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HONG KONG BILLS COMMITTEE

Hon Mrs Selina Chow
 Chairman of the Bills Committee
 Legislative Council
 Legislative Council Building,
 8 Jackson Road
 Central
 Hong Kong

23rd March 2000

Dear Mrs Chow

Bills Committee on Broadcasting Bill

Meeting on 31 March 2000

I am writing to express my organisation's sincere gratitude for your invitation to forward submissions on the new Broadcasting Bill. We are most honoured by your invitation, particularly in view of the fact that we have not yet commenced operations in Hong Kong.

Elmsdale Media Limited has, as you may be aware, recently announced its intention to float on the London Stock Exchange, and as a result we find ourselves at an extraordinarily busy time in our organisation's history. In consequence, we are regrettably unable to do as much as we would wish, in terms of active participation in the consultation process; but nevertheless we would like to take this opportunity to comment on some aspects of the Broadcasting Bill which we regard as particularly significant.

Removal of "Programme Suppliers" from the list of disqualified persons.

We would certainly welcome this development, given the large amount of programming which Elmsdale Media Limited wishes to make available to its counterpart in Hong Kong. Although we could appreciate the reasons for originally treating programme suppliers as disqualified persons, we felt that this regime might not always work in the best interests of the market – e.g. where it operated solely to limit the availability of high quality programming.

Unqualified Voting Controllers

As a non-resident entity, Elmsdale Media Limited has hitherto accepted that it would be unable to exercise control of its counterpart in Hong Kong – *even though such control would always have been exercised with the good of the Hong Kong operation in mind*. The new policy decisions, whereby restrictions on non-residents exercising control of licensees will be applicable only to Domestic Free service licensees, are significant to us for the greater flexibility they would allow in the future. Although Elmsdale Media Limited is fortunate to have found a very attractive Hong Kong-resident company to take a shareholding in its Hong Kong counterpart, it is reassuring for us to know that should circumstances ever arise where

Elmsdale Media Limited

80 Cannon Street, London W1P 2AX

TEL: 020 7407 4800 FAX: 020 7407 4801

www.elmsdalemedia.com

REG. NO. 02074800

our respective share ownerships were to change, we would not have to risk a loss of influence over the company.

Television Programme Service Locking Device

Elmsdale Media Limited has always been committed to providing locking devices and/or other security measures to its subscribers; and we are greatly encouraged by the BA's recognition that where such devices are implemented, it may relax programme and advertising standards in the generic codes of practice. In this respect, the BA is significantly ahead of the regulatory authorities in England – as the latter have only just begun to acknowledge that proper locking devices may enable them to reconsider their rules on programming schedules etc.

Competition Provisions

The Bill's general provision forbidding conduct which prevents or restricts competition in a television programme service market is a further innovation which we consider very welcome. For some years now, the United Kingdom has been subject to European regulations on anti-competitive practices; but these have not always been enforced as rigorously as one would wish. It is reassuring to see that the Broadcasting Bill will address anti-competitive practices head-on, leaving licensees in no doubt as to the limits within which they must operate.

In summary, Elmsdale Media Limited welcomes the advent of the Broadcasting Bill, and is pleased to endorse its aim of providing a fair, flexible, business-friendly regime. Although we have been pleased to frame our current licence applications to comply with the existing Television Ordinance, we are appreciative of the Legislative Council's on-going commitment to develop the Hong Kong broadcasting regime along lines that ensure its continued attractiveness to television service providers.

Once again we thank the Legislative Council for this opportunity to comment on the Bill, and wish it a swift and successful passage.

Yours sincerely

For and on behalf of
Elmsdale Media Limited



THOMAS KRESSNER