

**立法會**  
**Legislative Council**

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**Panel on Information Technology and Broadcasting**

**Special meeting on 8 November 2013**

**Updated background brief on applications for  
domestic free television programme service licences**

**Purpose**

This paper provides background information on the applications for domestic free television programme service licences and also a summary of views and concerns expressed by Members in previous discussions.

**Background**

2. Currently, there are four categories of television programme services under the Broadcasting Ordinance ("BO") (Cap. 562). Licences for domestic free television programme service and domestic pay television programme service are issued by the Chief Executive in Council ("CE in Council") while licences for non-domestic television programme service and other licensable television programme service are issued by the Communications Authority<sup>1</sup> ("CA"). Under the BO, the CA shall consider applications for a domestic free television programme service licence and make recommendations thereon to the CE in Council. After considering the recommendations made by the CA, the CE in Council may grant a domestic free television programme service licence, subject to such conditions as he thinks fit specified in the licence.

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<sup>1</sup> The CA is an independent statutory body established under the Communications Authority Ordinance (Cap. 616) on 1 April 2012. It is a unified regulatory body overseeing the converging telecommunications and broadcasting sectors.

3. According to the Administration, it has been the Government's established broadcasting policy to promote the sustainable development of the local broadcasting industry and encourage fair competition, investment and the adoption of innovative technologies by the industry, thereby leading to the provision of more choices of quality programmes to the public. The Government's broadcasting policy has remained unchanged. Under the BO, there is no pre-set limit on the number of free television programme service licences to be issued. Any interested and eligible organizations may make applications to the CA for such licences. The CA will assess all applications in accordance with the BO and established procedures as set out in the Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong, and then submit its recommendations to the CE in Council. The assessment criteria set out in the Guidance Note include the applicant's financial soundness and commitment to investment, the applicant's managerial and technical expertise, the variety, quantity and quality of programmes to be provided, the technical soundness and quality of the proposed service, the speed of service roll-out, the impact on members of the public by any construction works associated with the proposed service, the benefit to the local broadcasting industry and the economy as a whole, as well as the applicant's internal quality monitoring mechanism.

## **Previous discussions**

### Panel on Information Technology and Broadcasting

4. The Panel on Information Technology and Broadcasting ("the Panel") has been following up closely on the progress of the Administration's processing of applications for domestic free TV programme service licences. At the special Panel meeting on 22 July 2010, members noted that the former Broadcasting Authority ("BA") (replaced by the CA on 1 April 2012) received domestic free television programme service licence applications from Hong Kong Television Network Limited<sup>2</sup> ("HKTV"), Fantastic Television Limited ("Fantastic TV") and HK Television Entertainment Company Limited ("HKTVE") on 31 December 2009, 15 January 2010 and 31 March 2010 respectively. Members were concerned about the lack of progress by the Administration in processing the applications.

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<sup>2</sup> City Telecom (HK) Limited has been renamed as Hong Kong Television Network Limited ("HKTV") with effect from 10 January 2013.

5. At the Panel meeting on 11 June 2012, members noted that it had been almost 30 months since the submissions by the applicants, and over 12 months since the recommendations on the applications submitted by the former BA. Members considered the delay unreasonable, both from the perspectives of the public and the commercial operators. They urged the CE in Council to make a final decision on the applications as soon as possible. The Administration advised that the Government had been processing the recommendations submitted by the former BA expeditiously and prudently in accordance with the statutory requirements and established procedures. The outcome would be announced as soon as the CE in Council made a decision.

6. At the special meeting on 25 January 2013, the Panel followed up the issues relating to the applications for domestic free television programme service licences. The Panel also met with representatives of relevant stakeholders to gauge their views on the subject. The free TV licence applicants (namely HKTV, Fantastic TV and HKTVE) attending the meeting urged the Government to issue the new free TV licences as soon as possible, whereas the existing two free TV licensees (namely ATV and TVB) objected to the processing of the applications by the CE in Council. The Panel strongly condemned the Government for ignoring the public's right to know and their interests by unreasonably delaying the issuance of such licences, and passed a motion to this effect.

#### Council meetings

7. Members have expressed grave concern about the progress of processing of the applications by the Administration at different forums. At the Council meetings on 11 January, 2 May, 30 May, 17 October, 7 November 2012, 17 July and 9 October 2013, Hon LEUNG Yiu-chung, Hon Starry LEE, Hon LEE Wing-tat, Hon Charles Peter MOK, Hon Frederick FUNG and Hon Claudia MO raised questions on the subject.

8. A motion was passed at the Council meeting on 28 November 2012 urging the Administration to issue the new domestic free television programme service licences before the end of March 2013. The wording of the motion moved by Hon Claudia MO and amended by Ir Dr Hon LO Wai-ki is in **Appendix I**.

## Recent developments

9. On 15 October 2013, the Administration announced that the CE in Council had approved in principle the applications of Fantastic TV and HKTVE for a free TV licence, whereas the application submitted by HKTV had been rejected. The letter from the Administration on the subject was circulated to Panel members vide LC Paper No. CB(4)39/13-14 on 16 October 2013.

10. At the Council meeting on 17 October 2013 (the CE's Question and Answer Session), some Members expressed dissatisfaction that the CE had refused to give an account of the justifications for not granting a domestic free television programme service licence to HKTV due to the Executive Council's confidentiality rules. The CE advised that under the established system of confidentiality which must be adhered to, the deliberation of the Executive Council meetings on any subject matter was not made public.

11. Having regard to the strong public demand for the Administration to clearly explain its decision to reject the application of HKTV for a domestic free TV licence, as reflected in the huge turnout for the public procession on 20 October 2013, Hon Charles Peter MOK and eight other Members put forward at the House Committee ("HC") meeting on 25 October 2013 a proposal for the HC Chairman to move at the Council meeting on 30 October 2013 a motion seeking the Legislative Council's authorization to empower the Panel to exercise the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap.382) ("LCPPO") to order the Secretary for Commerce and Economic Development ("SCED") to attend before the Panel, and to produce information relating to the vetting and approval by the Hong Kong Special Administrative Region Government ("HKSARG") of the domestic free television programme service licence applications. The wording of the motion as revised by Hon Charles Peter MOK at the meeting is in **Appendix II**. The proposal was negatived.

12. At the Council meeting on 30 October 2013, Dr Hon Lam Tai-fai raised a question on, inter alia, whether the authorities would review afresh the applications for domestic free television programme service licences. The Administration advised that the CE in Council, having regard to all relevant factors and representations and responses in relation to the three applications, had decided that it would be in the public interest to adopt a gradual and orderly approach in introducing competition into the free TV market, i.e. not approving all the three applications at this stage, while not

precluding the possibility of allowing more free TV operator(s) as and when appropriate.

13. Hon Charles Peter MOK will move a motion under the LCPPO at the Council meeting of 6 November 2013 seeking the Legislative Council's authorization to empower the Panel to exercise the powers under section 9(1) of the LCPPO to order the SCED to attend before the Panel to produce all relevant papers, books, records or documents involved in the vetting and approval by the HKSARG of the domestic free television programme service licence applications. Hon Charles Peter MOK's original motion and the amendment to the motion proposed by Hon Dennis KWOK are in **Appendix III**.

14. Hon James TO will move a motion at the Council meeting of 6 November 2013 urging the CE to explain to the public the details of vetting and approval of the licence applications concerned, and to consider issuing a domestic free television programme service licence to HKTV. Hon James TO's original motion, and the amendments to the motion proposed by Hon Claudia MO and Hon MA Fung-kwok are in **Appendix IV**.

15. Hon Charles Peter MOK will raise a Council question on processing of applications for television programme licences and carrier licences on 13 November 2013.

### **Latest position**

16. The Panel will follow up issues relating to the applications for domestic free television programme service licences on 8 November 2013.

### **Relevant papers**

17. A list of the relevant papers with their hyperlinks is at:  
[http://www.legco.gov.hk/yr15-16/english/panels/itb/papers/itb\\_aa.htm#yr1314](http://www.legco.gov.hk/yr15-16/english/panels/itb/papers/itb_aa.htm#yr1314)

Council Business Division 4  
Legislative Council Secretariat  
6 November 2013

(Translation)

**Motion on  
“Domestic free television programme service licence applications”  
Moved by Hon Claudia MO  
at the Council meeting of 28 November 2012**

**Motion as amended by Ir Dr Hon LO Wai-kwok**

That, given that the progress of vetting the three applications for domestic free television programme service licences (‘free TV licences’) has always been of major concern to the society, but the Government has not yet announced the application results, causing various speculations in society; in order to give the local free television industry a business environment for fair competition and sustainable development, this Council puts forward the following views and recommendations, and urges the relevant authorities to respond positively, including:

- (a) as the Government has been promoting a pluralistic and open society, but on the applications for free TV licences, it has not made a decision after almost three years, this Council therefore requests the Government to undertake to issue additional free TV licences before the end of March next year and issue the licences as soon as possible;
- (b) as the cultural and creative industry is one of the six industries where Hong Kong enjoys clear advantages, and in Hong Kong a considerable number of young people enroll in relevant multi-media courses, in order to increase employment opportunities for these young people and facilitate the development of creative media, the Government should proactively formulate the relevant policies and measures; and
- (c) the Government should make the vetting process of free TV licence applications open and transparent to dispel public misgivings; the relevant broadcasting ordinances and codes of practice should keep pace with the times and, on a fair and equal basis, apply across the board to existing free TV licensees and operators joining the competition in the future.

## **Appendix II**

### **Motion proposed to be moved by the Chairman of the House Committee at the Council meeting on 30 October 2013**

#### **Wording of the motion**

(Translation)

"That the Panel on Information Technology and Broadcasting 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 to order the Secretary for Commerce and Economic Development to attend before the Panel on Information Technology and Broadcasting on or before 8 November 2013 to produce all relevant papers, books, records or documents involved in the processes of vetting and approval of domestic free television programme service licence applications by the Hong Kong Special Administrative Region Government (including but not limited to all relevant documents and reports submitted by the former Broadcasting Authority to the Hong Kong Special Administrative Region Government), but excluding all Executive Council minutes and other confidential commercial documents."

**Motion under the  
Legislative Council (Powers and Privileges) Ordinance  
to be moved by Hon Charles Peter MOK  
at the Council meeting of 6 November 2013**

**Wording of the Motion**

That the Panel on Information Technology and Broadcasting 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 to order the Secretary for Commerce and Economic Development to attend before the Panel on Information Technology and Broadcasting on or before 8 November 2013 to produce all relevant papers, books, records or documents involved in the processes of vetting and approval of domestic free television programme service licence applications by the Hong Kong Special Administrative Region Government (including but not limited to all relevant documents and reports submitted by the former Broadcasting Authority to the Hong Kong Special Administrative Region Government).



**Amendment proposed by Hon Dennis KWOK to the motion under  
the Legislative Council (Powers and Privileges) Ordinance to be  
moved by Hon Charles Peter MOK at the Council meeting of  
6 November 2013**

**Wording of the motion as amended**

That the Panel on Information Technology and Broadcasting 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 to order the Secretary for Commerce and Economic Development to attend before the Panel on Information Technology and Broadcasting ~~on or before 8 November 2013~~ *within 21 days after the passage of this motion* to produce all relevant papers, books, records or documents involved in the ~~processes of vetting and approval~~ *processing* of domestic free television programme service licence applications by *the former Broadcasting Authority, the Communications Authority and the Hong Kong Special Administrative Region Government* ~~(including but not limited to all relevant documents and reports submitted by the former Broadcasting Authority to the Hong Kong Special Administrative Region Government)~~ *but excluding the deliberations and relevant records of the Executive Council and any confidential commercial information involving the licence applicants.*

Note: Hon Dennis KWOK's amendment is marked in *bold and italic type* or with deletion line.

(Translation)

**Motion debate on  
“Domestic free television programme service licences”  
to be held at the Council meeting of 6 November 2013**

**1. Hon James TO’s original motion**

That the Administration has recently issued licences to two applicants of domestic free television programme service licences, but has refused to issue a licence to Hong Kong Television Network Limited (‘HKTVN’); this Council expresses regret that the Administration vetted and approved the licence applications in a black box, and its licensing decision departed from public opinion and antagonized the people; besides, the public are very dissatisfied with the Chief Executive’s refusal to openly give an account of the justifications for not issuing a licence to HKTVN on the grounds of the confidentiality principle of the Executive Council; in this connection, this Council urges the Chief Executive, on the premise of safeguarding the overall interest of society, to explain to the public the details of vetting and approval of the licence applications concerned (including the vetting and approval criteria), and the Chief Executive in Council should respond to public opinion and consider issuing a domestic free television programme service licence to HKTVN.

**2. Motion as amended by Hon Claudia MO**

That the Administration has ~~recently~~ issued licences to two applicants of domestic free television programme service licences, but has refused to issue a licence to Hong Kong Television Network Limited (‘HKTVN’); this Council expresses regret that the Administration vetted and approved the licence applications in a black box, and its licensing decision departed from public opinion and antagonized the people; besides, the public are very dissatisfied with the Chief Executive’s refusal to openly give an account of the justifications for not issuing a licence to HKTVN on the grounds of the confidentiality principle of the Executive Council; in this connection, this Council urges the Chief Executive, on the premise of safeguarding the overall interest of society, to explain to the public the details of vetting and approval of the licence applications concerned (including the vetting and approval criteria), *ensure that the free*

*television broadcasting policy can consistently apply 'free market with fair competition' as its fundamental principle, and undertake that 'differentiation between close and distant relationships' is not taken into consideration in the process of vetting and approval of domestic free television programme service licence applications, and the Chief Executive in Council should respond to public opinion and consider issuing a domestic free television programme service licence to HKTVN.*

Note: Hon Claudia MO's amendment is marked in ***bold and italic type*** or with deletion line.

### **3. Motion as amended by Hon MA Fung-kwok**

That *after several years of deliberations*, the Administration has ~~recently issued~~ *eventually decided to issue* licences to two applicants of domestic free television programme service licences, but has refused to issue a licence to Hong Kong Television Network Limited ('HKTVN'); ~~this Council expresses regret that the Administration vetted and approved the licence applications in a black box, and its licensing decision departed from public opinion and antagonized the people~~ *the absence of reasonable explanation by the Administration on the vetting and approval of the licence applications has made the public disappointed and puzzled*; besides, the public are very dissatisfied with the Chief Executive's refusal to openly give an account of the justifications for not issuing a licence to HKTVN on the grounds of the confidentiality principle of the Executive Council; in this connection, this Council urges the Chief Executive, on the premise of safeguarding the overall interest of society, to explain to the public the details of vetting and approval of the licence applications concerned (including the vetting and approval criteria), and the Chief Executive in Council should ~~respond to public opinion and consider issuing a~~ *having regard to public opinion and the sustainable development of the television broadcasting industry, study and consider timely issuing more domestic free television programme service licence to HKTVN licences; the Administration should also urge the two operators who will be granted licences to strictly abide by the undertakings made in the applications and the licensing requirements, so as to foster competition in free television, upgrade the quality of Hong Kong television programmes and support the development of the film industry, which is related to the television broadcasting industry.*

Note: Hon MA Fung-kwok's amendment is marked in ***bold and italic type*** or with deletion line.