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Panel on Information Technology and Broadcasting

Meeting on 13 September 2021

**Background brief on
the regulatory frameworks for domestic free television and
sound broadcasting**

Purpose

This paper provides background information on the regulatory frameworks for domestic free television ("TV") and sound broadcasting and summarizes the views and concerns expressed by Members during the relevant discussions.

Background

The review on the television and sound broadcasting regulatory frameworks in 2018

2. The Broadcasting Ordinance (Cap. 562) and Part 3A of the Telecommunications Ordinance (Cap. 106) respectively provide for the regulatory frameworks for TV programme services and sound broadcasting services. In 2018, the Government completed a review on the TV and sound broadcasting regulatory frameworks ("the Review") which sought to relax obsolete statutory requirements and rationalize the regulatory regimes amidst blossoming of Internet-based media platforms, so as to provide a balanced competitive environment for the broadcasting market, and to leave more room for innovation and investment in order to sustain the development of traditional broadcasting services in Hong Kong. The Review concluded that the broadcasting regulatory framework then was proportionate and reasonable, and should remain intact. It also considered that sound broadcasting services should continue to be licensed under Part 3A of Cap. 106, while four categories

of TV services, ¹ including domestic free TV programme service, should continue to be licensed under Cap. 562.

Broadcasting and Telecommunications Legislation (Amendment) Ordinance 2020

3. In the light of the Review, the Administration introduced the Broadcasting and Telecommunications Legislation (Amendment) Bill 2019 ("the Bill") into the Legislative Council to amend Cap. 106 and Cap. 562 to:

- (a) relax cross-media ownership restrictions;
- (b) relax foreign control restriction of domestic free TV programme service licensee; and
- (c) remove the requirement of a domestic free TV programme service licensee being a non-subsidiary company.

4. The Bill was passed on 29 October 2020, and the Broadcasting and Telecommunications Legislation (Amendment) Ordinance 2020 came into operation on 5 February 2021.

5. At the meeting of the Panel on Information Technology and Broadcasting ("the Panel") on 12 July 2021, some members expressed that the development of domestic free TV in recent years was hampered not only by the rising competition from the digital media, but also some outdated regulations in Cap. 562. They suggested that the Panel should discuss the regulation of free domestic TV broadcasters under Cap. 562. In a similar vein, some members suggested that, following the approval of the analogue sound broadcasting licences for 12 years of Hong Kong Commercial Broadcasting Company Limited and Metro Broadcast Corporation Limited, the Administration should brief the Panel on issues relating to the regulatory guidelines for commercially operated radio stations in Hong Kong and the coming mid-term review of the analogue sound broadcasting licences in 2022. They also enquired whether any amendments should be made to Cap. 562 to align with the National Security Law.

¹ The four categories of TV services are:
(a) domestic free TV programme service;
(b) domestic pay TV programme service;
(c) non-domestic TV programme service; and
(d) other licensable TV programme service.

Previous discussions

6. The Administration briefed the Panel at its meeting on 12 March 2018 on the outcome of the Review and the public consultation on the relevant legislative amendment proposals. The Bills Committee held meetings on 16 April and 7 May 2019 to deliberate on the Bill. The major views of Members expressed at the Panel and Bills Committee meetings as related to TV broadcasting issues are set out in the ensuing paragraphs.

Licence applications and approvals for free television

7. At the Panel meeting, some members raised questions about the licensing process of free TV. They commented that the two-tier process (i.e. consideration of application by the Communications Authority ("CA") and the approval of the application by the Chief Executive in Council ("CE in C") upon consideration of CA's recommendations) for licence application on free TV was not transparent, and queried whether this process was necessary.

8. The Administration advised that in reviewing the licensing system, it had to take into consideration public interest, impact on investors and the policy objectives. The existing licensing regime had been working effectively. The Review had concluded that the existing two-tier licensing system with CE in C holding the statutory authority to approve domestic broadcasting licence was appropriate.

Relaxing the regulation of the broadcasting sector

9. During the deliberation on the amendments to Cap. 106 and Cap. 562, Bills Committee members considered that the regulatory arrangements for traditional broadcasting industry should be further relaxed in order to provide a more balanced competitive environment for the broadcasting market, particularly in the light of the recent growth of Internet media.

10. The Administration responded that the amendments to Cap. 106 and Cap. 562 would relax certain restrictions to address the imbalance in the regulatory frameworks for traditional broadcasting services and Internet media. Non-legislative measures such as the revision of codes of practice had also been implemented to relax the regulation of indirect advertising in TV programme services and to lift the prohibition on the broadcast of advertisements for undertakers and associated services in July 2018. The Administration had also introduced administrative measures such as streamlining the reporting requirements of free TV licensees which would facilitate the development of Hong Kong's broadcasting industry. Furthermore, CA would conduct a holistic review of the licence requirements in the mid-

term review of free TV licences which would commence progressively in 2021-2022, during which the comments and suggestions of the industry on various aspects would be sought.

Foreign control restrictions

11. Members of the Bills Committee queried whether the minor refinements to the threshold percentages of foreign investments in a free TV licensee that were subject to the prior approval of CA, were conducive to attracting more foreign investment in Hong Kong's free TV sector.

12. The Administration informed members that the requirement that local free TV licensees must be controlled by local individuals or companies would remain unchanged under the amendments to Cap. 106 and Cap. 562. The amendments would only relax the threshold percentages of shareholdings by unqualified voting controllers, and that would be subject to the prior approval of CA.

Latest position

13. The Administration will brief the Panel on 13 September 2021 on the domestic free TV and sound broadcasting regulatory frameworks and the timetable for the mid-term review of the relevant licences.

Relevant papers

14. A list of the relevant papers is set out in the **Appendix**.

Appendix

List of relevant papers

Committee	Date of meeting	Papers
Panel on Information Technology and Broadcasting	12 March 2018	<p>Administration's paper on review of television and sound broadcasting regulatory regimes (LC Paper No. CB(4)701/17-18(04))</p> <p>Background brief on the review of Broadcasting Ordinance (Cap. 562) and Telecommunications Ordinance (Cap. 106) (LC Paper No. CB(4)701/17-18(05))</p> <p>Minutes of meeting (LC Paper No. CB(4)1197/17-18)</p>
Bills Committee on Broadcasting and Telecommunications Legislation (Amendment) Bill 2019	16 April 2019 and 7 May 2019	<p>Legislative Council Brief File Ref: CCIB/SD 605-5/1 C11</p> <p>Report to House Committee LC Paper NO. CB(1)656/19-20</p>