

Via Fax: 2509-9055

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25 March, 2000

Mrs Constance Li
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Mrs Li,

Thank you for your letter dated 15 March 2000.

STAR TV is pleased to have the opportunity to submit our views on the Broadcasting Bill ("the Bill").

STAR TV welcomes the introduction of an omnibus Bill to repeal the existing licensing and regulatory regimes set forth under the Television and the Telecommunications Ordinances. The Bill has largely reflected the policy decisions derived from the two rounds of consultation with the industry and the community - that a statutory framework should be put in place to embrace the rapid advances in technological development and to encourage fair and effective competition in the market.

We support the overall direction and the spirit of the Bill, and would choose to highlight our viewpoints on some key areas, instead of commenting in detail the actual draft of the Bill.

Scope of Television Programme Service

We support the categorization of television programme services into four areas irrespective of their modes of transmission and ways of delivery (Clause 2). We see this as a major milestone in establishing a technology-neutral licensing regime by separating programming content from technology.

STAR TV also welcomes the inclusion of "Item K" broadcasters under the purview of the licensing and regulatory regime. "Item K" has created a regulatory anomaly as "Item K" broadcasters are currently not required to comply with the Standards laid down by the BA. The inclusion will rectify the anomaly and put all programme services originated from Hong Kong on a level playing field.

Codes of Practice and Guidelines

STAR TV welcomes the issuance of a new set of generic codes of practice to align the regulatory regime with the newly defined categories of broadcasting services. We expect that further relaxation will be applied to the new codes to allow more flexibility and to encourage increasing self-regulation in the industry.

We are also pleased that the BA has taken the initiative in publishing a set of guidelines along with the codes of practice. We believe the guidelines will help eliminate possible misinterpretation of the codes and will allow the BA to more effectively communicating its policy considerations to the industry.

Competition Provisions

It is STAR TV's long-standing position that the primary role of the regulator is to provide a pro-competitive, open environment for the industry to flourish. We therefore support the inclusion of the competition provisions in the Bill and are agreeable to the terms and conditions stipulated in the general provision (Clause 13) and the specific provision (Clause 14).

We have concern, however, over the effective and efficient enforcement of the competition provisions. Understanding that the BA will publish detailed guidelines with elaboration on the competition provisions and enforcement procedures, we expect a full public consultation be conducted to allow the industry to express its views and comments.

Ownership Control

With the advances in technology, there is an increasing number of avenues from which consumers receive information and entertainment. No one medium can therefore dominate all pathways to the public. Against such a background, we believe that cross ownership control should be liberalized.

We therefore support the relaxation on prohibiting disqualified persons from exercising control in Domestic Free and Domestic Pay licensees. The removal of certain categories from the list of disqualified persons (part 2 of Schedule 1) is a move in the right direction.

However, to ensure that the operating environment is safeguarded against possible anti-competitive behaviors, we urge the government to impose pro-competition conditions on dominant players with respect to the disqualified persons provisions to ensure that their dominance will not be abused.

Royalty and License Fees

We support the abolition of royalty along with the repeal of the Television Ordinance. While we do not disagree with the cost recovery principle employed in the calculation of the annual license fee (Part 4 of Schedule 4). We are uncertain about the methodology of the calculations. The government has apparently accounted "full cost recovery" for the apportionment of all costs of running a department. We suggest instead that some of these costs be covered by general revenue of the administration.

All in all, STAR TV agrees with the general direction adopted in the Bill. We see the Bill as supportive to the ever changing business environment and we look forward to seeing the Bill be passed and enacted in an expeditious manner.

Thank you for your attention.

Yours sincerely,

Daniel Cheung
Executive Vice President