing frequency assignments for 3G Mobile Services, I would like to take this opportunity to reiterate that there has yet to be any decision regarding the arrangements. The putting forward of the hybrid option out of the three proposed options for further consultation in the second round of consultation should not be interpreted as an indication that a final decision has been made on any of the options.

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