

## Press Releases

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Chief Executive in Council approves in principle two applications for free TV licences (with photo)

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The Government today (October 15) announced that the Chief Executive (CE) in Council has approved in principle the applications of Fantastic Television Limited (Fantastic TV) and Hong Kong Television Entertainment Company Limited (HKTVE) for a domestic free television programme service (free TV) licence, whereas the application submitted by Hong Kong Television Network Limited (HKTVM) has been rejected.

The CE in Council has thoroughly discussed the three free TV licence applications. Having considered holistically all relevant factors and the overall development of the local free television market, the CE in Council has decided that a gradual and orderly approach in introducing competition into the free TV market is prudent and in the public interest.

Speaking at a press conference today, the Secretary for Commerce and Economic Development, Mr Gregory So, said, "This decision is not only in line with the Government's established broadcasting policy to introduce competition and increase programme choice and diversity, but at the same time minimises the risk of any possible adverse impact on the free TV market as a whole."

While not all three free TV licence applications were approved at this juncture, Mr So stressed that it did not preclude the possibility of allowing more free TV operators as and when appropriate.

In processing the free TV licence applications, the CE in Council has considered an array of relevant factors including the free TV licence applications submitted by the three applicants, the recommendations of the former Broadcasting Authority (now the Communications Authority) (the Authority), statutory requirements under the Broadcasting Ordinance (BO), the assessment criteria in the Authority's "Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong", the overall sustainability of the free TV market, the consultant's reports on the competition implications of new entrants to the local free TV market (which include an assessment of the relative competitiveness of each applicant), all representations and responses submitted by the relevant parties, all relevant latest developments, all public views received, the Government's prevailing broadcasting policy, and the public interest.

According to Fantastic TV's and HKTVE's proposals, a total of two channels (i.e. one for each) will be provided within 12 months after the granting of the free TV licences. Fantastic TV will invest over \$1 billion in the initial six years from the launch of the proposed service whereas HKTVE will invest over \$600 million in the initial three years from the launch of the proposed service. The key features of the preliminary application particulars of Fantastic TV and HKTVE are in the Annex.

"Under the gradual and orderly approach, the CE in Council, in deciding whether to grant 'approval-in-principle' to each of the free TV licence applications, has assessed the free TV licence applications against various objective assessment criteria. These criteria include financial capability, the programming investment, programming strategy and capability and technical soundness of the proposed service," Mr So said.

"We believe that Fantastic TV and HKTVE, if formally granted the free TV licences at a later stage, will facilitate the bringing in of additional investments into local programme production. This will not only provide more programme choices for

## ATTACHMENTS

- Annex - Key features of preliminary application particulars of Fantastic TV and HKTVE

the audience, but also create more job opportunities in the creative industries," he added.

The CE in Council has granted "approval-in-principle" to the applications concerned at this stage, subject to the CE in Council's further review and final determination of the applications at a later stage. The granting of an "approval-in-principle" to a free TV licence application is not the granting of a licence under the BO. It does not impose an obligation on the CE in Council to formally grant a licence in due course. The "approval-in-principle" does not confer, and should not be understood as conferring, any right, interest or expectation (whether legal, equitable or otherwise) on the applicants concerned that a free TV licence will be granted by the CE in Council under the BO.

As the next step, the Administration and the Authority will seek further information as necessary from Fantastic TV and HKTVE, and discuss with them the proposed licence conditions.


The Authority will then further review Fantastic TV's and HKTVE's applications and submit to the CE in Council recommendations on whether a free TV licence should be formally granted under sections 8(1) and 10(1) of the BO. The CE in Council will further review and take a final view on Fantastic TV's and HKTVE's abilities to meet the licensing criteria as well as each and every relevant aspect of their free TV licence applications before making a final decision.

The draft licences for Fantastic TV and HKTVE will contain general terms and conditions similar to those of the licences held by existing free TV licensees, with specific provisions relevant to them.

Ends/Tuesday, October 15, 2013  
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 [Print this page](#)

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## Press Releases

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Transcript of remarks by SCED on domestic free television programme service licence applications

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Following is a transcript of remarks by the Secretary for Commerce and Economic Development, Mr Gregory So, to the media after attending a radio programme today (October 16):

Reporter: What's the reason why HKTVM did not receive a licence, is it because in the basics, compared to other competitors, they are inferior?

Secretary for Commerce and Economic Development: In assessing the applications, the CE (Chief Executive) in Council had decided to take a gradual and orderly approach, having considered a range of considerations I outlined many times yesterday already. I will not repeat here. And also, according to a set of criteria to consider the relative competitiveness of the applicants, and it came to view that according to the gradual and orderly approach and in view of the applicants' information given including the representations that they had made, actually many rounds of representations with various parties, the CE in Council has come to the view that Fantastic TV (Fantastic Television Limited) and HKTVE (Hong Kong Television Entertainment Company Limited) will be granted the approval-in-principle.

Reporter: Would you say because they are much more experienced in the field compared to ...?

Secretary for Commerce and Economic Development: They had looked at a whole range of criteria including the programme strategy and the capacity, as well as a whole range of other considerations.


Reporter: So why is confidentiality the only reason that you can't tell us?

Secretary for Commerce and Economic Development: Because it is important, because a lot of these assessments are based on information given by the applicants, some of which is confidential, and the assessments were made on that basis, so I would not be at liberty at this time to disclose this information. It presents some difficulties for me to go into greater detail than what I have been given so far.

(Please also refer to the Chinese portion of the transcript.)

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NNNN

 Print this page

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## Press Releases

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Government's response to media enquiries

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In response to media enquiries about the free television (TV) licence applications, a spokesman for the Commerce and Economic Development Bureau said today (October 20):

"The Government was notified four days ago of the filing of an application for leave to apply for judicial review. In view of the ongoing legal proceedings, it is not appropriate for us to make public the details, lest affecting the conduct of the legal proceedings concerned.

Secondly, the system requires that the decision regarding free TV licence applications be made by the Chief Executive (CE) in Council. According to the system, the discussion content of the Executive Council meetings is not made public. There should be no exception with regard to the discussion of the free TV licence applications this time.

Thirdly, the discussion content and the reasoning leading to the decision involve commercially sensitive information or even commercial secrets of the three applicants. The release of such information may cause damage to the three applicants, and may even lead to legal dispute.

It is obvious that the Government's aim was to introduce competition while at the same time ensure a healthy and orderly development of the market when it decided to grant approval-in-principle (AIP) to two additional free TV licence applications. There is no question of protecting existing interest. Neither is there any political consideration. The Government also considered that it would not be favourable to the healthy and orderly development of the market if AIP was to be granted to the three TV licence applications.

The Government had to process each licence application in accordance with statutory requirements and established procedures so as to ensure a healthy and orderly development of the market.

Before a decision was made, the applicants had been informed of the Government's inclination to adopt the gradual and orderly approach in introducing competition into the free TV market and the assessment criteria. The applicants had also been invited to make representations on these matters, the consultant's relevant assessments as well as other relevant issues.


The Government has recently on several occasions publicly explained the assessment criteria and the reasoning leading to the decision. These include the free TV licence applications submitted; the former Broadcasting Authority's (the Authority's) recommendations; the consultant's reports; the applicable statutory requirements under the Broadcasting Ordinance; the assessment criteria in the Authority's 'Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong'; all relevant documents, all representations and responses received in relation to the free TV licence applications and as submitted to the CE in Council; all public views received; all relevant latest developments; the Government's prevailing broadcasting policy; sustainability of the free TV market in the broad sense of the impact of the grant of additional free TV licences; and public interest.

Under the gradual and orderly approach in introducing competition into the free TV market, the CE in Council has assessed the three applications against various assessment criteria. These include financial capability, the programming investment, programming strategy and capability and technical soundness of the proposed service.

In carrying out the assessment, the CE in Council had considered all relevant factors including many rounds of representations from the concerned organisations."

Ends/Sunday, October 20, 2013  
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 [Print this page](#)

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## Press Releases

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SCED's opening remarks at press conference on new domestic free television programme service licences (with video)

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Following is the opening remarks by the Secretary for Commerce and Economic Development, Mr Gregory So, at the press conference on new domestic free television programme service licences today (October 15):

Now I would like to summarise in English what I have just said.

Today, I would like to share with you the latest development in respect of the free television programme service (free TV) licence applications. Hong Kong Television Network Limited (HKTVN), Fantastic Television Limited (Fantastic TV) and Hong Kong Television Entertainment Company Limited (HKTVE) earlier submitted applications for the domestic free TV licences under the Broadcasting Ordinance (Cap. 562) (BO). The former Broadcasting Authority (now the Communications Authority) (the Authority) processed these applications in accordance with the BO and established procedures.

Having carefully considered an array of relevant factors, including the free TV licence applications submitted by the three applicants, the recommendations of the Authority, statutory requirements under the BO, the assessment criteria in the Authority's "Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong", the overall sustainability of the free TV market, the consultant's reports on the competition implications of new entrants to the local free TV market (which include an assessment of the relative competitiveness of each applicant), all relevant documents, all representations and responses submitted by the relevant parties, all the relevant latest developments, all public views received and the Government's prevailing broadcasting policy, the Chief Executive (CE) in Council has decided that it would be in the public interest to adopt a prudent approach to introduce new operators into the free TV market in a gradual and orderly manner (the "Gradual and Orderly Approach"). On this basis, the CE in Council has decided today to grant approval-in-principle to Fantastic TV's and HKTVE's free TV licence applications, while not precluding the possibility of allowing more free TV operators as and when appropriate. This decision is not only in line with the Government's established broadcasting policy to introduce competition and increase programme choice and diversity, but at the same time minimises the risk of any possible adverse impact on the free TV market as a whole.

Under the Gradual and Orderly Approach, the CE in Council, in deciding whether to grant approval-in-principle to each of the free TV licence applications, has assessed the free TV licence applications against various objective assessment criteria. These criteria include financial capability, the programming investment, programming strategy and capability and technical soundness of the proposed service. Having regard to these criteria and all relevant factors (including representations from the applicants and public interest), the CE in Council has decided to grant approval-in-principle to Fantastic TV's and HKTVE's free TV licence applications, subject to CE in Council's further review and final determination of the applications at a later stage, whereas HKTVN's free TV licence application is rejected.

According to Fantastic TV's and HKTVE's proposals, they will provide a total of two television channels (i.e. one for each) within 12 months after the grant of licences. Fantastic TV will invest over \$1 billion in the initial six years from the launch of the proposed service whereas HKTVE will invest over \$600

Press conference on applications for domestic free television programme service licences

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million in the initial three years from the launch of the proposed service. We believe that Fantastic TV and HKTVE, if formally granted the free TV licences at a later stage, will facilitate the bringing in of additional investments into local programme production. This will not only provide more programme choices for the audience, but also create more job opportunities in the creative industries.


This is the first time in nearly four decades that more competition is introduced to the free TV market. If Fantastic TV and HKTVE are finally granted a free TV licence, the decision made today can enable the number of free TV licensees to double to a total of four. We believe the availability of significantly more programming choices as a result will be welcomed by Hong Kong people.

The draft licences for Fantastic TV and HKTVE will contain general terms and conditions similar to those of the licences held by existing licensees, with specific provisions relevant to the two applicants. As the next step, the draft licences will be prepared, and the relevant parties will be requested to submit necessary information. The Communications Authority will then further review Fantastic TV's and HKTVE's applications and submit to the CE in Council a recommendation on whether a licence should be formally granted under the BO to each of them. The CE in Council has the discretion whether to formally grant a licence to each of Fantastic TV and HKTVE by then.

We are happy to take your questions now.

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NNNN

 Print this page

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## Press Releases

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Statement issued by Executive Council Secretariat

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The following is issued on behalf of the Executive Council Secretariat:

All Executive Council (ExCo) documents and discussion content are subject to strict confidentiality. However, there were display of suspected ExCo documents lately by some media either on-screen or in printed form in relation to the subject of free TV licence.


The ExCo Secretariat issued the following statement:

"In relation to the document shown on-screen on the Cable TV news broadcast in the late afternoon of October 19, such document displayed is not an ExCo document. Apart from that, in the related reports in Ming Pao of the same day, three English paragraphs published are not from any ExCo document either."

Ends/Sunday, October 20, 2013

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NNNN

 [Print this page](#)

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## Press Releases

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Government's response to media enquiries on free TV licence application decision

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In response to media enquiries about the decision on domestic free television programme service (free TV) licence applications, a spokesman for the Commerce and Economic Development Bureau said today (October 20):

"The Government understands the concerns of the public on the outcome of the free TV licence applications, and respects their right of expression on the matter.

The Government has on several occasions publicly explained in details the assessment criteria and the reasoning leading to the decision. Under the gradual and orderly approach in introducing competition into the free TV market, the Chief Executive (CE) in Council has assessed the applications against all relevant factors, including examining and considering in details many rounds of representations from all relevant applicants, before making a decision. The requirement of procedural fairness was strictly adhered to in the process.

The Government reiterates that the decision of granting approval-in-principle to two additional free TV licence applications will enable the number of free TV operators to double from two to four. Its aim was to introduce competition and provide more programming choice for audiences, while at the same time ensure a healthy and orderly development of the market. There is no question of protecting existing interest. Neither is there any political consideration.

When considering the number of licensees and the pace in opening up the market, the Government decided to adopt a gradual and orderly approach in introducing competition into the market, taking into account whether the healthy and orderly development of the market would be compromised if three additional free TV licences were to be granted.

The Government was notified four days ago of the filing of an application for leave to apply for judicial review. In view of the ongoing legal proceedings, it is not appropriate for us to make public the details, lest affecting the conduct of the legal proceedings concerned.

Moreover, the decision regarding free TV licence applications was made by the CE in Council. It has carefully considered all views from different parties before making a decision in accordance with established procedures. In line with the established system, the discussion content of the Executive Council meetings is not made public. We seek the understanding of the public in this respect.

In addition, the discussion content of the Executive Council meetings involved commercially sensitive information or even commercial secrets of the three applicants. The release of such information may cause damage to the three applicants, and may even lead to legal dispute.

The Government understands the views of the public and will continue to complete the outstanding work relating to the free TV licence applications in a fair and prudent manner, and will keep on implementing policies to facilitate the development of creative industry."

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Government's response to public views on outcome of free TV licence applications  
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In connection with the decision on the domestic free television programme service (free TV) licence applications, a spokesman for the Commerce and Economic Development Bureau said today (October 21):

"The Government notes the public concern on the outcome of the free TV licence applications, and understands the views of the public and the industry on the development of the local television market and the creative industry. The Government reiterates that in deciding whether to grant approval-in-principle to the three free TV licence applications, the Chief Executive (CE) in Council has processed each application fairly and impartially in accordance with statutory requirements and established procedures. It has been guided by the public interest and considered holistically all relevant factors, with a view to reaping the benefits of introducing competition while at the same time to minimise any possible adverse impact to be brought about by over-competition on the free TV market as a whole. This is to ensure a healthy and orderly development of the market and protect public interest.

The Government stresses that the decision of granting approval-in-principle is the first time in nearly four decades that more competition will be introduced to the free TV market. The decision does not serve to protect the interest of existing licensees and does not involve any political consideration.

The Government reiterates that the CE in Council, in processing the three applications, has all along ensured procedural fairness and acted with reference to the professional advice of legal advisers. All applicants had been informed of relevant information, including the consultant's reports, the Administration's inclination to adopt the gradual and orderly approach in introducing competition into the free TV market and all the assessment criteria. The applicants had been given sufficient time to submit rounds of representations on these matters, the consultant's relevant assessments as well as other relevant issues.

Under the gradual and orderly approach in introducing competition into the free TV market, the CE in Council has considered the applications against the four assessment criteria as disclosed to the applicants (i.e. financial capability, programming investment, programming strategy and capability and technical soundness of the proposed service) and all relevant factors, including all representations from the interested parties, public views and public interest, etc. During the process, the CE in Council has assessed the competitiveness of the three applicants against the four above-mentioned assessment criteria. The CE in Council has formed the view that Fantastic Television Limited (Fantastic TV) and Hong Kong Television Entertainment Company Limited (HKTVE) outperform Hong Kong Television Network Limited in overall terms, and on this basis decided to grant approval-in-principle to Fantastic TV's and HKTVE's applications.

The Government has recently on different occasions publicly explained the assessment criteria and the reasoning leading to the CE in Council's decision. The CE in Council has carefully considered all views from different parties before making a decision in accordance with established procedures. The requirement of procedural fairness was strictly adhered to in the process.

Under the established system of confidentiality which must be adhered to, the deliberation of the Executive Council meetings


on any subject matter is not made public. We hope for the public's understanding in this regard. The details on the processing of the three applications inevitably involve commercially sensitive information or even commercial secrets of the three applicants; and disclosure of which may cause damage to the three applicants and may even give rise to legal disputes.

The Government was notified five days ago (October 16) of the filing of an application for leave to apply for judicial review. In view of the ongoing legal proceedings, it is not appropriate for the Government to comment on the details in relation to the processing of the three applications, lest affecting the conduct of the legal proceedings concerned.

The Government understands the wish of the public to introduce more competition into the free TV market as soon as possible. As such, the Administration will continue to complete the outstanding work relating to the free TV licence applications in a fair and prudent manner, with a view to making an early decision on whether to formally grant free TV licences to the two applicants being granted approval-in-principle, thereby bringing more quality programme choices to the public soon."

Ends/Monday, October 21, 2013  
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 [Print this page](#)

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