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Panel on Information Technology and Broadcasting

Meeting on 10 November 2014

**Background brief on
renewal of analogue sound broadcasting licences**

Purpose

This paper provides background information on renewal of the analogue sound broadcasting licences of Hong Kong Commercial Broadcasting Company Limited ("CRHK") and Metro Broadcast Corporation Limited ("Metro"). It also summarizes the views and concerns expressed by Members in previous discussions.

Background

2. According to the existing services provided by the two commercial sound broadcasting licensees, CRHK and Metro each operates two Cantonese FM channels and one English AM channel. The Cantonese channels are CR1¹ and CR2² of CRHK, and Metro Info³ and Metro Finance⁴ of Metro.

¹ CR1 is an information channel targeting mature audience, providing news, current affairs, financial and personal view programmes.

² CR2 is mainly an entertainment channel featuring pop culture and music targeting young listeners.

³ Metro Info provides music and entertainment programmes as well as programmes on lifestyle, health, education, family and parenting, market news and other information of interest to the public.

⁴ Metro Finance provides real-time, market-moving news and information about financial markets around the world.

The English channels are AM864⁵ of CRHK and Metro Plus⁶ of Metro. All channels are broadcast round-the-clock. Highlights of the existing programming and advertising requirements of CRHK and Metro are given in the Administration's publicity pamphlet for public hearings issued vide LC Paper No. CB(4)1069/13-14(01) on 22 September 2014.

Mid-term review

3. In July 2003, the analogue sound broadcasting licences of CRHK and Metro were renewed for a validity period of 12 years from 26 August 2004 to 25 August 2016. Condition 6.2 of the respective licences of CRHK and Metro provides that pursuant to section 13D of the Telecommunications Ordinance ("TO") (Cap. 106), the licences shall be subject to the review by the Chief Executive ("CE") in Council after 26 August 2010 as the CE may determine by order. Accordingly, the CE had specified by a notice in the Gazette on 3 September 2010 that the review should start on 16 September 2010.

4. To take forward the review, the former Broadcasting Authority ("BA") (replaced by the Communications Authority ("CA") on 1 April 2012) conducted a two-month public consultation from 16 September to 15 November 2010 to gauge public views on the services provided by the two licensees. As part of the consultation exercise, two public hearings were held on 24 September and 13 October 2010 respectively to obtain public feedback on the services of CRHK and Metro.

5. On 14 June 2011, the CE in Council approved the recommendations made by the former BA following the mid-term review of the sound broadcasting licences of CRHK and Metro, including the new licence conditions to be imposed for the six years from 2010 to 2016, details of which are given in the Legislative Council Brief issued vide CTB(CR)9/2/23(09) on 17 June 2011. In gist, CRHK and Metro had to comply with their respective investment plans for 2010 to 2016, to submit to the former BA an annual management report certifying the actual investment expenditure to facilitate the former BA's monitoring of compliance by CRHK and Metro with their investment commitments, to commit to enhanced positive programme

⁵ AM864 provides music programmes, hourly news reports and programmes for ethnic minorities like Filipinos in Hong Kong.

⁶ Metro Plus is a music channel which also provides programmes for ethnic groups including the Filipino, Indian and Indonesian communities in Hong Kong.

requirements⁷ and to submit annual reports on compliance with their commitments in positive programmes.

Renewal of licences

6. Section 13E(1) of the TO provides that the CA shall submit recommendations to the CE in Council concerning the renewal of CRHK and Metro's licences and the terms and conditions to be imposed. As the statutory body that regulates the broadcasters in Hong Kong, the CA will evaluate the licensees' performance against the various statutory requirements under the law, the sound broadcasting licence conditions and the codes of practice before making recommendations to the CE in Council.

7. In July and August 2014, the CA has received applications from CRHK and Metro for renewal of their analogue sound broadcasting licences. 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' analogue sound broadcasting services, including programme standards and the quality and diversity of programmes. The survey will be conducted on around 1,600 households using a random sampling methodology. The fieldwork of the opinion survey is expected to be completed by the end of 2014.

8. The CA is also conducting a two-month public consultation exercise on the performance of the two licensees from 15 September to 14 November 2014. As part of the public consultation exercise, the CA organized two public hearings on 9 and 30 October 2014 respectively to gauge public views on the renewal of the two licences. The CA had also conducted two focus group discussions in October 2014 to gauge the views from members of the Television and Radio Consultative Group⁸. As at end October 2014, the CA had received about 240 written submissions, and would publish a summary of the public views collected and the findings of the opinion survey in due course.

⁷ The licensees are required under their licences to broadcast news and weather programmes, current affairs programmes, arts and culture programmes and advisory programmes, viz. programmes for young persons, senior citizens and children.

⁸ The Television and Radio Consultative Group is a territory-wide consultative scheme to gauge public opinions on television and radio broadcasting standards. Members join the scheme on a voluntary basis. The Group currently comprises about 540 members who are recruited largely on the basis of the population characteristics of the 18 districts supplied by the Census and Statistics Department.

Previous discussions

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Broadcast time for current affairs programme and editorial independence

9. At the meeting of the Panel on Information Technology and Broadcasting ("the Panel") on 8 November 2010, members noted that the amount of current affairs programme provided by CRHK's CR1 and CR2 was 19.1% and 7% respectively while that of Metro Info and Metro Plus stood at only 0.6%. Some members were disappointed that the weekly average broadcast hours of current affairs programmes provided by Metro was far less than that of CRHK and urged the Administration to impose licence conditions requiring Metro to increase its resources and broadcast time for current affairs programme.

10. Some Panel members relayed the grave concern of the public as to whether the management of the two sound broadcasters had directly or indirectly interfered with the editorial independence of the news and current affairs division, and whether programming staff had exercised self-censorship in their news reporting and current affairs programme to avoid offending big financial conglomerates or the Central Government. Both CRHK and Metro advised that the management had all along respected the editorial independence of the news and programming team and had never exerted any undue influence on the programme content.

Views received during the mid-term review

11. At the special meeting on 19 November 2010, the Panel received views from individuals and deputations on the mid-term review of the analogue sound broadcasting licenses. Referring to some deputations' suggestion to increase the frequency of the review of analogue sound broadcasting licences, some Panel members considered that a review should be conducted every two to three years. These members also urged the Administration and the former BA to take into account public views received during the public consultation and impose additional licence conditions requiring the two licensees to improve programme quality and variety to meet the community expectations.

12. In the light of public feedback and members' views, Metro subsequently decided to increase the broadcast hours of its current affairs programme from 4.5 hours to 10 hours starting from 1 January 2011, and progressively increase the broadcast hours thereafter. Metro would also strive to strengthen its programme on encouraging social responsibility and a

positive caring community.

Investment commitments

13. At the Panel meeting on 11 July 2011, the Administration briefed the Panel on the result of the mid-term review of the analogue sound broadcasting licences of CRHK and Metro. For the period from 2004 to 2010, the original investment commitments of CRHK and Metro were \$1,090 million and \$567 million respectively. Noting that CRHK's projected actual expenditure for 2004 to 2010 was 26% less than the original investment commitment and that the former BA had only issued a warning to CRHK instead of imposing any financial penalties for the breach, some Panel members expressed grave concern that the absence of financial penalty would send a very bad message to the licencees and encourage them to renege on their investment commitments again in future. Some other members opined that the former BA was duty-bound to ensure that the investment commitments of the licensees had been strictly adhered to. If the actual annual investment expenditure deviated from the investment commitment significantly, the former BA should request the licensees to provide explanation and, if appropriate, make up for the shortfall.

14. The former BA advised that the warning issued to CRHK was based on the ground that as a licensee, CRHK should have sought the former BA's prior exemption much earlier about the shortfall of investment. The former BA considered CRHK's oversight a serious lapse by its management and therefore appropriate to issue a warning to CRHK, given the fact that the quality of its programmes had not been compromised as reflected in the opinion surveys conducted by the former BA during the reporting period. In addition, in explaining about the shortfall, CRHK had provided a number of factors which the former BA found justifiable. In view of CRHK's failure to meet its investment commitment for the past six years, the former BA considered it necessary to tighten the monitoring of the licensees' compliance. In this regard, a new Condition 32.3 had been imposed in the licences requiring the licensees to provide a management report certifying the actual annual investment expenditure within three months from the anniversary date of their licences. The Administration and the CA would monitor the situation closely to prevent repeated deviation from the investment commitments by the licensees in future.

Council Meeting

15. At the Council meeting on 18 June 2014, Hon Charles Peter MOK raised a written question on, inter alia, the renewal of analogue sound

broadcasting licences, including the assessment criteria for renewal of such licences and whether the Government would encourage the two existing licensees to develop digital audio broadcasting ("DAB") by means such as imposing additional conditions for renewal of their licences.

16. The Administration advised that in processing the renewal applications, the CA would consider the past performance of the licensees concerned in relation to their compliance with the statutory requirements, licence conditions and codes of practice, as well as the licensees' operational ability, financial capability, technical soundness and programming arrangements, etc. The CA would also hold a public consultation and commission an agency to conduct an opinion survey to gauge public views on the performance of the licensees. DAB services were a supplement, rather than a replacement, of analogue broadcasting services. The Government had no plan at present to replace analogue sound broadcasting with DAB and had not considered imposing any conditions for renewal of the licences to require analogue sound broadcasting licensees to develop DAB services.

Latest position

17. The Administration will brief the Panel on 10 November 2014 on the procedure and criteria for the renewal of analogue sound broadcasting licences.

Relevant papers

18. A list of the relevant papers and their hyperlinks is at:

<http://www.legco.gov.hk/yr13-14/english/panels/itb/papers/itbcb4-1069-1-e.pdf>

http://www.coms-auth.hk/filemanager/common/policies_regulations/consultations/consultation_exercise/Booklet_eng_20140910.pdf

<http://www.legco.gov.hk/yr10-11/english/panels/itb/papers/itb1108cb1-297-7-e.pdf>

<http://www.legco.gov.hk/yr10-11/english/panels/itb/papers/itb1108cb1-297-8-e.pdf>

<http://www.legco.gov.hk/yr10-11/english/panels/itb/minutes/itb20101108.pdf>

<http://www.legco.gov.hk/yr10-11/english/panels/itb/minutes/itb20101119.pdf>

<http://www.legco.gov.hk/yr10-11/english/panels/itb/papers/itb-ctbcr922309-e.pdf>

<http://www.legco.gov.hk/yr10-11/english/panels/itb/agenda/itb20101119.htm>

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