

Your Ref 來函檔號:

Our Ref 本函檔號: OFCA/B/350/15/1-3C

By Fax and By Post

28 November 2013

Hon Wong Yuk-man
Chairman, Panel on
Information Technology and Broadcasting
Legislative Council
1 Legislative Council Road
Central, Hong Kong

Dear *Chairman*,

**Panel on Information Technology and Broadcasting (“the Panel”)
Special Meeting on 2 December 2013**

I refer to the invitation by the Clerk to the Panel of 22 November 2013, inviting the Communications Authority (“CA”) to attend the Panel’s discussion on the following agenda items –

- I. Issues relating to the applications for domestic free television programme service licences;
- II. CA’s findings of the investigation into the alleged violations of the competition provisions of the Broadcasting Ordinance by Television Broadcasts Limited (“TVB”); and
- III. CA’s findings of the investigation into the control and management of Asia Television Limited (“ATV”),

at the special meeting to be held on 2 December 2013.

While another member of the CA and I will stand ready to attend the special Panel meeting to take Members through the findings of the two CA investigations under Items II and Items III above, for reasons explained below, I am afraid I have to respectfully decline the Panel’s

invitation for the CA to attend the Panel discussion on Item I, on issues relating to the applications for domestic free television programme service licences (“free TV licence applications”).

As the Panel would appreciate, the CA is an independent statutory body established under the Communications Authority Ordinance (Cap. 616) to oversee the broadcasting and telecommunications sectors in Hong Kong. On the broadcasting side, one of the CA’s statutory functions is to make recommendations to the Chief Executive in Council (“CE in C”) with respect to the licensing of domestic free television programme service. Specifically, section 9 of the Broadcasting Ordinance (Cap. 562) (“BO”) stipulates that the CA shall consider free TV licence applications and make recommendations thereon to the CE in C.

In respect of the three free TV licence applications under discussion by the Panel, the CA has dutifully processed the applications in accordance with the BO, the guidance notes promulgated by the CA for processing free TV licence applications and established procedures. The manner and the timeline under which the CA has processed the applications, the CA’s recommendations to the CE in C and its underlying considerations are set out clearly in the note attached to our letter of 7 November 2013 to the Clerk to the Panel.

It is perhaps of use to repeat the timeline here. As explained in the note, the CA has made recommendations to the CE in C on the three free TV licence applications on 13 July 2011. That was followed by a number of exchanges with the CE in C that took place between February 2012 and February 2013. Since February 2013, the CA has not received further request from the CE in C to submit views or comments on the three applications or to reconsider the CA’s recommendations.

From the account above, it should be clear that insofar as the three free TV licence applications are concerned, the CA has already duly completed its task and duty under the BO. Being a statutory authority charged with functions that are separate from those of the CE in C, the CA is not in a position to comment on how the CE in C has processed the applications or what factors the CE in C has taken into account in the

course of taking the decision. Such matters are not within the knowledge of the CA and are matters that go beyond the CA's statutory functions in any event.

As the CA has nothing further to add to the issues to be discussed by the Panel under Agenda Item I, I regret that the CA will not be represented at the meeting for that item.

Yours sincerely,



(Ambrose Ho)
Chairman
Communications Authority

c.c. Ms Yue Tin-po
Clerk to Panel on Information Technology and Broadcasting

Miss Susie Ho, JP
Permanent Secretary for Commerce and Economic Development
(Communications and Technology)