

**For discussion on
11 May 2020**

**Legislative Council
Panel on Information Technology and Broadcasting**

The Governance and Management of Radio Television Hong Kong

Purpose

This paper aims to brief Members on various matters related to the governance and management of Radio Television Hong Kong (RTHK).

Background

2. The positioning and work of RTHK have raised public concerns recently. This paper will first set out a few major principles relating to the governance and management of RTHK, laying the foundation for the Panel's discussion.

3. It is well recognised that RTHK has dual identities with unique roles. RTHK is both a public service broadcaster and one of the government departments. The roles that RTHK should play and the objectives that it should achieve are clearly stipulated in the Charter of Radio Television Hong Kong (Charter). RTHK enjoys editorial independence, but not without any restraints. The Charter specifies the purposes and mission of RTHK as a public service broadcaster, and that RTHK should be accountable to the policy bureau, abide by the relevant code of practices issued by and complaints handling mechanism of the Communications Authority (CA), attach great importance and give due consideration to the views of the RTHK Board of Advisors. The specific arrangement is as follows –

- (a) as a government department, RTHK is under the policy purview and housekeeping oversight of the Commerce and Economic Development Bureau (CEDB). RTHK and its staff are subject to all applicable government rules and regulations, and also subject to monitoring mechanisms applicable to government departments (including but not limited to the Ombudsman, the Audit Commission and the Independent Commission Against Corruption);

- (b) RTHK should ensure that all its television (TV) and radio programmes should comply with the relevant code of practices issued by the CA for regulating the programme standards of broadcasting licensees. The public may lodge a complaint on broadcast content with the CA. The CA will decide whether a complaint is substantiated, and may impose appropriate sanctions on RTHK; and
- (c) RTHK Board of Advisors is responsible to advise the Director of Broadcasting (Director) on matters pertaining to editorial principles, programming standards and quality of RTHK programming, and receive relevant complaint reports. The Director should attach great importance and give due consideration to all the views raised by the Board of Advisors, the Director should report and explain the reasons if he does not accept.

4. The Charter specifies that the Director, as RTHK's Editor-in-Chief, is responsible for making the final editorial decisions in RTHK, and is accountable for editorial decisions taken by RTHK programme producers. The relevant provisions are at Annex 1.

5. The Charter specifies that the Secretary for Commerce and Economic Development will provide the Director with policy guidance and support in respect of policy matters, setting performance targets, reviewing the achievements, and resource deployment, etc. CEDB, in accordance with the Charter, has all along been requesting that the overall programme production and editorial stance of RTHK should fully demonstrate the functions and responsibilities as a public service broadcaster, with a view to meeting public expectation.

6. During the recent debate on the Appropriation Bill, a number of Members expressed concerns on the financial provision to RTHK. As a government department, RTHK has been allocated sufficient resources under the established mechanism for provision of its services. In fact, the cumulative total amount of expenditure of RTHK in the past ten years has increased by more than two times, while the number of civil service posts also recorded an increase of more than 40%. At present, RTHK has been allocated a financial provision of more than \$1 billion per year. The Government understands that the public is concerned about whether RTHK has sufficient resources on the one hand, and whether public money is used properly with a view to meeting the objective of value for money on the

other.

Progress of Follow-up Actions on the Audit Report

7. In recent years, RTHK has been investigated by the Audit Commission. In October 2018, the Audit Commission published the Director of Audit's Report No. 71 (Audit Report) on RTHK's provision of programmes, making a number of views and recommendations, with details at Annex 2.

8. RTHK accepts all the recommendations of the Audit Report, and has been following up under CEDB's policy steer. The Audit Report has been published for about a year and a half, the major follow-up actions completed by RTHK include: extending the broadcast hours of RTHK TV31 to 24 hours a day and miscellaneous contents are no longer broadcast, reviewing and enhancing the administrative procedures of the Community Involvement Broadcasting Service (CIBS), updating the procurement procedures for acquired programmes, and the Education Bureau (EDB) ceasing to allocate annual financial provision to RTHK for production of a certain number of educational television (ETV) programmes with effect from 2020-21 financial year after review (see paragraph 18 below), etc. The work progress mentioned above has been reported to the Legislative Council (LegCo) Public Accounts Committee (PAC) in accordance with the established mechanism.

9. As regards other recommendations of the Audit Report, a number of actions are still being followed up, with the relevant progress set out in the ensuing paragraphs.

Review of the TV Programme Commissioning

10. The Audit Report pointed out that RTHK did not collect audience views on the satisfaction rates and on areas for improvement of commissioned programmes in the past, and recommended that RTHK develop mechanism, e.g. focus group studies or surveys. In response to the views of the Audit Report, RTHK completed the first focus group study in January 2020, and adjusted some of the internal arrangement and operation having regard to the feedback collected from the viewers, with a view to enhancing the quality of commissioned programmes and continuing to fulfil the objective to nurture talents for the local TV production industry.

11. Furthermore, upon CEDB's request, RTHK is reviewing how to further strengthen administrative management and resource deployment of the TV Programme Commissioning from the mechanism aspect, including the engagement of service providers, etc., with a view to complying with the relevant government rules and regulations, achieving the objective of value for money.

Procurement Exercises of the Television Programmes Appreciation Index (TVAI) Survey and the Radio Audience Survey (RAS)

12. The Audit Report pointed out that RTHK imposed two mandatory requirements¹ in selecting service providers for TVAI Survey and RAS in the past, resulting in the engagement of one same service provider for many years; recommended that RTHK revisit the mandatory requirements so as to ensure that the relevant requirements do not create obstacles to competition amongst the potential service providers. The LegCo PAC wrote on 18 January 2019, requesting the Government to consider investigating into whether misconduct was involved in the procurement process. Although there has been no evidence showing any illegal acts or malpractices at this stage, RTHK accepted the views of the Audit Report, removed the relevant mandatory requirements, and enhanced the marking schemes after review.

13. In the course of the review, RTHK invited quotations from service providers in February 2019 to launch the new round of TVAI Survey. To ensure that RTHK has complied with the latest Government procurement policy and procedures and fully addressed the concerns of the LegCo PAC, CEDB requested RTHK to abort that procurement exercise. In September 2019, RTHK adopted the revised procedures and marking schemes to conduct service procurement by invitation of quotations, but was unable to engage a service provider in the end. Subsequently, RTHK invited potential service providers to provide professional advice in January 2020, so as to suitably adjust the service requirement and procurement mode. RTHK will also make reference to the procurement experience of RAS (see paragraph 14 below), so as to launch the procurement procedures for TVAI Survey later this year.

14. As regards the RAS, RTHK adopted the revised procedures and marking schemes to conduct procurement by invitation of quotations in

¹ The service provider should be established in Hong Kong for at least 15 years before the quotation closing date; and the service provider should have relevant experience in conducting appreciation survey of broadcasting media in Hong Kong for at least 20 surveys in the last ten years before the quotation closing date.

February 2020, and engaged a service provider in April 2020. As for the next steps, RTHK will discuss with the service provider on the specific arrangement of the survey. Subject to the development of COVID-19 epidemic, the survey fieldwork is expected to commence later this year.

Evaluation of TV Programmes

15. The Audit Report pointed out the low TV ratings of RTHK TV 31/31A with an average of 0.1 (i.e. 6 400 viewers) and the low awareness level of a number of programmes, and recommended that RTHK should ascertain the reasons for low TV ratings and awareness level, so as to take measures to enhance the popularity of programmes. RTHK commissioned a survey organisation in November 2019 to conduct the “RTHK TV Channel Penetration Survey” to collect information and data on the penetration/take-up patterns of its digital TV channels, viewing habits and preferences of the audience, with a view to ascertaining the reasons for low TV ratings. As the survey concerned involves household visits/face-to-face interviews, there has been some delay during the epidemic and the work is still in progress.

16. Furthermore, in order to obtain more comprehensive information on the viewership of RTHK’s programmes, the Audit Report recommended that RTHK should collect the cross-media TV ratings and consider developing viewership indicators for RTHK’s TV channels and programmes, and report them in the Controlling Officer’s Report (COR). In response to the views of the Audit Report, RTHK made use of a social media analytical tool to collect cross-media data (including websites and mobile devices) for live webcast and archival programmes in early 2020, and provided the “audience reach” data of RTHK’s TV channels (i.e. watched for at least one minute during the specific period of time). CEDB considers that the “audience reach” data has limited reference value and fails to accurately reflect the popularity of individual programmes. To fully grasp the viewership of RTHK’s programmes, RTHK should also make reference to the TV ratings data widely adopted by the broadcasting industry. CEDB has therefore requested RTHK to collect more detailed data on the TV ratings of its TV channels and programmes, so as to further understand the reasons for low TV ratings of its programmes. Such data will assist RTHK to evaluate the performance of its programmes in a more comprehensive and objective manner, enabling RTHK to take more effective measures to enhance the popularity of its TV programmes and respond to the expectations and needs of the viewers.

17. The Audit Report recommended that RTHK develop viewership indicators for TV channels and programmes, and report them in the COR; and consider setting targets/benchmarks for different categories of RTHK programmes, in terms of programme quality (e.g. appreciation index) and awareness level, in order to facilitate more meaningful evaluation of its TV programmes. There has not been any progress for the relevant work, and CEDB will continue to follow up with RTHK.

Review of ETV Programmes

18. The Audit Report pointed out the small number of ETV programmes watched by students, the decreasing staff productivity and the high production cost of programmes. Having regard to the recommendations of the Audit Report, EDB completed a review on ETV service, and concluded that it will be re-positioned from the 2020-21 financial year and annual financial provision will no longer be allocated to RTHK for production of a certain number of ETV programmes, such that other service providers in the market will be introduced and ETV service will go beyond the confines of traditional TV programmes with a view to developing more diverse curriculum resources in the era of e-learning.

19. Furthermore, the CA² received a request from Television Broadcasts Limited (TVB) last year for ceasing the requirement on the broadcast of ETV programmes, and consulted the relevant bureaux (i.e. CEDB and EDB) in accordance with the established mechanism. Having regard to the growing trend in accessing ETV programmes through the Internet and mobile applications, the consistently low ratings when these programmes are broadcast through free TV (from 0 to 0.5), the need/demand for viewing ETV programmes on free TV channels at designated hours on each school day is expected to further diminish in the future, and the re-positioning of ETV service, the CA announced early this year its decision to lift the requirement on the broadcast of ETV programmes by free TV licensee after the end of the current school year (i.e. 5 June 2020). The public could continue to have access to ETV programmes through RTHK's free TV channels and other new media platforms.

² According to the Broadcasting Ordinance (Cap. 562) and the domestic free TV programme service (free TV) licences, the CA may direct a licensee to broadcast without charge any ETV programme supplied by the Government.

RTHK Programmes leading to Recent Public Concerns and Discussion

20. Recently, RTHK programmes have led to public concerns and discussions, including complaints against some RTHK programmes in relation to the biased stance as well as the inaccurate and partial contents, etc. CEDB has discussed with the management of RTHK on these complaints. CEDB has been urging RTHK to fully and strictly abide by the Charter.

21. CEDB is concerned about whether some RTHK programmes, in respect of editorial and production processes, have deviated from or violated the Charter, and has therefore offered advice and recommendations, including urging that the overall programme production and editorial stance of RTHK should fully demonstrate the public purposes specified in the Charter, having regard to the complaints against “Headliner” programme. As pointed out by CEDB in early April 2020, the presentation in the 28 March episode of a RTHK programme, “The Pulse”, has breached the One-China Principle and the public purposes and mission stipulated in the Charter. Furthermore, CEDB was also concerned about a commissioned programme, “Taiwan Stories III”, broadcast on the same day, which was also found to have breached the One-China Principle; although RTHK made a sincere apology and agreed for a critical review in response to media enquiries, CEDB also requested RTHK to review the situation so as to avoid the recurrence of similar incidents.

The Latest Progress of Follow-up Actions on Complaints against RTHK Programmes

22. As mentioned in paragraph 3 above, RTHK should ensure that all its TV and radio programmes should comply with the relevant code of practices issued by the CA for regulating the programme standards of broadcasting licensees. In accordance with the established mechanism, the CA adopts consistent standards and procedures in processing complaints against programmes of commercial and public service broadcasters. In 2019-20, the CA received a total of about 635 complaint cases against RTHK programmes (involving about 11 339 complaints), of which 2 cases (involving 348 complaints) were ruled to be substantiated by the CA and 10 cases (involving 11 complaints) were classified as a minor breach by the Director-General of Communications acting under the CA’s delegated authority, while about 393 cases (involving 10 064 complaints) are still being processed.

23. Among the substantiated cases mentioned above, the CA announced its decision on 20 April 2020, regarding the TV programme “Pentaprisism” broadcast on 20 November 2019, that RTHK should be seriously warned to observe closely the relevant provisions of the Generic Code of Practice on Television Programme Standards (see Annex 3). The CA considered that –

- (a) RTHK appeared to have uncritically accepted the information of other media reports, articles or opinions from unverified, secondary sources posted on the Internet at face value without conducting any fact checking on its own. As a broadcaster, RTHK failed to put in reasonable efforts to ensure that the factual contents used in the programme are accurate, which was in dereliction of its duties;
- (b) RTHK did not issue any subsequent official clarifications, corrections and supplementary information/details to rectify those inconsistencies, contradictions or confusions in its programmes, after the broadcast of the programme;
- (c) RTHK failed to show in its representations to the CA what it had specifically done or what compliance/quality control processes were in place; and
- (d) some of the programme content were apparently made on the basis of inaccurate, distorted information or without justifications. The host’s remarks made in the programme was irresponsible, with the deliberate use of very strong epithets to demonise the actions of the Police, comparing the Police to a terrorist group condemned by the United Nations, and could be regarded as a hate speech with the effect of inciting hatred against the Police, unfair to and were capable of adversely affecting the reputation of the Police.

24. CEDB considered that RTHK being ruled to have breached the relevant code of practices is a matter of extremely serious nature, and requested RTHK to promptly respond in a positive and responsible matter, including a review of its programme editorial and production mechanism, with a view to ensuring that the programme standards are in compliance with the Charter, the CA’s relevant codes of practices and RTHK’s Producers’ Guidelines, so as to ensure that similar mistakes will not recur.

Broadcast Arrangement of RTHK Programmes on Other Free TV Channels

25. Pursuant to the relevant licence condition in the free TV licences, the CA may direct a licensee to broadcast TV programmes and other material in the public interest provided by the Government. On 9 January 2020, the CA received a request from TVB for ceasing the requirement on the broadcast of RTHK programmes. In accordance with the established mechanism, the CA consulted the relevant policy bureau (i.e. CEDB) and noted RTHK's views, and made a decision after careful consideration of relevant factors. The CA announced its decision on 4 March 2020 to revoke the directions issued to free TV licensees on the broadcast of RTHK programmes.

26. The requirements for free TV licensees to broadcast RTHK programmes were first introduced in 1990, mainly because RTHK did not operate its own TV channels at the time. RTHK currently operates two analogue and three digital TV channels, with their population coverage reaching 99%, which is on a par with that of commercial TV broadcasters. RTHK's website and mobile application also provide live webcast and on-demand viewing of archival programmes. The public may continue to view RTHK programmes through its own free TV channels and online platforms. CEDB considers that there is no justifiable case to continue to require commercial broadcasters to broadcast RTHK programmes.

27. CEDB believes that the arrangement is in line with the policy objectives of providing diversified programme choices to the public, facilitating business, encouraging innovation and fostering sustainable development of the broadcasting industry. It will not affect the ability of RTHK to continue performing its public purposes and mission as a public service broadcaster. RTHK has no objection to the arrangement.

28. As free TV licensees are required to fulfil unique social functions, all along spectrum has been assigned administratively without spectrum utilisation fee (SUF). Generally speaking, free TV licensees are required to provide free news, entertainment, education and information for the community; provide programmes catering for different types and age groups of audience, English channels and subtitles, and broadcast announcements in the public interest provided by the Government and publicity materials of the CA; and widely disseminate messages of public importance to the masses free of charge in case of emergency. Specifically, free TV broadcasters are required to provide a total of over

100 hours of positive programmes per week, including news, current affairs programmes, documentaries, arts and culture programmes, and programmes for children, senior citizens and young persons, and operate an integrated English channel. Fulfilling the above social functions involves substantial public interests and is not limited to the requirement on broadcasting certain specific programmes as directed by the CA. The requirement to broadcast RTHK programmes only represented a part of the requirements imposed on free TV licensees. Even though free TV licensees are no longer required to broadcast RTHK programmes, they continue to meet the policy criteria for not charging SUF.

29. RTHK, as a public service broadcaster, other than serving a broad spectrum of audiences, has also been providing a number of diversified programmes to cater to the needs of minority interest groups for many years. After the lifting of the requirement on the broadcast of RTHK programmes by free TV licensees, CEDB expects that RTHK should continue to enhance its programme quality and strengthen the identity of its TV channels, with a view to attracting more audiences to access RTHK programmes through its own TV channels and new media platforms.

Conclusion

30. In view of the concerns on RTHK mentioned above, CEDB considers that RTHK should face up to and fully review its governance and management, in order to ensure full compliance and fulfilment of the requirements and regulations imposed on RTHK by the Charter.

Advice Sought

31. Members are invited to note the content of this paper and provide comments.

**Communications and Creative Industries Branch
Commerce and Economic Development Bureau
5 May 2020**

**Relevant Provisions of
the Charter of Radio Television Hong Kong**

B. PUBLIC PURPOSES AND MISSION

4. As the public service broadcaster in Hong Kong, RTHK is to fulfill the following purposes –
 - (a) sustain citizenship and civil society. This involves –
 - (i) promoting understanding of our community, our nation and the world through accurate and impartial news, information, perspectives and analyses;
 - (ii) promoting understanding of the concept of “One Country, Two Systems” and its implementation in Hong Kong; and
 - (iii) engendering a sense of citizenship and national identity through programmes that contribute to the understanding of our community and nation;
 - (b) provide an open platform for the free exchange of views without fear or favour. This involves the provision of a wide range of programmes for public participation and expression of views, and provision of a platform to support and facilitate community participation in broadcasting, including the administration of a Community Broadcasting Involvement Fund;
 - (c) encourage social inclusion and pluralism. This involves the provision of programmes with diversity of programming coverage, universality of reach and sensitivity to the pluralistic nature of Hong Kong and the world. The objective is to enhance public understanding and acceptance of the cultural, linguistic, religious and ethnic diversity both in the local community and beyond;
 - (d) promote education and learning. This involves stimulating interest in a wide range of subjects, and providing information and resources to facilitate lifelong learning at all levels and for all ages; and

- (e) stimulate creativity and excellence to enrich the multi-cultural life of Hong Kong people. This involves the production, commission and acquisition of distinctive and original content for public broadcast. There should be active promotion of public interest, engagement and participation in cultural activities, and its programming and other corporate policies and practices should foster creativity and nurture talent.
5. RTHK will provide to Hong Kong people editorially independent, professional and high-quality radio, television and new media services. Specifically, the mission of RTHK is to –
- (a) inform, educate and entertain members of the public through multi-media programming;
 - (b) provide timely, impartial coverage of local, national and global events and issues;
 - (c) deliver programming which contributes to the openness and cultural diversity of Hong Kong;
 - (d) provide a platform for the Government and the community to discuss public policies and express views thereon without fear or favour; and
 - (e) serve a broad spectrum of audiences and cater to the needs of minority interest groups.

C. EDITORIAL INDEPENDENCE

6. RTHK is editorially independent.
7. RTHK will adhere to the following editorial principles –
- (a) be accurate and authoritative in the information that it disseminates;
 - (b) be impartial in the views it reflects, and even-handed with all those who seek to express their views via the public service broadcasting platform;

- (c) be immune from commercial, political and/or other influences;
and
 - (d) uphold the highest professional standards of journalism.
8. The Director of Broadcasting (the Director) as the Editor-in-Chief is responsible for ensuring that a system of editorial control in accordance with RTHK's Producers' Guidelines is in place to provide accurate, impartial and objective news, public affairs and general programming that inform, educate and entertain the public.
 9. As the Editor-in-Chief, the Director is responsible for making the final editorial decisions in RTHK and is accountable for editorial decisions taken by RTHK programme producers.

Annex 2

Major Views and Recommendations of the Audit Report

1. **Production of Programmes:** The percentage of RTHK's Non-civil service contract (NCSC) staff was on the high side and some NCSC staff had been employed for a long period of time, RTHK should review whether the situation of employment of NCSC staff is in line with the Government's policy; review the administrative approval procedures of engagement of Cat II service providers; review the acquisition procedures of TV and radio programmes; take measures to ensure timely submission of the programme recordings and reports by the CIBS participants; assess the cost-effectiveness and step up promotion of the CIBS; take measures to ensure timely submission of audited reports and production materials; and increase the number of output hours of commissioned programmes and collect audience views;
2. **Broadcasting of Programmes:** In view of the low ratings of RTHK TV 31/31A and long broadcasting hours of miscellaneous contents on TV 32, RTHK should endeavour to enrich the content of TV programmes, including exploring ways to increase output hours of TV programmes, increase the first-run programme hours, devise a strategy for re-run programmes, and take measures to promote and enhance the attractiveness of content licensing;
3. **New Media Services:** RTHK should take measures to boost the usage of the new media services and improve the quality of the new media platforms;
4. **Evaluation of Programmes and Other Administrative Issues:** RTHK should revisit the two mandatory requirements imposed on the service providers for the TVAI Survey and RAS and review the relevant procurement exercises; take measures to improve the awareness level and the appreciation level of TV and radio programmes; formulate indicators for TV and radio channels/programmes and report them in the COR; review the strategy for the coverage of programmes in TVAI Survey; and submit the reports on performance evaluation of RTHK and RTHK compliance with performance evaluation indicators to the Board of Advisors on a regular basis and prepare an Annual Report in accordance with the Charter; and

5. **Evaluation of School ETV Programmes:** RTHK should take appropriate actions to contain the decreasing productivity and the high production cost for school ETV programmes; EDB and RTHK should explore the possibility of increasing the scale of commissioning of school ETV programme productions, and conduct a comprehensive review on RTHK's production of school ETV programmes to determine the way forward and the improvement measures to be taken.

Annex 3

Relevant Provisions of the Generic Code of Practice on Television Programme Standards being ruled to have breached by RTHK

Paragraph 1 of Chapter 3 – licensees should ensure that their programmes are handled in a responsible manner and should avoid needlessly offending audiences by what they broadcast;

Paragraph 2(b) of Chapter 3 – a licensee should not include in its programmes any material which is likely to encourage hatred against or fear of, and/or considered to be denigrating or insulting to any person(s) or group(s) on the basis of, among others, social status;

Paragraph 1A of Chapter 9 – licensees shall make reasonable efforts to ensure that the factual contents of PVPs are accurate;

Paragraph 9 of Chapter 9 – licensees have a responsibility to avoid unfairness to individuals or organisations featured in factual programmes, in particular through the use of inaccurate information or distortion;

Paragraph 15 of Chapter 9 – licensees should take special care when their programmes are capable of adversely affecting the reputation of individuals or other organisations. Licensees should take all reasonable care to satisfy themselves that all material facts are so far as possible fairly and accurately presented; and

Paragraph 17(b) of Chapter 9 – for all PVPs on matters of public policy or controversial issues of public importance in Hong Kong, facts must be respected and the opinion expressed, however partial, should not rest upon false evidence.