

**立法會**  
***Legislative Council***

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**Panel on Information Technology and Broadcasting**

**Meeting on 8 June 2015**

**Background brief on issues relating to domestic free  
television programme service**

**Purpose**

This paper summarizes previous discussions by Members on issues relating to domestic free television programme service.

**Background**

Renewal of domestic free television programme service licences

2. The existing domestic free television programme service ("free TV") licences of Asia Television Limited ("ATV") and Television Broadcasts Limited ("TVB"), which commenced on 1 December 2003, will expire after 30 November 2015. ATV and TVB submitted applications to the Communications Authority ("CA") for renewal of their licences in November 2013. Pursuant to section 11(3) of the Broadcasting Ordinance (Cap. 562) ("BO"), the CA shall submit recommendations to the Chief Executive in Council ("CE in Council") on the licence renewal applications. For this purpose, the CA had conducted a public consultation exercise from 4 February to 3 April 2014 on the services provided by ATV and TVB, so that the CA could take public views into account when formulating recommendations to the CE in Council. The CA had submitted its recommendations for the free TV licence renewal applications of ATV and TVB to the CE in Council for consideration on 4 November 2014.

3. In relation to ATV's application, after considering the recommendations of the CA, the relevant representations and all relevant latest developments, the CE in Council had decided on 1 April 2015 not to renew ATV's free TV licence. Pursuant to section 8(1)(a) of Schedule 4 to the BO, a notice period of 12 months had to be served on the licensee if the CE in Council decided that the free TV licence of the licensee should not be renewed. In this regard, ATV had its current licence originally expiring on 30 November 2015 be extended to 1 April 2016. The Administration also announced its invitation to Radio Television Hong Kong ("RTHK") to provide two analogue TV channels after 1 April 2016 to give viewers an alternative choice as part of the contingency measures. The CA subsequently gave formal notice to ATV to withdraw all the frequencies assigned to it following expiry of ATV's free TV licence as from 2 April 2016.

4. In relation to TVB's free TV licence renewal application, the Government announced on 12 May 2015 that the CE in Council had approved the application for a period of 12 years from 1 December 2015 to 30 November 2027. The CA had also informed TVB that it had decided to administratively assign to TVB the broadcasting spectrum it currently holds, comprising two sets of frequency channels, and one digital multiplex of the single frequency network coupled with half of the capacity of one digital multiplex of the multiple frequency network in 470-806 MHz of the Ultra High Frequency Band, for the provision of its licensed analogue and digital terrestrial television services during the validity of its renewed free TV licence.

#### Applications for domestic free television programme service licences

5. As regards the free TV licence applications from Hong Kong Television Network Limited ("HKTVN"), Fantastic Television Limited ("FTV") and HK Television Entertainment Company Limited ("HKTVE") submitted to the former Broadcasting Authority (replaced by the CA on 1 April 2012) on 31 December 2009, 15 January 2010 and 31 March 2010 respectively, the Administration announced on 15 October 2013 that the CE in Council had approved in principle the applications of FTV and HKTVE for a free TV licence, whereas the application submitted by HKTVN had been rejected. On 1 April 2015, the CE in Council announced the granting of free TV licence to HKTVE following the grant of approval-in-principle ("AIP") in October 2013. The programmes to be provided by HKTVE would be delivered via fixed network within 12 months after the grant of its licence.

## **Previous discussions**

### Panel on Information and Broadcasting

#### *Provision of analogue free television programme service following the non-renewal of the domestic free television programme service licence of Asia Television Limited*

6. At the meeting of the Panel on Information Technology and Broadcasting ("the Panel") on 13 April 2015, members were briefed on the CE in Council's decision on the non-renewal of ATV's free TV licence. Some members expressed concern about the uncertainty on the provision of analogue television service if ATV terminated its service before 1 April 2016, as the application for renewal of the free TV licence of TVB was yet to be approved by the CE in Council and HKTVE could only broadcast programmes within 12 months from 1 April 2015.

7. The Administration advised that the CE in Council would determine the renewal application of TVB in due course while HKTVE would start to provide programmes within 12 months after the grant of its licence. The Government would set up a task force to see to the resolution of various issues that might arise from the non-renewal of ATV's free TV licence. The task force would coordinate implementation of necessary contingency measures during the transitional period from 1 April 2015 to 1 April 2016 to minimize any adverse impact that might occur and to monitor and facilitate the early roll-out of new free TV services should the CE in Council decide to grant any new free TV service licence in due course.

8. The Administration further advised that there were statutory provisions for revoking a free TV licence under the BO if a licensee was found to be in serious breach of its licence conditions, including non-compliance with the service provision requirements. In its letter to ATV on 1 April 2015, the CE in Council had also reserved its rights to invoke the power under section 9 of Schedule 4 to the BO which provided that the CE in Council could direct the Financial Secretary to purchase the property of ATV to minimize any adverse impact on the provision of free TV service during the period of validity of its licence.

9. Some other members enquired about the operation of RTHK after taking over from ATV on its termination of service. The Administration advised that RTHK would duplicate the programmes from its digital format for broadcasting in analogue format after taking over the vacated analogue spectrum from ATV. Taking into account the time required for a TV licensee to apply for the vacated analogue spectrum and to produce new programmes in analogue format, the Administration considered that it was more efficient to invite RTHK to take over the vacated analogue spectrum of ATV.

*Assignment of spectrum vacated by Asia Television Limited on expiry of its licence*

10. In view of members' concern about the allocation of spectrum vacated by ATV on expiry of its licence, the Panel passed a motion urging the authorities to handle properly the issues relating to the non-renewal of ATV's free TV licence, including re-assigning expeditiously the telecommunications spectrum to be vacated in future to the applicants who intended to operate free TV, so as to introduce new competition into the local free television market and optimize the use of airwaves.

11. The CA advised that it would decide on the assignment arrangements for the spectrum vacated by ATV taking into account, inter-alia, the Telecommunications Ordinance (Cap. 106), the CA's statutory duties under the statute and the Radio Spectrum Policy Framework promulgated by the Government in April 2007. Given the CA's statutory duty to promote the efficient use and allocation of spectrum, the vacated spectrum would be assigned to those which were in a ready position to use the spectrum effectively and efficiently for the provision of licensed free TV, i.e. those already holding valid free TV licences.

12. The CA further advised that if HKTVE, the licence of which was premised upon the use of a fixed network as its means of transmission, wished to change its transmission mode to spectrum, it would need to apply to the CA for its prior approval according to the relevant licence conditions. The digital spectrum vacated by ATV comprised 1.5 digital multiplexes. In the event that the CA decided to assign spectrum to HKTVE, and FTV upon formal licence grant by the CE in Council, the assignments would take up about one digital multiplex, leaving about half a digital multiplex available for assignment to other free TV licensees.

### Council meeting

13. At the Council meeting on 20 May 2015, Dr Hon LAM Tai-fai and Hon Frederick FUNG raised written questions relating to, inter alia, the application for judicial review by HKTVN against the decision of the CE in Council for not granting it a free TV licence in October 2013. Noting that the High Court ruled in favour of HKTVN on 24 April 2015 and ordered that the relevant licence application be remitted back to the CE in Council for reconsideration, Dr Hon LAM and Hon FUNG enquired whether the Government would start afresh the process of vetting and approval of HKTVN's licence application in the light of the latest situation, and re-examine the capacity of the television market and consider issuing more free TV licences.

14. The Administration advised that the CE in Council had decided to lodge an appeal against the judgment handed down earlier by the High Court on the judicial review case. The Administration considered the mechanism for processing free TV licence applications effective. The Government made decisions in accordance with the relevant legislation and established procedures, with due regard to the market condition at the time when the free TV licence applications were made, as well as all relevant factors. In 2013, having considered all relevant factors, including the implications of issuing additional free TV licences for the overall development of domestic free TV industry, public interests and the applicants' representations, the CE in Council decided that a gradual and orderly approach be adopted in introducing competition and granted AIPs to two applications for free TV licences. Since the judicial review case went on appeal, the Government would follow up with HKTVN on the arrangements for processing its first free TV licence application, including whether the order of the High Court to remit back the relevant licence application to the CE in Council for reconsideration should stay in respect of this appeal case.

### **Latest position**

15. Following the announcement of the CA on the administrative assignment of TVB's spectrum upon the approval of its free TV licence renewal application, some Panel members expressed concern about the policy on the assignment of spectrum for domestic free TV. The Panel will follow up members' concerns and related issues at its meeting on 8 June 2015.

**Relevant papers**

16. 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](http://www.legco.gov.hk/yr15-16/english/panels/itb/papers/itb_aa.htm)

<http://www.cedb.gov.hk/speech/2015/pr01042015.htm>

<http://www.cedb.gov.hk/speech/2015/pr01042015a.htm>

<http://www.cedb.gov.hk/speech/2015/pr12052015a.htm>

<http://www.cedb.gov.hk/speech/2015/pr12052015b.htm>

[http://www.coms-auth.hk/en/whats\\_new/index.html](http://www.coms-auth.hk/en/whats_new/index.html)

<http://www.info.gov.hk/gia/general/201505/20/P201505200385.htm>

<http://www.info.gov.hk/gia/general/201505/20/P201505200389.htm>

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