

則以下條文適用——

- (i) 該委員須在會議上披露該利害關係的性質；
- (ii) 披露內容須記入會議紀錄；
- (iii) 如披露者是主持會議的委員，則在進行有關討論時不得主持會議；
- (iv) 如主持會議者提出要求，則該委員(包括根據第(iii)節不得主持會議者)須在進行有關討論時避席，且在任何情況下，除非主持會議者另作決定，否則該委員不得就有關事宜的任何決議投票，亦不得在確定會議法定人數時將他計算在內。

8. 以傳閱文件方式處理事務

管理局可以傳閱文件方式處理管理局任何事務，而任何由管理局過半數委員以書面批准的書面決議，須具效力及作用，猶如該決議已於管理局會議上通過一樣。

第 III 部

廣播事務管理局的職能及權力

9. 管理局的職能及權力

- (1) 管理局具有以下職能——
 - (a) 《廣播條例》(第 562 章) 賦予該局的職能；
 - (b) 《電訊條例》(第 106 章) 第 IIIA 部賦予該局的職能；
 - (c) 執行牌照的條文以及在該等牌照中授予管理局職能的任何其他條文；
 - (d) 確保電視及聲音廣播的節目內容(包括廣告)和廣播技術表現均維持適當標準，包括(但不限於)對一天內可以廣播節目及廣告的時間的限制，不論是針對同一或不同的持牌人或廣播；

in any matter under discussion at a meeting of the Authority or committee, the following provisions shall apply—

- (i) the member shall disclose the nature of his interest at the meeting;
- (ii) the disclosure shall be recorded in the minutes;
- (iii) where the disclosure is made by the member presiding, he shall vacate the chair during the discussion;
- (iv) the member (including one who has vacated the chair under paragraph (iii)) shall, if so required by the member presiding, withdraw from the meeting during the discussion and shall not in any case, except as otherwise determined by the member presiding, vote on any resolution concerning the matter or be counted for the purpose of establishing the existence of a quorum.

8. Transaction of business by circulation of papers

The Authority may transact any of its business by circulation of papers, and a resolution in writing which is approved in writing by a majority of the members of the Authority shall be as valid and effectual as if it had been passed at a meeting of the Authority.

PART III

FUNCTIONS AND POWERS OF THE BROADCASTING AUTHORITY

9. Functions and powers of the Authority

- (1) The Authority shall have the following functions—
 - (a) the functions imposed on it under the Broadcasting Ordinance (Cap. 562);
 - (b) the functions imposed on it under Part IIIA of the Telecommunication Ordinance (Cap. 106);
 - (c) to administer the provisions of licences and any other provisions of such licences that confer a function on the Authority;
 - (d) to secure proper standards of television and sound broadcasting with regard to both programme content (including advertisements) and technical performance of broadcasts including, without limitation, restrictions on the time of day when programmes and advertisements may be provided, whether for the same or different licensees or broadcasts;

- (e) 就電視及聲音廣播的技術、節目及廣告標準向行政長官會同行政會議呈交提議及建議，以協助行政長官會同行政會議根據《廣播條例》(第 562 章) 或《電訊條例》(第 106 章) 第 IIIA 部訂立和修訂有關規例；
- (f) 就行政長官會同行政會議轉介管理局的事宜進行研訊，並就該等研訊的結果向行政長官會同行政會議作出報告；
- (g) 根據本條例或任何其他條例指派予管理局的其他職能。
- (2) 管理局除具有由或依據本條例、《廣播條例》(第 562 章) 或《電訊條例》(第 106 章) 第 IIIA 部或任何其他條例明文或隱含地授予的權力外，亦具有為執行其職能而合理所需的附帶權力。

(由 2000 年第 48 號第 44 條代替)

9A-9D. (由 2000 年第 48 號第 44 條廢除)

10. 投訴委員會

- (1) 管理局須委任一個由不少於 5 名管理局委員組成的投訴委員會。
- (2) 委員會可按其認為適合者而委任其他人為委員會的委員。
- (3) 根據第 (2) 款委任的委員會委員——
- (a) 其委任可以是就一般事宜或就任何個別事宜提供意見；及
- (b) 對委員會席上審議的事宜沒有投票權。
- (4) 委員會須在根據第 (1) 款委任的委員中指定一人為委員會主席。
- (5) 委員會委員——
- (a) 的任期除 (b) 段及第 (6) 款另有規定外由管理局決定，如屬根據第 (2) 款委任的委員，則由委員會決定；及
- (b) 可隨時藉致予管理局的書面通知而辭去在委員會的職務，如屬根據第 (2) 款委任的委員，則可藉致予委員會主席的書面通知而辭去在委員會的職務。

- (e) to submit proposals and recommendations to the Chief Executive in Council with respect to technical, programme and advertising standards of television and sound broadcasting in order to assist the Chief Executive in Council in the making and amendment of regulations under the Broadcasting Ordinance (Cap. 562) or under Part IIIA of the Telecommunications Ordinance (Cap. 106) governing such standards;
- (f) to conduct inquiries into such matters as may be referred to it by the Chief Executive in Council and to report the conclusions of such inquiries to the Chief Executive in Council;
- (g) such other functions as are assigned to it under this or any other Ordinance.

(2) The Authority shall have, in addition to the powers expressly or impliedly conferred on it by or pursuant to this Ordinance, the Broadcasting Ordinance (Cap. 562) or Part IIIA of the Telecommunication Ordinance (Cap. 106) or any other Ordinance, such incidental powers as are reasonably necessary for the performance of its functions.

(Replaced 48 of 2000 s. 44)

9A-9D. (Repealed 48 of 2000 s. 44)

10. Complaints Committee

- (1) The Authority shall appoint a Complaints Committee consisting of not less than 5 members of the Authority.
- (2) The Committee may appoint such other persons to be members of the Committee as it deems fit.
- (3) A member of the Committee appointed under subsection (2)—
- (a) may be appointed to advise generally or on any particular matter; and
- (b) shall not have a vote on matters before the Committee.
- (4) The Committee shall appoint one of its members appointed under subsection (1) to be its chairman.
- (5) A member of the Committee—
- (a) shall, subject to paragraph (b) and to subsection (6), hold office for such period as the Authority or, in the case of a member appointed under subsection (2), the Committee, may determine; and
- (b) may resign from the Committee at any time by notice in writing addressed to the Authority or, in the case of a member appointed under subsection (2), to the chairman of the Committee.

- (6) 根據第 (1) 款委任的委員會委員，須在停任管理局委員時停止任職。
 (7) 在符合本條及第 11 條的規定下，委員會須決定本身的程序。

11. 由投訴委員會考慮投訴

(1) 除第 (2) 及 (3) 款另有規定外，凡有人向管理局投訴持牌人或任何其他人士違反——

- (a) 本條例、《廣播條例》(第 562 章) 或《電訊條例》(第 106 章) 第 IIIA 部；
 (由 1989 年第 52 號第 4 條代替)
 (b) 牌照的條款或條件；或
 (c) 業務守則，

管理局須將投訴轉交投訴委員會。

(2) 第 (1) 款不適用於有關下述事宜的投訴——

- (a) 《廣播條例》(第 562 章) 第 13(1) 或 14(1) 條所提述的任何事宜；或
 (b) 《廣播條例》(第 562 章) 第 19 條所提述的任何事宜或政府供應作廣播用途而由持牌人廣播的廣播稿或材料。(由 2000 年第 48 號第 44 條代替)

(2A) 管理局須將第 (2)(b) 條所指的投訴轉交政府。(由 2000 年第 48 號第 44 條增補)

(3) 管理局可拒絕將以下投訴轉交委員會——

- (a) 管理局認為屬微不足道或瑣屑無聊的投訴；或
 (b) 並非以書面作出的投訴。

(4) 委員會在收到根據第 (1) 款轉交的投訴後，須——

- (a) 給予被投訴的持牌人或其他人合理機會作出口頭及書面陳述；
 (b) 考慮任何由投訴人或代投訴人作出的陳述，以及任何由被投訴的持牌人或其他人或代該持牌人或代該其他人作出的陳述，不論該等陳述是以口頭或書面作出的；
 (c) 考慮其收取並認為與該投訴有關的證據，不論該證據是否代投訴人提出的；及
 (d) 向管理局作出關於該投訴的建議。

(6) A member of the Committee appointed under subsection (1) shall cease to hold office if he ceases to be a member of the Authority.

(7) Subject to this section and to section 11, the Committee shall determine its own procedures.

11. Consideration of complaints by the Complaints Committee

(1) Subject to subsections (2) and (3), where a person makes a complaint to the Authority that a licensee or any other person has contravened—

- (a) this Ordinance, the Broadcasting Ordinance (Cap. 562) or Part IIIA of the Telecommunications Ordinance (Cap. 106);
 (Replaced 52 of 1989 s. 4. Amended 36 of 2000 s. 28)
 (b) the terms or conditions of a licence; or
 (c) a Code of Practice,

the Authority shall refer the complaint to the Complaints Committee.

(2) Subsection (1) shall not apply to a complaint concerning—

- (a) any matter referred to in section 13(1) or 14(1) of the Broadcasting Ordinance (Cap. 562); or
 (b) any matter referred to in section 19 of the Broadcasting Ordinance (Cap. 562) or any script or material supplied for broadcasting by the Government and broadcast by a licensee.
 (Replaced 48 of 2000 s. 44)

(2A) The Authority shall refer to the Government a complaint which falls within subsection (2)(b). (Added 48 of 2000 s. 44)

(3) The Authority may refuse to refer to the Committee a complaint that—

- (a) is, in the opinion of the Authority, trivial or frivolous; or
 (b) is not made in writing.

(4) The Committee, upon receipt of a complaint referred to it under subsection (1), shall—

- (a) give the licensee or other person the subject of the complaint a reasonable opportunity to make representations both orally and in writing;
 (b) consider any representations made, whether orally or in writing, by or on behalf of the complainant and the licensee or other person the subject of the complaint;
 (c) consider any evidence received by it, whether tendered on behalf of the complainant or otherwise, which it considers relevant to the complaint; and
 (d) make recommendations concerning the complaint to the Authority.

(5) 如根據第(1)款轉交委員會的投訴是關乎《廣播條例》(第 562 章)第 38 條所提述的技術規定的，或是關乎根據衛星電視服務牌照或衛星聲音服務牌照的技術規定的，或是關乎依據在《電訊條例》(第 106 章)第 13C 條下批給的牌照的條款或條件而施加的技術規定的，則委員會在就該投訴作出任何建議前，須諮詢根據《電訊條例》(第 106 章)第 5 條獲委任的電訊管理局局長。(由 1989 年第 52 號第 4 條修訂；由 1992 年第 10 號第 5 條修訂)

(6) 委員會可按其認為適合者而收取證據，而《證據條例》(第 8 章)的條文及任何其他關於證據的可接納性的法律規則，均不適用於委員會席前所進行的程序。

(7) 為施行本條，委員會具有和可行使《廣播條例》(第 562 章)第 25 條、本條例第 22 條、衛星電視服務牌照或衛星聲音服務牌照的任何條款或條件、或根據《電訊條例》(第 106 章)第 13C 條批給的牌照的條款或條件所賦予管理局的任何權力，以規定持牌人須應要求向管理局提供任何材料，包括有關的廣播稿。(由 1989 年第 52 號第 4 條修訂；由 1992 年第 10 號第 5 條修訂；由 1993 年第 22 號第 52 條修訂)

(由 2000 年第 48 號第 44 條修訂)

11A. 對關於持牌人違反《廣播條例》第 13(1) 或 14(1) 條的投訴的考慮

(1) 任何人均可以書面向管理局投訴持牌人違反《廣播條例》(第 562 章)第 13(1) 或 14(1) 條。

- (2) 在符合第(3)款的規定下，管理局在收到根據第(1)款作出的投訴後，須——
- 給予遭投訴的持牌人合理機會作出書面陳述；
 - 考慮任何由投訴人或代其作出的書面陳述，以及任何由該持牌人或代其作出的書面陳述；及
 - 考慮管理局所收取並認為是與該投訴有關的證據，不論該證據是否代投訴人提出。

(5) If a complaint referred to the Committee under subsection (1) concerns a technical requirement referred to in section 38 of the Broadcasting Ordinance (Cap. 562), under a licence for satellite television services or satellite sound services or imposed pursuant to a term or condition of a licence granted under section 13C of the Telecommunications Ordinance (Cap. 106) the Committee shall, prior to making any recommendation thereon, consult the Telecommunications Authority appointed under section 5 of the Telecommunications Ordinance (Cap. 106). (Amended 52 of 1989 s. 4; 10 of 1992 s. 5; 36 of 2000 s. 28)

(6) The Committee may receive such evidence as it thinks fit and neither the provisions of the Evidence Ordinance (Cap. 8) nor any other rule of law relating to the admissibility of evidence shall apply in proceedings before the Committee.

(7) For the purposes of this section the Committee shall have and may exercise any of the powers vested in the Authority by section 25 of the Broadcasting Ordinance (Cap. 562), by section 22 of this Ordinance, by any term or condition of a licence for satellite television services or satellite sound services or by any term or condition of a licence granted under section 13C of the Telecommunications Ordinance (Cap. 106) requiring a licensee to supply to the Authority on demand any material, including the script thereof. (Amended 52 of 1989 s. 4; 10 of 1992 s. 5; 22 of 1993 s. 52; 36 of 2000 s. 28)

(Amended 48 of 2000 s. 44)

11A. Consideration of complaint that a licensee has contravened section 13(1) or 14(1) of Broadcasting Ordinance

(1) A person may make a complaint in writing to the Authority that a licensee has contravened section 13(1) or 14(1) of the Broadcasting Ordinance (Cap. 562).

(2) Subject to subsection (3), the Authority, upon receipt of a complaint under subsection (1), shall—

- give the licensee the subject of the complaint a reasonable opportunity to make representations in writing;
- consider any representations in writing made by or on behalf of the complainant and the licensee; and
- consider any evidence received by it, whether tendered on behalf of the complainant or otherwise, which it considers relevant to the complaint.

(3) 管理局可採取該局認為合適的證據，而《證據條例》(第 8 章)的條文及任何其他關於證據的可接納性的法律規則，均不適用於在管理局席前進行的程序。

(由 2000 年第 48 號第 44 條增補)

12. 諮詢委員會等

(1) 在不損害第 10 條的原則下，管理局可按其認為適合者而委任其他委員會及其他人，就一般事宜或就關乎其職能的任何個別事宜或任何方面提供意見。

(2) 根據第 (1) 款委任的委員會可包括並非管理局委員的人。

13. 行政主管

(1) 管理局須透過行政主管履行其職能，而行政主管為影視及娛樂事務管理處處長。

(2) 為施行第 (1) 款，行政主管須作出一切必需的作為及事情，以實施管理局的決定。

(3) 儘管行政主管(或在管理局主席的同意下，其代表)並非管理局委員，但仍須出席管理局的會議，就管理局各項決定的實施提交意見及報告。

(4) 行政主管或其代表可出席投訴委員會或由管理局委任的其他委員會的任何會議。

14. 將權力等轉授予行政主管

(1) 除第 (2) 款另有規定外，管理局可藉決議以書面將其任何權力及職能轉授予行政主管，並按其認為適合而對該項轉授附加或不附加任何限制或條件。

(2) 管理局不得將其根據以下條文獲賦予或委予的任何權力或職能轉授予行政主管——

- (a) 本條或第 10、12、15、19、21 或 24 條；(由 1989 年第 52 號第 5 條代替。由 2000 年第 32 號第 48 條修訂)
- (aa) 《電訊條例》(第 106 章)第 13C 或 13E 條；或(由 1989 年第 52 號第 5 條增補)
- (b) 《廣播條例》(第 562 章)第 3、4、8、9、10、11、28、31、32 或 33 條。(由 2000 年第 48 號第 44 條代替)

(3) The Authority may receive such evidence as it thinks fit and neither the provisions of the Evidence Ordinance (Cap. 8) nor any other rule of law relating to the admissibility of evidence shall apply in proceedings before the Authority.

(Added 48 of 2000 s. 44)

12. Advisory committees, etc.

(1) Without prejudice to section 10, the Authority may appoint such committees and other persons as it thinks fit to advise either generally or in respect of any particular matter or aspect concerning its functions.

(2) A committee appointed under subsection (1) may include persons who are not members of the Authority.

13. Principal executive officer

(1) The Authority shall discharge its functions through a principal executive officer who shall be the Commissioner for Television and Entertainment Licensing.

(2) For the purposes of subsection (1) the principal executive officer shall do all acts and things necessary for implementing the decisions of the Authority.

(3) The principal executive officer (or, with the consent of the chairman of the Authority, his representative) shall, notwithstanding that he is not a member thereof, attend the meetings of the Authority, tender advice and report on the implementation of its decisions.

(4) The principal executive officer or his representative may attend any meeting of the Complaints Committee or any other committee appointed by the Authority.

14. Delegation of powers, etc. to principal executive officer

(1) Subject to subsection (2), the Authority may by resolution, with or without restrictions or conditions as it sees fit, delegate in writing to the principal executive officer any of its powers and functions.

(2) The Authority shall not delegate to the principal executive officer any of its powers or functions under—

- (a) this section or section 10, 12, 15, 19, 21, or 24; (Replaced 52 of 1989 s. 5. Amended 32 of 2000 s. 48)
- (aa) section 13C or 13E of the Telecommunications Ordinance (Cap. 106); or (Added 52 of 1989 s. 5. Amended 36 of 2000 s. 28)
- (b) section 3, 4, 8, 9, 10, 11, 28, 31, 32 or 33 of the Broadcasting Ordinance (Cap. 562). (Replaced 48 of 2000 s. 44)