

For information  
on 9 November 1998

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

### **1998 Review of Television Policy**

#### **Summary of Response to the Public Consultation**

#### **Purpose**

This paper updates Members on the submissions received in response to the 1998 Review of Television Policy.

#### **Background**

2. On 3 September 1998, the Information Technology and Broadcasting Bureau (ITBB) released a consultation paper on the 1998 Review of Television Policy (the Review) for a one-month public consultation. The LegCo Information Technology and Broadcasting Panel was briefed on the proposals set out in the consultation paper on the same day. Since the release of the paper, the ITBB has held more than 10 discussion sessions with the broadcasting industry and other interested organisations.

3. We have received a total of 45 submissions. The list of respondents is at Annex A. Of these, 34 are organisations and 11 individuals. Four of the submissions are marked confidential with one individual requesting to keep the name and the content of the submission confidential.

4. The views in the submissions, excluding those marked confidential, are summarised at Annex B. Copies of the original submissions, except those marked confidential, will be made available for public inspection at ITBB from 10 November 1998. The following is a summary of the views.

## **General views**

5. The respondents, particularly the telecommunications and television industries, are generally supportive of the proposals which are perceived as generating new business opportunities, promoting the growth of related industries and enabling investors to harness the convergent technologies. It is also generally agreed that the opening up of the television market and the rationalisation of the regulatory regime will enable the incumbent and new players to compete on a level playing field and bring about more programming choice to the general public.

## **Vertical integration**

6. Most of the respondents support the breaking up of vertical integration in the broadcasting industry. Some have suggested that television licensees should be required to reserve a portion of their air time for local independent productions. On the other hand, a couple of submissions recognise that some form of vertical integration may be acceptable for good economic reasons in a vibrant convergent environment.

## **Network sharing**

7. The majority of respondents support the proposals to open up the telecommunications and cable TV networks to achieve maximum utilisation and efficient use of the existing networks. The potential users as well as the owners of the networks are naturally concerned with the calculation of the cost-based interconnection charges. They have suggested that this should be a transparent process involving industry participation. The cable TV licensee, however, has strong objection to the proposal to open up its network for use by other service providers.

## **In-building distribution systems**

8. It is generally recognised that the in-building bottleneck will impose a constraint on the introduction of new services. Some respondents have requested that information on the current spectrum usage should be released and that the Government should mandate access to the in-building/SMATV networks. Most respondents agree that in

the allocation of channels for new services, priority should be given to those employing digital and advanced technology. The proposal to mandate access to new buildings is strongly supported.

### **The Pay Television market**

9. There is overwhelming support for opening up the subscription television and Video-on-Demand programme service markets. The licensing proposals for using the four ITU high-power Broadcasting Satellite Service (BSS) channels for the provision of Direct-to-Home (DTH) services are also generally well received. Some have pointed out that other satellite transponders in the Ku band are also capable for delivering DTH services, and that the Government should not limit DTH services to the four ITU channels.

### **Regulatory Issues**

10. The proposal to replace the existing transmission-based regulatory system with a technology and transmission neutral regime embodying four categories of television programme service licence, namely, domestic free, domestic pay, non-domestic and other licensable television programme services, has received wide support. An incumbent terrestrial television licensee, however, has argued that all television programme services should be subject to the same regulation under one single category of licence. A number of submissions have suggested that the free TV market should be opened up for competition so as to achieve a level-playing field for all players.

#### *Ownership and corporate control*

11. The proposed relaxation and simplification of the regulation on ownership and corporate control is generally agreed. Regarding voting control of domestic free licensees by non-residents, one incumbent licensee prefers retaining the present system while another has suggested that such control should be removed totally.

12. Some respondents have expressed reservations about the removal of “programme suppliers” from the “disqualified persons” list and the lifting of the investment restrictions for domestic licensees, particularly the dominant players. They are concerned that the proposed

relaxation may enable the licensees to use their dominant position in the broadcasting industry to gain an unfair advantage in another industry.

### *Content Control*

13. The positive programme requirements are generally considered to be necessary. Comments on the requirement of English channels for the terrestrial broadcasters are mixed. Some consider that the requirement should continue while others are of the view that the requirement should be suitably adjusted to provide the broadcasters with more flexibility in catering for minority interests.

### **Royalties and Licence Fees**

14. There are mixed views on the proposed abolition of royalties. While appreciating the justifications for the proposal, some have suggested that the abolition of royalties for free television should take effect only when the free television market is opened up for competition. The charging of full cost recovery licence fee has gathered a more uniform support.

### **Digital Terrestrial Television**

15. The respondents are generally in favour of the proposals to introduce Digital Terrestrial Television (DTT) to Hong Kong. Some respondents have expressed interest in joining the proposed Government-industry steering group on the technical trial.

## **Legislation**

16. There is overwhelming support for the introduction of an omnibus “Broadcasting Bill” which would incorporate all provisions relating to broadcasting under the existing Television Ordinance, Telecommunication Ordinance and the Broadcasting Authority Ordinance. The proposal to separate the regulation and licensing of transmission facilities from service provision is welcomed.

17. Considerable feedback has been received on the need to incorporate competition safeguards in the proposed “Broadcasting Bill”. It has been strongly suggested that provisions should be made to prevent a licensee from abusing its dominant position by engaging in anti-competitive practices.

## **Regulatory Bodies**

18. There are suggestions that the Broadcasting Authority should be given more resources to strengthen its professional support. One licensee has suggested that an expert team should be set up under ITBB to deal with the complex competition issues.

## **Implementation**

19. It is generally agreed that the policy proposals should be implemented as soon as practicable upon policy endorsement. An incumbent licensee is concerned that any changes to the present system before the enactment of the “Broadcasting Bill” may result in fragmented outcomes.

## **The next step**

20. The ITBB, in conjunction with the Office of the Telecommunications Authority (OFTA) and the Television and Entertainment Licensing Authority (TELA), are undertaking a detailed analysis of the views received for the formulation of the policy recommendations to the Chief Executive in Council. The Government is working towards the target of having the policy decisions made and announced before the end of the year.

26 October 1998

Information Technology and Broadcasting Bureau  
Government Secretariat

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ITB Panel/1998 Review of TV Policy on 9.11.98.doc

**Submissions received on 1998 Review of Television Policy**

1. ADAMS Mel
2. Advent Television Limited
3. Alcatel China Holding Pte., Ltd.
4. APT Satellite Holdings Limited
5. Asia Satellite Telecommunications Co. Ltd. - Confidential
6. Asia Television Limited
7. Auxiliary Bishop of Hong Kong
8. Bartech (International) Information Network Limited
9. BRIDGEWATER Ken
10. Cable and Satellite Broadcasting Association of Asia
11. Chinese Television Network
12. Citizens Party
13. Consumer Council
14. Democratic Alliance for Betterment of Hong Kong
15. Elmsdale Media Limited
16. FUNG S.L.
17. Galaxy Satellite Broadcasting Limited
18. GRAHAM Brett
19. HA Frankie
20. Hong Kong Arts Development Council
21. Hong Kong Coalition of Service Industries
22. Hong Kong Commercial Broadcasting Co., Ltd.
23. Hong Kong Democratic Foundation
24. Hong Kong Internet Service Providers Association

25. Hong Kong Telecom VOD Limited
26. Hong Kong Telecommunications Limited - Confidential
27. Hutchison Telecommunications (Hong Kong) Limited
28. International Federation of the Phonographic Industry (Hong Kong Group)
29. Kowloon Federation of Associations
30. Kwun Tong Resident Union
31. Liberal Party
32. Metro Broadcast Corporation Limited
33. NIP Yee-man, Joyce and URE John
34. Open University of Hong Kong
35. Satellite Television Asian Region Limited
36. Satellite Television Rentals Limited
37. SHRIDHARANI Kaushik
38. SPAIN Eric
39. Television Broadcasts Limited
40. The Hong Kong Telecommunications Users Group
41. Turner Broadcasting System Asia Pacific, Inc. - Confidential
42. WAN M.L.
43. Wharf Cable Limited
44. YAM K.S.

Plus one submission from an individual who has requested to keep the name and the contents of the submission confidential.

## Summary of Submissions on 1998 Review of Television Policy

| Individuals/<br>Organisations             | Comments   |
|---|--|
| 1. Adams, Mel                             | <p data-bbox="576 533 810 568"><u>Pay TV market</u></p> <ul data-bbox="576 622 1394 958" style="list-style-type: none"><li data-bbox="576 622 1394 958">• A requirement on universal service obligation similar to section 6.39 of the “1998 Review of Fixed Telecommunications - A Considered View”, i.e. one which requires a company to ensure that a good efficient and continuous basic service is reasonable for all persons in Hong Kong, should be imposed on new pay TV services.</li></ul>   |
| 2. Advent<br>Television Ltd.              | <p data-bbox="576 1102 911 1137"><u>Digital Terrestrial TV</u></p> <ul data-bbox="576 1191 1394 1617" style="list-style-type: none"><li data-bbox="576 1191 1394 1617">• Digital TV policy seems to have addressed many issues, but the Government should consider more fully the provision of mobile TV services for captive audience. Certain types and configurations of digital terrestrial TV provide a mechanism where crystal clear digital TV pictures can be delivered to moving vehicles. Mobile TV services aimed at captive audiences are starting to appear. Such services would contain normal TV advertisement and special types of programmes.</li></ul> |
| 3. Alcatel China<br>Holding Pte.,<br>Ltd. | <p data-bbox="576 1720 831 1756"><u>Network sharing</u></p> <ul data-bbox="576 1809 1394 2020" style="list-style-type: none"><li data-bbox="576 1809 1394 2020">• Supports the proposal that allows cable television networks to deliver telecommunications services in addition to television services. This policy should be open to both public service cable operators and private service cable operators (for</li></ul>  |

Individuals/  
Organisations

Comments

example, in-building operators such as hotels).

Direct-To-Home satellite television services

- As Direct-To-Home service is considered as a supplementary solution to areas (or buildings) which cannot be served by cable systems, the Government should explore more applications (for example, broadband services, data, voice, etc.) on Direct-To-Home service other than mere television transmission.

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4. APT Satellite  
Holdings  
Limited

Direct-To-Home satellite television services

- Supports the introduction of DTH services to Hong Kong and the licensing of DTH services.
- The Government should adhere to the principle of fair market competition and should not preclude or exclude other broadcasting companies from using other satellites in providing DTH services. Furthermore, the Government should not pre-determine the orbital position of the satellite positions for DTH services. The Government should let the market select freely on the basis of price and quality of services under the same specification requirements.
- Operators should be allowed to decide on such spot beams of Ku-band footprints based on their business considerations.

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5. Asia Satellite  
Telecommunica-  
tions Co. Ltd.

Confidential.

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| Individuals/<br>Organisations | Comments  |
|-------------------------------|---|
| 6. Asia Television Limited    | <p data-bbox="576 443 1394 566">Appreciates the Government's determination to open and promote the television and telecommunications markets of Hong Kong.</p> <p data-bbox="576 616 831 651"><u>Network sharing</u></p> <ul data-bbox="576 701 1394 1182" style="list-style-type: none"> <li data-bbox="576 701 1394 869">● Unfair to terrestrial free TV stations because there is no corresponding widening of business opportunities. To balance, the Government should : <ul data-bbox="639 925 1394 1182" style="list-style-type: none"> <li data-bbox="639 925 1394 965">— further liberalise the advertising restrictions</li> <li data-bbox="639 1014 1394 1182">— liaise with the Central Government and Guangdong Provincial Government to combat unauthorised reception of the terrestrial TV signals of Hong Kong.</li> </ul> </li> </ul> <p data-bbox="576 1234 810 1270"><u>Pay TV market</u></p> <ul data-bbox="576 1323 1394 1491" style="list-style-type: none"> <li data-bbox="576 1323 1394 1491">● No objection to allowing SMATV operators to carry pay television services but SMATV operators must have broadcasters' prior consent for transmitting their signals.</li> </ul> <p data-bbox="576 1543 847 1579"><u>Regulatory issues</u></p> <ul data-bbox="576 1632 1394 2013" style="list-style-type: none"> <li data-bbox="576 1632 1394 1890">● Generally agrees with the four categories of TV programme service licence and the 4-tier regulatory approach but considers the existing regulations over terrestrial free TV unnecessarily burdensome. Urges further liberation of these regulations.</li> <li data-bbox="576 1939 1394 2013">● Disagrees with the proposed foreign ownership control on domestic free TV licensees as it is</li> </ul> |

Individuals/  
Organisations

Comments

redundant and ineffective from both the commercial and political points of view. The complex regulatory system will deter genuine investors but is not effective to prevent culprits from getting around it. Consideration of “residency” (as opposed to “nationality”) is not appropriate. The policy is unfair as radio broadcasters, print media etc. are not subject to same restrictions.

- Welcomes the removal of investment restrictions and the deletion of “programme suppliers” and “companies transmitting sound or television material” from the list of “disqualified persons”.
- Strongly objects to the proposal that domestic pay, non-domestic and other licensable television service licensees should be exempted from advertising time restrictions. Such exemption should be applicable to domestic free licensees who would also be driven by market forces and viewers’ pressure to adjust the level and amount of advertising.
- Disagrees with the abolition of advertising magazines and classified advertisements.
- Agrees with the proposal to split advertising time into two blocks.
- Suggests that the duration limit of breaks and minimum programme segment requirement should be removed.
- Suggests that the industry (with the help of the Government) should form a group to centralise the advertising vetting work.

Royalties

- Welcomes the abolition of royalties.
- The money which should be paid as royalties should be used for setting up a trust fund for technology advancement, staff training, statistic survey etc. Contributions should be made by existing players according to profits/revenue, by the new players (say a fixed sum upon joining) and by the Government.

#### Licence fees

- Supports full cost recovery but is concerned about the basis and transparency of licence fee calculation and that broadcasters have no say on the quality and quantity of the Government services required.
- Phase-in arrangement should continue if the proposal of the trust fund is adopted.
- Government should pay for the Government materials (including ETV programmes) broadcast by licensees.

#### Digital Terrestrial TV (DTT)

- Welcomes the proposals. The Government should ensure that the steering committee will be broadly representative of the industry.
- The Government should ensure the DTT technical standard for Hong Kong ties in with that in Mainland China to give Hong Kong a cheaper DTT service.
- The Government should provide some sort of subsidies or incentives as DTT is a capital

Individuals/  
Organisations

Comments

intensive and risky investment.

### Legislation

Agrees with the proposal on “Broadcasting Bill” and proposes the following pro-competition safeguards :

- In the long run, to promulgate a general competition law as in PRC and Europe.
- Programme suppliers cannot be exclusively engaged by one TV station.
- TV stations must telecast acquired programmes (as opposed to own productions) during a certain portion (say 1/4) of the prime time every day.
- RTHK be treated as one of the programme suppliers in the market and its programmes should be bid by the TV stations.
- TV stations cannot use any means to induce/force advertisers to engage in “one-station-buy” deal.
- All programmes acquired must be telecast at least once within a year.
- TV stations cannot restrain singers from performing on other television stations. Alternatively, one TV station cannot engage more than 30% of the singers at a time.
- No copying of programme concepts/ideas so as to discourage creativity.
- Severe penalty for breach of administrative measures, including financial penalty or even revocation of licence.

| Individuals/<br>Organisations                                   | Comments   |
|---|--|
| 7. Auxiliary Bishop<br>of Hong Kong                             | <p><u>Digital Terrestrial TV</u></p> <ul style="list-style-type: none"> <li>The Government should consider setting up a public service channel to allow non-profit organisations to convey their messages when the development of digital television opens up more television channels.</li> </ul> <p><u>Pay TV market</u></p> <ul style="list-style-type: none"> <li>The opening up of the pay TV market and the introduction of direct broadcasting satellite service might result in the increase of adult channels. A proper licensing and regulatory system should be put in place to ensure that sex, violence, drugs and other indecent contents are not promoted.</li> </ul> |
| 8. Bartech<br>(International)<br>Information<br>Network Limited | <p><u>Internet TV</u></p> <p>Would like to learn more about the position of Internet Service Providers in television policy.</p>   |
| 9. Bridgewater,<br>Ken  | <p><u>English channels</u></p> <p>The objective(s) for using English in continuing the current practice in terrestrial TV should be clearly defined. The criteria that English is an international language and official language do not include the objective of providing entertainment to English speaking people.</p>  |
| 10. Cable and   | <p><u>Direct-to Home Satellite TV services</u></p>   |

| Individuals/<br>Organisations                                | Comments  |
|--|---|
| Satellite<br>Broadcasting<br>Association of<br>Asia (CASBAA) | <ul style="list-style-type: none"> <li>• The Government should provide guidance and assistance on securing landing rights in China.</li> <li>• The Government should avoid creating new gate-keepers in the BSS (broadcasting satellite service) and DTT projects.</li> </ul>   |
|  | <p><u>Regulatory issues</u></p> <ul style="list-style-type: none"> <li>• The definition of non-domestic television programme service should be modified to include services that “do not rely solely on local advertising or subscription revenue and do not have Hong Kong audience as their sole targets”, i.e. include television services that are regional in nature and which collects subscription revenue from Hong Kong as well as from the region.</li> </ul> |
|  | <p><u>Frequency usage and allocation</u></p> <ul style="list-style-type: none"> <li>• The Government should commission a study by independent experts to help optimum planning of frequency allocation.</li> </ul>  |
|  | <p><u>Digital Terrestrial TV</u></p> <ul style="list-style-type: none"> <li>• CASBAA should be part of the steering committee right from the start besides the terrestrial broadcasters.</li> </ul>   |
|  | <p><u>International media hub</u></p> <ul style="list-style-type: none"> <li>• The Government should adopt a more proactive, user-friendly approach to attract and facilitate regional broadcasters to set up business in Hong Kong.</li> </ul>   |

Individuals/  
Organisations

Comments

### Legislation and Implementation

- The proposed policies to liberalise broadcasting regulations should be implemented expeditiously.

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11. Chinese  
Television  
Network

### General

- Welcomes the proposals to promote competition in the television operating environment, application in new technology and increase choice of citizens. The consultation document is comprehensive in scope.

### Network sharing

- It is a big step forward to require Wharf Cable to open up its broadband network. The calculation of cost-based interconnection charge should be clearly defined. Network service providers can be required to reveal important information including cost calculation methods like in UK. The commercial agreements regarding interconnection with other networks and with other programme providers should be made transparent to ensure fair trade and to monitor the commercial behaviour of the dominant player.
- To avoid monopoly by network providers, the Government should require network providers to open up their networks for various programme providers and to provide convenience to those broadcasting in Putonghua.

### Fees and Charges

Individuals/  
Organisations

Comments

- Disagrees with the abolition of advertising royalties for domestic free and domestic pay licensees as this would result in unfair competition and help such licensees to develop other businesses and compete with operators in other businesses.
- The subscription royalties should be phased out gradually with conditions imposed as the incumbent operator has had first-mover advantage or is a dominant player.

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12. Citizens Party

Key policy objectives

- The prime objective should be that of maximising consumer benefits in terms of choice, programming quality, affordability and accessibility.

Pay TV market

- Supports lifting the moratorium on pay TV and VOD programme service licences.

Direct-To-Home satellite TV services

- Support the proposal to issue more licences.

Regulatory issues

- The English channels of the terrestrial broadcasters are not financially viable. To continue the requirement would result in poor quality programmes and unnecessary restrictions on commercial operators.

Individuals/  
Organisations

Comments

- Welcomes a wider debate on advertising during children's programmes, both in terms of content and duration.

Public service channel

- Supports the establishment of Public Service Broadcasting which would be similar to RTHK, in both English and Chinese. Such a service would help nurture independent film and video production for Hong Kong.

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13. Consumer  
Council

General

- Supports the Government's proposals.

Network sharing

- The technological co-operation that the Government is encouraging between network owners and broadcasters should be capable of ensuring that consumers do not need different set top boxes and remote controllers for each network.

Digital terrestrial TV

- Before ending analogue broadcasting the Government should ensure all groups of consumers, including the disadvantaged, have easy access to the new digital technology.

Regulatory issues

- The requirement that prevents licensees in engaging in activities other than those directly connected or associated with broadcasting should

Individuals/  
Organisations

Comments

be retained.

### Legislation

- To secure the effective operation of competition policy the Government should ensure that the provisions prohibiting anti-competitive behaviour that are to be incorporated in the new Broadcasting Bill should be comprehensive, unambiguous and sufficient. The Government should issue guidelines on the application of the provisions against anti-competitive conduct for guidance of the industry.

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14. Democratic  
Alliance for  
Betterment of  
Hong Kong

### Key policy objectives

Should include the following:

- promote Hong Kong as an information technology, telecommunications and broadcasting hub:
  - diversify broadband services;
  - maintain Hong Kong as an international communications centre;
  - become a satellite broadcasting uplink and downlink centre;
  - become a film, video, and music production centre; and
  - provide consultancy services for other places on the application of advanced technology.
- Citizens should have a choice of broadcasting

Individuals/  
Organisations

Comments

services as soon as possible

- All citizens should be able to access to and enjoy services brought about by broadband networks
- Ensure a fair and competitive environment
- Citizens should be able to obtain the services at reasonable prices.

#### In-building distribution systems

- The Government should review the allocation and usage of the radio spectrum and maximise its efficiency.
- The Government should allow interconnection of satellite reception networks in two or more buildings.
- In allocating the in-building frequencies, OFTA should take into account the choice of residents.

#### Regulatory issues

- The Government should consider opening up applications for domestic free television licences
- The cross-ownership restrictions regarding domestic free and domestic pay television services should be relaxed.

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15. Elmsdale Media  
Limited

#### Key Policy Objectives

- Supports the proposal of opening up the TV market.

Breaking up of vertical integration

- Supports breaking up vertical integration.

Network sharing

- Supports the proposals as outlined in para. 7.1 - 7.4.

In-Building Distribution Systems

- Supports the proposal of increasing the use of digital TV within the different in-building systems.

The Pay TV Market

- Supports the proposal of opening up the VOD market.

Regulatory issues

- Agreed that the control of VOD programme services is more a responsibility of parents.
- Supports that customers will be the ultimate controller of the level of advertising for pay TV services and believe that there will be room for advertising within VOD services.
- Supports the proposal of allowing VOD operators to broadcast live programmes.

Fees and Charges

- Supports the proposal of abolishing royalties payment and charging licence fees on a full cost recovery basis.

### Digital Terrestrial Television

- The development of standards should be spread across all digital platforms, thus allowing consumers to receive a maximum number of services from a single digital set top box or digital TV. The key is to recommend to all service providers to adopt global standards.

### Legislation

- It will be in the market's interest to broaden the scope of future regulation in the light of the convergence of different forms of entertainment technologies.

### Implementation

- Pleased at the speed to implement the proposals.

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16. S L Fung

### Regulatory issues

#### *Language of broadcast*

The Government should require local TV operators to add the following services :-

- Chinese and English closed-caption for news reports.
- Cantonese translation for Mandarin programmes on NICAM secondary channel.
- Full-time Chinese closed-caption for Cantonese and Mandarin TV programmes.

Individuals/  
Organisations

Comments

- Full-time English closed-caption for English TV programmes.
- Widely provide Chinese subtitle in English TV programmes.
- Prohibit cable network operators to eliminate the closed-caption code provided by original network, for example CNN and NBC.

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17. Galaxy Satellite  
Broadcasting  
Limited

Network sharing

- Enthusiastically supports the proposal to allow satellite broadcasting licensees to provide commercial uplinking and downlinking services to third parties when the HKTI exclusivity expires on 1 January 2000. The allowed services should include audio, video and data, full-time and occasional feeds and uplinking and downlinking services

In-building distribution systems

- Supports the Government proposals
- The Government should make suitable provisions in the relevant regulations to make sure that all broadcasters have fair and equal access to apartment networks and cannot be excluded or disadvantaged by the SMATV/network operators.

Pay Television Market

- The Government should allow satellite broadcasters to offer pay television services in Hong Kong based on an impartial evaluation of the merits of the proposed services.

Individuals/  
Organisations

Comments

### Direct-To-Home Satellite Television Service

- Since satellite transponders that can service Hong Kong are freely available, the Government should let the industry choose from available, freely competing transponder service providers. DTH services should not be limited to the four broadcasting satellite service (BBS) channels allocated to Hong Kong by the International Telecommunication Union.
- All DTH service applicants, including each of the existing satellite broadcasting licensees, should be treated equally in the licence application process.

### Fees and Charges

Agrees with the proposal to abolish royalty charges and apply full cost recovery licence fees.

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18. Graham, Brett

### General

Generally supports the proposals.

### Direct-To-Home Satellite Television Services

Any service provider utilizing the four BSS transponders should be required to carry HK terrestrial TV services to enable 100% coverage. A similar must-carry provision should also be applied to any HK-uplinked service.

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19. Ha Frankie

### Pay TV Market

| Individuals/<br>Organisations                 | Comments  |
|---|---|
|   | <p>Generally supports the opening up of pay TV market. Suggests that all pay TV licensees to use the same set-top box.</p>  |
| <p>20. Hong Kong Arts Development Council</p> | <p><u>General</u></p> <ul style="list-style-type: none"> <li>• Agrees with the Government's long-standing policy on TV broadcasting.</li> </ul> <p><u>Arts channel</u></p> <ul style="list-style-type: none"> <li>• An arts channel should be established or arts-on-demand services should be provided by TV broadcasters. The Government should establish policy to encourage the provision of such services by broadcasters.</li> <li>• The Government and RTHK should continue to promote arts and cultural services.</li> <li>• Supports that commercial and pay TV licensees should continue to carry RTHK programmes and APIs, but the broadcasting time and arrangements should be more flexible.</li> <li>• Suggests that commercial TV broadcasting licensees be required to broadcast arts and cultural programming in prime-time.</li> <li>• Suggests TV broadcasters to include news on arts and culture after main news.</li> </ul> |
| <p>21. Hong Kong</p>                          | <p><u>Consultation period</u></p>   |

| Individuals/<br>Organisations                 | Comments   |
|---|--|
| Coalition of Service Industries               | <ul style="list-style-type: none"> <li>Proposed that the consultation period be extended by another month at least. A consultation period of one month will not do justice to the range, diversity and depth of the issues being put forward.</li> </ul>   |
| 22. Hong Kong Commercial Broadcasting Co. Ltd | <p><u>General</u></p> <ul style="list-style-type: none"> <li>Supports the proposals to open up the broadcasting industry and to create a more level playing field for current and future operators. However, it is unclear how the proposals will apply to radio broadcasters. The Government should clarify whether all/part of the proposals apply to sound broadcasting.</li> </ul> <p><u>Regulatory issues</u></p> <ul style="list-style-type: none"> <li>Supports the proposals of replacing the current licensing arrangements with a technology and transmission-neutral regime.</li> </ul> <p><u>Digital Terrestrial TV</u></p> <ul style="list-style-type: none"> <li>Supports the gradual transition to a digital landscape.</li> </ul> <p><u>Royalties and licence fees</u></p> <ul style="list-style-type: none"> <li>Welcomes the proposals regarding royalty payments and licence fees.</li> </ul> |
| 23. Hong Kong                                 | <u>General</u>   |

Individuals/  
Organisations

Comments

Democratic  
Foundation

- The growing relatedness of broadcasting and telecommunications should justify taking a further quantum leap to develop an integrated policy spanning both areas, for example, the respective roles and the reasons and justifications of separate existence of the BA and the TA should be provided; and a more unified approach should be given for the broadcasting and telecommunications industry.
- The paper is detailed and researched, but there are few references to overseas practice. The Government should try to identify and follow best practice in advanced overseas jurisdictions.
- The existence of more TV companies would be more favourable to enable the development of a programme production industry.
- There should be no restriction on the number of TV licences issued.
- The various restrictions on the holders of a TV licence should be dropped as far as possible.

Regulatory Issues

*Ownership restriction*

- The 49% foreign ownership restriction on a TV (non-satellite) company should be dropped.

*Language of Broadcast*

Individuals/  
Organisations

Comments

- The requirement to operate an English channel should be dropped. Market forces should lead to the provision of some English programming and if not, the Government should pay for it directly out of taxation if it believes that English programming is important for social purpose.

Digital Terrestrial TV

- Does not support the establishment of a joint Government-Industry Steering Committee. Government's efforts should be directed to identifying and following best overseas practice, to take responsibility for policy development and to take proper account of input from the public rather than delegating this function to the Steering Committee.

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24. Hong Kong  
Internet Service  
Providers  
Association

Network Sharing

- Supports the proposal to allow cable TV networks to deliver telecommunications service, and to mandate interconnection between broadcasting and telecommunications networks in a digital multimedia environment as soon as practicable.

Pay TV market

- Supports the proposal to lift the moratorium on pay TV and VOD programme service licences and to open up the markets for free competition.
- Urges the Government to consider opening up the pay or free TV market completely to allow

Individuals/  
Organisations

Comments

unlimited number of programme service providers and without distinction of local or foreign ownership.

#### Regulatory issues

- Disagrees with the proposal that any new multimedia service (including Internet) originated in Hong Kong which offers TV-type programmes on a commercial basis should require a TV programme service licence. This will limit the innovation, application and development of IT technology and services in Hong Kong. It is also impossible to determine what constitutes competition with TV programme service in such an age of convergence.

#### Implementation

- The Government should set up a time schedule to fully integrate the regulatory regimes and legislation for telecoms and broadcasting.

#### Others

- Internet services should not be regulated. Any new legislation must be technology neutral.

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25. Hong Kong  
Telecom VOD  
Limited

#### Network sharing

Welcomes the proposals to open up telecommunications and broadcasting networks as in paragraphs 7.1(a) to (g) of the consultation paper.

Individuals/  
Organisations

Comments

In-building distribution systems

Agrees with the proposals.

Pay TV Market

Welcomes the proposals to open up the pay TV and VOD markets.

Regulatory issues

- Agrees with the categorisation of television programme services into domestic free, domestic pay and non-domestic television programme services.
- Has concern over the category “other licensable television programme services” as this class may directly compete with VOD programmes services and suggests that:
  - the 15% limit for aggregate target audience for any company be reduced to 5%
  - the maximum limit of 5,000 households for a closed user group be reduced to 2,000 households
  - the licence conditions for such category should (1) provide for anti-competitive safeguards and (2) the services provided to the closed user group must be non-exclusive to the provision of television programme services by other licensees licensed under the Television Ordinance, or its substituted enactment.
- Agrees that transactional and data services should not require a television programme service licence.

Individuals/  
Organisations

Comments

- Agrees with all of Government's various proposals related to the "Four-tier regulatory system".
- Suggests that the Government should consider adopting the classification of VOD programmes under the Film Censorship Ordinance in replacement of the existing code, which is based on the more stringent pay television code.

Fees and charges

Welcomes the proposals to abolish the charging of advertising and subscription royalties for domestic free and domestic pay television licensees.

Implementation

Agrees with the various implementation proposals. Also urges that application for new pay TV licences and VOD programme service licences should be opened up immediately following policy endorsement.

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26. Hong Kong  
Telecommuni-  
cations Limited

Confidential.

---

27. Hutchison  
Telecommuni-  
cations (Hong  
Kong) Limited

Network Sharing

- Welcomes the proposal to allow all FTNS licensees to convey and provide TV programme services.
- Given that Wharf Cable's network is a point-to

Individuals/  
Organisations

Comments

multi-point network as opposed to point-to-point, the opening up of Wharf Cable's broadband network for interconnection will not solve building access problems for FTNS operators.

- No reason to distinguish the basis of interconnection charges payable to Wharf Cable in respect of its cable network from those payable to other network operators.
- Supports digitisation of all networks over time.

#### Regulatory issues

- Supports the proposals to liberalise the broadcasting industry and to separate the regulation of transmission and content on a technology neutral basis.
- Licences should include provisions akin to General Conditions 15 and 16 of the FTNS licences. Particular attention should be paid to the anti-competitive effect of exclusive arrangements in relation to programme content.
- Supports proposals to streamline content control, which should only be subject to general obscenity laws and parental locking system to provide further protection when necessary.
- Supports the proposal for generic codes of practice on TV programme and advertising standards.

#### *Ownership restrictions*

Individuals/  
Organisations

Comments

- Any form of ownership restrictions requires very full justification on a case by case basis.
- Any cross ownership restrictions should be limited to genuine dominant operators within key sectors (currently only Hong Kong Telecom)
- Internet Service Providers should not fall within the definition of disqualified persons since they operate in a very competitive market with almost no entry barriers.
- Supports the removal of programme suppliers from the list of disqualified persons.

Royalties and licence fees

- Supports the abolition of royalties.
- Subscription based licence fees are increasingly anomalous in the context of a competitive telecommunications market.

Legislation

- Welcomes the proposal to consolidate all existing legislation into a new Broadcasting Bill. A fresh start with a 'blank sheet of paper' approach should be adopted.

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28. International  
Federation of the  
Phonographic

Pay TV market

- Supports the idea of opening up the broadcasting industry.

| Individuals/<br>Organisations          | Comments  |
|--|---|
| Industry (Hong Kong Group)             | <p data-bbox="579 383 847 421"><u>Regulatory issues</u></p> <ul data-bbox="579 472 1393 1424" style="list-style-type: none"> <li data-bbox="579 472 1393 775">● On restrictions on ownership by non-residents, suggests that ITBB should examine similar legislation in advanced countries such as the United States, which laws do not allow more than 20% of the capital stock of a broadcasting licensee to be owned by foreign citizens and company.</li> <li data-bbox="579 819 1393 1032">● Disagrees that “programme suppliers” should be removed from the “disqualified person” list as this would create opportunities for certain “programme suppliers” to engage in predatory behaviour.</li> <li data-bbox="579 1077 1393 1424">● Disagrees that all investment restrictions be removed to allow all licensees the freedom to make their investments on any types of business. ITBB should re-examine the proposal to see whether it would allow licensees with dominant market share to engage in predatory behaviour and to compete unfairly in businesses that they choose to invest in.</li> </ul> <p data-bbox="579 1473 1203 1512"><u>Protection of Intellectual Property Rights</u></p> <p data-bbox="579 1563 1393 1688">The Administration should address copyright issues while setting policies for broadcasting in the wake of a large-scale media convergence.</p> |
| 29. Kowloon Federation of Associations | <p data-bbox="579 1783 815 1821"><u>Pay TV Market</u></p> <p data-bbox="579 1872 1393 2038">Welcomes the proposed opening up of the pay TV market and the opening up of Wharf Cable’s network. However, the terrestrial TV market should also be opened up gradually so as not to be unfair to cable</p>  |

| Individuals/<br>Organisations | Comments  |
|-------------------------------|---|
|                               | <p>TV operator.</p> <p><u>Fees and Charges</u></p> <p>Disagrees with the abolition of royalties as this would not benefit citizens but would reduce the revenue of the Government.</p> <p><u>Regulatory issues</u></p> <ul style="list-style-type: none"> <li>• Disagrees with the proposal to relax the residency requirement of principal officers from all to majority for domestic free and domestic pay licensees because television is a medium which has powerful influence on society.</li> <li>• The relevant authority should tighten up the programme standards, especially during prime time. The level of financial penalty should also be raised.</li> <li>• TV stations should be required to broadcast more government programmes and announcements in the public interest.</li> <li>• The advertising time restrictions should not be relaxed.</li> <li>• Cable TV should be subject to more lenient standards as it is not as pervasive as terrestrial TV.</li> </ul> |
| 30. Kwun Tong Resident Union  | Same as those of Kowloon Federation of Associations.  |
| 31. Liberal party             | <p><u>Network sharing</u></p> <ul style="list-style-type: none"> <li>• Supports the proposal to allow</li> </ul>  |

Individuals/  
Organisations

Comments

telecommunications operators to provide broadcasting services and vice versa.

#### Regulatory bodies

- The Broadcasting Authority (BA) should be revamped to increase transparency, to clearly define its complaints handling procedures and to open up all its determination sessions. The BA should also employ scientific, systematic and impartial methodology to gauge the standards of the society and to publicise its research findings on a regular basis.

#### Fees and charges

- The abolition of royalties should be linked to the quantity of programmes produced by independent producers as “commissioned” by TV stations.

#### Legislation

- Government should set up a regulatory system to investigate into unethical anti-competitive practices such as indirectly controlling the record industry through the manipulation of singers.

#### Promotion of programme quality

- The Government should organise award presentation ceremonies to promote programme quality.

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32. Metro Broadcast  
Corporation Ltd.

Fees and Charges

*Royalties*

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| Individuals/<br>Organisations                        | Comments  |
|--|---|
|  | <ul style="list-style-type: none"> <li>• Welcomes the abolition of royalties.</li> </ul> <p><i>Licence Fees</i></p> <ul style="list-style-type: none"> <li>• As for licence fees, proper cost accounting and cost control procedures should be put in place and the licensees should know how the costs are incurred before full-costs should be restored.</li> </ul>   |
| <p>33. Nip, Yee-man,<br/>Joyce and Ure,<br/>John</p> | <p><u>Policy Objectives</u></p> <ul style="list-style-type: none"> <li>• The Paper states “choice, service quality, affordability and accessibility” as its objectives. No mention of programme content quality is found.</li> </ul> <p><u>Vertical Integration</u></p> <ul style="list-style-type: none"> <li>• Shares the concerns about vertical integration within the industry but recognises this may happen for good economic reasons, and notes that the Review opens the door to vertical integration by removing as “disqualified persons” programme suppliers. Further thought should be given to how, and under what circumstances, vertical integration is acceptable and should be regulated.</li> </ul> <p><u>Network sharing</u></p> <ul style="list-style-type: none"> <li>• The regulation of television network carrier licensees needs to be addressed.</li> </ul> <p><u>Pay TV Market</u></p> <ul style="list-style-type: none"> <li>• In setting the criteria for approving pay TV service licence applications, the question of</li> </ul> |

Individuals/  
Organisations

Comments

fairness should be taken into consideration in determining how variety of tastes and interests is to be achieved.

- Greater quality or choice in terms of ‘minority’ programming will not automatically follow from the proliferation of television channels. There is a built-in bias towards cheaper programming under commercial forms of television. There are ways in which the balance can be redressed, and diversity safeguarded, which range from public service broadcasting to philanthropic sponsorship to encourage service providers to experiment with minority programming. This will also encourage local content creators and video producers to innovate in this area. This should be subject to further review and public debate.
- The major economic benefit from opening the television market is likely to arise from economies of scale. The range of foreign programmes available is likely to rise and local programme makers and service providers will be encouraged to exploit other markets.
- The major economic benefit of unrestricted channels is likely to arise from economies of scope, allowing service providers greater opportunity to experiment with bundled programming.
- The Government should give further thought as to how the benefits of these changes will be shared with Hong Kong consumers and local content creators and producers, and equally how regulations can be flexible enough to allow for an unfolding diversity of commercial opportunities. The four-tier structure may need to be reviewed in this light.

### Public service channels

- Alternative ways of providing government or public service channels via Wharf Cable's networks should be explored as this runs against the fundamental principle of universality of public service broadcasting as Wharf Cable's service is only subscribed by 21% of households.
- More attention should be given to the role of public service broadcasting.

### Regulatory Issues

- Supports the shift of content regulation from one based upon technology to one based upon social-impact, although the adequacy of the four-tier structure may become outdated quite quickly. Further thoughts should be given as to how to keep the regulatory approach sufficiently flexible to respond to changes that become necessary.
- The policy towards vertical integration requires clearer guidelines.

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34. Open University  
of Hong Kong

#### General

- Generally supports the direction of opening up the market for TV transmission and programming.

#### Educational programmes

- Urge the Government to consider including as a

Individuals/  
Organisations

Comments

licensing condition, the requirement for free-to-air TV broadcasters to carry educational programmes up to tertiary level.

- The important function of free TV in adult education has been under-rated.
- More flexibility should be allowed for the broadcast of non-English educational programming on the English channels.
- Existing controls on advertising should be relaxed to allow commercial sponsorship and the broadcast of relevant acknowledgements in between educational programmes.

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35. Satellite  
Television Asian  
Region Limited

Network sharing

- Supports Government's overall policy intention.
- A very clear and transparent timetable for the hand-over of Wharf Cable's MMDS frequencies must be set with a specific time frame after the endorsement of the Policy Paper.
- A high degree of transparency must be maintained when determining "cost-based interconnection charges".
- The Government must make information on current broadband usage, frequency distribution and capacity available in the public domain. Co-operation from the network operators must be mandated and the information must be accessible by the public.

Individuals/  
Organisations

Comments

- The capability of TA in facilitating negotiations between operators must be further scrutinised and developed. TA's role as arbitrator must be more clearly defined and strengthened.

In-building distribution systems

- Strongly supports the policy intention.
- Urges the Government to review the current frequency spectrum allocation.
- All new pay licensees must use digital technology to deliver services.
- The Broadcasting Bill should set a maximum amount of capacity that any pay TV licensee can use in an in-building distribution network. Initially, this should be set at 10 analogue channels.
- All existing distribution systems should be interconnected such that households have simultaneous access to all current and future services.
- TA should make public the information submitted to them by all SMATV licensees under the current licensing conditions.

The Pay TV Market

- Welcomes the Government's proposed liberalisation measures.
- All future pay TV operations should be in digital.
- Mandatory network sharing must be enforced following policy endorsement.

Individuals/  
Organisations

Comments

- Availability of network and costs charged must be fair and non-discriminatory.
- All applicants for pay TV licences must submit a business plan that clearly demonstrates the financial viability of the proposed business.
- No arbitrary requirement should be imposed on the proportion of material that is of Hong Kong origin.
- Suggests that preferential treatment be given to new entrants as follows:
  - Licence fees be waived for the first 5 years
  - The Government could pay for SMATV headend and reception equipment which the operator can buy back from the Government over 5 years
  - Interconnection charges could be paid by the Government for the first five years
- The Government must mandate in-building interconnection.
- TA should start an assessment of interconnection charges to SMATV and building distribution systems.
- The Government should mandate licensees to include capacity for the existing four terrestrial channels as a 'must carry' obligation at no charge to either party.

Direct-To-Home Satellite Television Service

- There should be guaranteed access to SMATV

systems.

- The Government should initiate discussions and actively seek co-operation from the relevant authorities to allow Hong Kong services to be legally received in the neighbouring territories.
- The Government must secure fixed pricing for using the four BSS transponders and make this information available to all potential applicants as part of the licensing process.
- The Government should also consider mandating that building owners not be permitted to refuse permission to a tenant or apartment owner to erect a Ku band dish on the building or in the confines of the apartment to enable the reception of signals from the Ku transponders.

#### Regulatory issues

- Supports the proposal of regrouping the licensees into four categories in accordance with their characteristics and pervasiveness, along with a generic four-tier regulatory system.
- Potential market chaos could arise from the possible proliferation of small operators delivering programme services to a restricted number of viewers. This could result in a proliferation of low quality and standard programmes delivered via sub-standard delivery mechanism, worsening the bottleneck problems in frequency spectrum.
- The Government should provide safeguards to protect viewers from exposure to a flurry of sub-standard programming services.

Individuals/  
Organisations

Comments

- In determining an application for licence, regardless of its category, considerations should be given to the applicant's resources and ability to deliver quality services meeting appropriate standards.
- An applicant should not be given a licence unless it can be demonstrated that the applicant has the resources and experience to carry out digital transmission.

*Ownership restrictions*

- Welcomes the various packages on relaxing the current ownership restrictions.
- However, the potential threat from this liberalised regime is that the incumbent dominant player would further expand their market size and influence. To address this:
  - The Government should ensure that where there are specific situations where vertical integration can be used to unfairly restrict competition, that specific regulation is included in the Broadcasting Bill to address the situation.
  - If necessary, enact new laws or modify existing laws that prohibit any business entity abusing a position of market dominance (for example by employing predatory pricing or restrictive dealing).
  - Provide financial assistance to new entrants.

*Local content control*

- Domestic pay licensees should be allowed greater flexibility in local content requirements.

### Fees and charges

#### *Royalties*

- The Government should not impose subscription royalties on new domestic pay licensees.
- The Government should abolish subscription royalties for the existing pay television licensee once their transition to digital transmission is completed and the MMDS frequencies are returned.
- Lifting royalty charges from the terrestrial TV licensees, if done in isolation or unconditionally, is inequitable to the other operators who are denied the same privilege because of the limited availability of spectrum. Hence the royalty charges should only be removed when the terrestrial TV licensees have completed their process of digitalisation.

#### *Licence fees*

- The costs of Government overhead, depreciation, staff accommodation expenses should be recovered by general revenue and not licence fees.
- As the need for Government monitoring diminishes, the costs associated with it should also be reduced.

### Digital Terrestrial TV

- Supports the proposal to form a joint Government-Industry steering committee. STAR TV would like to take an active part in the

Individuals/  
Organisations

Comments

committee.

- Supports the time table for trial and eventual roll-out of DTT.

#### Legislation

- Supports the proposal on the omnibus Broadcasting Bill.
- The Government needs to step up regulations that restrain dominant operators from entrenching their positions further and abusing their dominance.

#### Implementation

- The Government should work with the industry to set up a Government-Industry steering committee on the Broadcasting Bill and to facilitate new entrants to make business decisions about entering the market.
- OFTA should release immediately information on in-building frequency allocation and other pertinent technical information on SMATV and other in-building distribution networks.
- The Government should expedite procedures for new pay TV entrants.

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36. Satellite  
Television  
Rentals Ltd.

#### General

- Generally supports the proposals summarised in Chapter 2 except para. 2.17. Its a good paper and a breath of fresh air to revitalise satellite pay television services in Hong Kong.

Individuals/  
Organisations

Comments

Direct to home satellite TV services

- Does not support this if Government funds are involved. There is now a glut of satellite capacity in the region. The Government should abandon this venture and rely solely on commercial satellites to deliver everything from TV to data.

37. Shridharani  
Kaushik

General

- The cable and digital broadcasting industries will form critical components of the SAR's information infrastructure.
- To ensure their lowest cost, most rapid and widest development, cable and digital broadcasting should be organised on an open-systems basis, i.e. mandating compatibility of customer premises equipment and network interfaces as well as developing the associated open market in customer premises equipment.
- Suggests the Government to :-
  - Extend the proposals concerning the development of technical standards at the transmission level to the mandating of standardised network interfaces;
  - Mandate the use of open, interoperable customer premises equipment;
  - Encourage, if not mandate, the development of a retail market in open, inter-operable

Individuals/  
Organisations

Comments

customer premises equipment; and

- Include a more prominent oversight function within its regulatory framework to ensure access by third-party operators to the access control services of other operators on fair, reasonable and non-discriminatory terms.

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38. Spain, Eric

General

- The most fundamental question that affects broadcasting policy is to determine the value of our society and how broadcasting reflect and cultivate them.
- It would be better for commercial TV stations to serve the mass popular market without positive programming requirements. Government should find other ways to enable the broader choice of quality programmes and how to meet the diverse needs of the community.
- Advertising TV channels are not "free" in the sense that the cost of supporting these channels comes from advertising which is paid for by the consumer as a cost on top of goods purchased. Other forms of funding TV stations, such as through taxes, could be considered.
- Suggests to undertake study on formulation of a cultural policy as a defensive pro-active measure.

Regulatory Issues

*Language of Broadcast*

- The present operation of English channels cannot meet the choice/quality objectives nor is it commercially viable. There is a need to formulate aims for such channels before their format and ownership might be determined.
- Suggests to conduct study to find the optimum use of the English channels.

Vertical integration

- Much more consideration should be given to what 'open up' means.
- As vertical integration is no longer necessary nor desirable, suggests to conduct study to determine what structures of ownership best serve the consumer and the market

Digital Terrestrial TV

- Inadequate to set up a committee for terrestrial digital standards. There is a need to establish studies to deal with all issues individually and in the way they all interact.
- Necessary to start the debate on how new channels, to be freed up from digitalisation, should be used. Any committee established for such purpose should include organisations concerned with other types of public services.
- The ability of Digital Audio Broadcasting to

Individuals/  
Organisations

Comments

provide data publishing should make the difference between radio and TV difficult to define.

- Some standing advisory board of all interested parties is necessary to consider the future use and ownership of all new digital media.
- Suggests to conduct study on digital TV standards issues on domestic access and set-top boxes, and use of extra channels.

Public TV Broadcaster

- TV broadcasters, being funded by advertising, lead to shortfall in programme choice/quality. Suggests to conduct study on the need for a Public TV broadcaster, and if so, what channels should it be assigned in what transmission media, and how it could be financed.
- Pro-competition policy should tailor-fit the contemplated economic future for Hong Kong and the needs of all affected parties should be carefully balanced.

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39. Television  
Broadcasts  
Limited

Breaking up of vertical integration

- As long as there is free market access for new service providers, which is virtually guaranteed in the competitive, multi-media, multi-channel environment the digital revolution is producing, vertical integration within the terrestrial segment of the television industry, or within any other

Individuals/  
Organisations

Comments

television transmission medium, should not be an issue.

- Does not believe such integration should be broken up where it is clearly working well and in the interests of the public.

Network sharing

- Fully supports the proposed opening up of Hong Kong's telecommunications and broadcasting networks.
- Disagrees that participants presently perceived or arbitrarily defined as "dominant" or "pervasive" should be subjected to greater diversification restrictions than others. Such labels imply a static industry environment.
- TVB is interested to apply for telecommunications licence to operate its own video link service to China after the expiration of Hong Kong Telecom's exclusivity in January, 2000.

In-building distribution systems

- Supports the proposals to "give priority" to digital services and to "encourage" broadcasters to apply digital technology.
- Wharf Cable is occupying the majority of the spectrum of apartment networks with its analogue channels and the addition of new Digital Multiplex Data Streams will be difficult.

- Provisions should be made to ensure that all service providers have fair and equal access to these networks and cannot be excluded or disadvantaged by the SMATV/network operators. The choice of which programme service to watch should be made by the end-user, the viewer, not the controllers of in-building distribution systems.

#### The Pay TV market

- Agrees with the proposal to open up the pay TV market.
- Considers some sort of pay TV service a natural and necessary of TVB's future development. Accordingly, the proposed new regulatory legislation should not raise barriers to terrestrial broadcasters who wish to offer pay TV services in addition to their existing free-to-air services.

#### Direct-To-Home Satellite Television Service

- Each application for such a service should be considered on its merits.
- The proposed new regulatory legislation should not raise barriers to terrestrial broadcasters who see the necessity of diversifying into DTH or other pay TV services in addition to their existing free-to-air services. All prospective DTH licensees, whether domestic or foreign, should receive fair and equal treatment under the regulations.

### Regulatory issues

- The Government should not resume its traditional attempts to micro-manage the operations and business of the broadcasters.
- Apart from establishing and enforcing general content regulations which reflect community standards and expectations, the Government cannot and should not assume responsibility for protecting minors from inappropriate TV programme content within the home.

### *Internet TV*

- Even when high-quality, real time transmission of video over the Internet is possible, it is unlikely that anything resembling a full-scale, locally-based programming service will exist.

### *Four-tier Regulatory System*

- The distinctions in broadcasting licences proposed as the basis for the four-tier regulatory structure are largely artificial and superfluous in the age of digital convergence. A common regulatory framework for all licensees makes more sense than the proposed four-tier approach.

### *Ownership and corporate control*

- The present regulatory restrictions and controls on non-residents are acceptable.
- The effect of the proposals on “disqualified

persons”, as currently written, would be to throw open the Hong Kong television marketplace to foreign competitors, while restricting the diversification options of local broadcasters, thus clearly tilting the playing field in favour of the foreign competitors.

- Under the proposal, a single non-domestic licensee would be free to build up “monopoly” influence by acquiring controlling voting equity positions in any number of existing local pay TV services.
- All television service licensees, whether domestic or foreign, whatever programme delivery system they use, should be given equal freedom to invest or diversify within the broadly defined television industry.

#### *Investment restrictions*

- Agrees with the proposal to remove restrictions on investments made by licensees.

#### *Positive programme requirements*

- These obligations should be in the form of general guidelines, allowing broadcasters greater flexibility.

#### *Language of broadcast*

- To improve the financial performance of Pearl, the BA is requested to allow TVB to broadcast on Pearl commercial messages unrestricted by non-

designated language limitations and supported by English subtitles.

- Requests an exemption from the restrictions on foreign language (non-English) programming presently in force to enable TVB to broadcast 6 hours of additional programming from its Mandarin language “Galaxy” satellite service during the early morning hours when the channel is normally shut down.

*Advertising time restrictions*

- All regulations currently in place to dictate the logistics of the broadcasting of advertising, such as limits on the duration of breaks, minimum programme segment duration and intervals between programmes, should be discontinued.
- Proposes that domestic free licensees should continue to be allowed to broadcast their advertising magazines from 11:00 p.m. as under the current practice and thus the non-peak viewing hours should be redefined as the period from 11:00p.m. to 6:00 p.m.
- The percentage of total broadcasting time allowed for advertising during the non-peak viewing period should be increased from the proposed 18% to 18.5%.
- Advertising time restrictions, if any, should be applied without discrimination to all categories of licensees.

Fees and charges

- Supports the abolition of royalties as exclusive market franchise no longer exists with the introduction of satellite TV and subscription services in the past years. It will also make financing available for transition to digital and other investments to enhance programme quality.
- Agrees that it is fair to restore licence fees to full cost recovery levels immediately upon abolition of the royalty scheme.

Digital Terrestrial TV

- Supports the Government's proposal to facilitate the development of DTT in Hong Kong and that its introduction should be market-led with the industry driving it for commercial reasons.
- Proposes that the technical trials be carried out by the existing terrestrials broadcasters, TVB and ATV, in conjunction with OFTA, as the trials involve only terrestrial transmission standards.
- The existing Hong Kong-wide broadcasting network of transmitters and transposers should be used to transmit DTT. The alternative, whereby a new digital network is established by an independent carrier, is considered to be not economically viable or operationally acceptable.
- The Government should also end its present requirement of having the terrestrial broadcasters construct up to two new analogue transposer sites

Individuals/  
Organisations

Comments

each year, given the decision to move to digital broadcasting.

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40. Hong Kong  
Telecommuni-  
cations Users  
Group

General

- More channels will lead to greater competition for the same limited resources with a consequential increase in cheaper, inferior programming.
- Concurs that the distinction of telecommunications and television will become blurred rapidly and any forward-looking regulatory regime must recognise this fact.

Regulatory Issues

- Does not support that different levels of pervasiveness demand different levels of regulation. The need to differentiate between different services is both unnecessary and prone to innumerable future problems.
- The proposed four categories of licences may work well at present but will not be capable of accommodating future applications.
- The procedures for licensing must be fast, simple, clear and effective.
- Technological-neutral regulatory regime should not be taken as an absolute principle. Care should be taken in achieving the right balance between the benefits of total freedom in the use of

| Individuals/<br>Organisations                     | Comments  |
|---|---|
|   | <p>technologies and the disbenefits that may arise to users.</p> <ul style="list-style-type: none"> <li>• The transmission media must be open and accessible to all programme-content providers without any discrimination. This can only be accomplished if the transmission operators are not content providers.</li> <li>• Measures must be taken to ensure that the provision of transmission media does not become dominated by one/two operators. Monopolistic activities must be avoided from the outset.</li> </ul> |
| 41. Turner Broadcasting System Asia Pacific, Inc. | Confidential.   |
| 42. Wan, M.L.                                     | <p><u>General</u></p> <ul style="list-style-type: none"> <li>• Support the proposals in general.</li> </ul> <p><u>Digital Terrestrial TV</u></p> <ul style="list-style-type: none"> <li>• The proposed pace of testing and introducing Digital TV is totally disappointing in view of the progress in other countries. There should not be any difficulty to complete the DTT tests in a speedy manner.</li> </ul>  |
| 43. Wharf Cable Limited                           | <u>Key policy objectives</u>  |

Individuals/  
Organisations

Comments

- The key policy objectives should include:
  - To promote local Hong Kong based broadcasting, telecommunications and information technology industries
  - To promote the development of content and software for the broadcasting, telecommunications and information technology markets

#### Breaking up of vertical integration

- The up-stream vertical integration of the local television market should be broken - for example, by a requirement that a progressively increasing (starting from a base as low as 25%) percentage of local productions be allocated to independent production companies.
- Strict controls are needed to prevent anti-competitive conduct and abuse of dominance, especially in the absence of a competition law and limited anti-competition protection in the general law.
- Government should facilitate the entrance of more players in the domestic free market.

#### Network sharing

##### *FTNS licensees*

- Supports the proposal to allow FTNS licensees to convey and provide TV programme services,

Individuals/  
Organisations

Comments

provided that -

- all carriage licensees, regardless of their (wireless or wireline) delivery technology are treated equally
- that measures are taken to prevent abuse of market power of the dominant telecommunications operator

#### Wharf Cable's Broadband Network

- Cost-based open access should be applied only to bottleneck services or dominant operators. Interconnection to non-bottleneck services should be at the commercial discretion of the network provider. The proposal on forward-looking interconnection costs needs well-prepared industry consultation.
- Considers the proposal to open up Wharf Cable's network amounts to the expropriation of private investment. There is no justification for mandatory interconnection since there will not be mandatory interconnection to other broadcast networks.
- In the event that the Government proceeds with this policy, Wharf Cable proposes -
  - Interconnection arrangements should follow the principle of the existing practice requiring commercial negotiation between the parties to be undertaken first, with TA involvement only if agreement cannot be reached.

Individuals/  
Organisations

Comments

- Wharf Cable should “facility manage” the entire HFC cable network. Any interconnection should be “service based”.
- Wharf Cable should have full use of its network asset until the asset is required by an interconnecting party. Similarly, Wharf Cable should be able to use all channels on its network, until any particular channel is required for use by an interconnecting party.
- Wharf Cable should be fully involved with any interconnection costing proposals, which will need to take into account the unique characteristics that distinguish HFC networks from telephone networks.
- Applauds the proposal to allow the Wharf Cable network to carry telecommunications services and suggests that Wharf Cable should hold an FTNS licence (separate from the New T&T) to recognise the separate network and company structures.
- Agrees with the proposal that satellite TV uplink and downlink licensees be allowed to offer transmission facility services immediately following the expiry of HKTI’s exclusivity.
- Supports the long-term objective of seamless interconnection of broadcasting and telecommunications networks.
- The Government should not protect its own

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investment in the Chung Hom Kok site by direct or indirect compulsion to use this site, or to discourage individual operators from developing and operating from any other technically feasible site.

- Supports the principle that fair trading rules should apply to all television and telecommunication licensees, with more stringent rules in the case of those declared dominant.
- Supports the need for restrictions on anti-competitive practices against and between dominant network owners and service providers.
- Disagrees that Wharf Cable is dominant in the network facilities market.

In-building distribution network

- Parties seeking access to in-building networks should be required to fully investigate alternative technical solutions to increase capacity before displacing or restricting the services legitimately offered by other licensees.
- The fact that a service is new is not itself a valid reason to prefer it over an existing service.
- The service benefit to the consumer should be uppermost - not technology.
- In spectrum allocation, local services and local licensees should be preferred over regional services and regional licensees.

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- VHF and UHF spectrum should be treated as a whole, with UHF spectrum used to deliver pay services if none is available in the VHF portion, and vice versa.
- All judgements concerning the nature of programme services should unambiguously rest with the BA and not the TA.
- Supports encouragement of the introduction of digital technology. However, all means of delivery should be treated equally.
- Supports the proposal to mandate access to new buildings.

### The Pay TV Market

#### *Moratorium on pay TV and VOD licensees*

- Supports opening up of the market with the following provisos:
  - Market liberalisation should apply simultaneously to all categories of licence (including terrestrial broadcasters).
  - The criteria and process for licence awards, reviews, and renewals should be explicit and included in the Ordinance.
  - Licence applications should demonstrate that their new service would provide a net contribution to Hong Kong in terms of the

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consumer and industry.

- Dominant television licensees should not be permitted to provide programme material to another licensee.

#### Pay TV via Satellite Broadcasters and SMATV

- The provision of pay TV services in Hong Kong should require a “Domestic Pay” or “Other Licensable Programme Service” licence to deliver through a set-top box with a parental locking facility.
- Pay services in the above categories should not be allowed to provide “block promotions”.
- Pay services should be delivered to each subscriber through a suitable decoder with a parental lock facility and conditional access arrangements ensuring consumers can decline access to the service.

#### TVROs

- Supports the proposals.
- Foreign pay service operator should either acquire a local pay licence themselves or gain access to the market as part of the package of one of the pay television licensees.

#### Direct-To-Home Satellite Television Services

- Supports the proposal on the basis that the licence

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award process is competitive and contestable, with licence criteria and award process established in legislation.

- The Government should encourage the DTH platform to be used as a vehicle for all Hong Kong Licensees to export their programme services to Guangdong.
- A locally-based DTH service should be given priority in access to the Hong Kong market over similar services uplinked outside of Hong Kong.

#### Regulatory issues

##### *Licensing categories*

- Agrees that the licensing authority for Domestic Free and Pay should be the Chief Executive in Council with the Non-domestic and Other licensable television programme service being devolved to the BA.
- The criteria for awarding all licences, and the process for awarding them, should be established in legislation, not regulation.
- The content licence should be awarded first, since the licensee would then be in a position to conduct commercial negotiations with network providers on an even footing.
- The spectrum allocation should be linked to the content licence, since the spectrum allocation would be made on the basis of the perceived

value and benefit to the community of the programme service.

*Transactional and data services*

- The exclusion of transactional and data services from the definition of a television programme service may inhibit the introduction of innovative services.
- Television programme licensees should be encouraged to develop convergent services (i.e. transactional and data services) and exploit the potential of technology to the maximum extent. Appropriate licences should be made available to them to achieve this objective.
- The definition of television programme service should allow for control of the service, including reception, cessation interruption, collection of subscriptions, parental control, electronic programme guides, teletext or other sub-carrier information, and other functions intrinsic to their programme service.

*Internet TV*

- Supports the proposal that multimedia services (including Internet) which offer television-type programmes on a commercial basis be brought into line with the television regulatory regime.

*Codes of Practice & Programme and Advertising Standards*

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- Welcomes the proposal to introduce ‘generic codes of practice’.
- A complete re-appraisal of the standards is called for by a joint Government-industry group.

*Restrictions on non-residents*

- Supports Government’s liberalisation to promote free competition, and welcomes the simplification of the present over-complex rules.
- Agrees that different degrees of control should reflect pervasiveness and community influence.
- Agrees that a majority of Hong Kong residents is sufficient for directors and principal officers of licensees. It is appropriate that the principal officers responsible for news and current affairs and the selection of programmes, should be Hong Kong residents.

*Corporate status*

- Agrees with the proposal.

*“Disqualified persons”*

- Has reservations allowing the dominant telecommunications operator into the broadcasting market.
- A statement should be added in the Ordinance of the policy intention of avoiding abuse of dominance and editorial concentration to

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facilitate individual cases to be considered on their merits.

*Investment restrictions*

- Agrees that the proposal to remove the out-dated investment restriction will help promote the local television industry.

*Positive programme requirement*

- Each licensee in every licence category should conform to positive programme requirements. Different licence terms among competitors (in the same licence category) should be avoided.
- It is not reasonable that these provisions should apply only to incumbent licensees rather than all licensees.

*Language of Broadcast*

- Supports the Government's proposals.

*Advertising time restrictions*

- Supports the proposals. It is appropriate that advertising time restrictions are maintained for the Domestic Free licensees during peak viewing periods to protect general viewers from abuse by the licensee.
- Agrees that advertisements must be readily distinguishable from programme material. The less stringent rules for satellite broadcasters

should also be applied to local licensees.

#### *Restrictions on VOD Programme Service*

- The criteria and process for the award of all broadcasting licences should be set out in legislation.

#### *Parental Lock*

- Supports the proposal to mandate parental locking systems for both Domestic Pay and Other Licensable Programme Service licences.
- The onus should remain with the parent whether or not such controls are used.

#### Fees and Charges

##### *Royalties*

- Government should consider alternative arrangements to implement the change in a way which supports the policy objective of reducing vertical integration, accelerating the development of independent local production companies, and which avoids the non-competitive effects of a disproportionate windfall gain to TVB.
- The royalties should remain until the pro-competition regulatory approach the Government intends has had time to deliver results.

##### *Licence Fees*

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- The licensees do not know the basis on which the “user pays” calculations are to be made.
- The Government’s intention to “...identify measures to reduce costs and to enhance service efficiency...” is commendable.

Digital Terrestrial TV

- All television licensees, not just commercial broadcasters, should be invited to participate on the joint Government-Industry steering committee.
- The terms of reference for and the outcomes of technical trials should be available to the industry and general public.
- The objectives of the steering committee should be widened to recommend digital standards for all television services, and all social, programming, and commercial aspects of the introduction of DTT services.

Legislation

*Broadcasting Bill*

- Supports the introduction of an omnibus ‘Broadcasting Bill’. The Government should involve the industry at all stages of drafting.

*Free Competition, Fair Trading and Abuse of Dominance*

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- Supports Government's recognition of the importance of competitive safeguards in an open and deregulated market, and the intention to control abuse of dominant licensees.
- These competitive safeguards should apply across both the television and telecommunications markets.
- Supports the proposal that free competition provisions should be included in the proposed Broadcasting Bill.
- It will be necessary to introduce pro-competition requirements applying to the dominant operator which are more onerous than the conduct required of other operators.
- The legislation needs to require pro-active investigation and reporting - with or without complaints or evidence from licensees or the public.
- The legislation needs to provide for meaningful sanctions, and to require the regulator to maintain the necessary resources and expertise to fulfil the task.
- A Competition Support and Investigations Unit should be established within ITBB to deal with fair competition, anti-competitive behaviour and abuse of dominance issues.
- The definition of relevant markets in establishing dominance should be dealt with specifically in

legislation, not regulation.

### Regulatory Bodies

- Supports the retention of separate regulators for the television and telecommunications industries. However, the differences between the two regulators should be removed.
- The fundamental power of the BA and the TA should be exercised by Commissioners who are:
  - Full-time
  - Independent, and constituted in a similar way to other 'regulators' (for example the Privacy Commissioners) and consistent with international practice.
  - Supported by full-time permanent staff.
  - Work to separate Telecommunications and Broadcasting Boards comprising independent representatives from the local industry and society.

### Implementation

- The process required by the Government's proposal on pre-legislative action will be awkward and will result in fragmented outcomes.

- The proposal not to issue any new terrestrial TV

| Individuals/<br>Organisations  | Comments  |
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|  | <p>licences due to the fact that the revenue-generating power of the commercial TV broadcasting licensees is expected to decline in future is not justified in view of the profits made by TVB.</p> <ul style="list-style-type: none"><li data-bbox="579 633 1393 862">• Has reservation on the proposal of opening up the Pay TV market due to the fact that the existing Pay TV licensees are still operating under loss, and this is contradictory to the proposal not to open up the terrestrial TV market.</li></ul> |
| <hr/> <p>45. Both the name and content of submission claimed to be confidential.</p> <hr/> |   |