

LEGISLATIVE COUNCIL BRIEF

TELECOMMUNICATION (AMENDMENT) REGULATION 1999 SATELLITE MASTER ANTENNA TELEVISION LICENCE

INTRODUCTION

At the meeting of the Executive Council on 6 July 1999, the Council ADVISED and the Chief Executive ORDERED that, under section 37 of the Telecommunication Ordinance, the Telecommunication (Amendment) Regulation 1999, at Annex A, should be made.

BACKGROUND AND ARGUMENT

2. A SMATV system consists of radio communication receiving station(s) connected by wire to the outlet points at premises of users of the system within a confined area (usually a multi-storey building or a group of such buildings within a single property development). The establishment and maintenance of a SMATV system requires a licence under the Telecommunication Ordinance (Cap. 106). While SMATV systems are technically capable of receiving and distributing a wide range of broadcasting and telecommunications services, the licensing conditions hitherto only allow them to receive and distribute television programmes and signals transmitted from satellites intended for general reception and subscription television broadcasting services licensed under the Television Ordinance (Cap. 52) through interconnection. Such limitation was necessary to prevent SMATV licensees from bypassing the regulatory restrictions when the moratorium on subscription television and fixed telecommunications licences was in effect.

3. On 8 December 1998, the Executive Council ADVISED and the Chief Executive ORDERED, inter alia, that the moratorium on subscription television and video-on-demand programme service licences should be lifted to open up the market for competition and that the existing restrictions should be removed to allow SMATV licensees to receive and distribute subscription television services.

4. On 4 May 1999, the Executive Council ADVISED and the Chief Executive ORDERED, inter alia, that -

- (a) despite the moratorium on the issue of further local Fixed Telecommunication Network Services licences for the construction of new fixed wireline-based networks, which is extended until 31 December 2002, licences on application for the wiring-up of individual buildings or clusters of buildings within a single property development would be issued;
- (b) licences for the operation with effect from 1 January 2000 of non-cable-based external telecommunications facilities would be issued; and
- (c) Hong Kong-licensed broadcasters who invest in their own facilities to uplink or downlink programmes to satellites would be permitted to make use of their spare capacity by carrying other companies' broadcast programmes and various telecommunications services.

5. Besides television programmes, telecommunications messages (e.g. those for fast Internet downloading) may also be transmitted by satellites and received and distributed within buildings by a SMATV system. Allowing SMATV systems to receive and distribute telecommunications messages in addition to television programmes is necessary to implement the policy decisions set out in paragraph 4 above.

THE REGULATION

Form of Licences

Scope of services

6. **Section 2(1)** of the Amendment Regulation amends the Preamble of the SMATV Licence to expand the scope of services as outlined in the following paragraphs.

7. At present, the only subscription television services permitted to be received and distributed by SMATV systems are subscription television broadcasting services licensed under the Television Ordinance. Because of the moratorium on the subscription TV market over the years, this limitation in effect means that the only subscription television services which could be

distributed by SMATV systems are those of the Hong Kong Cable Television Limited (formerly Wharf Cable Limited). In accordance with the policy decisions set out in paragraph 3 above, the Preamble will be amended to allow a SMATV licensee to receive and distribute other licensed subscription television services, including subscription television services under a Satellite Television Uplink and Downlink Licence and video-on-demand programme services licensed under the Television Ordinance.

8. For the considerations set out in paragraph 4, the Preamble will be amended to allow SMATV licensees, commencing from 1 January 2000, to receive and distribute telecommunications messages received from satellites intended for reception by users of the SMATV systems. A SMATV system will also be allowed by interconnection to receive and relay telecommunications messages between users of the SMATV system and other telecommunications systems or services licensed, or exempted from licensing, under the Telecommunication Ordinance. In order to prevent SMATV licensees from distributing unlicensed subscription television services in Hong Kong, “telecommunications messages” will be so defined as to exclude television programmes and ancillary services transmitted pursuant to a satellite or terrestrial broadcasting service.

9. As a result of the expansion of the scope of services mentioned above, a number of relevant terms are introduced and they are defined in the Preamble. The opportunity has also been taken to expressly permit SMATV systems to receive and distribute commercial television broadcasting programmes, i.e. those of Asia Television Limited and Television Broadcasts Limited, through interconnection with communal aerial broadcast distribution systems.

Other amendments

10. **Section 2(2)** amends the General Conditions in the SMATV Licence as follows:

- (a) the provisions in General Condition 4 are expanded in respect of the Telecommunications Authority’s (TA) power to inspect SMATV systems and the licensee’s documents. This power is needed to facilitate the enforcement of the licence conditions by TA and is a standard condition in most of the licences issued under the Telecommunication Ordinance (subsection (2)(a));

- (b) SMATV licensees are currently prohibited from charging fees for the right to receive television programmes (General Condition 10(1) refers) and, except for subscription television programmes, facilitating the charging of such fees (General Condition 10(1A) refers). They are also prohibited from distributing television programmes which are encrypted and not intended for general reception (General Conditions 11-12 refer). As a result of the expansion of the scope of services proposed in paragraphs 9 and 10, consequential amendments have been made to the exemption list by adding “programme service programmes, subscription satellite television programmes, their ancillary telecommunication services and telecommunications messages” after “subscription television programmes” in the relevant conditions (subsections (2)(c)(ii), (2)(d)(iii) and (2)(e)(ii)). The opportunity has also been taken to make it clear that such restrictions apply not only to television programmes but also to other services ancillary to television programmes (e.g. teletext service) by adding “or other communication” after “programmes” in the relevant conditions (subsection (2)(c)-(e));
- (c) a new General Condition 12A is added to prohibit a SMATV licensee from transmitting telecommunications messages received from satellites to any location outside the premises of users of the SMATV system (subsection 2(f));
- (d) the SMATV licensee is required under General Condition 13 to distribute services etc. in accordance with a transmission plan approved by the TA who may modify such approved plan from time to time. This is to ensure efficient use of the frequency spectrum in the in-building coaxial cable distribution systems to facilitate access of new television, telecommunications and multimedia services to the premises (subsection (2)(g));
- (e) a new General Condition 15 is added to require the licensee to observe the provisions and recommendations under the Constitution and Convention of the International Telecommunication Union (ITU). This is a standard requirement for telecommunication systems (subsection (2)(h)); and
- (f) a new General Condition 16 is added to allow the TA to make the terms and conditions of a SMATV licence publicly available.

This is in line with the Government's policy to make the regulatory regime more transparent (subsection 2(h)).

11. A copy of the amended licence, with changes highlighted, is at Annex B for Members' easy reference.

Timetable

12. The Amendment Regulation will be gazetted on 9 July 1999 and tabled in the Legislative Council for negative vetting on 14 July 1999. It will come into operation on a day to be appointed by the Secretary for Information Technology and Broadcasting.

HUMAN RIGHTS IMPLICATIONS

13. The Amendment Regulation is consistent with the human rights provisions of the Basic Law.

BINDING EFFECT OF THE LEGISLATION

14. The amendments will not affect the binding effect of the Telecommunication Regulations.

FINANCIAL AND STAFFING IMPLICATIONS

15. Any additional workload required in administering the additional licence conditions will be absorbed by the Office of the Telecommunications Authority Trading Fund, which is established under the Trading Funds Ordinance (Cap. 430) to operate on a commercial basis.

ECONOMIC IMPLICATIONS

16. The removal of the restrictions on SMATV systems to distribute subscription television services and telecommunications messages will facilitate the introduction of new subscription television and multimedia services through SMATV systems. It will open up business opportunities for satellite broadcasters and SMATV operators and will create new employment

opportunities. Consumers will also benefit in terms of choice, service quality, affordability and accessibility. The commercial exploitation of satellite services will bring about technology transfer and help to enhance Hong Kong's position as a regional hub in broadcasting and telecommunications services.

PUBLIC CONSULTATION

17. The proposal to allow SMATV licensees to distribute subscription television services in an opened-up television market was included in the consultation paper on 1998 Review of Television Policy published in September 1998. There was unanimous support for this proposal.

18. The proposal to allocate certain channels in the in-building distribution systems for telecommunications services was included in the consultation paper on in-building frequency layout plan published in March 1999. The proposal was supported by the majority of respondents.

PUBLICITY

19. A press release will be issued on 7 July 1999.

7 July 1999

Information Technology and Broadcasting Bureau
Government Secretariat

TELECOMMUNICATION (AMENDMENT) (NO. 2) REGULATION 1999

(Made by the Chief Executive in Council under section 37 of the
Telecommunication Ordinance (Cap. 106))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Information Technology and Broadcasting by notice in the Gazette.

2. Form of licenses

(1) Schedule 3 to the Telecommunication Regulations (Cap. 106 sub. leg.) is amended, in the Satellite Master Antenna Television Licence, before the General Conditions -

(a) in paragraph (b), by adding ", teletext services or other subcarrier information and sound programmes" after "programmes";

(b) by adding after paragraph (b) -

"(baa) commencing from 1 January 2000, to receive telecommunications messages transmitted from satellites intended for reception by users of the system;"

(c) by repealing paragraph (ba) and substituting -

"(ba) by connecting the system with a subscription television network pursuant to an agreement between the licensee and the

relevant subscription television broadcasting licensee -

- (i) to receive -
 - (A) television programmes and ancillary telecommunication services; and
 - (B) functional data signals, transmitted by the relevant subscription television broadcasting licensee; and
- (ii) to relay to the subscription television network functional data signals from outlet points of the system referred to in paragraph (a);"

(d) by repealing paragraph (bb) and substituting -

"(bb) by connecting the system with a programme service pursuant to an agreement between the licensee and the relevant programme service licensee -

- (i) to receive -
 - (A) television programmes and ancillary telecommunication services; and
 - (B) functional data signals, provided by the relevant programme service licensee; and
- (ii) to relay to the programme service functional data signals from

- outlet points of the system referred to in paragraph (a);
- (bc) by connecting the system with subscription satellite television services pursuant to an agreement between the licensee and the relevant Satellite Television Uplink and Downlink Licensee -
 - (i) to receive -
 - (A) television programmes and ancillary telecommunication services; and
 - (B) functional data signals, transmitted by the relevant Satellite Television Uplink and Downlink Licensee; and
 - (ii) to relay to the subscription satellite television services via a telecommunication system or a telecommunication service functional data signals from outlet points of the system referred to in paragraph (a);
 - (bd) by connecting the system with a telecommunication system or a telecommunication service pursuant to an agreement between the licensee and the licensee, or the exempted person, of the relevant telecommunication system or telecommunication service -

- (i) to receive telecommunications messages transmitted by the licensee, or the exempted person, of the relevant telecommunication system or telecommunication service; and
 - (ii) to relay telecommunications messages to the telecommunication system or telecommunication service from outlet points of the system referred to in paragraph (a);
 - (be) to receive commercial television programmes by connecting the system with a communal aerial broadcast distribution system pursuant to an agreement between the licensee and the relevant communal aerial broadcast distribution system owner; and";
- (e) in paragraph (c), by repealing "and (bb)" and substituting ", (baa), (bb), (bc), (bd) and (be)";
- (f) in the definition part -
 - (i) in the definition of "ancillary telecommunication services", by adding ", a programme service licence or a Satellite Television Uplink and Downlink Licence, as the case may be" after "subscription television broadcasting licence";
 - (ii) by adding -
 - ""commercial television broadcasting licensee" (商營電視廣播持牌人) has

the same meaning as in section 2 of the Television Ordinance (Cap. 52);

"commercial television programmes" (商營電視節目) is to be construed according to the meaning of commercial television broadcasting in the Television Ordinance (Cap. 52);

"communal aerial broadcast distribution system" (公共天線系統) means a coaxial cable system distributing signals transmitted by commercial television broadcasting licensees;

"communication" (通訊) includes any communication -

(a) whether between persons and persons, things and things or persons and things; and

(b) whether in the form of speech, music or other sounds; or text, or visual images whether or not animated; or signals in any form or combination of forms;

"exempted person" (獲豁免人士) means, in relation to a telecommunication

system or a telecommunication service, a person exempted from licensing under the Ordinance;

"Ordinance" (《條例》) means the Telecommunication Ordinance (Cap. 106);

"programme service" (節目服務) means a programme service within the meaning of the Television Ordinance (Cap. 52);

"programme service licence" (節目服務牌照) and "programme service licensee" (節目服務持牌人) have the same meaning as in section 2 of the Television Ordinance (Cap. 52);

"programme service programmes" (節目服務節目) is to be construed according to the meaning of programme service in the Television Ordinance (Cap. 52);

"Satellite Television Uplink and Downlink Licence" (衛星電視上行及下行牌照) means a licence granted under sections 7 and 34 of the Ordinance that has the title "Satellite Television Uplink and Downlink Licence";

"Satellite Television Uplink and Downlink Licensee" (衛星電視上行及下行持牌人) means the holder of a

- Satellite Television Uplink and Downlink Licence;
- "subscription satellite television programmes" (收費衛星電視節目) is to be construed according to the meaning of subscription satellite television services;
- "subscription satellite television services" (收費衛星電視服務) means the subscription services expressly permitted to be provided in Hong Kong under a Satellite Television Uplink and Downlink Licence;
- "subscription television broadcasting licence" (收費電視廣播牌照) has the same meaning as in section 2 of the Television Ordinance (Cap. 52);
- "telecommunication service" (電訊服務) means a telecommunication service licensed under the Ordinance, expressed as being licensed in exercise of the powers conferred by sections 7 and 34 of the Ordinance, exempted from licensing under the Ordinance or deemed to be licensed under the Ordinance;
- "telecommunication system" (電訊系統) means a telecommunication system

licensed under the Ordinance, expressed as being licensed in exercise of the powers conferred by sections 7 and 34 of the Ordinance, exempted from licensing under the Ordinance or deemed to be licensed under the Ordinance;

"telecommunications messages" (電訊訊息) means any communication sent or received by telecommunication but does not include -

- (a) television programmes, teletext or other subcarrier information, or sound programmes; or
- (b) other data signals incidental to the provision of such television programmes, teletext or other subcarrier information, or sound programmes,

transmitted pursuant to a satellite broadcasting service or a terrestrial broadcasting service;"

(2) Schedule 3 is amended, in the Satellite Master Antenna Television Licence, in the General Conditions -

- (a) by repealing General Condition 4 and substituting -

- "4. (1) The licensee shall at all reasonable times, when directed by the Authority, make the system available for inspection and testing by the Authority and any person authorized by the Authority in writing for that purpose.
- (2) The licensee shall permit the Authority or any person authorized by the Authority in writing to enter its premises for inspection of records, documents and accounts relating to the licensee's business, at all reasonable times, in order for the Authority to perform his functions under this licence and the Ordinance. The licensee shall also provide copies of such records, documents and accounts to the Authority on demand.
- (3) The Authority may make such use of any information obtained under this General Condition as he considers necessary for the administration of this licence and the Ordinance.";
- (b) in General Condition 7, by repealing "matter" and substituting "communication";
- (c) in General Condition 10 -
- (i) in paragraph (1), by adding "or other communication" after "programmes";
- (ii) by repealing paragraph (1A) and substituting -
- "(1A) The licensee shall not, except for subscription television programmes,

programme service programmes, subscription satellite television programmes, their ancillary telecommunication services and telecommunications messages, facilitate the charging of a fee for the right to receive programmes or other communication received by means of the system.";

(iii) by repealing paragraph (5) and substituting -

"(5) The licensee shall ensure a copy of an agreement -

- (a) between the licensee and a subscription television broadcasting licensee for the connection of the system with a subscription television network;
- (b) between the licensee and a programme service licensee for the connection of the system with a programme service;
- (c) between the licensee and a Satellite Television Uplink and Downlink Licensee for

- the connection of the system with subscription satellite television services;
- (d) between the licensee and the licensee, or the exempted person, of a telecommunication system or telecommunication service for the connection of the system with a telecommunication system or a telecommunication service; or
- (e) between the licensee and a communal aerial broadcast distribution system owner for the connection of the system with a communal aerial broadcast distribution system,

is filed with the Authority within 14 days of the agreement being made.

- (6) The obligation under paragraph (5) may be waived by the Authority in relation to a particular agreement or agreements of a certain kind.";
- (d) in General Condition 11 -
 - (i) in paragraph (1) -
 - (A) in subparagraph (a) -
 - (I) by adding "(or other communication)" after "programme" where it first, secondly, fourthly and last appears;
 - (II) by repealing "programme" where it thirdly appears and substituting "signal";
 - (B) in subparagraph (b), by repealing "programme" and substituting "signal";
 - (ii) in paragraph (2), by repealing "programme" and substituting "signal";
 - (iii) in paragraph (3), by adding ", programme service programmes, subscription satellite television programmes, their ancillary telecommunication services and telecommunications messages" after "programmes";
- (e) in General Condition 12 -
 - (i) in paragraph (1), by adding "or other communication" after "programmes";
 - (ii) by repealing paragraph (2) and substituting

"(2) For the purposes of paragraph (1), "programmes or other communication" (節目或其他通訊) does not include subscription television programmes, programme service programmes, subscription satellite television programmes, their ancillary telecommunication services and telecommunications messages.";

- (f) by adding -
 - "12A. Without the Authority's consent in writing, the licensee shall not transmit any telecommunications messages received from satellites to any location outside the premises of users of the system.";
- (g) in General Condition 13, by repealing the first sentence and substituting -
 - "The transmission plan employed in the system shall be approved by the Authority. The licensee shall distribute programmes, services, telecommunications messages and signals permitted under this licence in accordance with such approved plan and such approved plan may be modified by the Authority from time to time.";
- (h) by adding -
 - "15. The licensee shall at all times perform and observe the requirements of the Constitution and Convention of the International Telecommunication Union and the regulations and recommendations annexed to or made under

the Constitution and Convention as are applicable to Hong Kong except to the extent that the Authority may in writing expressly exempt the licensee from such compliance.

16. The Authority may at his discretion make the terms and conditions of this licence (including any specific conditions, transmission plan and Schedules to this licence) publicly available in any manner he thinks fit."

Clerk to the Executive Council

COUNCIL CHAMBER

1999

Explanatory Note

This Regulation amends the Satellite Master Antenna Television ("SMATV") Licence in Schedule 3 to the Telecommunication Regulations (Cap. 106 sub. leg.) to -

- (a) permit television programmes, teletext services or other subcarrier information and sound programmes transmitted from satellites intended for general reception to be received and distributed under a SMATV Licence (section 2(1)(a));

- (b) permit telecommunications messages transmitted from satellites to be received and distributed under a SMATV Licence (section 2(1)(b));
- (c) provide that the television programmes, ancillary telecommunication services and functional data signals referred to in paragraph (ba)(i) in the preamble to the SMATV Licence must be those transmitted by the relevant subscription television broadcasting licensee (section 2(1)(c));
- (d) permit programme service programmes, subscription satellite television programmes, telecommunications messages and commercial television broadcasting programmes to be received and distributed under a SMATV licence and to define relevant terms (section 2(1)(d) to (f));
- (e) amend General Condition 4 to expand the Telecommunications Authority's power to inspect the SMATV system and the SMATV licensee's documents (section 2(2)(a));
- (f) amend General Condition 7 to remove the reference to "matter" and replace by "communication" (section 2(2)(b));
- (g) amend General Conditions 10(1), 11 and 12(1) to ensure those provisions cover communication other than programmes, and make consequential amendments (in relation to the amendments in section 2(1)(d)) to General Conditions 10(1A), 11(3) and 12(2) (section 2(2)(c), (d) and (e));
- (h) provide in General Condition 13 that a SMATV licensee shall distribute programmes, services,

telecommunications messages and signals in accordance with a transmission plan approved and modified from time to time by the Telecommunications Authority (section 2(2)(g));

- (i) add the following new provisions -
 - (i) a new General Condition 12A to provide that a SMATV licensee shall not transmit any telecommunications messages received from satellites to any location outside the premises of users of the SMATV system (section 2(2)(f));
 - (ii) a new General Condition 15 in relation to compliance with the Constitution and Convention of the International Telecommunication Union (section 2(2)(h));
 - (iii) a new General Condition 16 to allow the Telecommunications Authority to make the terms and conditions of a SMATV licence publicly available (section 2(2)(h)).

TELECOMMUNICATION ORDINANCE
(Chapter 106)

SATELLITE MASTER ANTENNA TELEVISION LICENCE

DATE OF ISSUE:

.....
of
(hereinafter called "the licensee") is hereby licensed, subject to the conditions herein contained-

(a) to establish and maintain a satellite master antenna television system or systems (hereinafter referred to as "the system") consisting of a radio communication receiving station or stations at the location or locations specified in the Schedule connected by wire to outlet points at the premises of users of the system within the area or areas specified in the Schedule;

(b) to receive television programmes, teletext services or other subcarrier information and sound programmes transmitted from satellites intended for general reception;

(baa) commencing from 1 January 2000, to receive telecommunications messages transmitted from satellites intended for reception by users of the system;

~~(ba) by connecting the system with a subscription television network pursuant to an agreement between the licensee and the relevant subscription television broadcasting licensee-~~

~~(i) to receive-~~

~~(A) television programmes and ancillary telecommunication services; and~~

~~(B) functional data signals;~~

~~transmitted in accordance with the relevant subscription television broadcasting licensee; and-~~

~~(ii) to relay to the subscription television network functional data signals from outlet points of the system referred to in paragraph (a);~~

(ba) by connecting the system with a subscription television network pursuant to an agreement between the licensee and the relevant subscription television broadcasting licensee -

(i) to receive-

(A) television programmes and ancillary telecommunication services; and

(B) functional data signals,

transmitted by the relevant subscription television broadcasting licensee;
and

(ii) to relay to the subscription television network functional data signals from outlet points of the system referred to in paragraph (a);

~~(bb) to receive-~~

~~(i) teletext services; and~~

~~(ii) sound programmes intended for general reception,
transmitted from satellites; and~~

(bb) by connecting the system with a programme service pursuant to an agreement between the licensee and the relevant programme service licensee -

(i) to receive -

(A) television programmes and ancillary telecommunication services; and

(B) functional data signals,

provided by the relevant programme service licensee; and

(ii) to relay to the programme service functional data signals from outlet points of the system referred to in paragraph (a);

(bc) by connecting the system with subscription satellite television services pursuant to an agreement between the licensee and the relevant Satellite Television Uplink and Downlink Licensee -

(i) to receive -

(A) television programmes and ancillary telecommunication services; and

(B) functional data signals,

transmitted by the relevant Satellite Television Uplink and Downlink Licensee; and

(ii) to relay to the subscription satellite television services via a telecommunication system or a telecommunication service functional data signals from outlet points of the system referred to in paragraph (a);

(bd) by connecting the system with a telecommunication system or a telecommunication service pursuant to an agreement between the licensee and the licensee, or the exempted person, of the relevant telecommunication system or telecommunication service -

(i) to receive telecommunications messages transmitted by the licensee, or the exempted person, of the relevant telecommunication system or telecommunication service; and

(ii) to relay telecommunications messages to the telecommunication system or telecommunication service from outlet points of the system referred to in paragraph (a);

(be) to receive commercial television programmes by connecting the system with a communal aerial broadcast distribution system pursuant to an agreement between the licensee and the relevant communal aerial broadcast distribution system owner; and

(c) to distribute to outlet points of the system referred to in paragraph (a) the programmes, services and signals received in accordance with paragraphs (b),

(ba) and ~~(bb)~~, (baa), (bb), (bc), (bd) and (be).

In this Licence-

"ancillary telecommunication services" (附屬電訊服務) means-

- (a) the teletext or other subcarrier information; and
- (b) the sound programmes,

transmitted in accordance with a subscription television broadcasting licence, a programme service licence or a Satellite Television Uplink and Downlink Licence, as the case may be;

"commercial television broadcasting licensee" (商營電視廣播持牌人) has the same meaning as in section 2 of the Television Ordinance (Cap. 52);

"commercial television programmes" (商營電視節目) is to be construed according to the meaning of commercial television broadcasting in the Television Ordinance (Cap. 52);

"communal aerial broadcast distribution system" (公共天線系統) means a coaxial cable system distributing signals transmitted by commercial television broadcasting licensees;

"communication" (通訊) includes any communication -

- (a) whether between persons and persons, things and things or persons and things; and
- (b) whether in the form of speech, music or other sounds; or text, or visual images whether or not animated; or signals in any form or combination of forms;

"exempted person" (獲豁免人士) means, in relation to a telecommunication system or a telecommunication service, a person exempted from licensing under the Ordinance;

"functional data signals" (功能數據訊號) means data signals which are necessary for the reception, interruption or cessation of television programmes and ancillary telecommunication services or other functions incidental to the provision of such programmes and services;

"Ordinance" (《條例》) means the Telecommunication Ordinance (Cap. 106);

"programme service" (節目服務) means a programme service within the meaning of the Television Ordinance (Cap. 52);

"programme service licence" (節目服務牌照) and "programme service licensee" (節目服務持牌人) have the same meaning as in section 2 of the Television Ordinance (Cap. 52);

"programme service programmes" (節目服務節目) is to be construed according to the meaning of programme service in the Television Ordinance (Cap. 52);

"Satellite Television Uplink and Downlink Licence" (衛星電視上行及下行牌照) means a licence granted under sections 7 and 34 of the Ordinance that has the title "Satellite Television Uplink and Downlink Licence";

"Satellite Television Uplink and Downlink Licensee" (衛星電視上行及下行持牌人) means the holder of a Satellite Television Uplink and Downlink Licence;

"subscription satellite television programmes" (收費衛星電視節目) is to be construed according to the meaning of subscription satellite television services;

"subscription satellite television services" (收費衛星電視服務) means the subscription services expressly permitted to be provided in Hong Kong under a Satellite Television Uplink and Downlink Licence;

"subscription television broadcasting licence" (收費電視廣播牌照) has the same meaning as in section 2 of the Television Ordinance (Cap. 52);

"subscription television broadcasting licensee" (收費電視廣播持牌人) and "subscription television network" (收費電視網絡) have the same meaning

as in section 2 of the Television Ordinance (Cap 52);

"subscription television programmes" (收費電視節目) is to be construed according to the meaning of subscription television broadcasting in the Television Ordinance (Cap 52);

"telecommunication service" (電訊服務) means a telecommunication service licensed under the Ordinance, expressed as being licensed in exercise of the powers conferred by sections 7 and 34 of the Ordinance, exempted from licensing under the Ordinance or deemed to be licensed under the Ordinance;

"telecommunication system" (電訊系統) means a telecommunication system licensed under the Ordinance, expressed as being licensed in exercise of the powers conferred by sections 7 and 34 of the Ordinance, exempted from licensing under the Ordinance or deemed to be licensed under the Ordinance;

"telecommunications messages" (電訊訊息) means any communication sent or received by telecommunication but does not include -

- (a) television programmes, teletext or other subcarrier information or sound programmes; or
- (b) other data signals incidental to the provision of such television programmes, teletext or other subcarrier information, or sound programmes.

transmitted pursuant to a satellite broadcasting service or a terrestrial broadcasting service;

"television programme" (電視節目) has the same meaning as in section 2 of the Television Ordinance (Cap 52).

GENERAL CONDITIONS

1. The system shall be operated only by the licensee and persons authorized by him in that behalf.

2. The licensee shall-

- (a) furnish to the Telecommunications Authority (hereinafter called "the Authority") his address for correspondence;
- (b) forthwith give notice in writing to the Authority of any change of such address; and
- (c) when giving the notice referred to in paragraph (b), return this licence to the Authority for amendment.

3. (1) The licensee shall-

- (a) operate the system in such a manner as not to cause interference with any other means of telecommunication;
- (b) comply with any direction given by the Authority for the purpose of avoiding any such interference; and
- (c) on receipt of a notice in writing from the Authority, disconnect or remove any part of the system which, in the opinion of the Authority, is interfering, or is likely to interfere, with the working of any other means of telecommunication.

(2) The licensee shall not use any instrument, apparatus or material on, or connect or apply any electrical currents to, any part of the system if the same interferes, or is likely to interfere, with the working of any other means of telecommunication.

~~4. The licensee shall permit any public officer authorized in writing by the Authority to inspect the system, relevant records and this licence at all reasonable times, and shall forthwith furnish to the Authority any information required by the Authority in connection with the operation of the system.~~

4. (1) The licensee shall at all reasonable times, when directed by the Authority, make the system available for inspection and testing by the Authority and any person authorized by the Authority in writing for that purpose.

(2) The licensee shall permit the Authority or any person authorized by the Authority in writing to enter its premises for inspection of records, documents and accounts relating to the licensee's business, at all reasonable times, in order for the Authority to perform his functions under this licence and the Ordinance. The licensee shall also provide copies of such records, documents and accounts to the Authority on demand.

(3) The Authority may make such use of any information obtained under this General Condition as he considers necessary for the administration of this licence and the Ordinance.

5. (1) If any message which the licensee is not authorized to distribute in accordance with General Condition 11 is unintentionally received by means of the system, neither the licensee nor any person operating the system shall disclose the contents of any such message, its origin or destination, its existence or the fact of its receipt to any person except a public officer authorized by the Authority or a competent court or tribunal, and shall not retain any copy, or make any use, of any such message, or allow it to be reproduced, copied or made use of.

(2) The licensee shall take all practicable steps to prevent such a message from being received by any person.
6. The licensee shall not originate any material or message which is distributed to users of the system.
7. Nothing herein contained authorizes the licensee to do any act which is an infringement of any copyright which may exist in any programme or other communication received by the system.
8. This licence is not transferable and shall be returned to the Authority if it is revoked or when it has expired.
9. (1) No wire may be laid or maintained across any street or unleased Government land without the written authorization of the Authority. (29 of 1998 s. 105)

(2) The licensee shall comply with any conditions imposed, or directions given,

by the Authority on the giving of his authorization for the purposes of paragraph (1).

10. (1) The licensee shall not charge or receive the benefit of, directly or indirectly, any fee for the right to receive programmes or other communication distributed by means of the system.

~~(1A) The licensee shall not, except for subscription television programmes, facilitate the charging of a fee for the right to receive programmes received by means of the system.~~

(1A) The licensee shall not, except for subscription television programmes, programme service programmes, subscription satellite television programmes, their ancillary telecommunication services and telecommunications messages, facilitate the charging of a fee for the right to receive programmes or other communication received by means of the system.

(2) The licensee shall, except in so far as the Authority may otherwise in writing permit, publish in the manner specified in paragraph (3) a notice specifying, or specifying the method that is to be adopted for determining, the charges and other terms and conditions on which he offers his services.

(3) Publication of the notice referred to in paragraph (2) shall be effected by-

- (a) sending a copy to the Authority not later than 7 days prior to the charges becoming effective;
- (b) sending a copy to each user of the system 7 days prior to the charges becoming effective;
- (c) sending a copy to each new user of the system on connection to the system; and
- (d) sending a copy to any other person who may request such a copy.

(4) The licensee shall not levy charges exceeding or in addition to the charges specified in the notice referred to in paragraph (2).

~~(5) The licensee shall notify the Authority in writing of any fees payable to the licensee under an agreement between the licensee and a subscription television broadcasting licensee for the connection of the system with a subscription~~

~~television network not later than 7 days prior to the fees becoming effective.~~

(5) The licensee shall ensure a copy of an agreement -

(a) between the licensee and a subscription television broadcasting licensee for the connection of the system with a subscription television network;

(b) between the licensee and a programme service licensee for the connection of the system with a programme service;

(c) between the licensee and a Satellite Television Uplink and Downlink Licensee for the connection of the system with subscription satellite television services;

(d) between the licensee and the licensee, or the exempted person, of a telecommunication system or telecommunication service for the connection of the system with a telecommunication system or a telecommunication service; or

(e) between the licensee and a communal aerial broadcast distribution system owner for the connection of the system with a communal aerial broadcast distribution system.

is filed with the Authority within 14 days of the agreement being made.

(6) The obligation under paragraph (5) may be waived by the Authority in relation to a particular agreement or agreements of a certain kind.

11. (1) Subject to paragraph (3), the licensee shall distribute only signals intended for general reception. For the purpose of this condition a signal is intended for general reception if-

(a) the programme (or other communication) carried by the signal is not encrypted or where the programme (or other communication) carried by the signal is encrypted, the ~~signal~~programme originator has declared publicly and notified the Authority and the Authority is

satisfied that (i) the programme (or other communication) is intended for general reception and (ii) he will not charge any fee for the right to view or listen to the programme (or other communication) in Hong Kong; and

(b) neither the licensee nor the users of the system are required to pay a fee to the signalprogramme originator or his authorized agent.

(2) For the purpose of paragraph (1)(a), it will be regarded as a public declaration if the signalprogramme originator declares publicly by publication in-

- (a) 1 Chinese language newspaper circulating in Hong Kong; and
- (b) 1 English language newspaper circulating in Hong Kong.

(3) The licensee may distribute signals carrying subscription television programmes, programme service programmes, subscription satellite television programmes, their ancillary telecommunication services and telecommunications messages.

12. (1) Subject to paragraph (2), the licensee shall not distribute programmes or other communication carried by signals in an encrypted form to outlet points.

~~(2) For the purposes of paragraph (1), "programmes" (節目) do not include subscription television programmes.~~

(2) For the purposes of paragraph (1), "programmes or other communication" (節目或其他通訊) does not include subscription television programmes, programme services programmes, subscription satellite television programmes, their ancillary telecommunication services and telecommunications messages.

12A. Without the Authority's consent in writing, the licensee shall not transmit any telecommunications messages received from satellites to any location outside the premises of users of the system.

13. ~~The frequency plan employed in the system shall be approved by the Authority. The transmission plan employed in the system shall be approved by the Authority. The licensee shall distribute programmes, services,~~

telecommunications messages and signals permitted under this licence in accordance with such approved plan and such approved plan may be modified by the Authority from time to time. The Performance Specification for Communal Aerial Distribution System (HKTA 1104) shall be observed unless otherwise directed by the Authority.

14. (1) The licensee shall submit written confirmation to the Authority that-
- (a) any aerial and supporting framework used in the system is capable of sustaining and transmitting to the supporting structure wind loads specified in the Hong Kong Code of Practice on Wind Effects, and that the stability of the supporting building is not affected by any aerial and supporting framework used in the system;
 - (b) any aerial and supporting framework used in the system is not erected in, over or upon any portion of any street whether or not on land held under lease from the Government, and no part of it is fixed to, or overhangs, the side wall of a building; and (29 of 1998 s. 105)
 - (c) any aerial and supporting framework used in the system is not erected at a level which contravenes height limit provisions of the Hong Kong Airport (Control of Obstructions) Ordinance (Cap 301).
- (2) The licensee shall ensure that the state of matters referred to in paragraph (1) shall be maintained throughout the duration of the licence.
- (3) The confirmation referred to in paragraph (1) shall be made by a structural engineer registered under section 3 of the Buildings Ordinance (Cap 123).

15. The licensee shall at all times perform and observe the requirements of the Constitution and Convention of the International Telecommunication Union and the regulations and recommendations annexed to or made under the Constitution and Convention as are applicable to Hong Kong except to the extent that the Authority may in writing expressly exempt the licensee from such compliance.

16. The Authority may at his discretion make the terms and conditions of this licence (including any specific conditions, transmission plan and Schedules to this licence) publicly available in any manner he thinks fit.

SPECIAL CONDITIONS

SCHEDULE

Location of radio communication receiving station

Area of distribution

Number of outlet points within each area of distribution

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**For the Telecommunications
Authority.**