

立法會
Legislative Council

LC Paper No. CB(4)581/15-16(06)

Ref. : CB4/PL/ITB

Panel on Information Technology and Broadcasting

Meeting on 16 February 2016

**Background brief on issues relating to domestic free
television programme service licence of Asia Television Limited**

Purpose

This paper summarizes previous discussions by Members on issues relating to the domestic free television programme service ("free TV") licence of Asia Television Limited ("ATV").

Background

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

3. In relation to ATV's application, after considering the recommendations of CA, the relevant representations and all relevant latest developments, CE in Council decided on 1 April 2015 not to renew ATV's free TV licence. Pursuant to section 8(1)(a) of Schedule 4 to BO, a notice period of 12 months had to be served on the licensee if CE in Council decided that the free TV licence of the licensee should not be renewed. In this regard, ATV had its licence originally expiring on 30 November 2015 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. 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. On 12 May 2015, CE in Council approved the application for renewal of TVB's free TV licence for a period of 12 years from 1 December 2015 to 30 November 2027. CA administratively assigned to TVB the broadcasting spectrum it currently held, 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 TV and digital terrestrial television ("DTT") services during the validity of its renewed free TV licence.

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 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 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, CE in Council announced the granting of free TV licence to HKTVE following the grant of approval-in-principle 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 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 CE in Council and HKTVE could only broadcast programmes within 12 months after 1 April 2015.

7. The Administration advised that 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 co-ordinate 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 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 BO if a licensee was found to be in serious breach of its licence conditions, including non-compliance with the service provision requirements. In his letter to ATV on 1 April 2015, the Clerk to the Executive Council indicated that CE in Council had reserved its rights to invoke the power under section 9 of Schedule 4 to BO which provided that CE in Council could direct the Financial Secretary to purchase the property of the licensee 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 at the meeting on 13 April 2015 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. 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) ("TO"), CA's statutory duties and the Radio Spectrum Policy Framework promulgated by the Government in April 2007. Given 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. 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 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 CA decided to assign spectrum to HKTVE, and FTV upon formal licence grant by 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.

13. At the Panel meeting on 8 June 2015, some members opined that the broadcasting spectrum was highly concentrated in the hands of TVB. These members also urged CA to re-assign the spectrum to be vacated by ATV to the applicants who intended to operate free TV service. CA again

advised members that it would determine the assignment arrangements related to the spectrum vacated by ATV taking into account, inter-alia, TO, CA's statutory duties to promote the efficient use and allocation of spectrum and the Radio Spectrum Policy Framework promulgated by the Government in April 2007.

Council meeting

14. At the Council meeting on 25 November 2015, Hon Charles Peter MOK raised written question relating to, inter alia, the estimated additional manpower needed and extra annual operating expenditure to be incurred by RTHK to provide analogue television broadcasting services after 1 April 2016, whether the Government had formulated a specific timetable for the spectrum handover between ATV and RTHK, whether it had provided additional resources for RTHK to meet the extra expenditure thus incurred, and whether the inter-departmental task force set up by the authorities had discussed with ATV the operational and handover arrangements for the transmission stations before and after ATV discontinued its broadcasting services.

15. The Administration advised that the Government was studying and firming up the detailed arrangements for RTHK to broadcast programmes of its DTT programme channels on ATV's two existing analogue TV programme channels. The Government would provide additional resources to RTHK in accordance with established procedures, taking into account RTHK's staffing and resource requirements. The task force would follow up on the relevant issues to ensure the smooth handover of, among other things, the spectrum to be vacated by ATV and the transmission stations operated and managed by ATV upon the expiry of its free TV licence.

Latest position

16. In response to the letter dated 10 December 2015 from Hon Charles Peter MOK (LC Paper No. CB(4)357/15-16(01), the Administration will brief the Panel on 16 February 2016 on issues relating to the operational and handover arrangements of ATV on expiry of its free TV licence.

Relevant papers

17. A list of the relevant papers with their hyperlinks is at:

<p>Panel papers http://www.legco.gov.hk/yr15-16/english/panels/itb/papers/itb_aa.htm</p>
<p>Press release on Chief Executive in Council's decisions on free TV licence applications http://www.cedb.gov.hk/speech/2015/pr01042015.htm</p>
<p>Speech of Secretary for Commerce and Economic Development on free TV licences http://www.cedb.gov.hk/speech/2015/pr01042015a.htm</p>
<p>Press release on withdrawal of frequencies assigned to Asia Television Limited http://www.coms-auth.hk/en/media_focus/press_releases/index_id_948.html</p>
<p>Speech of Secretary for Commerce and Economic Development on Television Broadcasts Limited's application for renewal of free TV licence http://www.cedb.gov.hk/speech/2015/pr12052015a.htm</p>
<p>Council question http://www.info.gov.hk/gia/general/201511/25/P201511250569.htm</p>

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 5 February 2016