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**Panel on Information Technology and Broadcasting**

**Meeting on 11 January 2016**

**Background brief on the development of digital audio broadcasting  
services in Hong Kong**

**Purpose**

This paper provides background information on the development of digital audio broadcasting ("DAB") services in Hong Kong. It also provides a summary of views and concerns expressed by Members in previous discussions on related issues.

**Background**

2. Broadcasting technology has continued to evolve. The development in digitization enables the provision of higher audio and/or visual quality and multi-channel DAB services, as compared to analogue broadcasting. DAB operates primarily in a radio frequency called Band III (and might also be broadcast over other frequency bands, which are however less commonly used worldwide). It deploys digital compression and combining technologies, and was therefore more spectrum-efficient. In other words, DAB is capable of providing more programme services in a given frequency multiplex, offering high sound quality comparable to CD, and allowing for transmission of texts and/or pictures along with pure sound. To launch DAB services, broadcasters have to invest quite heavily in digital transmission equipment, while listeners have to acquire new digital radio sets to receive programmes broadcast via DAB.

3. With an increasing trend of development of DAB services overseas, an increased market interest in the development of DAB services in Hong Kong and affordable retail prices for DAB receivers, the Government announced in

September 2009 the decision to task Radio Television Hong Kong ("RTHK") to be the public service broadcaster in Hong Kong and to expand its scope of service, including the provision of DAB services through the use of a Band III multiplex for public service broadcasting ("PSB") purposes.

4. At the meeting of the Executive Council held on 15 December 2009, the Chief Executive in Council ("CE in Council") decided that the framework for development of DAB services in Hong Kong as set out by the Administration be adopted. Following the outcome of a public consultation exercise conducted in 2000, the Office of the Telecommunications Authority ("OFTA") set aside frequencies in Band III and L Band for interested parties to apply for DAB trials. These trials, particularly those on Band III, were successful and confirmed the technical feasibility of running DAB in Hong Kong.

5. On 22 March 2011, the CE in Council granted DAB licences for a validity period of 12 years to Digital Broadcasting Corporation Hong Kong Limited ("DBC"), Metro Broadcast Corporation Limited ("Metro") and Phoenix U Radio Limited ("Phoenix U") in accordance with section 13C of the Telecommunications Ordinance ("TO") (Cap. 106) to provide DAB services. The three companies, together with RTHK, provided a total of 18 DAB channels in phases, offering a wide variety of programme choices covering music, lifestyle, current affairs, finance, community and art and culture. The sound broadcasting licences of the three commercial companies required them to formally launch their services within 18 months after the licence grant date (i.e. on or before 21 September 2012). In the licence of DBC, the company was required to provide seven 24-hour programme channels at its formal launch. The Communications Authority ("CA"), as an independent statutory regulatory body, is responsible for monitoring the licensees in complying with the requirements of the relevant legislation and licence conditions according to its powers under the law.

## **Previous discussions**

### Panel on Information Technology and Broadcasting

#### *Issues relating to Digital Broadcasting Corporation Hong Kong Limited*

6. At the special meeting of the Panel on Information Technology and Broadcasting ("the Panel") held on 26 October 2012, members followed up issues relating to the discontinuation of broadcasting service by DBC. Members noted that DBC had soft-launched its service in August 2011. Despite media report of the disagreements among DBC's shareholders on further investments into DBC, the company paid its annual licence fee to CA in early

September 2012 and formally launched all its channels on 21 September 2012. DBC's service was ceased during the period from 10 to 15 October 2012, and limited to the playing of music from 21 October 2012 to 11 January 2013.

7. Members also noted that the Secretary for Commerce and Economic Development ("SCED") had made it clear to the management of DBC that it was inappropriate for the Government to interfere with the internal operation of broadcasting companies, nor to play the role of commercial mediator to resolve disagreements among the shareholders of a private company. Nevertheless, CA had followed DBC's developments, monitored whether it had complied with its licence conditions and legal requirements under TO, and taken follow-up actions in accordance with TO.

8. Some Panel members considered that there was prima facie evidence to suggest that the decision of some of the major shareholders against making further investments into DBC was a result of political interference from the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region. These members were dissatisfied that the Administration had treated the matter simply as an internal affair of DBC. They considered that it was in the public's interest to find out the reason for the cessation of broadcasting service by DBC. Some other members considered the rumour of political interference as pure speculation as DBC had been allowed to soft launch its service in August 2011 and had not been restricted from criticizing the Government. The Panel passed a motion for the appointment of a select committee by the Legislative Council to inquire into issues relating to the discontinuation of broadcasting service by DBC. The proposal was put to the House Committee for consideration but was negated.

9. Panel members were later advised that the interim receiver of DBC submitted an application to CA seeking its approval for DBC to vary its broadcasting arrangements from 21 October 2012 for a period of up to 60 days. Having considered the severity, nature and duration of the breach and representations made by DBC arising from the cessation of its service from 10 to 15 October 2012, CA announced that it had decided to impose on DBC a financial penalty of \$80,000, which was the maximum financial penalty that might be levied on the first occasion a penalty was so imposed on a sound broadcasting licensee.

10. The Panel further held a special meeting on 24 November 2012 to receive views from members of the public on the subject. The majority of members of the public attending the meeting asked the Administration to facilitate the resumption of broadcasting service by DBC. Panel members requested the Administration to mediate in the dispute among the major shareholders.

11. The Panel was subsequently advised by the Administration that in accordance with the relevant statutory and licence requirements, DBC made two applications to CA, namely, (a) application for transfer of ownership among shareholders of DBC, and (b) application for deviation of its service from the programming requirements to broadcast music only from 11 to 28 January 2013, pending the resumption of a full-fledged broadcasting service on 28 January 2013. Having taken into account DBC's submission, CA approved the applications and imposed on DBC a financial penalty of \$200,000 in view of the breaches of the licence conditions arising from the disruptions to/cessation of its broadcasting service from 21 October 2012 to 11 January 2013.

12. In response to the Panel's request at the special meeting, the Administration also provided information on the comparison between sound broadcasting licencees providing DAB services in terms of total investment, manpower and programme hours (**Appendix**).

#### Finance Committee

13. At the special Finance Committee meeting to examine the Estimates of Expenditure 2015-2016 on 30 March 2015, Hon MA Fung-kwok enquired about the number of DAB listeners, the signal coverage of the operators, the sale of DAB receivers, and specific measures taken by the Administration in 2015-2016 to promote the use of DAB services by the public and enhance public awareness of the advantages of DAB.

14. The Administration advised that no statistics was available on the number of DAB listeners in 2014-2015 but according to a listenership survey on digital broadcasting conducted by RTHK from August to September 2014, the listening rate of RTHK's DAB channels in the preceding seven days was 28.1%. DAB broadcasters had established transmission facilities on seven key hilltop sites. The construction of the gap-filler station in Temple Hill was just completed in end 2014, bringing the network coverage of the Hong Kong population from the original 80% to about 84%. Currently, DAB radios were being sold at shops selling audio-visual and electrical products and the Administration had been maintaining contact with the industry to understand the supply of DAB radios on the market and encouraging the industry to make products available to the market in a timely manner.

15. The Administration supplemented that through the Digital Audio Broadcasting Steering Committee, the Government had promoted DAB by creating a dedicated website for DAB, participating in relevant exhibitions, meeting with the industry, producing promotional posters/leaflets for public distribution, producing announcement of public interest for release on television

and radio, holding a transmission network launch ceremony, and advertising in newspapers, on the Internet and on public transport, closely monitoring the progress of construction of the transmission network by broadcasters and the coverage of the network, co-operating with broadcasters to keep in view the sale of DAB receivers and maintaining contact with the industry, and liaising with vehicle manufacturers/importers to encourage the industry to install DAB radios in vehicles imported to Hong Kong for sale.

## **Recent developments**

### Issues relating to Phoenix U Radio Limited

16. Phoenix U formally launched its DAB services with one sound broadcasting programme channel called "Phoenix U Radio Comprehensive Channel (鳳凰 U Radio 綜合台)" on 18 January 2012, and had formally launched its second programme channel called "Phoenix U Radio Music Channel (鳳凰 U Radio 音樂台)" on 18 October 2012. The launch of Phoenix U's third programme channel had been postponed, and was not launched at the time of Phoenix U's submission of its application for termination of its DAB Licence ("the Licence").

17. On 17 September 2015, Phoenix U wrote to SCED stating that Phoenix U was seeking the approval of the CE in Council for the "surrender" of the Licence. Phoenix U explained that notwithstanding the efforts it had made in the operation and promotion of DAB services, the lack of a critical mass of audience for Phoenix U's DAB services made it difficult for Phoenix U to attract advertisers. Phoenix U found that there was no prospect of making the business model commercially viable.

18. Under section 46 of the Interpretation and General Clauses Ordinance (Cap. 1), where an Ordinance confers upon a person a power to grant a licence, that person also has the power to, among other things, amend or withdraw the licence. In this case, any premature termination of the Licence, otherwise than by way of revocation in accordance with Condition 13 of the Licence and section 21 of the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391), could be made by the CE in Council on terms and conditions prescribed or accepted by him. The CE in Council and Phoenix U might mutually agree to amend the terms and conditions of the Licence. In this regard, Phoenix U had indicated its agreement to the amendment to the Licence and the termination of the Licence taking effect from 7 November 2015.

19. The Administration had sought the views of CA on the obligations and liabilities accrued by Phoenix U under the Licence in terms of (a) outstanding financial penalty, (b) outstanding licence fee, (c) compliance with the milestones in the performance bonds, (d) compliance with service requirements, and (e) compliance with the Six-year Investment Plan. Noting that Phoenix U had launched two programme channels but failed to launch its third programme channel in accordance with its committed milestone, CA recommended the calling of a bonded sum of \$1 million under a performance bond the company submitted to the Government to secure the launch of its third programme channel. Apart from that, CA considered that there were no outstanding obligations and liabilities accrued under the Licence. Based on CA's views, the CE in Council approved the termination of the Licence with effect from 7 November 2015.

#### Issues relating to digital audio broadcasting

20. The Administration indicates in its reply dated 6 November 2015 (LC Paper No. CB(4)202/15-16(01)) to the letter from Hon WONG Yuk-man (LC Paper No. CB(4)54/15-16(01)) on issues relating to DAB that the Commerce and Economic Development Bureau is working with the Transport Department to seek, on behalf of DAB licensees, an exemption from the relevant regulations on the installation of in-car DAB radios with visual display units. Furthermore, the Administration has invested \$46 million to install DAB re-broadcasting systems in 11 Government tunnels in early 2014. RTHK has continued to promote its DAB service by various means, including staging roadshows, organizing special projects, and promoting through its analogue radio channels.

#### **Latest position**

21. The Administration will brief the Panel on 11 January 2016 on issues relating to the policy on digital audio broadcasting.

#### **Relevant papers**

22. A list of the relevant papers with their hyperlinks is at:  
[http://www.legco.gov.hk/yr15-16/english/panels/itb/papers/itb\\_ad.htm](http://www.legco.gov.hk/yr15-16/english/panels/itb/papers/itb_ad.htm)

## Appendix

### Comparison between sound broadcasting licensees providing digital audio broadcasting services<sup>1</sup>

	DBC	Metro	Phoenix
Total investment over six years <sup>2</sup>	\$620 million (comprising capital investment of \$78 million and operating expenses of \$542 million)	\$134.2 million (comprising capital investment of \$20.7 million and operating expenses of \$113.5 million)	\$203 million (comprising capital investment of \$13 million and operating expenses of \$190 million)
Manpower <sup>3</sup>	around 330		
Weekly programme hours at formal launch of service	1 176 hours	168 hours	168 hours

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Notes:

- <sup>1</sup> The licensees had soft launched / formally launched their services at different times. DBC soft launched its services beginning in August 2011 and formally launched its services in September 2012. Metro formally launched its digital audio broadcasting service in September 2012. Phoenix soft launched its services in December 2011 and formally launched its services in January 2012.
- <sup>2</sup> The figures are the total proposed investments set out in the proposals of the three licensees in their applications for sound broadcasting licences to provide digital audio broadcasting services. They are higher than the investments pledged by the licensees in their Six-year Investment Plans which cover only capital investments and programming investments but not other operating expenses like general and administrative expenses.
- <sup>3</sup> The figure also includes the total number of staff employed by Metro for its analogue sound broadcasting service. As the manpower of individual licensees is internal information of the companies concerned, we have only set out the total number of staff members of the three licensees.