



Legislative Council
of the Hong Kong Special Administrative Region

**Panel on
Information Technology and Broadcasting**

**Report on the Study of
Public Service Broadcasting
for Hong Kong**

October 2006

*Panel on
Information Technology and Broadcasting*

*Report on the Study of
Public Service Broadcasting
for Hong Kong*

October 2006

CONTENTS

	Page
Executive Summary	i - vi
Chapter	
I Introduction	1 – 8
II Overseas Experience in Public Service Broadcasting	9 – 44
III Development of Public Service Broadcasting in Hong Kong	45 – 70
IV Constraints and Opportunities	71 – 97
V Summary of Findings	98 – 106
Abbreviations	109 – 111

Appendix		Page
I-(a)	Terms of Reference and Membership List of the Panel	115 – 117
I-(b)	Consultation Note	118 – 123
I-(c)	Synopsis of Major Views and Concerns on "Public Service Broadcasting" Received in response to the Panel's Invitation for Views	124 – 132
I-(d)	List of Organizations/Individuals That Have Submitted Views to the Panel on the Subject of Review of Public Service Broadcasting	133
II-(a)	Editorial/Producers' Guidelines of Public Service Broadcasters in Selected Places	134 – 140
II-(b)	Some Changes Arising from the Review of the BBC's Royal Charter	141 – 142
III-(a)	Extract of the Producers' Guidelines of Radio Television Hong Kong on "Due Impartiality"	143 – 146

Executive Summary

Broadcasting is often regarded as the most pervasive and powerful instrument to promote the expression of views and core values, as well as to enhance the quality of citizens' life. In the face of the challenges on the economic development of Hong Kong, it is all the more important that residents of Hong Kong do not solely rely on commercial broadcasters to provide the exposure and values that they would need for the betterment of Hong Kong. In many countries, public service broadcasting (PSB) plays an important part in developing citizens' knowledge, broadening their horizons and enriching the quality of life. In Hong Kong, there is no clear policy on PSB. Radio Television Hong Kong (RTHK), a government department undertaking the role of a public service broadcaster, is caught between the need of the community for greater development in PSB, and the concern about the lack of accountability over RTHK's use of public resources and over the editorial independence given to it.

2. In view of the Government's appointment of the Committee on Review of Public Service Broadcasting in Hong Kong (the Review Committee) in January 2006 to undertake a fundamental and critical review of PSB and its future development, the Panel on Information Technology and Broadcasting (ITB Panel) of the Legislative Council (LegCo) has found it necessary to conduct this study on the development of PSB in Hong Kong. The study, which looks into the general philosophy and principles of PSB, aims to provide useful reference to LegCo Members as well as the general public on how PSB can be taken forward in Hong Kong. Apart from setting out and analyzing the key elements and features of a PSB model for Hong Kong having regard to the experiences of major public service broadcasters in other places, this report also provides a summary of the key pointers to facilitate more systematic public discussion on this subject in the years ahead.

Guiding principles for the development of public service broadcasting

3. "Universality", "diversity", "independence" and "distinctiveness" are the internationally recognized core principles of PSB. These principles are also applicable to Hong Kong in its development of PSB. Everyone, irrespective of his income and social status, should have access to diversified

genres of programmes of high quality and distinctiveness, and which are free from political and commercial influences.

4. "Editorial independence" is the most important core value of a public service broadcaster. In the PSB model for Hong Kong, there is a strong concern to ensure that public service broadcaster(s) can operate at an arm's length with the Government and the regulatory authority while remaining accountable to the public.

Key features of a PSB model

Funding

5. The sustainable development of PSB requires public support and the government's preparedness to commit sufficient funding for its development, including the establishment of the necessary the regulatory infrastructure. There should be adequate public resources to support at least one full-fledged public service broadcaster and its long term development.

6. Public service broadcasters overseas derive revenue from various sources. To facilitate discussion, the Panel has outlined a number of options, which include government appropriation in funding cycles of three to five years, matching grants for production of specific programmes to serve particular purposes or needs, commercial sponsorship subject to certain limits to avoid commercial influences or unfair competition with commercial broadcasters, etc.

7. It is necessary to define the public service remit of the public service broadcasters and provide funding support based on their public service mandate and objectives.

Corporate governance

8. To ensure editorial independence, it is important that the programme content is not subject to regulation, but left to the public service broadcasters themselves which should be accountable to the public for the quality of the programmes they provide. A good corporate governance structure will inspire

confidence in the public that the broadcaster will use resources effectively for the achievement of its missions. The operation of the public service broadcaster should be overseen by a governing board comprising members chosen from outside the broadcaster on the basis of merits.

Accountability and evaluation of performance

9. The governing legislation for the public service broadcaster should set out the public service mandate and the accountability requirements. It is necessary to put in place a standing mechanism to effectively evaluate the performance of the future public service broadcaster and to enhance its public accountability. Apart from a codified set of accountability requirements including the publication of editorial guidelines, tabling of reports and budgets at LegCo, and systematic arrangements to gauge public opinions, the establishment of an Ombudsman's office within the public service broadcaster to deal with complaints should be considered.

A licensing regime

10. It would be useful to introduce a licensing regime, which can also provide an opportunity for the regulator and the public to scrutinize and evaluate the performance of the public service broadcaster. Whether there should be a single regulator for both commercial broadcasters and public service broadcasters can be further discussed.

Programme content

11. It is common practice in overseas jurisdictions to specify in law the public service remit of public service broadcasters and the programme genres. Funding support should have regard to the programme content. A public service broadcaster should produce programmes in a distinctive manner and pioneer in new programme genres.

12. PSB in Hong Kong should help promote biliteracy and trilingualism among its residents, as well as reflect the cultural and linguistic diversity of Hong Kong society. PSB does not serve to promote or publicize government policies, but public service broadcasters should provide a forum for a fair exchange of views.

Competition

13. Whether there should be multiple public service broadcasters in Hong Kong is a subject which ought to be further examined in the light of the market size of Hong Kong, the diverse needs of the community and the possible sources of funding to support the broadcasters.

14. In principle, public service broadcasters should not seek to compete with commercial broadcasters for advertising revenue and audienceship ratings. In programming, public service broadcasters should serve a broad spectrum of audiences but at the same time, cater for the needs of minority interest groups in society as part of their mission.

Opening up the airwaves

15. The Government should examine the demand for opening up additional channels for a public purpose. There is a growing demand for "opening up the airwaves". It is however noted that the existing frequency spectrum assigned for broadcasting has not been fully utilized in Hong Kong and there are suggestions that the surplus channel capacity should be released for the community's use. Despite the Government's policy stance against the setting up of public access channels, the Panel considers that there should be more informed public discussion so as to achieve a better understanding on various aspects of the subject.

The future of RTHK

16. Given RTHK's significant contribution to Hong Kong's broadcasting sector over the past decades, it is only logical to consider how RTHK could be further developed to become Hong Kong's major public service broadcaster. The criticisms on some of its management practices and its programming have prompted public discussion on the direction of its future development.

17. The Framework Agreement gives RTHK editorial independence without subjecting it to a regulatory framework outside the government structure. RTHK's status as a government department has led to debates in the

community on whether RTHK should "bite the hand that feeds it". By contrast, none of the major overseas public service broadcasters studied by the Panel in this report is a government department. To rectify the situation, it may be useful to review the corporate status of RTHK and consider how RTHK could be put on par with its overseas counterparts.

18. As RTHK is Hong Kong's sole publicly-funded broadcaster, the outcome of the Review will certainly have implications on its future development. In the course of this study, the Panel has noted that RTHK has provided its views on the review of PSB in Hong Kong. The Panel urges the Administration to consider these views carefully' when mapping out the future development of PSB.

Deepening public understanding and discussion

19. All along, there has been very little systematic discussion on the subject of PSB. The development of a PSB system in Hong Kong involves the consideration of many public policy issues. There is a need for the Government to provide more background information and make available more opportunities for informed public discussion before formulating a way forward for PSB in Hong Kong.

20. The public should be involved not only at the consultation stage, but at all stages of PSB development. Public participation should become part of the PSB system to foster communication and mutual trust between the media and the public.

Development process for PSB

21. In formulating a roadmap for the development of PSB in Hong Kong, the Government should take into consideration the following working process :

- (a) enhance the community's understanding of PSB through public discussions and analyze the views received in a systematic and transparent manner;

- (b) draw up the strategic planning for the development of PSB taking into account the views of stakeholders and the public;
- (c) determine what PSB is set out to achieve for the people of Hong Kong and define the role of RTHK in the development of PSB;
- (d) assess the demand for public broadcasting to meet the diverse needs of the community and to provide choices, and explore the availability of spectrum for use by multiple broadcasters undertaking PSB in Hong Kong;
- (e) assess the financial implications for the sustainable development of at least one full-fledged public service broadcaster and the establishment and the operation of the regulatory and licensing infrastructure;
- (f) explore how the financial requirements can be met and assess the impact of such requirements on public expenditure and on commercial broadcasters;
- (g) involve stakeholders and the public at the planning and implementation stages of development, which include devising the PSB model, drawing up the licensing regime and participation in the corporate management of public service broadcasters; and
- (h) provide a mechanism which keeps the development of PSB and the performance of public service broadcasters under regular reviews.

Background

1.1 Broadcasting is often regarded as the most pervasive and powerful means of communication. All over the world, radio and television are two major means through which people can access information and entertainment. Given its pervasiveness, developments in broadcasting receive serious attention as they may indicate how a society is making use of the airwaves to promote the expression of views and core values, as well as to enhance the quality of its citizens' life.

1.2 In Hong Kong, according to the *Broadcasting Services Survey 2005* commissioned by the Broadcasting Authority (BA), domestic free television programme services achieved a penetration rate of 99.6% of all Hong Kong households, while that achieved by domestic pay television programme services was 33.8%. The penetration rate of sound broadcasting services was 95.2%. On average, people spent three hours and 1.6 hours per day watching free television and pay television programmes respectively. They spent two hours daily on average listening to radio¹. What has been presented through the broadcasting media often has a strong influence over people's knowledge, perception, opinions and even value judgement.

1.3 Pursuant to the Government's liberalized regulatory regime, the number of channels in Hong Kong has increased and more choice and diversity are available to the general public. This development in general accords with the Government's policy objectives to widen programme choice, encourage investment and competition and enhance Hong Kong's development into a regional broadcasting hub. However, there is no clear policy on PSB.

1.4 For many years, PSB has been delivered mainly by Hong Kong's sole publicly-funded broadcaster, RTHK, as well as through the public interest programmes provided by commercial television and sound broadcasting licensees in accordance with their respective licences. RTHK, a government department, has been operating on the basis of a Framework Agreement since

¹ The Executive Summary of the *Broadcasting Services Survey 2005* can be browsed on BA's website : http://www.hkba.hk/en/doc/bss2005_eng.pdf.

Chapter I : Introduction

1993 which stipulates that RTHK is editorially independent and that the Director of Broadcasting is its Chief Editor. Today, RTHK broadcasts its programmes through its seven radio channels and designated time slots on the channels of the commercial television stations.

1.5 The ITB Panel is the committee of LegCo with the responsibility of monitoring policies and issues of concern on broadcasting matters. The Panel's terms of reference and membership list for the 2005-06 session is at **Appendix I-(a)**. In view of the ongoing interest of the general public in the editorial independence of RTHK and its role as a public service broadcaster, the ITB Panel has examined key issues relating to RTHK, such as its working relationship with the Commerce, Industry and Technology Bureau (CITB), its programming policy, as well as the provision of resources to meet RTHK's development needs. The scope of RTHK's programming services has also been high on the agenda of the Panel as there were criticisms on whether RTHK should produce certain popular programmes such as the live broadcast of horse racing and musical awards.

1.6 Issues related to Hong Kong's overall broadcasting policy have also received ongoing attention by LegCo, as evidenced by the passing of two motions on 18 February 2004 and on 8 February 2006. Members shared concerns about the need to review Hong Kong's broadcasting policy and urged the Administration to take into account a number of key principles in developing PSB in Hong Kong.

1.7 On 17 January 2006, the Administration announced the Chief Executive (CE)'s appointment of the Review Committee². In explaining the need for the Review, the Administration considers that a fundamental and critical review of PSB and its future development is timely, mainly due to the phenomenal changes to the broadcasting market. The Chairman and several members of the Review Committee attended a meeting of the ITB Panel on 25 January 2006 and briefed members on the Review Committee's work plan and the scope of the Review. They also attended a special meeting on 1 August

² *Committee on Review of Public Service Broadcasting*. (2006) Available from: <http://www.psb-review.org.hk/eng/ic.html>. [Accessed September 2006].

Chapter I : Introduction

2006 to further exchange views with the Panel and deputations. According to the Administration, it is expected that the Review Committee will complete the review and submit its report to CE by the end of 2006.

The Panel's study

Objectives and methodology

1.8 In examining the purpose and scope of the Review, the ITB Panel has noted the considerable concern about the future of RTHK, in particular among the management and staff of RTHK. RTHK's status as a government department has given rise to debates in the community on whether RTHK "should bite the hand that feeds it". The controversies over RTHK's role as a public service broadcaster over the years have given rise to speculations that the Review is in fact targeted at RTHK. The Review Committee has re-assured the Panel that the Review would be a macro one. It would not only invite input from professionals and the general public, but would listen to the views of RTHK and commercial broadcasters. The Review Committee hopes to put forward recommendations that would address Hong Kong's short, medium and long-term public broadcasting needs.

1.9 Nevertheless, to address concerns about the continued need for editorial independence and press freedom in PSB, the ITB Panel considers it necessary to conduct a study into the general philosophy and principles of PSB and the methodologies in implementing PSB. In this study, the Panel has made reference to the experience of other places where there is a long history of PSB. It has also invited views from stakeholders, including RTHK, the commercial broadcasters and the general public, and made reference to a number of opinion surveys³ on RTHK and PSB conducted by universities, concern groups and political parties. The Panel hopes that the findings of its study would serve as useful reference and a checklist to all parties, including the Review Committee, on how PSB can be taken forward in Hong Kong. In

³ Information on six surveys conducted from October 2005 to May 2006 can be browsed on RTHK's website : <http://www.rthk.org.hk/special/psb>.

Chapter I : Introduction

the course of its study, the ITB Panel has posted a general notice on the LegCo's website inviting submissions. It has also held meetings with the Administration, academics, concern groups, commercial broadcasters, RTHK and other interested parties to gauge their views. For this purpose, a special meeting was held on 11 March 2006 prior to the Panel's overseas visit to study the PSB practices in other jurisdictions.

1.10 In April 2006, a delegation comprising Hon SIN Chung-kai (Panel Chairman), Hon Albert Jinghan CHENG (Deputy Chairman), Hon Emily LAU (Panel member) and Hon Margaret NG (non-Panel Member) visited Canada, the United States (US) and the United Kingdom (UK) and met with key personnel of public service broadcasters, regulatory bodies, government representatives and pressure groups to acquire first-hand understanding on the development of PSB in these places. Upon completion of the visit, the delegation published a report⁴ setting out, among other things, its observations on the essential factors and elements which have attributed to the success and sustainability of the PSB systems in the countries visited. In addition to these places, the Panel has also made reference to literature research conducted by the LegCo Secretariat on the PSB systems of Australia and Germany.

1.11 To understand Hong Kong's setting, the Panel visited RTHK in June 2006 and met with the core management team with a view to understanding their perception of the role that RTHK should play in PSB, as well as the corporate and financial structure that would ensure editorial independence and enhance public accountability of a public service broadcaster. At the same time, the Panel also invited RTHK and CITB to provide information on the historical development of PSB in Hong Kong.

1.12 On the basis of its initial deliberations and the views received, the Panel published a consultation note (**Appendix I-(b)**) in July 2006 highlighting a specific range of key issues which should be addressed in the development of PSB and invited public views. A special meeting was held on 1 August 2006 to provide a forum for the exchange of views with the Administration, the

⁴ The report LC Paper No. CB(1)1393/05-06 has been posted on LegCo's website : <http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itbcb1-1393-e.pdf>.

Review Committee and deputations.

1.13 A synopsis of the major views and concerns on PSB received by the Panel since the commencement of its study is at **Appendix I-(c)**. A list of organizations/individuals that have submitted views to the Panel is at **Appendix I-(d)**. The ITB Panel is also grateful to the overseas public service broadcasters and representatives of the government agencies and regulators for their valuable information.

Underlying philosophy in conducting the study

1.14 All along, there has been very little public discussion on PSB in Hong Kong. Although RTHK, the only publicly-funded broadcaster, was established in 1954 and a Framework Agreement was first signed in 1993 to affirm its editorial independence as a public broadcaster, it appears that not much information is available to the general public on what PSB is all about and how RTHK is accountable for its annual provision of over \$400 million funded from the public purse.

1.15 Frequency spectrum for broadcasting is a scarce public asset. There is a general view that it should not be utilized by only the government and the profit-oriented market in pursuit of their respective aims. Part of the airwaves should also be used for the benefit of the citizens. According to the United Nations Educational, Scientific and Cultural Organization (UNESCO), *"Public Service Broadcasting (PSB) is broadcasting made, financed and controlled by the public, for the public. It is neither commercial nor state-owned, free from political interference and pressure from commercial forces. Through PSB, citizens are informed, educated and also entertained. When guaranteed with pluralism, programming diversity, editorial independence, appropriate funding, accountability and transparency, public service broadcasting can serve as a cornerstone of democracy."*⁵.

⁵ UNESCO. (2005) Available from: http://portal.unesco.org/ci/en/ev.php-URL_ID=1525&URL_DO=DO_TOPIC&URL_SECTION=201.html [Accessed September 2006].

Chapter I : Introduction

1.16 The Panel concurs that PSB plays an important part in developing citizens' knowledge, broadening horizons and enabling them to better understand themselves by better understanding the world and others⁶. In the face of the challenges on the economic development of Hong Kong, it is all the more important that the people of Hong Kong do not solely rely on commercial broadcasters to provide the exposure and values that they would need for the betterment of Hong Kong. The public needs the kind of programmes that are accessible to all and meant for all irrespective of their social and economic status, that will appeal to their imagination and empower them with the knowledge they need to bring about the sustainable development of a civil society.

1.17 The need for PSB has been founded on the idea that the community cannot entirely trust the government or the market to adequately meet the public service objectives of broadcasting. As a public institution free from political and commercial pressure, the public service broadcaster is expected to fulfil such objectives and safeguard public interest. The Panel is mindful of whether Hong Kong has the environment to develop PSB and whether the public is aware of the financial implications in developing PSB and of the returns it will bring to the long-term development of Hong Kong. In this respect, the Panel notes from the opinion surveys⁷ conducted on RTHK and PSB in recent months that there is general satisfaction over the services of RTHK and support for it to operate as a public body independent of the Government. Although there is no detailed study or analysis on how far people in Hong Kong understand PSB, the results of the surveys indicate that the people of Hong Kong support an independent public service broadcaster which can serve the public with genuine independence and impartiality.

1.18 The Panel notes that in view of the limited public discussion on PSB, it may not be easy for the general public to differentiate public service broadcasters from state broadcasters. It has been pointed out that PSB

⁶ *World Radio and Television Council*. (2002) Available from: <http://www.cmrtv.org/documents/radio-publique-en.htm> [Accessed September 2006].

⁷ Information on six surveys conducted from October 2005 to May 2006 can be browsed on RTHK's website : <http://www.rthk.org.hk/special/psb>.

requires a public organization at the service of citizens, culture and democracy⁸. The programmes provided by a public service broadcaster should serve the public service objectives of broadcasting and be within its public service remit. State broadcasters however are more often synonymous with broadcasting institutions owned and managed by the state mandated to promote government policies and information. Due to their different roles and functions, public service broadcasters may co-exist with government-run broadcasters, each fulfilling their respective mandate.

The report

1.19 PSB has evolved over time and the history of PSB in some countries can be dated back to the 1920s. While the course of development varied, it is not uncommon for certain public service broadcasters, initially set up and controlled by the government, to transform into an independent or statutory body with the mandate to fulfil the public purposes of broadcasting and serve all sectors of the community. In this report, we have set out in **Chapter II** the historical development of PSB in some overseas countries and explained their PSB framework by highlighting a number of salient features including the legislative and regulatory framework, as well as the corporate and financing structure and the public broadcaster's role in meeting global challenges.

1.20 In the Hong Kong context, its unique political and socio-economic conditions, such as its transition from a territory under British rule to a Special Administrative Region of the People's Republic of China, its executive-led government which has no vote in the legislature, its small geographical area with a predominant Chinese population etc., have made it necessary to develop a PSB system which will meet the special circumstances of Hong Kong. In **Chapter III**, we have provided the history of public broadcasting in Hong Kong which can be dated back to 1928 when the Government launched its first English broadcast. The service was renamed Radio Hong Kong in 1948 and subsequently became a separate government department in 1954.

⁸ UNESCO. (2005) *Public Service Broadcasting A Best Practice Sourcebook*.

1.21 On the basis of the information available to the Panel in the course of this study, we provide in **Chapter IV** the Panel's analysis of the key attributes for an effective and sustainable PSB system in the light of the constraints encountered and the opportunities ahead. **Chapter V** summarizes the findings of the Panel in this study, which are primarily pointers for future deliberation and a reminder of the various issues that ought to be taken into account when developing PSB in Hong Kong.

1.22 The Panel wishes to stress that the Government has a responsibility to formulate a policy on PSB. This report highlights a range of key issues which ought to be properly addressed in mapping out the future development of PSB in Hong Kong, as well as the Panel's findings on these issues. The Panel hopes that the Review Committee, in finalizing its recommendations, can also give due regard to these issues and the Panel's findings. Given that PSB systems in some overseas countries have taken many years to evolve, the Panel considers that it is necessary to address the key questions and engage the community in active discussion on the most appropriate way forward.

Chapter II : Overseas Experience in Public Service Broadcasting

2.1 In understanding overseas experience in the development of PSB, the Panel has selected five countries which have a long history of PSB, with some of the broadcasting systems initially owned or run by the state. The countries selected are the UK, Canada, the US, Germany and Australia. Apart from a literature study of these places, a delegation of the Panel visited Canada, US and UK in April 2006 and met with the authorities, regulators, public broadcasters and monitoring groups. The findings are summarized in this Chapter.

2.2 To facilitate easy reference and comparison, the characteristics of the PSB in each of these places are set out in the following format:

- (a) Legislative and regulatory framework for sustainable development of PSB;
- (b) PSB mandate for public service broadcasters;
- (c) Mission and programme content;
- (d) Corporate and financing structure to ensure editorial independence (editorial/producers' guidelines of public service broadcasters in selected places are in **Appendix II-(a)**);
- (e) Mechanism to enhance public accountability; and
- (f) Public broadcasters' role in meeting new global challenges, e.g. digital broadcasting.

The United Kingdom

2.3 UK is one of the earliest countries to implement PSB. The British Broadcasting Company was established in 1922 and reconstituted as the British Broadcasting Corporation (BBC) in 1927 with the grant of a Royal Charter setting out its role, functions and structure. As at today, BBC is still governed

Chapter II : Overseas Experience in Public Service Broadcasting

by the Royal Charter and an accompanying Framework Agreement signed with the Secretary of State for Culture, Media and Sport (SSCMS). Unlike other public service broadcasters in UK, there is no legislation enacted for BBC. The Charter sets out the objectives of the BBC in broad terms and establishes its power and responsibilities, while the Framework Agreement sets out in more detail the remit of BBC's services, establishes its independence, defines its right to the licence fee, enables SSCMS to approve changes made to BBC, and gives the Office of Communications (Ofcom) a role in imposing various regulatory requirements. Any changes to the Framework Agreement are subject to the approval by the House of Commons.

Legislative and regulatory framework

2.4 The UK government aims to encourage the development and dispersion of PSB to ensure that all consumers have access to quality programming. Apart from BBC, there are several public service television broadcasters, viz. Channel 3, Channel 4, Channel 5, Community Channel and S4C. These public service broadcasters are regulated by their licences and the relevant Acts.

2.5 The Department of Culture, Media and Sport (DCMS) is responsible for the formulation of policies relating to the broadcasting and creative industries in UK. DCMS has a role in a range of broadcasting issues, such as setting the framework for PSB, and ensuring that the regulatory framework for broadcasting fosters fair and effective competition, promotes high quality broadcasting, provides a high level of consumer protection, and safeguards freedom of expression. DCMS also conducts a review of BBC's Charter once every 10 years to benchmark BBC's services with its objectives and to consider its future. DCMS reports to the Parliament where the Select Committee for Culture, Media and Sport has been appointed by the House of Commons to examine the expenditure, administration and policy of DCMS and its associated public bodies. In his oversight of BBC, SSCMS has certain powers, such as the power to approve and review the operation of new services funded by income from the licence fee.

Chapter II : Overseas Experience in Public Service Broadcasting

2.6 Ofcom, a body corporate established by the Office of Communications Act 2002, is the independent regulator and competition authority for the communications industries in the UK. It has the responsibility to ensure the availability throughout the UK a wide range of television and radio services which are of high quality and calculated to appeal to a variety of tastes and interests; and the maintenance of plurality in the provision of broadcasting. All licensed television and radio broadcasters in the UK under the Communications Act 2003 are obliged to observe all codes and practices of Ofcom, including the Broadcasting Code produced by its Content Board, established under section 12(1) of the Communications Act 2003. Under section 12(2) of the Act, the Content Board shall consist of a chairman and such number of other members appointed by Ofcom as it thinks fit. The Broadcasting Code, covering standards in programmes, sponsorship, fairness and privacy for broadcasting, is the product of extensive consultation. Currently, over 800 licences have been granted for commercial television services⁹ and there are over 350 analogue and digital radio stations, including both national and local services, in the UK. They are all under the Ofcom's oversight.

2.7 Ofcom maintains an arm's length relationship with the broadcasters under its supervision. It does not vet the programme content before broadcasting but deals with all complaints about broadcasters' programmes such as those concerning standards in programmes and complaints of unfair treatment and/or infringement of privacy. From time to time, Ofcom conducts reviews to improve the quality of broadcasting. For example, in 2003, Ofcom conducted a review on PSB and published the final report in February 2005. In the final report, Ofcom made a number of recommendations, including a new Public Service Publisher¹⁰, charged with using new media platforms to deliver distinctive, high quality, UK-oriented public service programme content.

⁹ *Department for Culture, Media and Sport.* (2006) Available from <http://www.culture.gov.uk/broadcasting/> [Accessed September 2006].

¹⁰ A public service publisher is a new type of PSB providers. It uses all communication platforms to achieve reach and impact, from broadband to mobile platforms as well as digital television. It also provides fully converged content, linking together a wide selection of broadband and interactive content in innovative ways.

Chapter II : Overseas Experience in Public Service Broadcasting

Public service mandate for public service broadcasters

2.8 The objects of BBC are set out in Article 3 of the current Royal Charter. Under Article 3(a), BBC is required "*[T]o provide, as public services, sound and television broadcasting services (whether by analogue or digital means) and to provide sound and television programmes of information, education and entertainment for general reception in Our United Kingdom of Great Britain and Northern Ireland, the Channel Islands and the Isle of Man and the territorial waters thereof, and on board ships and aircraft*"

2.9 For licensed public service broadcasters, their public service remits are set out in legislation. For example, section 265 of the Communications Act 2003 stipulates the public service remit for Channel 4. Channel 4 was originally established as a subsidiary of the Independent Broadcasting Authority¹¹. In 1993, the Channel Four Television Corporation was established under the Broadcasting Act 1990 and all the publisher/broadcaster functions of Channel 4 were transferred to the new corporation. Under section 265 of the Communications Act 2003, Channel 4 is required to provide a broad range of high quality and diverse programmes which should demonstrate innovation, appeal to the tastes and interests of a culturally diverse society, provide education and exhibit a distinctive character.

2.10 Apart from BBC and the licensed public broadcasters, there are also smaller-scale channels providing PSB services. Community Channel, which was launched in September 2000, is one of these channels. It is subject to the Communication Act 2003 and regulations set by Ofcom. Owned by the Media Trust which is the charity that works with the media industry to help the voluntary sector communicate, the Community Channel aims to inspire people to take action on the causes and issues that matter to them. It is now a free-to-air television station available to 16.5 million digital households in the UK. All major UK broadcasters have pledged to help support Community Channel by signing a Joint Declaration in November 2004.

¹¹ The Independent Broadcasting Authority and the Cable Authority which regulated the radio broadcasting industry were replaced by the Independent Television Commission and the Radio Authority respectively in 1991. In 2003, these regulators were replaced by Ofcom under the Communications Act 2003.

Chapter II : Overseas Experience in Public Service Broadcasting

Mission and programme content

BBC

2.11 BBC's mission is to inform, educate and entertain. It provides eight interactive television channels, 10 radio networks, over 50 local television and radio services and maintains an interactive website. It also operates BBC World Service to provide international news, analysis and information in English and 42 other languages on radio and the Internet. While the BBC radio services has taken up 66% of the radio market share, BBC One and BBC Two television services together have accounted for 34% of television audiences in 2004-05.

2.12 On programmes for minorities, BBC broadcasts in Gaelic, Welsh, Irish and Ulster Scots, provides a wide range of specialist-language programmes, while BBC World Service provides 32 vernacular radio services and eight online vernacular languages. To ensure that the BBC's services are accessible to people who have visual, hearing, motor or cognitive impairments, some of the BBC's programmes are captioned, signed or have audio descriptions.

2.13 While 50% of BBC's television programmes are produced in-house, 25% of the production is commissioned to independent production companies and the remaining 25% is open to all producers. For many years, BBC has outsourced 10% of its radio programmes for certain genres to the independent radio production sector.

Channel 4

2.14 Channel 4 provides a wide range of programmes that reflect the diversity and complexity of modern UK, including programmes for children or new immigrants. Its core audiences are those aged 16 to 34¹². Programmes

¹² Channel Four Television Corporation. (2006) *Report and Financial Statements 2005*. Available from http://www.channel4.com/about4/pdf/2005_C4_Complete.pdf [Accessed September 2006]

Chapter II : Overseas Experience in Public Service Broadcasting

dealing with disabilities such as Progeria, Primordial Dwarfs, Alzheimer's and speech disorders are available.

2.15 Channel 4 does not produce its own programmes but commissions more than 300 independent production houses across the UK. To enhance its accountability, the Communications Act 2003 requires Channel 4 to publish annually a Statement of Programme Policy setting out its goals and benchmarking the performance against the goals. Channel 4 has a market share of 9.8% in 2004-05.

Corporate and financing structure to ensure editorial independence

BBC

2.16 Under the Charter and Framework Agreement, BBC is protected from any editorial interference from the government, Parliament and commercial organizations. It is also required to set out its editorial standards in the BBC Editorial Guidelines, which serves as a working document for programme makers. The Guidelines are drawn up by the BBC Editorial Policy Unit and approved by the Board of Governors. According to BBC World Service, it operates independently of the government albeit funded by the Foreign and Commonwealth Office.

2.17 BBC receives most of its funding from the licence fee (which is 77% of its total funding, i.e. £3,101 million¹³ in 2005-06) paid by households possessing televisions, supplemented by income (16% of total funding, £620 million in 2005-06) generated through its commercial subsidiaries which sell goods and services relating to the BBC brand and/or its services around the world. The annual rate of licence fee is set according to a formula announced by the UK government in February 2000 based on an independent review. Under the formula, the annual increase in the licence fee from 2000-01 to 2006-07 is pegged to the change in the Retail Prices Index level plus 1.5%. Effective from 1 April 2006, the annual licence fee for a colour television set

¹³ The exchange rate of Pound Sterling to Hong Kong Dollar for September 2006 was £1=HK\$14.805.

Chapter II : Overseas Experience in Public Service Broadcasting

and a black and white television set is £131.50 and £44.00 respectively. BBC World Service is funded in full by the Foreign and Commonwealth Office, and this accounts for 6% (i.e. £239 million in 2005-06) of BBC's source of funding.

2.18 Review of the BBC's Charter is conducted by DCMS once every 10 years to benchmark BBC's services with its objectives and to consider its future. As the current Royal Charter will expire in 2006, DCMS has started the new Charter Review process in 2003 and in March 2006, a White Paper on the future of BBC was published. The White Paper proposes, among other things, to replace the Board of Governors by the BBC Trust and the Executive Board. The new Charter was subsequently accepted by the Queen of UK on 19 July 2006 and will last until 31st December 2016. Details of the proposals in the White Paper and the new Charter are in **Appendix II-(b)**.

2.19 After examining alternative funding options for BBC for the next Charter period, the UK government decides that the licence fee funding model will continue but if BBC is to launch any new service funded by licence fees, Ofcom will first conduct a market impact assessment based on a public value test conducted by BBC itself. The scope for alternative funding mechanism will also be reviewed around the end of the digital switchover in 2012.

Channel 4

2.20 While the government has made available the frequency spectrum, Channel 4 is funded entirely by advertising and its own commercial activities such as subscription television channels, sale of programmes, provision of Internet advertising and leasing of studio facilities. From 1 November 2004 onwards, Channel 4 has been under the regulation of the Advertising Standards Authority which enforces Ofcom's Advertising Standards Codes for television and radio broadcasting and handles related complaints.

2.21 The review conducted by Ofcom on PSB concludes that Channel 4 shall remain a commercially-funded public service broadcaster. With the digital switchover, Channel 4 is facing a number of challenges such as the possible decrease in advertising revenues due to audience fragmentation.

Chapter II : Overseas Experience in Public Service Broadcasting

Channel 4 has announced an anticipated funding deficit of £100 million per annum by 2009-10. As such, Ofcom has proposed some self-help measures and regulatory support to secure Channel 4's position as a public service broadcaster.

Mechanism to enhance public accountability

BBC

2.22 Under the existing Charter, the BBC is answerable to its Board of Governors appointed in accordance with the Nolan principles that public appointments should be made on merit. The Board acts as the trustee for the public interest and the day-to-day management of the BBC is handled by the Executive Board and three sub-boards.

2.23 Under the new Charter, the government proposes to replace the Board of Governors by the BBC Trust which will have a Chairperson, a Vice Chairperson and 10 members appointed by Order in Council. The existing Executive Board will also be reconstituted into a new Executive Board, which includes mainly senior executives, with a significant minority of non executives. The Board is chaired by the Director-General to deliver BBC's services within the framework set by the Trust. Under the new Charter, a "triple lock" system will be established to ensure the highest standards in BBC's productions. In future, every BBC service will be run according to a new, detailed service licence issued by the BBC Trust. Any significant change in or establishment of new services of the BCC will undergo a Public Value Test, which involves a Public Value Assessment conducted by the BBC Trust, and a Market Impact Assessment overseen by a Joint Steering Group comprising members drawn from Ofcom and the BBC Trust. It is anticipated that the new arrangement will help meet the BBC's purposes/objectives to enrich people's lives with programmes and services that inform, educate and entertain.

2.24 BBC is accountable to the National Audit Office which scrutinizes public spending on behalf of Parliament, and the Public Accounts Committee

Chapter II : Overseas Experience in Public Service Broadcasting

of the House of Commons. It is accountable to the public through publishing Statements of Programme Policy and benchmarking its performance with the stated goals.

2.25 To ensure that its schedule and programmes will best serve its audience needs, BBC has conducted a review in 2004-05 to understand viewers' perceptions of its channels. The review has led to shifting of funding away from entertainment programmes, a reduction in the volume of lifestyle programmes and an increase in the amount of arts and current affairs programmes in peak time.

Channel 4

2.26 Channel 4 is overseen by its Board which provides entrepreneurial leadership for the Corporation, approves its strategic objectives and ensures that Channel 4's responsibilities are discharged in accordance with all applicable laws and regulations. The Board comprises the Chairman, eight non-executive members and four executive members. The existing Chairman was appointed by the then Independent Television Commission (duties of which being taken over by Ofcom) in 2003. The term of office of non-executive members shall not exceed five years.

2.27 Under the Broadcasting Act 1990, BBC and Channel 4 are accountable to Parliament by submitting its annual reports and accounts to the SSCMS who will table copies of them before each House of Parliament. They are also subject to inquiry by the Select Committee for Culture, Media and Sport.

Chapter II : Overseas Experience in Public Service Broadcasting

Public broadcasters' role in meeting new global challenges

Digitalization

2.28 The UK has the highest digital television penetration in the world¹⁴. As of 31 December 2005, digital television was viewed by 17.5 million (i.e. 70%) households possessing television sets.

2.29 Subsequent to the government's announcement in September 1999 for a digital switchover subject to accessibility and affordability by the general public, commercial terrestrial broadcasters and BBC, in collaboration with the government and Ofcom, have devised an action plan with an implementation timetable. In the White Paper issued after the Charter Review of BBC, the UK government confirms that BBC should continue to play a leading role in the switchover process scheduled to take place from 2008 to 2012.

2.30 At present, Channel 4 is extending the fulfilment of its remit to digital channels by strengthening its programmes, increasing the investment in originated drama-docs and seeking new cross-platforms to extend access of programmes.

2.31 There are around 44 million people in the UK living in areas where national digital radio services are available. Ofcom has awarded one national commercial multiplex licence carrying eight programme services and 44 local digital multiplex licences which together carry about 300 commercial radio services.

Community broadcasting services

2.32 Community radio has come into existence in the UK in early 2005. Community radio stations are locally owned, non-profit-making and run by mostly volunteers on public service principles for community benefit.

¹⁴ Ofcom. (2006) *News Release: UK is world leader in digital television viewing (17 March 2006)*. Available from : http://www.ofcom.org.uk/media/news/2006/03/nr_20060317 [Accessed September 2006].

Chapter II : Overseas Experience in Public Service Broadcasting

Funding for community radio stations comes from advertising and sponsorship, public funding and grant from the Community Radio Fund¹⁵.

2.33 The legislative and regulatory framework for community radio service is provided for by the Communications Act 2003, the Community Radio Order 2004 and regulations set by Ofcom. Ofcom also handles the applications of community radio stations for the Community Radio Fund. In response to its invitation in September 2004, Ofcom received 194 applications for community radio licences and awarded the first licence to Forest of Dean Community Radio in March 2005. As at September 2006, the total number of licensed community radio stations in the UK was 107¹⁶.

Canada

2.34 PSB in Canada commenced in 1927 when the first public radio station received a provincial grant to offer educational radio programmes. At that time, there was also concern over the growing dominance of US broadcasting over the Canadian airwaves and the disproportionate number of Canadians receiving and listening to radio programmes broadcast from the US.

2.35 In 1936, the Canadian Broadcasting Corporation (CBC) was established as a Crown corporation by the Broadcasting Act to take over the Canadian Radio Broadcasting Commission, Canada's first public service broadcaster and regulator. In 1952, CBC's broadcasting was extended to television alongside radio broadcasting. In 1958, CBC's regulatory function was removed and transferred to a new regulator, which was subsequently replaced by the Canadian Radio-television and Telecommunications Commission (CRTC) in 1968.

¹⁵ The Community Radio Fund is established to help fund the core costs of running a community radio station. Between 2004-05 and 2007-08, DCMS will provide £500,000 each year to the Community Radio Fund administered by Ofcom for the funding of community radio services.

¹⁶ *Community Media Association*. (2006) Available from: <http://www.commedia.org.uk/about-community-media/community-radio/>. [Accessed September 2006].

Chapter II : Overseas Experience in Public Service Broadcasting

Legislative and regulatory framework

2.36 Currently, the Canadian broadcasting system is governed by the Broadcasting Act 1991 which provides, among other things, that the Canadian broadcasting system, operating primarily in the English and French languages, is to be comprised of public, private and community elements.

2.37 Government policies on broadcasting fall within the jurisdiction of the Department of Canadian Heritage (DCH) which is responsible for national policies and programmes that promote Canadian content, foster cultural participation and strengthen connections among Canadians. It is DCH's responsibility to support the development of the national broadcasting system, propose legislation, hear appeals of licensing decisions and advise the government on regulatory issues, including evolving new technologies and content in the new media environment.

2.38 CRTC has quasi-judicial powers to implement the objectives of the Broadcasting Act. It is an independent public authority that is responsible for the regulation and supervision of all aspects of the Canadian broadcasting system, including the issuance, amendment and renewal of broadcasting licences and the enforcement of compliance with licence conditions. Although fully funded by annual government appropriations, CRTC as the industry regulator works at an arm's length with the government.

Public service mandate for public broadcasters

2.39 The public service mandate of CBC is set out in section 3(1) of the Broadcasting Act 1991 under which CBC, as the national public broadcaster, should "*provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains*".

2.40 Apart from CBC which provides its services on a nation-wide basis, there are other public service broadcasters operating at the provincial or community level and funded by corporate/individual donors or cable companies. A well-known example is Cable Public Affairs Channel (CPAC)

Chapter II : Overseas Experience in Public Service Broadcasting

which was established in 1992 by a consortium of Canadian cable companies to broadcast the proceedings of the House of Commons. CPAC is mandated to broadcast programmes such as information, education, public affairs and documentaries in both English and French. It does not present its own editorial position but runs the entire content of speeches or proceedings without editing.

Mission and programme content

2.41 CBC's mission is to tell Canadian stories, to support Canadian arts and culture and to build bridges among the English and French communities of Canada. It operates two national television networks, four national radio networks, the Galaxie (a 24-hour, 45-channel digital pay-audio service), and a subscription satellite radio service. In 2004-05, the audience share of CBC's English and French television networks during the prime-time period (i.e. 7 pm to 11 pm) stood at 6.9% and 22.5 % respectively. The corresponding figure for CBC's English and French radio networks was 9.1% and 12.6% respectively.

2.42 In 2005, CBC's English-language television network provided 15 different genres of programmes, of which 75% to 80% were Canadian content. It also provides descriptive video programming and captioning for disabled people to facilitate their access to its programmes. For its English-language radio network, not less than 50% of programmes are devoted to the broadcasting of Canadian content.

2.43 In addition to creating in-house programmes, CBC sources programmes from independent producers, which accounted for 81% of non-news and sports programmes of its English-language television service in 2004-05. The arrangements are subject to the terms and conditions established by CBC, such as the standards of quality and journalistic principles or pre-broadcast acceptance.

Chapter II : Overseas Experience in Public Service Broadcasting

Corporate and financing structure to ensure editorial independence

2.44 The Broadcasting Act 1991 specifies that CBC should enjoy freedom of expression and journalistic, creative and programming independence. The Canadian Charter of Rights and Freedoms guarantees freedom of thought, belief, opinion and expression. The *Journalistic Standards and Practices*¹⁷ developed in-house by CBC provide the policy framework within which CBC's journalism seeks to meet its expectations and obligations.

2.45 The annual budget of CBC in 2005-06 is about C\$1.5 billion¹⁸. Two-thirds of its income comes from annual government appropriations, while one-third is from commercial advertising and subscriptions to Galaxie and satellite channels. Based on the 2005-06 appropriations, the cost of CBC per Canadian is C\$34 per year. The government has also set aside an envelope within the Canadian Television Fund for television projects triggered by CBC that will amount to some C\$92 million in 2006-07. Deriving about 22% of its revenue from advertisement and programme sales, CBC has been criticized by other market players for posing unfair competition.

2.46 On a present value basis, CBC's total appropriations have declined over the past 20 years. The 2005-06 appropriations represented a cumulative drop of some C\$500 million when compared to that of 1984-85. Increased revenue from advertising and subscription fees for CBC's specialty services, coupled with some cost-saving measures have helped offset the shortfall. Nevertheless, CBC's President has voiced the need for a long-term stable funding from the government.

2.47 In 2003, the Standing Committee on Canadian Heritage of the House of Commons published a comprehensive report of a two-year study on every aspect of the Canadian broadcasting system. The report sets out several recommendations, such as providing CBC with increased and stable multi-year

¹⁷ Amendments to CBC's *Journalistic Standards and Practices* require the approval of CBC's Board, which can also direct the internal Standards and Practices Committee to review them.

¹⁸ The exchange rate of Canadian Dollar to Hong Kong Dollar for September 2006 was C\$1 =HK\$7.00875.

Chapter II : Overseas Experience in Public Service Broadcasting

funding (three to five years) and requiring CBC to deliver a strategic plan, with estimated resources requirements, to the Parliament on how it would fulfil its public service mandate. In October 2005, the Standing Committee further called on the government to review the mandated role and services of CBC, in particular in the light of the new media environment and technological advancement.

Mechanism to enhance public accountability

2.48 CBC is governed by a board of 12 directors (including the Chairperson and the President) who are selected from among eminent citizens of different social background and appointed by the Governor-in-Council¹⁹ for a renewable five-year term. The Board of Directors is responsible for overseeing the conduct of CBC's operation, supervising its management, and ensuring effective communication between CBC and the government and other stakeholders. The Chairperson shall preside at the Board meetings. The President, who also serves as the Chief Executive Officer of CBC, handles the day-to-day operations of CBC. In 2004, the Board of Directors of CBC adopted the Corporate Policy on Disclosure of Wrongdoings under which a CBC employee could make a report of any wrongdoings without the risk of retaliation and with the assurance that the report is treated strictly confidential.

2.49 As Canada's national public service broadcaster, CBC is accountable to the federal government, the Parliament and the public. It is required to submit an annual corporate plan and an annual report to the Parliament via the Minister of Canadian Heritage. CBC's directors and officers can be called upon to testify before the Standing Committee on Canadian Heritage of the House of Commons on CBC's operation and its use of public resources.

2.50 CBC is required by its licence conditions to submit an annual report to CRTC. The annual report provides detailed information on CBC's compliance with the conditions set out in its broadcasting licences. Under the Broadcasting Act 1991, CRTC has the power to inquire into any alleged

¹⁹ The Canadian Governor-General is the representative of the Queen in Canada. The Governor-in-Council is the Governor General acting on the advice of the federal Cabinet.

Chapter II : Overseas Experience in Public Service Broadcasting

contravention or non-compliance of the licence conditions by CBC, and to report to the Parliament through the Minister of Canadian Heritage on the alleged contravention or non-compliance after the inquiry. The financial and management system of CBC is examined by the Auditor General of Canada at least once every five years. CBC keeps the public informed of its policies and operation through the posting of relevant information on its website. CBC has also established the Office of Ombudsman which reports directly to the President and the Board of Directors to investigate into audience complaints and comments in accordance with CBC's in-house Journalistic Standards and Practices.

2.51 In June 2004, the Standing Committee on Canadian Heritage published a report of its two-year study on how successful Canada's broadcasting system has been in meeting the objectives of the Broadcasting Act 1991. In June 2006, the Standing Committee noted that the Minister of Canadian Heritage and Status of Women would undertake to review the mandated role and services of CBC in fall 2006. This will provide input for the consideration of renewal of CBC's licence in 2008.

Public broadcasters' role in meeting new global challenges

Digitalization

2.52 In Canada, digital radio broadcasting was introduced in 1995 and is primarily a simulcast of existing AM and FM programmes. By February 2005, CRTC has issued 76 transitional licences for digital radio broadcasting, 18 of which were issued to CBC.

2.53 In June 2002, Canada adopted a voluntary, market-driven transition model for launching digital television broadcasting, without mandating switch-over deadlines. CBC was issued transitional digital television licences and began broadcasting in high-definition television in 2005 at a capital cost of C\$190 million over 5 years and an annual operating cost of C\$19 million.

Chapter II : Overseas Experience in Public Service Broadcasting

2.54 Over 40% of Canadians are now living in digital households with subscriber-access to over 200 channels. In addition to channel fragmentation, the emerging digital media space as a result of digitalization has also given rise to platform fragmentation. As it is necessary to present the programme in different formats in order to serve audiences over multiple platforms, the costs of distributing/versioning the content are high. CBC's goal under the new media strategy is to strive to be "the most important and popular source of Canadian news, information, and entertainment content on digital networks".

Community broadcasting services

2.55 In 2000, CRTC issued a policy document which sets out the licensing framework for community radio stations that either provide the only private radio service in a locality or operate in competition with other private radio services. These stations are allowed to air advertisements and derive revenue from other sources such as listener donations.

2.56 According to CRTC, the role of the community television channels should be primarily of a public service nature, reflecting the community and promoting active participation of its citizens. Their programmes should also complement those provided by conventional broadcasters. These community channels also derive part of their revenue from sponsors.

The United States

2.57 PSB commenced in the US in the 1920s, when the first radio station broadcast instructional and cultural programmes. Following a decision of the Federal Communications Commission (FCC), the industry regulator, the first public television station began its operation in US in 1953. In 1967, the Public Broadcasting Act was enacted, which set out the policy framework for the national public broadcasting system in the US. Unlike many developed places, US does not have a single national public service broadcaster. It has put in place a diversified structure which governs broadcasting according to its three major functions: "production", "distribution" and "exhibition".

Chapter II : Overseas Experience in Public Service Broadcasting

Legislative and regulatory framework

2.58 In US, the Corporation for Public Broadcasting (CPB) has been set up by the Public Broadcasting Act of 1967 (The Communications Act 1934, as amended) as a private, non-profit-making organization to fund the growth and development of public radio and television broadcasting in the US. "Production" of programmes can be carried out by individual broadcasters or independent producers. "Distribution" of public service programmes is carried out mainly through two membership organizations, the National Public Radio (NPR) for radio programmes, and the Public Broadcasting Service (PBS) for television programmes to be "exhibited" by their member stations. In US, there are over 1 000 public radio and television stations. Each public broadcaster is required to obtain a licence from the FCC.

FCC

2.59 Established under the Communications Act of 1934, FCC develops, recommends and administers the federal policy and regulatory regime relating to radio and television broadcasting, sets licensing criteria and renews broadcasting licences in consideration of public interest. While striving to maintain the greatest degree of editorial independence for broadcast licensees, FCC administers, to a limited degree, rules concerning the content of programmes broadcast. It is governed by five Commissioners, including the Chairperson, appointed by the US President and confirmed by the Senate for five-year terms. Only three Commissioners may be members of the same political party.

CPB

2.60 The public service mandate of CPB is set out in the amended Communications Act of 1934, which stipulates that CPB performs solely an advisory role without exercising any control over the daily operation of the public radio and television stations funded by it. It protects the public service broadcasters' editorial independence through funding specific projects such as

Chapter II : Overseas Experience in Public Service Broadcasting

updating NPR's in-house ethics guide. CPB's mandate also limits the jurisdiction of the federal agencies, including FCC, over its operation.

2.61 CPB distributes the federal appropriations received (US\$378 million²⁰ or 85% of its total revenue in 2003-04) in three-year advance cycles to support the operation of public radio and television stations through an established formula which directs CPB to allocate 6% of the appropriations for "system support"²¹ and not more than 5% for its own administrative expenses. 75% of the remaining fund is for public television and 25% for public radio services. Of the funding given to television stations, 25% is reserved for bidding for national programming to cater for priority programming. CPB also supports public service broadcasters in migrating from analogue to digital transmission.

2.62 CPB is prohibited by statute from owning or operating any television or radio broadcast station, system or network, and from producing programmes, scheduling programmes for dissemination or disseminating programmes to the public²². It supports the production of radio and television programmes for minorities, the unserved and underserved audiences.

2.63 The CPB's Board of Directors consists of up to nine members selected from among US citizens eminent in specified fields. They are appointed by the US President, by and with the advice and consent of the Senate, for renewable six-year terms. No more than five members of the Board may be members of the same political party. The Board appoints the President and Chief Executive Officer, who in turn names other officers to handle CPB's day-to-day operation.

2.64 To safeguard its corporate governance, the CPB Board established the Office of the Ombudsmen in April 2005 and appointed two ombudsmen to

²⁰ The exchange rate of US Dollar to Hong Kong Dollar for September 2006 was US\$1 = HK\$7.777.

²¹ System support is largely used to pay the cost of interconnection facilities and other expenses, and if available funding levels permit, for projects and activities that will enhance PSB.

²² Please see section 396(g)(3) of the Communications Act 1934, as amended by the Public Broadcasting Act of 1967.

Chapter II : Overseas Experience in Public Service Broadcasting

act as evaluator of journalistic integrity and review public complaints. Following the investigation by the Office of Inspector General into CPB's alleged violation of the Public Broadcasting Act, CPB has established three standing committees to strengthen its governance, accountability and transparency.

2.65 On accountability, CPB is required to submit an annual report to Congress providing a comprehensive and detailed account of its operations, activities, financial status and accomplishments. It is also required under the Public Telecommunications Act of 1988 to report annually to Congress on the provision of services to minority and diverse audiences by public broadcast stations.

2.66 The financial transactions of CPB are subject to the audit of the General Accounting Office²³. The audit report shall be tabled before the Congress. Where necessary, CPB's directors and officers can be called upon to testify before Congress. CPB is also required to conduct consultations and periodic reviews with public service broadcasters for its grant-making policies, and to seek public comments on the quality, objectivity and balance of the programmes provided by public broadcast stations.

Public service mandate for public service broadcasters

2.67 Since both PBS and NPR are not statutory bodies, the US broadcasting and telecommunications legislation does not prescribe any public service mandate for PBS and NPR.

Mission and programme content

2.68 PBS was established in 1969 as a private, non-profit-making membership organization to operate and manage a nationwide programme distribution system interconnecting all the local public television stations.

²³ The General Accounting Office examines the use of public funds, probes for waste, fraud and inefficiency, and evaluates federal programmes and activities. It also provides analyses, recommendations and other assistance to help Congress make effective oversight, policy and funding decisions.

Chapter II : Overseas Experience in Public Service Broadcasting

PBS's mission is to use the power of non-commercial television, the Internet and other media to enrich the lives of the US people through quality programmes and services that inform, inspire and educate. It funds the creation and acquisition of television programmes from different sources and distributes them to its member stations, which are operated by non-profit making community organizations, colleges/ universities, and state and local authorities. It also operates educational services, sells goods and services, markets programmes and enlists philanthropic support. PBS is prohibited from producing any programmes for broadcasting. It also provides descriptive video services and captioning for people with hearing impairment to facilitate their access to public service programmes.

2.69 The mission of NPR, a private, non-profit-making organization set up in 1970, is to work in partnership with member stations to create a more informed public. Apart from providing, acquiring and distributing radio programmes to its member stations, NPR is authorized to produce radio programmes for more than 130 hours per week. It also operates an international radio service for overseas audiences. NPR's member stations can acquire or produce their own programmes.

Corporate and financing structure to ensure editorial independence

2.70 Editorial independence is enshrined in the First Amendment to the US Constitution which proscribes Congress's censorship of broadcasting materials and interference with freedom of expression in broadcasting. Individual public broadcasting stations are also protected under the Communications Act of 1934, which prohibits FCC from censoring broadcast materials and making any regulation that would interfere with freedom of speech. However, FCC does regulate content containing obscene/decent materials, some types of lottery information, or acts soliciting money under false pretences etc.

2.71 In June 2005, the PBS Editorial Standards Review Committee, which included outside journalists and PBS member station leaders, presented to PBS's Board of Directors its report and recommendations after a thorough

Chapter II : Overseas Experience in Public Service Broadcasting

examination of the standards and codes of many media and journalistic organizations. The PBS Programme Policies were updated accordingly.

2.72 NPR's News Code of Ethics and Practices is prepared by its Vice President for News based on the reviews of the ethics codes of other news organizations and in consultation with news division managers, Office of the General Counsel, national labour union of television of radio artists and NPR staff etc.

2.73 PBS is primarily funded by annual fees paid by member stations, grants from CPB and the federal government and investment income. It is also subsidized through Donated Broadcast Right which enables it to acquire programmes at a cost lower than the market rate from producers who have received donation in producing the programmes. While being prohibited from airing advertisements, public television stations are allowed to receive corporate sponsorships. PBS has issued in-house guidelines governing the acceptability of funding arrangement from third parties to finance the production or acquisition of a PBS programme.

2.74 NPR's main sources of funding are the programming fees paid by member stations, grants, contributions and sponsorship, and investment income. In 1992, it established the NPR Foundation for building a substantial endowment fund to help insulate NPR from difficult economic times and fund new initiatives. It has also established its own NPR News Code of Ethics and Practices to ensure that the activities of NPR that fall outside journalism do not jeopardize its journalistic independence or the roles of programming staff as journalists.

Mechanism to enhance public accountability

2.75 The PBS's Board of Directors consists of 27 members representing member stations, licensees of non-commercial educational television stations and the general public. In October 2005, PBS appointed an ombudsman to ensure that PBS upholds its own standards of journalistic ethics for the programmes distributed to its member stations. Being the arbiter of deciding

Chapter II : Overseas Experience in Public Service Broadcasting

whether to accept and when to distribute the content produced by outside parties, PBS makes itself accountable to its viewers and member stations for the quality and integrity of the programmes concerned.

2.76 NPR is governed by a 17-member Board of Directors, ten of whom are managers of NPR's member stations and the remaining seven include the President of NPR who is appointed by the Board to serve as NPR's Chief Executive Officer. In 2000, NPR appointed an ombudsman to handle queries from the public regarding editorial standards in NPR's programming.

2.77 CPB-funded stations, such as members of PBS and NPR, are subject to internal audit and reporting requirements. They are required to conduct biennial audits, make financial records available and establish advisory boards. The advisory boards hold open meetings, review the programming and services of the station and advise the governing boards accordingly.

Public broadcasters' role in meeting new global challenges

Digitalization

2.78 Since 2001, CPB has received appropriations from Congress to support the conversion from analogue to digital transmission for both public radio and television stations. By end-January 2006, Congress had provided CPB with nearly US\$220 million to support 461 public radio stations and 285 public television stations to convert from analogue to digital broadcasting.

2.79 In March 2004, PBS launched the PBS HD Channel to provide a fully packaged channel with high-definition and wide-screen television programmes round-the-clock. The PBS HD Channel is offered to the public by over 90% of PBS's member stations which have digitalized their services and by local digital cable providers. By early 2006, public digital television services are available to approximately 95% of all of the US households.

2.80 In October 2002, FCC endorsed a technology for radio stations to adopt digital broadcasting. In January 2003, NPR announced the Tomorrow

Chapter II : Overseas Experience in Public Service Broadcasting

Radio project to test new digital technologies and services operating within the FCC-endorsed digital radio system. By April 2006, there are 101 NPR member stations broadcasting on digital radio technology in the US. Public digital radio services had a penetration rate of 76% in early 2006.

Community broadcasting services

2.81 In the US, public access television channels are available for use by the general public to produce and distribute local and community-initiated programming and content for public, educational, or governmental (PEG) purposes. They are usually administered either by the cable operator or a third party designated by a local franchising authority²⁴. Under the Communications Act of 1934, local franchising authorities may require cable operators to provide channels and facilities for PEG use. In most states, the local franchising authority directly controls these channels.

Germany

2.82 In Germany, radio and television broadcasting is administered in a decentralized manner to prevent the exploitation of the media by the state as under Nazi rule. The two national public service broadcasters, established after World War II, have been obligated to provide programming that is pluralistic and independent of the government.

2.83 The first national public service broadcaster, the *Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland* (ARD)²⁵ was founded in 1950. ARD consists of nine independent regional public service broadcasters set up under the state law, and an international broadcaster, *Deutsche-Welle*, established under the federal law to provide both radio and television services in Germany. The second national public service broadcaster, the *Zweites Deutsches Fernsehen*

²⁴ Local franchising authorities refer to governmental entities within cities, counties or municipalities empowered to enter into franchise agreements with cable operators.

²⁵ The English translation of ARD is the Association of Public Broadcasting Corporations in the Federal Republic of Germany.

Chapter II : Overseas Experience in Public Service Broadcasting

(ZDF), is a nation-wide non-profit-making public television broadcaster established by all 16 states in 1963.

2.84 Commercial broadcasting services in Germany are provided by two major national television broadcasters, several smaller television broadcasters, 190 local radio operators and 19 national radio operators in 2000²⁶.

Legislative and regulatory framework

2.85 PSB in Germany is governed by the Basic Law for the Federal Republic of Germany which specifies the constitutional mandate, the regulatory framework and editorial independence of public service broadcasters.

2.86 There is no specific regulatory authority for PSB in Germany. The Federal Constitutional Court ruled in 1961 that broadcasting legislation should fall within the jurisdiction of individual states. The state legislation covers the organizational structure and funding of the public service broadcasters and the fundamental directives on the content of programmes to be broadcast within the framework of the constitutional mandate. The federal government is responsible for administering all matters pertaining to telecommunications law, including technical transmission of television programmes and copyright issues.

2.87 As the Basic Law for the Federal Republic of Germany guarantees freedom of reporting by means of broadcasting, the state governments are not allowed to give directions or interfere in the programming of the public service broadcasters, except to point out when the broadcasters are in breach of the federal law.

²⁶ Organization for Economic Co-operation and Development. (2001) *OECD Communications Outlook 2001 – Broadcasting Section*.

Chapter II : Overseas Experience in Public Service Broadcasting

Public service mandate for public broadcasters

2.88 Article 5 of the Basic Law for the Federal Republic of Germany stipulates that *"Every person shall have the right freely to express and disseminate his opinions in speech, writing, and pictures and to inform himself without hindrance from generally accessible sources"*. In this connection, the broadcasting media in Germany is constitutionally tasked to provide the public with free information and opportunities to express their opinions.

Mission and programme content

2.89 The mission of ARD is to *"serve the public as a whole with programmes providing information, education and entertainment"*²⁷. ARD operates a national television network (First Channel), regional television channels (Third Channel), cable and satellite channels and digital television channels broadcasting a variety of programmes. Member broadcasters contribute television programmes to ARD with programming co-ordinated by a standing committee which enjoys scheduling autonomy. ARD has a market share of 13.5% in television services. ARD also provides regional radio services and international broadcasting services in different languages for overseas viewers and listeners.

2.90 ZDF has a remit to provide information, education and entertainment in its programming, reaching viewers of all ages and in all parts of Germany. ZDF operates the Second Channel which broadcasts primarily news and current affairs programmes. In addition, ZDF joins ARD to operate a radio channel providing news and cultural programming in Berlin and Cologne. It produces its own programmes as well as joins other broadcasters to co-produce programmes for its channels. The market share for ZDF's television services was also 13.5%.

²⁷ ARD. (2006) Available from: <http://www.ard.de/-/id=161952/property=download/kvlfq/index>. [Accessed September 2006].

Chapter II : Overseas Experience in Public Service Broadcasting

Corporate and financing structure to ensure editorial independence

2.91 Article 5 of the Basic Law for the Federal Republic of Germany stipulates that "*Freedom of the press and freedom of reporting by means of broadcasts and films shall be guaranteed. There shall be no censorship.*". As such, government agencies are not allowed to exercise any direct or indirect influence on the content of radio or television programming.

2.92 The Interstate Broadcasting Agreement (IBA) signed among the states of Germany stipulates the funding system for PSB. The main source of funding for PSB is television and radio licence fees, supplemented by income from advertising/sponsorship, revenue from co-production, co-financing and marketing of programmes. While ARD receives about two-thirds of the licence fee revenue to be shared among its member broadcasters, ZDF receives almost all the remaining one-third. The amount of licence fee is determined jointly by the state legislatures. In 2006, the monthly licence fee per household is €17²⁸ which is higher than the fee for commercial cable service at €15.

2.93 Under IBA, ARD member broadcasters adopt a revenue equalization system to safeguard the standard and variety of programmes produced and broadcast in all states, i.e. the financially stronger ARD members will support those less well-off, as the latter usually obtain less licence fee income from a smaller broadcasting area.

2.94 Regarding advertising on PSB channels, IBA stipulates that for both ARD and ZDF, the total advertising time shall not exceed 20 minutes per day and advertisements shall not be broadcast after 8:00 pm on Sundays and public holidays.

Mechanism to enhance public accountability

2.95 Public service broadcasters in Germany are usually headed by a Director-General, who has sole responsibility for the programming and is

²⁸ The average exchange rate of Euro to Hong Kong Dollar for September 2006 was €1 =HK\$9.982.

Chapter II : Overseas Experience in Public Service Broadcasting

obliged to uphold a neutral political stance. He/She is overseen by the Broadcasting Council and the Administrative Council which are set up in each public service broadcaster.

2.96 The Broadcasting Council is an independent programme monitoring committee, which comprises elected members from different sectors, including the federal legislature, political parties and trade unions, to ensure plurality of opinions. It advises the public service broadcaster on programming and monitors its adherence to programming principles. The Administrative Council is the management committee overseeing the administration and finance of the public service broadcaster. With most of its members appointed by the Broadcasting Council, the Administrative Council determines the budget and monitors the management and operation of the relevant broadcaster.

2.97 ARD member broadcasters are accountable to their respective state legislature pursuant to the state broadcasting law, which also governs their organization structure, the determination of licence fees and the content of programmes within the framework of the constitutional mandate. As regards accountability to the public, ARD is monitored by its Broadcasting Council on its adherence to the public programming mandate.

2.98 ZDF is accountable to all of the state legislatures under IBA, and to the public via its Broadcasting Council.

Public broadcasters' role in meeting new global challenges

Digitalization

2.99 In November 2002, digital terrestrial television (DTT) was first implemented in the Berlin-Brandenburg region where all analogue signals were switched off in August 2003. Subsidies to low-income households and an extensive consumer programme were some of the measures undertaken to facilitate digital uptake. According to the plan of the federal government, the

Chapter II : Overseas Experience in Public Service Broadcasting

entire country will switch to digital television and radio broadcasting in 2010 and 2015 respectively.

Australia

2.100 In Australia, radio broadcasting was introduced in 1923 under a "sealed set" scheme on a subscription basis, i.e. radio sets were tuned to a particular frequency to permit reception from one broadcasting station only. The "sealed set" scheme was replaced by a new system in July 1924, which precipitated the setting up of the Australian Broadcasting Commission as the national public service broadcaster operating radio network of 12 stations in 1932. The Commission began television broadcasting in 1956.

2.101 In 1983, the Parliament passed the Australian Broadcasting Corporation Act 1983 (ABC Act) to replace the Australian Broadcasting Commission with a new body corporate, the Australian Broadcasting Corporation (ABC). "Ethnic" broadcasting was first established by the Australian government in 1975 and was taken over in 1978 by Special Broadcasting Service Corporation (SBS), a statutory corporation established to serve as the national public service broadcaster providing multi-lingual and multi-cultural radio programmes. SBS expanded into television broadcasting in 1980.

Legislative and regulatory framework

2.102 Broadcasting services in Australia are regulated by the Broadcasting Services Act 1992, which also establishes the Australian Communications and Media Authority (ACMA) as the industry regulator.

2.103 The ABC Act and the Special Broadcasting Service Act (SBS Act) 1991 define the roles, functions, duties and powers of ABC and SBS respectively, as well as setting out their respective organization structure, public service mandate, independence and accountability. Both ABC and SBS are also subject to the Broadcasting Services Act 1992.

Chapter II : Overseas Experience in Public Service Broadcasting

2.104 ACMA is a unified regulator formed in July 2005 to regulate radio communications, telecommunications and online content in Australia. With the Department of Communications, Information Technology and the Arts (CITA) serving as its executive arm, ACMA is run by three full-time and four part-time members appointed by the Minister for CITA. ACMA's main responsibilities include fostering an environment in which the electronic media respects community standards and responds to audience needs, managing radio frequency spectrum, and representing Australia's communications and broadcasting interests internationally.

2.105 The Department of CITA provides strategic advice and professional support on policy areas such as broadcasting and online regulation, indigenous programmes, information and communications technology, intellectual property, and telecommunications. The Department of CITA helps develop legislation in relation to television, radio and online content by working closely with ABC, SBS and ACMA. It also oversees the development of digital television and the anti-siphoning regime²⁹ applicable to the acquisition of sporting rights.

Public service mandate for public service broadcasters

2.106 Section 6 of the ABC Act sets out the Charter of ABC, which provides that the functions of ABC include providing innovative and comprehensive broadcasting services of a high standard, promoting national identity and reflecting the cultural diversity of the Australian community, and transmitting to countries outside Australia programmes of news, current affairs, entertainment and cultural enrichment.

2.107 Section 6 of the SBS Act sets out the principal function of SBS, which is to provide multi-lingual and multi-cultural radio and television services that inform, educate and entertain all Australians and, in so doing, reflect Australia's multi-cultural society.

²⁹ The objective of the anti-siphoning scheme is to ensure that certain events are available to the whole viewing public by preventing pay television licensees from acquiring exclusive rights to the events.

Chapter II : Overseas Experience in Public Service Broadcasting

Mission and programme content

2.108 ABC's mission is to uphold its Charter through distinctive programmes and services that inform, educate and entertain. SBS's mission is to contribute to a more cohesive, equitable and harmonious Australia through its radio and television services.

2.109 Both ABC and SBS operate national analogue and digital television services. ABC runs four national and one regional metropolitan radio networks and three Internet music-based radio services while SBS broadcasts its radio service on a national network. To re-broadcast its programmes to the Asia-Pacific region, ABC provides an international television service and a short-wave international radio service. In 2004-05, the average audience shares for ABC's television and radio services were 17.2% and 20.4% respectively in the five mainland capital cities. The corresponding figure for SBS's television services in 2004 was 5.1%³⁰.

2.110 ABC's television services provide different genres of programming as well as proceedings of Parliament, regional and local programmes, featuring local sports, community events and rural issues. Mandated to provide multi-cultural and multi-lingual services, SBS's television services broadcast in more than 60 languages, with programmes supplied by more than 400 international and local sources. To facilitate the access of people with hearing impairment to their programmes, both ABC and SBS provide closed captioning and in the case of ABC, descriptive video programming. SBS Radio is considered to be the world's most linguistically diverse radio network broadcasting programmes in 68 languages.

2.111 In addition to in-house programmes, ABC also produces television programmes by commissioning the independent production sector or through co-production agreements. Similarly, while maintaining a small scale of in-house productions, SBS also acquires programmes from distributors/producers within and outside Australia or by commissioning

³⁰ SBS did not publish similar audience share figure for its radio services in the 2004-05 annual report.

Chapter II : Overseas Experience in Public Service Broadcasting

independent producers. Both ABC and SBS have published guidelines on the requirements for commissioned programmes and co-productions.

Corporate and financing structure to ensure editorial independence

2.112 Section 78 of the ABC Act empowers the Minister of CITA to direct ABC to broadcast certain matters if he/she is of the opinion that this is in the national interest, but he/she must provide reasons for the direction to be laid before the Parliament within seven days after the issuance of the direction. The ABC Board of Directors is required to maintain the independence and integrity of ABC which has developed the ABC Editorial Policies³¹ to enable programme makers and the public to understand the editorial and ethical principles that are fundamental to ABC.

2.113 Similarly, SBS is independent of the Australian government in its editorial and programming decisions. Under Section 12 of the SBS Act, ministerial directions can only be given in respect of broadcasting a particular matter in the national interest. Section 13 of the Act further sets out the limits on the government's directions to SBS. SBS has also developed the SBS Editorial Guidelines to provide information and points of reference for helping programming staff exercise their professional judgement when dealing with pressure from outside parties to present events or issues in a particular way.

2.114 Currently, both ABC and SBS receive government appropriations³² under a triennial funding arrangement in which the broadcasters are guaranteed baseline government funding indexed each year to allow for inflation. ABC is prohibited from accepting paid advertising or similar payments to ensure that its programming will not be subject to commercial influence. Unlike ABC, SBS is permitted to generate income from advertising and sponsorship subject to certain limits. Besides, both ABC and SBS also generate revenue from

³¹ Prior to approval by the ABC Board, the ABC's Editorial Policies were scrutinized by St James Ethics Centre, which provides a non-judgemental forum for the promotion and exploration of ethics and ethical decision-making.

³² During the early years of ABC, the corporation was financed entirely by revenue received from radio listeners in the form of licence fees. In 1949, the Australian government decided that ABC should be funded by government appropriations.

Chapter II : Overseas Experience in Public Service Broadcasting

other sources, including the commercial activities operated by the ABC Enterprises³³, interest/dividend incomes, sale of assets, programmes, merchandising and donations.

2.115 ABC also operates ABC Enterprises as its commercial arm to generate revenue from selling programme content, retailing programme-related consumer products and leasing ABC's spare production resources.

2.116 In 2004-05, ABC derived 77%, 15% and 8% of its funding from government appropriation, commercial activities and other sources respectively; while 78%, 14% and 8% of SBS's funding came from the government, advertising/sponsorship and other incomes respectively.

Mechanism to enhance public accountability

2.117 As provided in the ABC Act, the ABC's Board of Directors consists of the Managing Director who is the Editor-in-Chief of the corporation and five to seven non-executive Directors, all appointed on a renewable five-year term, and a Director elected by staff³⁴. The Managing Director is also responsible for day-to-day operation of the corporation and the non-executive Directors must possess the necessary expertise or experience in broadcasting, communications or management services.

2.118 Under the SBS Act, the SBS's Board of Directors comprises the Managing Director and four to eight non-executive Directors. Similar to ABC, the Managing Director is appointed for five years or less on a renewable term. Non-executive directors in SBS should have an understanding of Australia's multi-cultural society and the needs and interests of SBS's culturally diverse audience.

³³ ABC operates ABC Enterprises as its commercial arm to generate profits for re-investment in its programme production. It sells and distributes programmes and content, develops and retails ABC-programme related consumer products, leases ABC's spare production resources etc.

³⁴ In March 2006, the Minister for CITA announced a restructuring plan for ABC under which the position of the staff-elected Director of ABC will be abolished.

Chapter II : Overseas Experience in Public Service Broadcasting

2.119 Both the ABC and SBS Boards have put in place a number of initiatives to safeguard its corporate governance, including the appointment of advisory committees, developing codes of practice on programming matters and setting up complaint handling mechanisms.

2.120 ABC directs all its complaints to the independent ABC Audience and Consumer Affairs Unit for first-level investigation about possible breaches of ABC's Editorial Policies, Code of Practice or its Charter. If necessary, the Independent Complaints Review Panel under the ABC Board will follow up and recommend remedies such as on-air corrections. All formal complaints to SBS will be investigated by the Audience Affairs Unit which reports directly to the Managing Director of the SBS Board. If necessary, a complaint can be referred to SBS's Complaints Committee for further consideration. As a last resort, ACMA is also empowered to hear complaints against ABC and SBS if their internal complaint handling mechanism could not resolve such complaints.

2.121 Both ABC and SBS are subject to the established accountability arrangements with the federal government, Parliament and the public. For example, ABC and SBS are required to submit to the Parliament their corporate plans, self-developed codes of practice and their budgets which are also subject to scrutiny by the Australian National Audit Office.

2.122 Separately, ABC is accountable to the public by publishing on a quarterly basis the results of investigations into complaints.

Public broadcasters' role in meeting new global challenges

Digitalization

2.123 In March 1998, the Australian government announced the mandated introduction of DTT broadcasting in metropolitan areas from 1 January 2001 and in all regional areas by 1 January 2004. Under the policy framework, existing broadcasters were obliged to continue their analogue broadcasting for

Chapter II : Overseas Experience in Public Service Broadcasting

at least eight years after the start date for digital services in their licence/coverage areas.

2.124 Both ABC and SBS have fulfilled their legislative obligation for DTT broadcasting. In 2004-05, ABC's digital transmission from 137 transmitter locations broadcasting 1 858 hours of high definition materials reached 95.8% of Australia's population. SBS has rolled out digital transmission to over 90% of Australia's population from 127 transmitter locations. ABC and SBS each broadcast digitally simulcasts of their analogue television services and operate separate digital-only channel(s).

2.125 In April 2006, the Australian government announced the introduction of digital radio services by 1 January 2009. ABC and SBS have participated actively in digital radio trials. Currently, ABC has three digital radio services broadcasting while SBS delivers two digital radio services through its digital television platform, broadcasting programmes in 68 languages.

Community broadcasting services

2.126 Community broadcasting services in Australia are regulated under the Broadcasting Services Act 1992. They are provided free of charge for community and not-for-profit purposes. Community broadcasting is currently delivered by over 20 000 volunteer broadcasters and supporting staff who participate actively in media operation, administration and production. They are subject to general and specific licence conditions and the relevant code of practice. The community broadcasting sector in Australia is largely financed by sponsorship and listener/viewer subscriptions with some support from the government's Community Broadcasting Funding.

2.127 In 1992, six operators were licensed to provide community-based television programmes. In February 2003, long-term licences were issued to operators to run community television services in Sydney, Melbourne, Brisbane and Perth. They deliver local information and entertainment programming to cater for the needs of local communities.

Chapter II : Overseas Experience in Public Service Broadcasting

2.128 ACMA may grant a temporary community radio broadcasting licence for up to 12 months or a long-term licence in an area where it has completed public spectrum planning. Currently, there are some 350 long-term licensees and 42 temporary licensees providing community radio services.

Overview of broadcasting services in Hong Kong

3.1 Over the years, the Government has pursued a broadcasting policy with the objectives to promote programme choice and diversity through competition, facilitate introduction of new, innovative broadcasting services and enhance Hong Kong's position as a regional broadcasting hub³⁵.

3.2 Hong Kong has a vibrant broadcasting sector offering a wide range of services to viewers and listeners. The two domestic free television programme service licensees, namely, Asia Television Limited (ATV) and Television Broadcasts Limited (TVB), each broadcasts one Chinese channel and one English channel. Domestic free television is received by more than 6.8 million viewers or some 2.2 million households in Hong Kong. In addition, there are three domestic pay television programme service licensees, namely, the Hong Kong Cable Television Limited (Cable TV), PCCW Media Limited and TVB Pay Vision Limited, providing more than 230 pay television channels to over 1.3 million subscribers³⁶. There are also other free-to-air satellite television channels available in Hong Kong.

3.3 On sound broadcasting, the two free-to-air sound broadcasting licensees, the Hong Kong Commercial Broadcasting Company Limited (CRHK) and the Metro Broadcast Corporation Limited (Metro), each operates three channels. RTHK, a government department functioning as Hong Kong's public broadcaster, operates seven radio channels.

3.4 Public service programming is provided by RTHK; as well as by commercial sound and television broadcasters in accordance with the relevant conditions of their licences. Some examples of such programmes provided by commercial broadcasters are those for children and the elderly, public affairs and art and culture programmes. As RTHK does not have its own television channel, its television programmes are broadcast mainly on the channels of ATV and TVB during designated timeslots.

³⁵ HKSAR Government. (2004) *Hong Kong Year Book*.

³⁶ Commerce, Industry and Technology Bureau. Available from <http://www.citb.gov.hk/ctb/eng/broad/tv.htm> [Accessed September 2006].

Chapter III : Development of Public Service Broadcasting in Hong Kong

3.5 Policy responsibility for broadcasting matters falls within the purview of the Communications and Technology Branch of CITB headed by the Secretary for Commerce, Industry and Technology.

3.6 The regulation of the broadcasting industry is vested with BA which is a statutory body established under the Broadcasting Authority Ordinance (Cap.391) (BAO) in 1987. Supported by its executive arm, the Television and Entertainment Licensing Authority (TELA), the functions of BA include:

- (a) securing proper standards of television and sound broadcasting with regard to both programme and advertising content and technical performance of broadcasts;
- (b) issuing codes of practice relating to standards of programmes, advertisements and technical performance which broadcasters are required to comply;
- (c) enforcing the competition provisions under the Broadcasting Ordinance (Cap. 562) (BO); and
- (d) making recommendations to the Chief Executive in Council on applications for and renewals of sound broadcasting, domestic free television and domestic pay television programme service licences.

3.7 BA is composed of 12 members appointed by CE. Nine members, including the Chairman, are non-official members drawn from the community. The criteria for appointment are not stipulated in BAO or promulgated to the public. The non-official members are not remunerated for their service but may opt to receive an honorarium of \$288 for each attendance of meeting. The remaining three members are public officers. According to the BAO, BA shall appoint a Complaints Committee to deliberate on complaints about contravention of pertinent Ordinances, licence conditions and Codes of Practice published by BA and make recommendations to BA. In addition, BA has

Chapter III : Development of Public Service Broadcasting in Hong Kong

appointed a Codes of Practice Committee to conduct regular reviews on various broadcasting standards.

3.8 Another regulator involved in broadcasting is the Telecommunications Authority (TA), a public officer appointed by CE under the Telecommunications Ordinance (Cap. 106). The major functions and responsibilities of TA include:

- (a) managing the radio spectrum;
- (b) licensing all telecommunications services and transmission facilities (including those for broadcasting) and enforcing licensing conditions;
- (c) regulating the economic and technical aspects of telecommunications services;
- (d) supporting BA in the technical regulation of broadcasting services; and
- (e) enforcing the competition provisions in the Telecommunications Ordinance (Cap. 106).

3.9 TA's executive arm is the Office of the Telecommunications Authority (OFTA), a government department operating under the Trading Funds Ordinance (Cap. 430). The Director-General of Telecommunications, who heads OFTA, has been appointed as TA.

Current situation in the delivery of public service programmes

3.10 Notwithstanding the diversified developments in broadcasting services, there is no clear policy on PSB in Hong Kong. BA is empowered by the respective licences to require domestic free television programme service licensees to broadcast programmes supplied by the Government, which are

Chapter III : Development of Public Service Broadcasting in Hong Kong

those produced by RTHK and announcements in the public interest (APIs). BA is also empowered by the respective licences to require sound broadcasting licensees and domestic pay television programme service licensees to broadcast APIs.

3.11 Under the Broadcasting Ordinance (Cap. 562), the broadcasting of government television programmes via domestic free television broadcasters shall not exceed 12 hours per week on each Cantonese channel and six hours per week on each English channel. It shall also not exceed 30 minutes during 7 p.m. to 10 p.m. from Monday to Friday and 2.5 hours on any one day. The two domestic free-to-air television and sound broadcasters are required to broadcast APIs on each of their channels for periods not exceeding one minute in each hour. While domestic pay television broadcasters are required to broadcast no more than 1.5 hours per week of APIs, there is no statutory requirement for them to broadcast government or RTHK programmes. However, bilateral arrangements have been made between RTHK and the pay television stations for the broadcast of some RTHK programmes on their channels.

3.12 RTHK, which is not subject to the licensing regime, formally undertook in 2001 to broadcast APIs in every broadcasting clock hour on Radio 1, Radio 2, Radio 3, Radio 5 and the Putonghua channel. The Information Services Department co-ordinates and compiles the API broadcast schedules.

3.13 Production of APIs is funded by the policy bureaux/departments concerned as part of their publicity campaigns. Advertising agencies and production houses are commissioned to produce individual APIs. Policy bureaux and departments also sponsor, on an ad hoc basis, RTHK to produce television or radio programmes to disseminate information of public interest or enhance the public's understanding of matters of public interest. Examples of such sponsored RTHK programmes are the television series on the elderly sponsored by the Health, Welfare and Food Bureau, voter registration sponsored by the Registration and Electoral Office and the "Meteorology Series" sponsored by the Hong Kong Observatory.

Chapter III : Development of Public Service Broadcasting in Hong Kong

Radio Television Hong Kong

3.14 RTHK is a government department and Hong Kong's sole publicly-funded broadcaster. Its historical development and unique role are important in Hong Kong's broadcasting environment.

History in brief

3.15 Broadcasting in Hong Kong dated back to 1928 when the Government launched its first English broadcast, followed by the establishment of a Chinese channel in 1934. In 1939, the Postmaster General was made fully responsible for the broadcasting service in the territory. In 1948, the service was renamed Radio Hong Kong and the responsibility of broadcasting was transferred to the then Public Relations Office in 1951. Radio Hong Kong became a separate government department under the Controller of Broadcasting in 1954.

3.16 Prior to 1973, Radio Hong Kong relied on the then Government Information Service to supply news. In 1973, it expanded its news feature unit and subsequently set up its own newsroom. In 1976, Radio Hong Kong was renamed RTHK, reflecting the increasing television output produced by its Public Affairs Television Division. It also set up the Educational Television Unit to produce educational programmes for schools.

3.17 Discussion within the Government on the feasibility of corporatizing RTHK can be traced back to the 1950s and 60s but the Government has not taken forward any corporatization plan. In February 1984, the Governor-in-Council appointed the Broadcasting Review Board to recommend the appropriate broadcasting policies to be adopted. Following the publication of the Report of the Broadcasting Review Board in 1985, the Government examined three types of corporate status for RTHK and came to the view that RTHK should remain a government department but would operate under a Board of Governors to enhance its editorial independence. Although the Government stated that further studies would be conducted, no progress has since been announced.

Chapter III : Development of Public Service Broadcasting in Hong Kong

3.18 In 1989, a consultancy study was commissioned to recommend an optimum organizational structure for a corporatized RTHK. Although the Government recognized that corporatization was the best option for RTHK in terms of economic and operational efficiency, it finally decided not to pursue the option due to the political climate at that time. No further development on the corporatization proposal has been announced since early 1993.

3.19 In the run-up to 1997 and after the handover, the positioning of RTHK and some of its programming content have sparked off controversies which have frequently been linked to freedom of expression, editorial independence, as well as whether and how the Government is defending these cornerstones underpinning the success of Hong Kong. At the same time, there were also criticisms of some of RTHK's programmes during which the presenters or programme hosts were perceived to be biased against the Government. Those who made such criticisms held the view that as RTHK is a government department funded by public money, it should have the obligation to help promote, instead of deplore, government policies. The debate over the role of RTHK was intensified by some incidents such as the views on "two-states" relationship between the Mainland and Taiwan by Mr CHENG An-kuo, former Head of Chung Hwa Travel Service (an unofficial organization which carries out various functions on behalf of the Taiwan government in Hong Kong) aired on the Chinese radio programme "Hong Kong Letter" in 1999, the transfer of Ms CHEUNG Man-yee, then Director of Broadcasting, to the post of Principal Hong Kong Economic and Trade Representative in Tokyo in the same year, the critical remarks made by Mr TUNG Chee-hwa, former CE, about the RTHK television programme "Headliner" in 2001, as well as the remarks made by Mr Donald TSANG when running for the CE election in June 2005 that it was doubtful whether RTHK should continue the live broadcast of horse racing and produce the programme of Top Ten Chinese Gold Songs Awards.

Chapter III : Development of Public Service Broadcasting in Hong Kong

RTHK's public service broadcasting role

Status of RTHK

3.20 There is no governing legislation or statutory public service mandate for RTHK. It has pledged to be an editorially independent public broadcaster serving a broad spectrum of audiences through multi-media programming³⁷. Its Director has also entered into a Framework Agreement³⁸ with the Secretary for Commerce, Industry and Technology which has specified the working relationship between the Secretary and the Director, their respective responsibilities, the services and the aims and mission of RTHK. The Secretary for Commerce, Industry and Technology provides the Director of Broadcasting with the policy guidance and support over a wide range of matters which include reviewing the policy aspects of RTHK's programme of activities, securing resources, setting and reviewing the achievement or otherwise of performance targets.

3.21 The Framework Agreement is subject to review and renewal by the Secretary for Commerce, Industry and Technology in consultation with the Director of Broadcasting once every two years. It was last revised and renewed on 1 August 2005. Unlike the Framework Agreement of BBC³⁹, there is no requirement that any changes to the Framework Agreement should be subject to LegCo's approval.

3.22 As a government department, RTHK must follow the same budgetary and financial guidelines, as well as the rules and regulations for establishment and recruitment matters and for procurement of goods and services that are applicable to other government departments.

³⁷ RTHK. (2006) Available from: <http://www.rthk.org.hk>. [Accessed September 2006].

³⁸ The first Framework Agreement signed between the then Recreation and Culture Branch and RTHK in 1993 was part of the Government's overall policy on reforming the services rendered by public sector organizations. The main aim of the policy was to enhance the resources management and service quality. The current Framework Agreement is available from : <http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itb0125cb1-803-1e.pdf>.

³⁹ Any changes to the Framework Agreement signed by BBC and the Secretary of State for Culture, Media and Sport are subject to the approval by the House of Commons of the UK Parliament.

Chapter III : Development of Public Service Broadcasting in Hong Kong

Public service remit

3.23 The Framework Agreement stipulates that *"the overall aim [of RTHK] is to provide to the people of Hong Kong high-quality radio, television and new media services which inform, educate and entertain. [RTHK] will strive to reflect the views of all sectors of the community of Hong Kong."*. Specifically, RTHK has the mission :

- (a) "to inform, educate and entertain audiences through multi-media programming;*
- (b) to provide timely, impartial coverage of local and global events and issues;*
- (c) to deliver programming which contributes to the openness and cultural diversity of Hong Kong;*
- (d) to provide a platform for free and unfettered expression of views; and*
- (e) to serve a broad spectrum of audiences and cater to the needs of minority interest groups".*

3.24 Within the above mission, the Framework Agreement further provides that RTHK should aim to achieve the following objectives in its services :

- (a) in radio broadcasting, developing and implementing a strategy which gives a clear definition to channel identity and is appealing to various sectors of the community;*
- (b) in television production, providing high-quality television productions principally for market segments not adequately served by commercial television broadcasters;*

Chapter III : Development of Public Service Broadcasting in Hong Kong

- (c) in new media production, providing high-quality radio, television programming and original web contents on the Internet with updated streaming format and mobile connection;
- (d) giving emphasis to the provision of balanced and objective public affairs programming;
- (e) providing a channel of communication for various sectors of the community and the Government to put forward their views on matters of public interest;
- (f) maintaining and developing programming designed to encourage audience participation and community involvement; and
- (g) providing programming designed for minority interest groups, including productions fostering interest in culture, music and the arts.

Programme areas

3.25 Like other government departments, RTHK is allocated with funding on an annual basis according to its work targets for its major programme areas⁴⁰ which are set out in the Annual Estimates of Expenditure subject to LegCo's approval each year. In 2006-07, RTHK has been allocated a budget of \$438.9 million, which is to be apportioned for the four programme areas of radio, public affairs television, school educational television production and new media.

3.26 For radio broadcasting, RTHK spends \$184.6 million (42.1% of its allocated provision in 2006-07) to operate seven channels, as follows:

⁴⁰ In the context of the Annual Estimates of Expenditure, the expression "programme area" refers to "a programme of activity", as distinguished from radio and television programming and production undertaken by RTHK on a day-to-day basis.

Chapter III : Development of Public Service Broadcasting in Hong Kong

Channel	Service	Language of broadcast	Hours of output*		Cost per channel hour excluding Newsroom (HK\$)	
			2005-06 (Revised estimates)	2006-07 (Estimates)	2005-06 (Revised estimates)	2006-07 (Estimates)
Radio 1	News, information and general programming	Cantonese	8 760	8 760	3,140	3,110
Radio 2	Youth and entertainment programming and popular music	Cantonese	6 383	6 284	4,300	4,530
Radio 3	News, information and general programming	English	8 760	8 760	1,630	1,700
Radio 4	Music and fine arts programming	Bilingual (Cantonese /English)	6 570	6 570	2,380	2,390
Radio 5	Elderly, cultural and education programming	Cantonese	4 432	4 432	3,900	3,960
Radio 6	BBC World Service relay	English	8 760	8 760	40	40
Radio 7	General programming, news and finance	Putonghua	6 085	5 997	2,460	2,590

Remark: * According to RTHK, "hours of output" refer to "hours of production output".

Source: HKSAR Government. (2006-07) *Estimates of Expenditure – Head 160 – Radio Television Hong Kong*.

3.27 Of the total provision for 2006-07, \$208.2 million (47.4%) has been allocated for public affairs television. RTHK does not operate its own television channel. Under the current arrangement which dates back to 1989,

Chapter III : Development of Public Service Broadcasting in Hong Kong

RTHK's total weekly television production amounts to roughly 11 hours, with 2.5 hours per week being broadcast during prime time on each Chinese channel of ATV and TVB. Another one hour of production is scheduled during prime time on each English channel of ATV and TVB per week. To follow BA's directive and for accessibility by persons with hearing impairment, all prime-time RTHK television programmes are now accompanied by subtitles. There are five programming strands as follows:

Programming strand	Hours of output*		Cost per hour (HK\$)	
	2005-06 (Revised estimates)	2006-07 (Estimates)	2005-06 (Revised estimates)	2006-07 (Estimates)
Current affairs	182.7	175	300,200	322,400
Educational programmes	154.3	154	362,400	381,700
General programmes	106.5	110	513,800	525,900
Servicing	50.5	54	211,600	204,000
Documentary	63.3	57	361,400	423,200

Remark: * According to RTHK, "hours of output" refer to "hours of production output".

Source: HKSAR Government. (2006-07) *Estimates of Expenditure – Head 160 – Radio Television Hong Kong*.

3.28 RTHK also produces programmes on seven subjects⁴¹ for students in primary and secondary schools. Pre-primary programmes are also produced. The programmes can also be viewed online at "eTVonline" and on VCDs. In future, RTHK will continue to deliver education programmes through television, support the education reform initiated by the Education and Manpower Bureau, enhance learning through Liberal Studies and to promote interactive learning through information technology.

3.29 The RTHK ON INTERNET service began in December 1994. The current webcasting schedule includes 24-hour live simulcast of all the six self-produced radio channels and more than 11 hours weekly of regular

⁴¹ The seven subjects are Chinese Language, Putonghua, English Language, Mathematics, Science, General Studies and Personal, Social and Humanities Education.

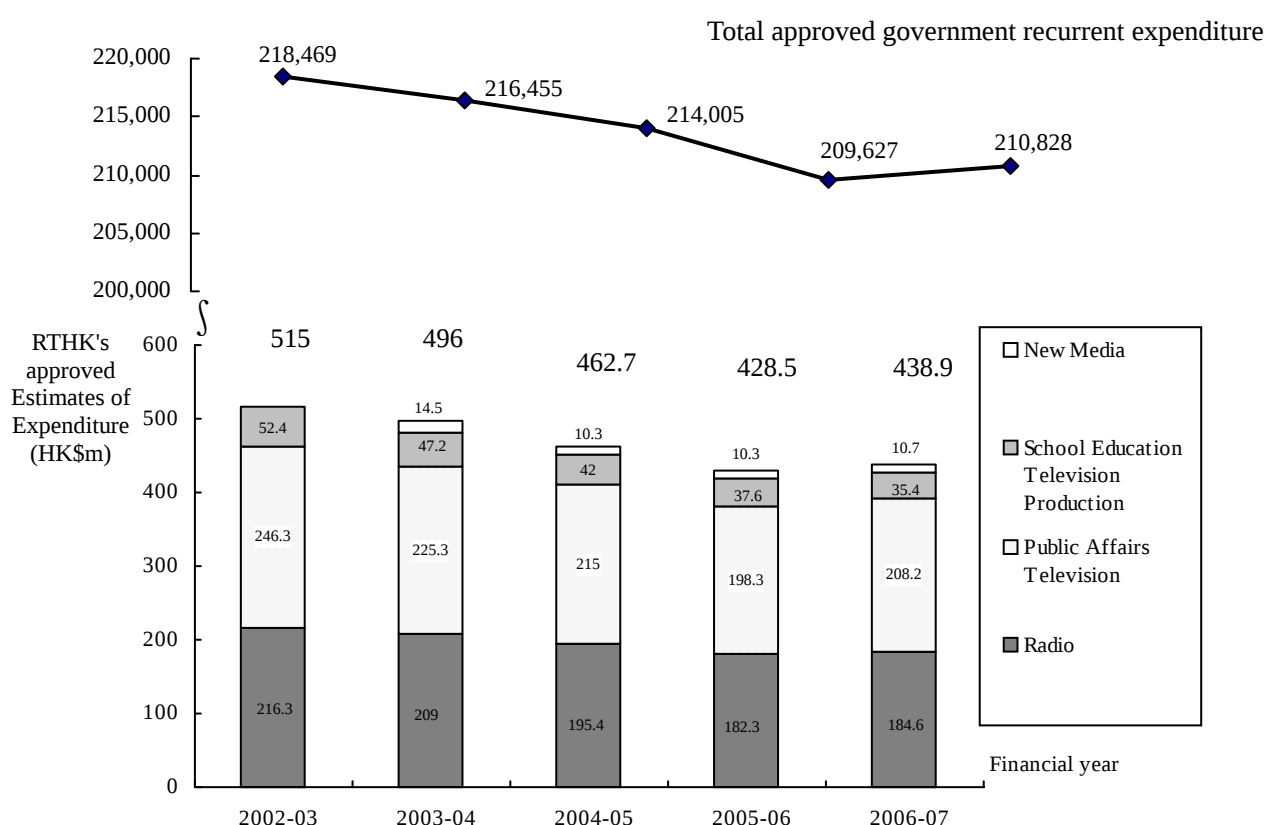
Chapter III : Development of Public Service Broadcasting in Hong Kong

prime-time and fringe-time Chinese and English television programmes. Other services include on-demand archives of all radio, television and news programming broadcast in the past 12 months. The New Media Unit set up since October 2000 also produces original content comprising about 25% of the total webcast output.

Funding

3.30 Like other government departments, the allocation of funding for RTHK is subject to the overall fiscal policy of the government each year. The level of approved financial provision⁴² for RTHK over the past few years is as follows:

Funding of RTHK from 2002-03 to 2006-07



Source: HKSAR Government. (2002-07) *Estimates of Expenditure — Head 160 — Radio Television Hong Kong*.

⁴² Recurrent expenditure forms about 97.5% of RTHK's annual approved Estimates of Expenditure.

Chapter III : Development of Public Service Broadcasting in Hong Kong

3.31 The annual budget of RTHK is considered each year at the special meetings of the Finance Committee. Issues which may have arisen from the financial constraints faced by RTHK are also followed up by the ITB Panel. A downward trend in RTHK's level of annual provision for recurrent expenditure was recorded during the period 2002-03 to 2005-06 while there is a slight increase in 2006-07. However, the Panel has observed that while the cumulative reduction in overall government recurrent expenditure over the period 2002-03 to 2006-07 is less than 4%, the cumulative reduction for RTHK is about 14%. The Panel further notes that according to the Communications and Technology Branch of CITB, the approved recurrent provisions of the four departments under its purview have been reduced by 8.6% to 19.3% during the period 2002-03 to 2006-07⁴³.

3.32 As a government department, RTHK is staffed mainly by civil servants. Their salaries and conditions of service must therefore follow existing civil service regulations and practices. The Panel has observed that about half of RTHK's approved annual allocation is for civil service staff salaries and related allowances. For example, the estimated expenditures for such purposes amount to \$209.1 million and \$205 million for 2005-06 and 2006-07 respectively, representing 48.8% and 46.7% respectively of the approved annual estimates of RTHK⁴⁴. In addition, RTHK also engages departmental contract staff and service providers to meet service demands and operational needs.

3.33 During the Panel's visit to RTHK in June 2006, members observed that its staff had been working under increased operational difficulties due to an unsatisfactory working environment and a shortage of up-to-date equipment. The existing Broadcasting House does not appear to have undergone any major improvement programmes for many years. There is still no decision on whether the reprovisioning of the Broadcasting House to Tseung Kwan O is

⁴³ The cumulative reduction in approved recurrent provisions during the period 2002-03 to 2006-07 for the other three departments are 13.6% for Innovation and Technology Commission, 8.6% for Office of the Government Chief Information Officer, and 19.3% for Television and Entertainment Licensing Authority.

⁴⁴ HKSAR Government. (2005-07) *Estimates of Expenditure – Head 160 – Radio Television Hong Kong*.

Chapter III : Development of Public Service Broadcasting in Hong Kong

going to take place. No major works programme to improve the current infrastructure has been implemented either. From 2002-03 to 2006-07, there were no capital works items for RTHK each exceeding \$10 million.

3.34 The Panel notices that the merged broadcasting of radio services has become more extensive in recent years and has enquired whether this has been the result of reduced financial provision. According to RTHK, it began 24-hour radio service in 1980 and has since then merged the broadcasting of some midnight programmes mainly to save cost⁴⁵. As part of its measures to cope with the stringent financial situation and further budgetary cut in 2005-06, RTHK has merged its overnight Chinese programme service from 10 pm to 2 am on weekends since June 2005 to save production costs and the expenditure on royalties of musical items. However, since the recurrent provision for 2006-07 has increased, the hours of merged broadcast will be brought back to the 2004-05 level, i.e. two sets of programmes will be produced and broadcast by the four Chinese channels in late hours during weekends. The Panel notices that as at early September 2006, out of a total of 1 176 broadcasting hours per week for the seven round-the-clock radio channels, 210 hours are for the merged broadcasting of the same programmes over several channels.

3.35 RTHK is not allowed to accept commercial advertisements or commercial sponsorships under the current policy. However, it may accept sponsorships from non-profit-making organizations with due acknowledgement but without compromising its editorial control over the sponsored programmes. RTHK has laid down guidelines on acceptance of sponsorships for programmes.

3.36 On the feasibility of revenue generation, it has been noted that RTHK has over the years won a number of international awards for its television programmes. To capitalize on these quality productions, RTHK has been requested, in particular by LegCo Members, over the years to explore the

⁴⁵ To enhance reception quality and reach, news and public affairs programmes produced for Radio 1, (then an AM channel), were also broadcast via Radio 5 (FM channel at that time) in 1980. The practice continued after the implementation of the existing frequency network in 1989. To maintain essential broadcasting services by FM channels, the South China Coastal Weather Reports broadcast through AM service to local fisherman or seamen in the outlying regions or out at sea are also broadcast in FM frequencies.

Chapter III : Development of Public Service Broadcasting in Hong Kong

commercialization of its archived programmes, similar to the practice adopted by BBC and some other overseas public service broadcasters. In this regard, RTHK has confirmed that in 2005, 60 hours of selected television programmes were licensed to a successful bidder for production, marketing and sale on VCD/DVD format. RTHK has licensed its television, radio programmes as well as RTHK ON INTERNET web content to a number of overseas television and radio broadcasters and mobile service operators. In accordance with section 3(1) of the Public Finance Ordinance (Cap. 2)⁴⁶, the revenue generated from these initiatives forms part of the Government's general revenue. In other words, any revenue generated by RTHK would not improve RTHK's own financial position.

Editorial independence

3.37 Editorial independence is one of the core values promulgated by RTHK⁴⁷ and stated in the Framework Agreement. "[RTHK] is editorially independent. The Director as the Chief Editor is responsible for ensuring that a system of editorial control in accordance with RTHK's Producers' Guidelines exists to provide fair, balanced and objective news, public affairs and general programming that inform, educate and entertain the public." As the Director of Broadcasting is responsible for the day-to-day management of the activities in each programme area of RTHK, the Secretary for Commerce, Industry and Technology has no direct role in determining the actual content of individual programmes produced. Over the years, RTHK has developed its own editorial practices and in 1998, codified such practices into a set of Producers' Guidelines⁴⁸. Although the set of Guidelines is available in the public domain, it is primarily an in-house document and there is no requirement on the Director of Broadcasting to conduct public consultation when drawing up the Guidelines.

⁴⁶ Section 3(1) of the Public Finance Ordinance (Cap. 2) stipulates that "Except where otherwise provided by or under this Ordinance or any other enactment any moneys raised or received for the purposes of the Government shall form part of the general revenue".

⁴⁷ The other values being impartiality, serving the public, competitiveness, quality production, development of talent and definition of new media. See <http://www.rthk.org.hk>.

⁴⁸ The bilingual version of RTHK's Producers' Guidelines is available from <http://www.rthk.org.hk/about/guide/index.htm>.

Chapter III : Development of Public Service Broadcasting in Hong Kong

3.38 According to the Producers' Guidelines, the Director of Broadcasting is RTHK's Editor-in-chief who is ultimately responsible for all editorial decisions. Potentially contentious issues over which editorial decisions have to be made, such as scenes of extreme violence and the commissioning of opinion polls, etc. should be referred upwards from programme makers to programme units/sections. If necessary, divisional heads should also consult the Deputy Director and/or the Director of Broadcasting.

3.39 According to the Producers' Guidelines, "Due Impartiality" remains RTHK's core value. Programme makers are required to show open-mindedness, fairness and a respect for the truth, and must not be influenced by pressures from political, commercial or other sectional interest or by personal bias. Nevertheless, in achieving due impartiality, programme makers are not required to be unquestioning, nor is RTHK required to give all sides of an issue the same amount of time. According to the Producers' Guidelines, the requirement to seek a balance in viewpoints can be reached not necessarily within a single programme or news bulletin, but over a reasonable period of time. It is for the programme maker to decide who should be invited to give views on the subject in his programme having regard to how the balance in viewpoints can be achieved. An extract of the guidelines on "Due Impartiality" is given in **Appendix III-(a)**.

3.40 On talk shows and phone-in programmes, the Producers' Guidelines have also provided detailed guidelines, as well as highlighted the evolving role of the hosts of these programmes as public attitude changes. It is stated that on-air personalities are expected to contribute to the discussion in talk shows and phone-in programmes. Using their journalistic knowledge and judgement, they may question, comment, challenge or criticize to stimulate debate, bring out new insights, and generally encourage the widest possible airing of views. However, programme hosts must always treat the subject matter and their callers fairly.

3.41 In this respect, the Panel has made reference to the editorial guidelines adopted by major overseas public service broadcasters, such as BBC, CBC and ABC. As shown in the comparative table in **Appendix II-(a)**, BBC

Chapter III : Development of Public Service Broadcasting in Hong Kong

presenters and reporters associated with news or public policy related programmes seldom present programmes with personal views on controversial subjects. In Channel 4, presenters must not use the advantage of regular appearances to promote their views in a way that compromises the requirement for due impartiality. In CBC, reporters must keep their personal views separate from their reporting of the news event. The differences in the practice and guidelines adopted by RTHK and its overseas counterparts are further discussed in **Chapter IV**.

Corporate governance

3.42 RTHK is headed by the Director of Broadcasting and under the policy purview of CITB. The Secretary for Commerce, Industry and Technology provides policy guidance and support to the Director of Broadcasting and the latter is responsible to the Secretary for managing the activities of RTHK. As a government department, RTHK is not overseen by an independently constituted governing board as in the case of some public service broadcasters overseas.

3.43 In the past few years, three Independent Commission Against Corruption cases in which RTHK officers were convicted of fraud/misconduct have aroused public concerns about possible malpractices in RTHK⁴⁹. Following internal and external reviews and as part of the measures to improve corporate governance, RTHK set up the System Review Unit in April 2002 and the Central Administration Units in 2003 for the purposes of strengthening internal controls and coordinating the work over the employment of departmental contract staff.

3.44 Since 1997, four value for money audits⁵⁰ have been conducted by the Director of Audit on the following aspects of RTHK :

⁴⁹ See Audit Commission. (2006) *Report No. 46 of the Director of Audit*.

⁵⁰ See Audit Commission. (1997), (1999), (2001) and (2006) *Reports No. 28, 32, 36, 37 and 46 of the Director of Audit*.

Chapter III : Development of Public Service Broadcasting in Hong Kong

- (a) the employment of departmental contact staff and royalties for radio broadcasting of copyright musical works (1997);
- (b) the management of telecommunications service under the 1988 Technical Services Agreement (1999);
- (c) the management of government publicity programmes and the performance and resource management of RTHK (2001); and
- (d) the financial control and resource management and the governance and strategic management of RTHK (2006).

3.45 In gist, these audit reviews reveal certain irregularities in RTHK's existing management system and the need to foster among RTHK staff a culture of compliance with applicable regulations, guidelines and procedures. RTHK is taking steps to implement the audit recommendations, such as the setting up of a high-level internal audit team suggested by the Secretary for Commerce, Industry and Technology and considering to adopt "management of resources" as one of the core competencies of staff.

Accountability

3.46 Within the existing government structure, the Director of Broadcasting is answerable to the Secretary for Commerce, Industry and Technology. As the Controlling Officer, the Director accounts for RTHK's Annual Estimates of Expenditure at special meetings of the Finance Committee each year. At times, the Director, like other heads of department, may also be invited to attend meetings of LegCo's committees for discussion of issues of public concern.

3.47 RTHK is not a licensee and is in general not subject to the regulatory framework provided in BO and BAO. Unlike incumbent commercial broadcasters whose renewal of licences is subject to BA's mid-term review by way of conducting opinion surveys and public hearings, RTHK is not subject to similar regulatory review. Pursuant to the Memorandum of Understanding

Chapter III : Development of Public Service Broadcasting in Hong Kong

signed in September 1995, RTHK has agreed to comply, on a voluntary basis, with the Codes of Practice on programme standards issued by BA. There have also been calls from legislators that RTHK should actively gauge public views on its services by holding public hearings. A public forum for this purpose was held on 29 October 2005⁵¹. Apart from publication of the Producers' Guidelines, other measures which RTHK has put in place to enhance transparency and accountability include the setting up of the TV Advisory Panel⁵², Listeners Advisory Panels⁵³ and Channel Heads' Hotlines, conducting the Television Programme Appreciation Index Survey⁵⁴ and the RTHK Public Opinion Survey. As part of its effort to respond to audience needs, RTHK has launched a morning radio programme on Radio 5 with effect from 26 June 2006 following focus group discussions with elderly listeners and experts from local elderly services.

3.48 The Producers' Guidelines have also provided a complaint-handling mechanism. It is RTHK's pledge to respond promptly and appropriately to any complaints received. While most complaints and comments on programmes are handled by section or channel heads, it is a practice to involve the presenters and/or producers associated with the programme in drafting replies to ensure that they are aware of audience reactions. Serious complaints are answered by the divisional or section head. In all cases,

⁵¹ The Administration has provided a summary of views expressed at the public forum in its paper for the ITB Panel (LC Paper No. CB(1)238/05-06(03) which can be browsed at <http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itb1114cb1-238-3e.pdf>.

⁵² Established in 1993, the TV Advisory Panel is responsible for providing advice on RTHK's television programmes. The Panel is composed of about 70 members from different sectors, including the 18 District Councils, legal and medical professions, business and social services sectors.

⁵³ Dated back to the early 1990s, Listeners Advisory Panels for radio programmes are normally conducted in the form of focus groups to solicit views and opinions to shape both the long-term and short-term programme development strategy. The size of groups varies from some 30 to over hundreds. Membership comprises listeners recruited through phone-in talk shows, together with invited academics, representatives of NGOs and Members of both LegCo and District Councils.

⁵⁴ RTHK, TVB, ATV and Cable TV. have been jointly conducting the "Television Programmes Appreciation Index Survey" since 1999 with an aim to enhance the quality of local television production through the establishment of an indicator which is widely accepted by the sector. According to the Director of Broadcasting, the results of the survey have evolved into an important professional indicator alongside "viewership rating", reflecting the market demand for quality television productions.

Chapter III : Development of Public Service Broadcasting in Hong Kong

replies or interim replies to the complainants should be given within 10 days. Regular reports on complaints are presented to the advisory panels of the Radio and Television Divisions. A summary report is also included in RTHK's annual Performance Pledge.

3.49 Viewers and listeners can also lodge complaints with BA on RTHK's programmes. Where the complaints are substantiated after investigation, BA may decide how the complaints should be dealt with, but it does not have the power to impose financial penalties on RTHK or direct RTHK to include in its sound broadcasting service a correction or apology as under BAO, this power is exercisable only in respect of licensees. Between September 2004 and August 2005, BA received 192 complaints on RTHK radio programmes and 67 complaints on its television programmes, most of which were unsubstantiated after investigation. One advice and one strong advice were issued by BA to RTHK during the said period⁵⁵.

3.50 Over the years, a variety of measures have been implemented from time to time to enhance the public accountability of RTHK. However, unlike public service broadcasters overseas, there is currently no mechanism under which the services of RTHK are subject to major or periodic reviews as to how far it can fulfil its public service objectives and meet the community's needs.

Distinctiveness from commercial broadcasters

3.51 Pursuant to the Framework Agreement, RTHK is tasked to provide a balanced mix of high-quality programming which are not adequately provided by commercial broadcasters with a view to serving all sectors of the community, including minorities, and fostering interest in arts, culture and life-long learning. Towards this end, RTHK intends to enhance its Radio 1's identity as an Information and Current Affairs Channel, and Radio 2 as a platform in promoting public interest in liberal studies and education⁵⁶.

⁵⁵ During the same period, BA received a total of 365 complaints on the programmes of the two commercial radio broadcasters and a total of 3 232 complaints on the programmes of the free-to-air and pay television broadcasters. See BA. (2005) *Annual Report*.

⁵⁶ HKSAR Government. (2006-07) *Estimates of Expenditure – Head 160 – Radio Television Hong Kong*.

Chapter III : Development of Public Service Broadcasting in Hong Kong

3.52 On the arts and culture front, RTHK promotes the public's appreciation through the coverage of classical performances such as "2005 World Children's Choir Festival", "Messiah" and production of programmes like "Art Odyssey" and "Food and Culture". RTHK also continues its commissioning project in support of the local creative industry. Some examples of commissioned productions include "McDull and Chinese Culture" and "Kaleidoscope of Ideas".

3.53 In recent years, concern has been raised as to whether RTHK, a publicly-funded broadcaster, should produce programmes that are already popular productions by commercial broadcasters, some widely discussed examples being the live broadcast of horse racing and Top Ten Chinese Gold Song Awards. As stated by RTHK, in the context of aligning programmes with the public service remit, it has ceased to relay horse racing at the end of the 2004-05 racing season to re-allocate resources for knowledge-based programmes⁵⁷.

A changing broadcasting environment

3.54 The broadcasting environment in Hong Kong, like elsewhere, has undergone phenomenal changes in recent years. Some of these changes have presented new challenges and caused an impact on the development of PSB.

Digitalization

3.55 Digital television services are already available in Hong Kong via cable, satellite and broadband networks. However, terrestrial television, the most pervasive form of television service, is yet to be digitized. The Administration announced in July 2004 the implementation framework for DTT. Under the framework, ATV and TVB, the two incumbent terrestrial broadcasters, are required to start broadcasting their services in both analogue and digital format by end of 2007 and to achieve at least 75% of digital

⁵⁷ HKSAR Government. (2006-07) *Estimates of Expenditure – Head 160 – Radio Television Hong Kong*.

Chapter III : Development of Public Service Broadcasting in Hong Kong

coverage by 2008. The Administration's target is to switch off analogue broadcasting five years after the commencement of simulcast, i.e. by 2012. Meanwhile, OFTA is leading a working group with ATV and TVB to solve technical problems and facilitate inter-departmental coordination to ensure timely network rollout. RTHK, being the sole publicly-funded broadcaster in Hong Kong, has indicated that part of its future aspirations is to develop digitalization of broadcasting in both radio and high-definition television (HDTV). RTHK has also started its trial productions of television drama in HDTV⁵⁸ in 2006.

3.56 On digital audio broadcasting (DAB), the former Information Technology and Broadcasting Bureau (ITBB) set up a steering committee in February 1998 and coordinated a series of technical trials of DAB by RTHK, CRHK and Metro. In two consultation papers issued in 2000 and 2003⁵⁹, the Administration maintained its view that the introduction of DAB services should be market-led. The Administration's main considerations were the relatively high prices of digital receivers when compared to those of analogue receivers, the availability of other wireless communications technology capable of transmitting sound and the need to finalize the Band III frequency plan with the Mainland authorities and clear the frequency band concerned for DAB services.

3.57 Meanwhile, tests conducted by RTHK on digital transmission using Eureka 147 in Band III are still underway. In its submission to the ITB Panel in January 2006⁶⁰, RTHK reported that so far, trial results of DAB were satisfactory. Moreover, with adequate funding, RTHK will be able to launch new programme services in digital format, such as new learning and children's channels. It has also stated its preparedness as a public broadcaster to explore

⁵⁸ Submission by RTHK for the meeting of ITB Panel meeting on 1 August 2006 (LC Paper CB(1)2084/05-06(04) Available from <http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itb0801cb1-2084-4e-scan.pdf>.

⁵⁹ They are the *Digital Terrestrial Broadcasting in Hong Kong – A Consultation Paper* issued on 1 December 2000 by ITBB and the *Second Consultation Paper on Digital Terrestrial Broadcasting* issued on 5 December 2003 by CITB.

⁶⁰ Submission by RTHK for the meeting of ITB Panel meeting on 9 January 2006 (LC Paper No. CB(1) 653/05-06(01)) Available from <http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itb0109cb1-653-1e.pdf>.

Chapter III : Development of Public Service Broadcasting in Hong Kong

DAB further. CRHK and Metro, the incumbent commercial broadcasters, agreed in principle with a market-led approach and expressed concern about competition for advertising revenue when the number of channels will likely rise in a digitalized environment⁶¹.

Channels for public access and for government information

3.58 In Hong Kong, only commercial sound and television licensees and RTHK are given the right to use frequency spectrum for operating broadcasting channels. As a matter of policy, the Government has not assigned any broadcasting spectrum for the use of the community or certain social groups, nor issued any licence for such purposes.

3.59 Discussion on the introduction of public access channels in Hong Kong can be traced back to the findings of the Broadcasting Review Board appointed by the then Governor-in-Council in February 1984⁶². One of the Board's recommendations was to test the feasibility of setting up local FM radio stations, to be run by local residents and the relevant district boards (now known as district councils), for serving new towns such as Tuen Mun, Shatin and Tsuen Wan. However, no further plan has been announced to pursue the proposed community-based stations.

3.60 In 1993, when the Government awarded the licence for domestic pay television programme service to Cable TV⁶³ (formerly the Wharf Cable), one of the conditions was that Cable TV should make available to the Government at no charge the use of not more than three channels. This arrangement would ensure a platform for the broadcast of public affairs and educational programmes which might not be attractive to commercial broadcasters.

⁶¹ Submissions by CRHK and Metro for the meeting of ITB Panel meeting on 9 January 2006 (LC Paper Nos. CB(1)596/05-06(04) and CB(1)619/05-06(01)) Available from <http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itb0109cb1-596-4e.pdf> and <http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itb0109cb1-619-1e.pdf>.

⁶² The Broadcasting Review Board was tasked to recommend the broadcasting policies to be adopted by the Government following the expiry of the commercial television and radio licences in 1988 and 1989.

⁶³ The licences of the other two domestic pay television programme service licensees, i.e. PCCW Media Limited and TVB Pay Vision Limited, do not contain this condition.

Chapter III : Development of Public Service Broadcasting in Hong Kong

Following a study by an inter-departmental working group, the Government decided not to pursue the setting up of dedicated government channels mainly due to cost considerations and the limited audience reach of pay television services at that time. It also decided against making available the channels for public access, one reason being that such channels could be misused if they were not properly regulated.

3.61 In this connection, the Panel has noted that in some jurisdictions such as US, a cable television franchisee is mandated to provide three channels for public access, education programmes and government use (often known as the PEG requirement). The public access channel often functions as a community channel providing specific programmes that are absent from mainstream cable television services to cater for the local community.

3.62 Over the years, the ITB Panel is aware of calls on the Government to open up radio and television channels for the use of the community or certain social groups as their broadcasting platforms. On the technology front, digitalization increases spectrum efficiency and makes available more channel capacity, thereby removing the technical constraints on increasing the number of radio and television channels. In a motion passed by LegCo on 18 February 2004, Members called upon the Government to, among other things, establish public access television channels which might be operated by public organizations for the broadcast of programmes produced by public, non-profit making or non-government organizations, community groups and the public. They also urged that the public access television channels should be regulated by BA so as to prevent the broadcast of programme content which was obscene, indecent, defamatory, discriminatory and incited social violence. In another motion passed on 8 February 2006, one of Members' calls was to open up public access channels at an early date so as to allow public participation⁶⁴. The ITB Panel also notes the support from some concern groups and academics for public access channels in Hong Kong. Some deputations are of the view that if necessary, the Government may consider setting up its own channel to

⁶⁴ For the wordings of the two motions passed on 18 February 2004 and 8 February 2006, see http://www.legco.gov.hk/yr03-04/english/legco_rpt/l_rpt_0219.htm and http://www.legco.gov.hk/yr05-06/english/legco_rpt/l_rpt_0209.htm#m_3.

Chapter III : Development of Public Service Broadcasting in Hong Kong

disseminate government information and promote its policies in the future multi-channel environment.

3.63 RTHK's current arrangement of merged broadcasting of radio programmes has also given rise to concerns that the broadcaster has not made the optimal use of the channels allocated to it. There are views that the Government should consider the feasibility of making available RTHK's surplus channel capacity for interested parties to set up public access channels.

3.64 All along, the Government has maintained its stance that there is no need to set up public access channels in Hong Kong. It is of the view that given Hong Kong's small geographical area and relatively homogeneous population, the community is already well-served by the existing diversity of broadcasting services. Moreover, new media such as the Internet can also provide effective platforms for multi-media services for special interest groups. The Government has not indicated any change in its policy stance and maintains its reservation on whether there are strong justifications for public access channels in Hong Kong.

Need for a new regulator

3.65 In March 2006, the Government published a consultation paper setting out its proposal for the establishment of the Communications Authority (CA) by merging BA and TA into a unified regulator for effective, efficient and well co-ordinated regulation of the whole electronic communications sector in an age of technology convergence. The new CA should have a duty to promote fair competition in the market and facilitate innovation and investment in the communications industry. It is proposed that the CA should comprise a non-official Chairman, four non-official members and one official member appointed by CE, with the Director-General of the executive department as the ex-officio member. Public consultation ended in June 2006 and CITB plans to introduce the necessary legislative proposal within 2006 to set up CA.

The way ahead

3.66 The appointment of the Review Committee announced on 17 January 2006 is an important step forward and provides a timely opportunity for the community and stakeholders to examine the future of PSB for Hong Kong. On the one hand, Hong Kong has for its reference the various well-tried and long-established models developed by other countries in the light of their political and socio-economic backgrounds. On the other hand, there is RTHK, the incumbent public broadcaster. It has been serving the public for close to 80 years and forms an integral part of the local broadcasting system. In mapping out the future direction of PSB in Hong Kong, it is necessary to identify the key issues and ensure that they are thoroughly addressed having regard to international best practices and local aspirations. As RTHK is Hong Kong's sole publicly-funded broadcaster, the outcome of the Review will certainly have implications on the future development of RTHK. The Panel notes that RTHK has formulated its views⁶⁵ on the review of PSB in Hong Kong and urges the Administration to consider RTHK's views carefully when devising the way forward for PSB in Hong Kong.

3.67 According to the Secretary for Commerce, Industry and Technology, the Government will formulate a roadmap for the development of PSB having regard to the outcome of the Review for consultation with the public before implementation⁶⁶. The Panel is also aware of press reports that the Government may issue a consultation document on PSB in the first half of 2007 to seek the views of the community.

⁶⁵ RTHK's submission to the Panel *RTHK in the Digital Future: Enhancing Capacity, Promoting Public Values* can be browsed at http://www.legco.gov.hk/yr05-06/English/panels/itb/papers/itb_aa.htm.

⁶⁶ See the speech by Mr John TSANG, former Secretary for Commerce, Industry and Technology, at the press conference on 17 January 2006 announcing the appointment of the Review Committee. Available from : <http://www.info.gov.hk/gia/general/200601/17/P200601170192.htm> [Accessed September 2006].

General perception of public service broadcasting

4.1 Studies of overseas experience indicate that the development of PSB began in the 1920s. Since then, various forms of PSB have emerged in various parts of the world; some initially as state-controlled broadcasters and transformed into corporate entities in the 1960s and 1970s amidst broader political changes. The development of PSB often signifies an evolvement from a state-run system to one which is mandated to serve the people rather than the state or commercial interests.

4.2 Comparatively speaking, progress in the development of PSB in Hong Kong is rather slow for a city which is one of the most prominent financial centres and metropolitan cities in the world. In fact, the term "public service broadcasting" is not defined or referred to in the laws of Hong Kong, although there are provisions in BO requiring television programmes supplied by the Government (including educational television programmes for schools) to be included in the licensed service of a domestic free television programme service licensee. So far, the subject of PSB in Hong Kong has not been thoroughly or systematically examined by LegCo and the community. Without well-informed public discussion, there may be the misconception that PSB is only about editorial independence and freedom of expression, or about the future of RTHK. As revealed in the Panel's study of overseas systems, PSB is also an important instrument to ensure plurality and social inclusion, and to strengthen the civil society.

4.3 The Panel finds that a number of studies have been conducted by the Government in the past two decades or so, including a review by the Broadcasting Review Board in 1984 and a consultancy study in 1989. However, some key recommendations such as the proposals to corporatize RTHK and to provide a dedicated television channel for RTHK have not been taken forward. In the absence of any major review to clearly define RTHK's role and positioning, controversies have arisen from time to time over some of RTHK's programmes and its relationship with the Government. The reluctance on the part of the Government to address concerns about the role of

Chapter IV : Constraints and Opportunities

RTHK has also caused much unease among its 782 staff⁶⁷. From a macro perspective, it has been noted that the need for and the value of PSB in Hong Kong have not been systematically examined and that there is currently no clear policy on PSB. The Panel therefore welcomes the Government's appointment of the Review Committee to conduct a review on PSB, which presents a timely opportunity for the community to seriously consider how PSB should be developed in Hong Kong.

4.4 PSB is not about one single public service broadcaster. The development of PSB in Hong Kong therefore is not just about the consideration of RTHK alone. However, as RTHK is already an integral part of the local broadcasting sector playing a vital role in delivering public service programmes, the Panel considers that issues related to the role and future of RTHK should also be taken into account when mapping out the future development of PSB in Hong Kong.

Policy direction for the development of public service broadcasting

Need for a policy on public service broadcasting

4.5 At present, PSB is provided to viewers/listeners through self-produced and commissioned radio and television programmes of RTHK, and the public interest programmes provided by commercial television and sound broadcasting licensees, as well as APIs produced by the Government. For example, in 2003-04, ATV and TVB together broadcast 18.5 hours of self-produced current affairs programmes and 15.4 hours of RTHK programmes per week⁶⁸. Question may arise as to whether there is any need for a separate public service broadcaster supported mainly by public resources if public service programmes are already delivered by commercial broadcasters. The advent of digital technology has also opened up a diversity of transmission platforms which can be used to cater for the needs of different audience groups.

⁶⁷ According to RTHK's information, as at 1 May 2006, RTHK had a total of 782 staff, of whom 493 were civil service staff and 289 were non-civil service contract full-time staff.

⁶⁸ Broadcasting Authority. (2004) *Annual Report 2003-2004*.

Chapter IV : Constraints and Opportunities

In a digital multi-channel environment with abundant and diversified broadcasting output, it is all the more important to formulate a clear policy on PSB to affirm its value and role, which should be distinctive from those of commercial broadcasters.

Guiding principles for the development of public service broadcasting

4.6 In view of the importance of PSB, a number of international bodies, including UNESCO and the European Union, and even countries with a long history of PSB, have published in recent years very useful literature and reports on the subject. It is generally recognized that PSB models have been developed due to the inherent weaknesses of the two dominant broadcasting models, namely the state-controlled broadcasting model and the profit-oriented commercial model.

4.7 The Panel has made reference to these literature and reports, and recapitulates the following principles which are commonly referred to as the core principles underpinning PSB⁶⁹:

- (a) *Universality*
 - (i) be accessible to every citizen whatever their social status or income
 - (ii) addresses the entire population
- (b) *Diversity*
 - (i) provides diversified services in terms of the genres of programmes offered, the audiences targeted and the subjects discussed
- (c) *Independence*
 - (i) enjoys freedom of expression
 - (ii) be free from commercial pressures or political influence

⁶⁹ UNESCO. (2005) *Public Service Broadcasting A Best Practice Sourcebook*.

(d) *Distinctiveness*

- (i) be distinguished in the quality and particular character of programmes, not merely producing programmes others not interested in, or aiming at audiences neglected by others, or dealing with subjects ignored by others, but doing things differently, without excluding any genre
- (ii) leads public service broadcasters to innovate, creates new slots, new genres, sets the pace in the audiovisual world and pulls other broadcasting networks in their wake

4.8 The Panel considers that the above core principles should be applicable to Hong Kong in devising its PSB model and in defining the public service remit of the future public service broadcaster.

4.9 To enhance Hong Kong's identity and status as an international city of China, the Panel shares the view that part of the public service objectives of PSB should be to help promote biliteracy in Chinese and English and trilingualism in Cantonese, Putonghua and English among the people of Hong Kong, as in the case of Canada where public service broadcasters are mandated to broadcast programmes in both English and French. Hong Kong is also home to other ethnic groups, who have contributed to the cultural and linguistic diversity of Hong Kong as a metropolitan city. The Panel considers that the future PSB model should reflect the plurality of cultures and languages of Hong Kong society and provide various ethnic groups with easy access to quality broadcasting services.

Key features of a PSB model

4.10 For a public service broadcaster to fulfil its public service mandate and serve the interests of the people, it needs to operate with full "editorial independence". This can only be achieved by institutional independence and an adequate level of funding from a stable source. Given that considerable public resources are usually required to sustain quality PSB, the public service

Chapter IV : Constraints and Opportunities

broadcaster should be accountable to the public for its programming and financial prudence.

Funding

4.11 Funding models for overseas public service broadcasters vary from place to place. It can be from a public source, such as government appropriations or mandatory licence fees paid by viewers/listeners. The broadcasters may also derive revenue from advertisements, sponsorships, subscriptions for pay services, etc. There are hybrid funding models comprising public funds and commercial revenue. In gist, the sources for financing which the Panel is aware of include the following:

- (a) licence fee, e.g. BBC (UK), ARD and ZDF (Germany)
- (b) appropriations from the Government budget, e.g. CBC (Canada), ABC (Australia)
- (c) indirect funding support from the Government, e.g. PBS, NPR (USA)
- (d) voluntary contributions from private foundations, viewers and charities, e.g. PBS, NPR (USA)
- (e) matching grants from the Government to support individual stations for programme development e.g. CPB (USA)
- (f) advertising and sponsorships, e.g. Channel 4 (UK)
- (g) contributions from commercial broadcasters, e.g. CPAC (Canada)

4.12 Noting that there are diversified views on what constitutes the best funding model, the Panel considers that an ideal funding model for PSB should embody the following features:

- (a) the funding mechanism is –
 - (i) free from undue government and commercial influences;
 - (ii) sufficiently simple and equitable so that it can be administered with minimum political controversy; and
 - (iii) subject to checks and balances to ensure accountability of the public service broadcaster.
- (b) the amount of funding is –
 - (i) sufficient to sustain the development of PSB over a longer term;
 - (ii) adequate to support the operation of at least one full-fledged public service broadcaster in delivering a board range of quality services; and
 - (iii) predictable over the medium term.

4.13 As regards the possible sources of funding for PSB in Hong Kong, the Panel believes that the options listed in paragraph 4.11 are worth-exploring. Other suggestions including capital injection in the form of seed money or apportioning a certain percentage of government income (such as rates) for PSB should also be studied. The Panel nevertheless notes from depositions that the option of licence fee may not gain popular support easily. However, its merit is that through paying the licence fee, the public at large have a stake in the public service broadcaster and the latter can in effect be regarded as the public's broadcaster. To facilitate further discussion, the Panel has the following initial views on each of the aforesaid options:

- (a) Appropriations from the Government should be made in funding cycles of three to five years so as to provide greater certainty in forward planning.
- (b) Indirect funding through a funding body, broadly similar to the Arts Development Council, should be viable for smaller-scale public service broadcasters offering dedicated services.

Chapter IV : Constraints and Opportunities

- (c) Matching grants from the Government on an ad hoc basis would appear to be appropriate for the production of specific programmes to serve a particular purpose at the relevant time to address the special community needs.
- (d) Voluntary contributions from private foundations and charities to support public service broadcasters should be encouraged.
- (e) Contributions by commercial broadcasters may be in the form of free use of channels, or apportionment of a certain amount of the subscriptions they receive from providing pay television services.
- (f) Advertising should not be considered as far as possible as this may subject the broadcaster to commercial influences and create unfair competition with other commercial broadcasters.
- (g) Commercial sponsorships may be considered for programmes that are not or rarely provided by commercial broadcasters.

4.14 The Panel notes that based on the annual allocation of over \$400 million to RTHK, each Hong Kong resident contributes roughly \$61 a year to RTHK. In 2004-05, the annual contribution (converted to Hong Kong dollars) per citizen to BBC (UK) and ABC (Australia) was about \$718 and \$225 respectively⁷⁰. While the figures are not strictly comparable as circumstances differ, the Panel would call on the Government to examine some deputations' views that the Government should allocate more public resources for strengthening PSB in Hong Kong.

Institutional arrangement to ensure editorial independence

4.15 An appropriate institutional arrangement should be put in place to enable the public service broadcaster to keep an arm's length relationship with

⁷⁰ The comparative information is available from RTHK's website : <http://www.rthk.org.hk/special/psb/pdf/10Q&As.pdf>.

Chapter IV : Constraints and Opportunities

the government and the regulatory authority while remaining accountable to the public. This arm's length relationship is to ensure that the public service broadcaster enjoys editorial independence, which is one of the most important core values of PSB, while operating under a regulatory framework which ensures that the use of the public resources is subject to proper control.

Legal framework

4.16 In the legal framework for overseas PSB systems, editorial independence is enshrined in legislation (e.g. Australia, Germany, Canada, US) or in the regulatory code (e.g. Channel 4 of UK). It is common practice to include freedom of expression as a core principle in the system of broadcasting regulation as well. However, freedom of expression is not an unencumbered right as the law also prescribes the conditions and restrictions which must be observed in exercising such a right. These conditions include protection of health and morals, prevention of crime or disorder, upholding the authority and impartiality of the judiciary, etc. In the case of Hong Kong, freedom of speech, freedom of the press and of publication is guaranteed under the Basic Law⁷¹.

4.17 The Panel considers that the framework of a PSB system in Hong Kong should best be provided in law. In this report, the Panel does not seek to provide a legal model, but would try to set out certain parameters having regard to overseas and local circumstances to facilitate further public discussion. The core principles of PSB, the public service mandate⁷², as well as certain fundamental rights such as the freedom of expression and the limits to such freedom should be clearly spelt out in the legislation. Where necessary, relevant codes of practice should also be compiled to provide further guidance. In general, the Panel would like to see the following elements embodied in the relevant legislation:

⁷¹ Article 27 of the Basic Law of HKSAR.

⁷² In some countries, such as Canada, the PSB mandate and the objectives which public service broadcasters should aim to achieve are set out in statute.

Chapter IV : Constraints and Opportunities

- (a) the public service mandate and objectives of the public service broadcaster and the fundamental principles such as editorial independence and freedom of expression ;
- (b) the public service remit of the public service broadcaster, including the genres of programmes to be produced;
- (c) the funding arrangements;
- (d) the governance structure, including the appointment of members of the governing board;
- (e) the regulatory framework, including the powers and functions of the regulatory body, its composition and relationship with the Government and the public service broadcaster, the mechanism for processing and determining appeals against decisions made by the regulatory body;
- (f) the licensing or regulatory procedures and mechanism for assessing the performance of the public service broadcaster;
- (g) accountability requirements such as the public service broadcaster's obligation to develop and publish editorial/producers' guidelines, codes of practice, and to submit reports to the legislature; and
- (h) a complaints handling mechanism.

Corporate governance structure

4.18 Within the institutional framework, the relationship between the regulator and the public service broadcasters must be clearly defined. In the countries which the Panel has visited, one of the principal means for maintaining an arm's length relationship between the regulator and the public service broadcasters is to ensure that the regulator does not regulate the

Chapter IV : Constraints and Opportunities

programme content. Programme content should be left to the public service broadcasters who should be accountable to the public for the quality of the programmes they provide. It must be stressed that institutional independence does not imply that public service broadcasters are given unfettered discretion over how they deliver their services and deploy resources. A good corporate governance structure will inspire confidence in the public that the broadcaster will use resources effectively for its public service remit and for the achievement of its PSB missions.

4.19 To achieve institutional independence, operational flexibility and public accountability, the Panel considers that there are merits for a public service broadcaster to be established as an independent statutory corporation under a piece of governing legislation as outlined in paragraph 4.17. Nevertheless, the Panel acknowledges that the concerns of serving RTHK staff must be properly addressed in this process and that suitable arrangements must be worked out by the Government in consultation with RTHK staff.

4.20 The Panel also notes that considerable views have been expressed on RTHK's governance should RTHK be corporatized. One mainstream view is that there is a need to set up an independently constituted governing board with clearly defined jurisdiction. On the composition of the governing board, many deputations have suggested that its members must be appointed on merits, be well-versed in broadcasting and related fields and be broadly representative of different interests in the community. The Panel also notes the view of RTHK and its staff union that the governing board should preferably comprise some 20 non-official members, including a staff representative.

4.21 The Panel is aware that as part of the reform package under the new Charter for BBC effective from 2007, the BBC Board of Governors will be replaced by the BBC Trust and the existing Executive Board will be reconstituted so that the former will be responsible for policy oversight and the latter will take up executive management functions. Bearing in mind that Hong Kong has not yet drawn up its PSB model, the Panel does not have a strong view on whether similar delineation of functions should be adopted for the governance of the future public service broadcaster(s) in Hong Kong. It is

Chapter IV : Constraints and Opportunities

however important to monitor global developments and benchmark the governance structure of the future public service broadcaster against international best practices.

Accountability and evaluation of performance

4.22 In many overseas jurisdictions, accountability measures include the broadcasters' periodic reporting to the legislature, the establishment of consultative bodies to advise the public service broadcasters on the needs and reactions of certain key audience segments, as well as the conduct of regulatory reviews by the regulatory bodies.

4.23 The Panel is aware that as Hong Kong's sole publicly-funded broadcaster, RTHK has over the years undertaken a number of initiatives to measure its performance. These include the conduct of public opinion polls, audience surveys, the Television Appreciation Index Survey, listeners' panels, and the establishments of TV advisory panels and focus groups. Universities also conduct surveys regularly to gauge the public's feedbacks on RTHK's programmes.

4.24 While welcoming RTHK's ongoing effort to increase its transparency and accountability, the Panel considers that the future public service broadcaster in Hong Kong, like its overseas counterparts, should be subject to a codified set of accountability requirements, including:

- (a) regular reporting to LegCo (such as tabling of annual reports and budgets) and attendance at its committee meetings;
- (b) obligation on the part of the broadcaster to publish and update editorial/reporting guidelines in accordance with a transparent and clearly spelt out process;
- (c) establishment of a systematic mechanism for ascertaining the public's expectations and evaluating the broadcasters' performance, including holding public forums; and

(d) publication of performance pledges

4.25 The Panel sees a need to provide clear indicators for the public to evaluate the performance of the public service broadcaster, in particular whether it is delivering services that are consistent with its public purposes. In this connection, the Panel notes that some key requirements under the "triple lock" system will be introduced under the new Charter for BBC, as highlighted in **Chapter II** of this report. In future, every BBC service will be run according to a new licence issued by the BBC Trust setting out the key characteristics of the service. Moreover, any significant change in or establishment of new services will need to undergo a Public Value Test conducted by the BBC Trust to determine how such services will serve the public interest. This will be weighed against a Market Impact Assessment to be carried out by Ofcom and overseen by a Joint Steering Group of Ofcom and the BBC Trust. While the effectiveness of the new "triple lock" system will need to be assessed in the light of operational experience, the Panel considers that such experience will provide useful reference for Hong Kong when considering the accountability requirements on the public service broadcaster(s) in Hong Kong.

4.26 Drawing on overseas experience, the Panel recognizes the importance of an effective complaint-handling mechanism to enhance the accountability of a public service broadcaster. Notwithstanding that complaint-handling procedures are available in most public organizations in Hong Kong, the Panel considers that due to the special nature of PSB and the need to maintain the integrity and credibility of its services, the setting up of an independent office of Ombudsman, as in the case of US and Canada, should be explored. The Ombudsman should be independent of the management and report to the governing board. The Panel sees merits in compiling a clear set of guidelines outlining the steps of referrals, the type of complaints to be handled by the Ombudsman and the procedures to be followed so as to facilitate action and avoid overloading the Ombudsman's office with complaints which can otherwise be dealt with at a lower level expeditiously.

Editorial Guidelines

4.27 The Panel notes that according to RTHK, its Producers' Guidelines provide a yardstick for the public to evaluate the performance of the station⁷³. The Panel notes that the key editorial principles enshrined in the Guidelines in general accord with those in the editorial guidelines published by leading overseas public service broadcasters. However, on specific approaches, such as those that may be adopted by presenters of talk shows or phone-in programmes, RTHK has taken a step further by stating explicitly in its Producers' Guidelines that the programme presenters may question, comment, challenge or criticize so as to stimulate debate. This has been explained in paragraph 3.40. On this point, the Panel has noted that in the practice of overseas public service broadcasters (**Appendix II-(a)**), the presenters or reporters associated with news or public policy related programmes are usually expected to refrain from expressing their personal views in the programmes. They must not use the advantage of regular appearances to promote their views in a way that compromises the requirement for due impartiality. Although RTHK's Producers' Guidelines are available in the public domain, it is noticed that the set of guidelines is primarily an in-house document the drafting and approval of which was entirely done by RTHK staff themselves. However, in the case of the major public service broadcasters overseas, the drafting authority usually rests with a dedicated board/unit set up within the broadcaster while the governing board of the broadcaster, which usually comprises members chosen from different sectors, is the approving authority for the guidelines in question.

4.28 The Panel considers that a set of well-written editorial guidelines is of great importance in providing guidance to editorial and programme production staff and in maintaining an acceptable standard in the programmes delivered. In order that the set of editorial guidelines can achieve its intended purpose, the Panel would like to see a more transparent and institutionalized mechanism under which the relevant guidelines are prepared, approved and promulgated by the future public service broadcaster, preferably also engaging the views of the public in the process.

⁷³ See the Foreword to RTHK's Producers' Guidelines.

A licensing regime

4.29 In the course of its study, the Panel has often been faced with the question of whether there should be more than one public service broadcaster in Hong Kong; and if there is only one such broadcaster, (e.g. a corporatized RTHK), whether it should be subject to a licensing regime. The Panel notes that among the places it has studied, most public service broadcasters are subject to a licensing regime. The licensing process provides an opportunity for the regulator and the public to scrutinize and evaluate the performance of the broadcaster and identify areas for improvement. The Panel notes the following views on the licensing regime, if one is to be adopted for Hong Kong:

- (a) Public service broadcasters should be subject to licensing.
- (b) The validity period of licences for a public service broadcaster should be the same as commercial broadcasters, e.g. up to 12 years.
- (c) Renewal of licences should be subject to compliance with legal provisions and licence conditions.
- (d) There should be periodic independent reviews of the licensing regime and licence conditions to meet the changing needs of the community.

Independent regulator

4.30 If a licensing regime is to be established, the Panel considers that the independent regulator (currently BA which may be reconstituted to form the future CA) may be empowered by law to be the licensing authority for PSB. To ensure the regulator's independence, attention should be given to the way its members are appointed. The factors which the independent regulator will take into account in granting, renewal or revocation of licences, as well as the relevant procedures, should also be clearly spelt out in the relevant legislation.

Programming

4.31 The public service remit of PSB in many overseas jurisdictions is specified in law. It may include programme content requirements and objectives. A checklist of how programme content is described in the relevant legislation, mandate or missions of some overseas broadcasters is as follows:

- (a) telling stories which reflect the reality and diversity of the place (Canada);
- (b) informing citizens about news and issues of relevance and interest (Canada);
- (c) supporting local arts and culture (Canada);
- (d) building bridges among various sectors of the community (Canada);
- (e) expressing diversity and excellence (US);
- (f) programming which involves creative risks and addressing the needs of unserved and underserved audiences, particularly children and minorities (US);
- (g) programming should be instructional, educational and cultural (US);
- (h) informing citizens and increasing their understanding of the world (UK);
- (i) stimulating interest in and knowledge of arts, science, history, etc., (UK);
- (j) reflecting and strengthening cultural identity (UK);

Chapter IV : Constraints and Opportunities

- (k) making citizens aware of different cultures and alternative viewpoints (UK);
- (l) maintaining high quality, be original, innovative, challenging, engaging and widely available (UK);
- (m) protecting young persons by prohibiting broadcasts that are capable of endangering the physical, mental or emotional well-being of children or adolescents (Germany);
- (n) providing innovative and comprehensive broadcasting services of a high standard (Australia);
- (o) broadcasting programmes that contribute to a sense of national identity, inform and entertain, and reflect the cultural diversity of the community (Australia);
- (p) encouraging and promoting the musical, dramatic and other performing arts (Australia);
- (q) contribute to meeting the communications needs of the multi-cultural society (Australia); and
- (r) making use of diverse creative resources (Australia)

4.32 The Panel notices that in some other places, there are more than one major public service broadcaster providing services to cater for the diverse needs of society and to provide a choice for people. In US, there are over 1 000 public radio and television stations to provide service at a national, regional and local level to cater for different audiences and address the diversified needs of the country. They are all required to obtain a licence from the FCC. The financial support given to them from Congress (through CPB) is about 15% of the operating cost of their annual expenditure. In UK, Channel 4, funded by advertisements, provides a range of innovative, creative, and distinctive programmes to cater for the ever-changing UK society. After

Chapter IV : Constraints and Opportunities

13 years of operation, it has gained a foothold among the younger generation and helped build a new group of PSB viewers. In Canada, CPAC is a not-for-profit non-commercial public broadcaster established by a consortium of cable companies to broadcast the proceedings of the House of Commons. It is currently financed by a charge to each of the subscription fees received by cable and satellite providers.

4.33 The Panel therefore sees the merits of having multiple broadcasters undertaking PSB in Hong Kong. The Panel considers that having more than one public service broadcaster may not necessarily require additional financial resources from the Government. Nevertheless, the Panel is of the view that irrespective of the alternative funding model for public service broadcasters, there should be sufficient public funding for operating at least one major public service broadcaster which provides a full range of public service programmes.

4.34 It is often said that public service broadcasters should focus on informational and educational programmes and that programmes which are more of an entertainment nature should be left to commercial broadcasters. In this respect, the Panel agrees with the overseas public service broadcasters it has met that entertainment programmes should not be excluded altogether from PSB but public service broadcasters should produce such programmes in a distinctive manner. While it is important for public service broadcasters to be responsive to the needs of the public, they should also take the lead in pioneering the creation of new programme genres. Public service broadcasters also have an instrumental role to play in promoting the creative industries by commissioning some of its programme production to the local independent production sector.

4.35 As regards public broadcasters' role to promote Government policies and services, according to information provided by the Government, policy bureaux and departments are funding APIs as part of their publicity campaigns to inform the public of government policies, services and matters of public interest. They also sponsor, on an ad hoc basis, RTHK to produce thematic programmes on matters of public interest. There is no information on whether the amount of airtime currently available to policy bureaux/departments for

Chapter IV : Constraints and Opportunities

television and radio publicity is adequate for such purposes. Nevertheless, there have been criticisms that RTHK, being a government department and funded as such, is not doing enough to promote policies and services.

4.36 In this connection, it may be necessary to draw a distinction between public service broadcasters and state-controlled broadcasters. The former is not mandated to promote or publicize the government or its policies but it has a duty to provide an impartial forum for free expression of public views; while the latter quite often functions as an organ of the state. The Panel agrees in principle that there is a need for the public to be well-informed of government policies, to understand their implications and to have adequate opportunities to discuss them. In overseas jurisdictions, it is common for the public service broadcasters to make available such opportunities by various means, such as by producing programmes which feature researches, commentaries or discussion by experts or stakeholders on topical issues in an interesting and attractive manner.

4.37 The Panel notes that in Canada, for example, public service broadcasters may broadcast the following programmes to enhance the public's understanding of public policies and professional knowledge:

- (a) Parliamentary proceedings in full;
- (b) important speeches made by government officials;
- (c) international conferences and seminars organized by professional bodies and individual trade groups;
- (d) work of charitable organizations; and
- (e) details of services provided by government departments or agencies.

4.38 The Panel generally agrees that to serve a broad spectrum of the community, PSB programming should include multi-lingual and multi-cultural

content. This will not only provide various ethnic groups living in Hong Kong with access to quality broadcasting services, but will also serve to strengthen social cohesion.

4.39 The Panel considers it highly desirable to specify in the governing legislation the genres of programme of the public service broadcaster to provide clarity, as well as to facilitate the monitoring of whether it has delivered programmes within its public service remit.

4.40 In the course of its study, the Panel is also aware that in some overseas jurisdictions, information on the country, its government and related policies is disseminated and promoted through the broadcasting services of dedicated channels, some being state or government-run. Many of these channels broadcast in different languages to audiences overseas and are sometimes regarded as a form of public diplomacy. Some well-known examples are the Voice of America⁷⁴ and BBC World Service which are funded by the US government and the UK government respectively.

Competition

4.41 The question of competition arising from the discussion of PSB may be two-fold: competition between public service broadcaster(s) and commercial broadcasters; and competition among public service broadcasters if PSB is to be provided by more than one broadcaster.

4.42 The Government's stated view that *"its conventional values notwithstanding, public service broadcasting is a form of market intervention through the allocation of public resources"*⁷⁵ has attracted dissenting views.

⁷⁴ The Voice of America is an international multimedia broadcasting service broadcasting more than 1 000 hours of news, informational, educational and cultural programmes every week to an audience of more than 100 million people worldwide. Its programmes are produced and broadcast in 44 languages through radio, satellite television and the Internet.

⁷⁵ This point of view is stated in the *Legislative Council Brief on Review of Public Service Broadcasting* issued by CITB on 17 January 2006 (File Ref.: CTB(CR)9/17/9(05)). Available from http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/ctb_cr_9_17_9-05-e.pdf.

Chapter IV : Constraints and Opportunities

In submitting views to the ITB Panel, some academics and concern groups disagree that PSB is a form of market intervention. Instead, they consider a robust PSB system an important public investment for fostering freedom of expression and catering to the information needs of the unserved or underserved sectors in a civil society.

4.43 The commercial broadcasters have made it clear that RTHK or the future public service broadcaster should not be allowed to seek commercial sponsorship or advertising revenue⁷⁶. In their view, to do so would be tantamount to competing for resources unfairly with commercial broadcasters which are not supported by public money. In Canada, CBC, its national public service broadcaster, has been criticized for posing unfair competition for deriving 22% of its revenue from advertising and programme sales. The Panel also notes from RTHK that it hopes to discuss with CITB on a possible review of the existing sponsorship guidelines which only allow the broadcaster to accept non-commercial sponsorships.

4.44 In order that a public service broadcaster can perform its role independently and be free from commercial pressure, the Panel sees no reason why RTHK, being Hong Kong's sole publicly-funded broadcaster, should need to compete with commercial broadcasters for advertising income. On commercial sponsorships, it has been raised as to whether sponsorship by commercial airlines for the production of an educational programme on aviation should be allowed. The Panel notes RTHK's suggestion that commercial sponsorships should be allowed for programmes which are not or rarely provided by commercial broadcasters, examples being programmes featuring classical music. There may not be an immediate easy answer as it is necessary to examine the benefits of such sponsored programmes to the wider community and the possible competition posed to commercial broadcasters for resources. Even if commercial sponsorships are allowed, the Panel considers that it is necessary to draw up clear guidelines on the types of permissible sponsorships and how they should be handled without jeopardizing the public service broadcaster's editorial autonomy.

⁷⁶ This point of view was shared by commercial broadcasters which met with the Panel on 11 March 2006. See the synopsis of views at **Appendix I-(c)**.

Chapter IV : Constraints and Opportunities

4.45 There is a view that public service broadcasters should focus on alternative programming to serve minority interests and fill the market gap by providing programmes that are normally considered not commercially viable, instead of producing programmes which seek to attract high ratings. Some examples are programmes broadcast in different languages for ethnic minorities. There has also been discussion on whether a publicly-funded broadcaster should refrain from producing programmes which are already well-supplied by commercial broadcasters. Based on its exchange of views with local and overseas stakeholders, the Panel has not come across very strong views that public service broadcasters must confine themselves to alternative programming. The production of certain types of programmes by both the public and commercial broadcasters is considered conducive to healthy competition and the pursuit of high quality. Nevertheless, the Panel does concur that in programming, public service broadcasters need to provide a different perspective free from commercial or political influences.

4.46 To provide plurality and encourage competition, some overseas jurisdictions have in place several public service broadcasters. In UK, for example, apart from BBC, there are a few other public service television broadcasters such as Channel 4. RTHK has expressed some reservation on whether it will be cost-effective for Hong Kong to support multiple public service broadcasters, given its relatively small market and the possible fragmentation of audienceship. This view is shared by an academic who submitted his views to the Panel.

4.47 While the Panel takes the view that Hong Kong should have a full-fledged public service broadcaster supported by public resources, it welcomes further discussion on the need or otherwise for additional public service broadcasters and the possible modes of operation. For example, the option of separating programme "production", "distribution" and "exhibition" in PSB as in the case of the US model⁷⁷ may be explored. The public service broadcaster can also commission the local production sector to produce programmes, as well as purchase overseas productions, but subject to a

⁷⁷ At present, CPB provides funding to more than 1 000 public radio and television stations in US. These public stations make use of the funding received from CPB to acquire programmes distributed by PBS, NPR and independent producers/distributors.

Chapter IV : Constraints and Opportunities

reasonable balance. There should also be room for the existence of broadcasters funded by other sources to supply alternative programmes which the full-fledged public service broadcaster may not provide. The Panel also notes the view of an academic that the Government should assist universities which offer broadcasting degree programmes to set up their own broadcasting stations with a view to nurturing broadcasting professionals.

The future of RTHK

4.48 From the above analysis of the essential features of a PSB model, it is quite clear that Hong Kong needs at least one full-fledged public service broadcaster which ought to be fully or substantially funded by public resources. Given RTHK's significant contribution to Hong Kong's broadcasting sector over the past decades, it is logical to consider how to build on RTHK's "assets", in terms of its mission and the public confidence it has gained over the years, and make RTHK an essential part of the PSB development in Hong Kong.

4.49 The Panel is aware that the findings of the Review Committee will certainly have implications on RTHK as it is Hong Kong's sole publicly-funded broadcaster. In this connection, RTHK has provided a submission⁷⁸ highlighting its position on the current review on PSB. The Panel is of the view that due consideration should be given to RTHK's views.

4.50 Organizationally, RTHK is not different from any other government departments. However, the political development in Hong Kong from mid-80s up to the turn of the century has put RTHK in the limelight as a defender of freedom of press and editorial independence. The Framework Agreement gives RTHK editorial independence without subjecting it to a regulatory framework outside the government structure. While the major overseas public service broadcasters which have been studied by the Panel are not government departments, RTHK's status as a government department has led to debates in the community on whether RTHK should "bite the hand that

⁷⁸ RTHK's submission to the Panel *RTHK in the Digital Future: Enhancing Capacity, Promoting Public Values* can be browsed at http://www.legco.gov.hk/yr05-06/English/panels/itb/papers/itb_aa.htm.

Chapter IV : Constraints and Opportunities

feeds it". To rectify the situation, it may be useful to note the fundamental differences between RTHK and major public service broadcasters in other places and consider how RTHK could be put on par with its overseas counterparts:

- (a) By status, RTHK is a government department and most of its employees are civil servants. RTHK is required to comply with the financial and administrative rules and practices applicable to government departments.
- (b) The head of RTHK, i.e. the Director of Broadcasting, is a civil servant and serving as the Chief Editor. As a matter of public perception, it is difficult to regard him as independent especially when conflicts arise between RTHK and the Administration.
- (c) RTHK relies on government appropriations. The level of funding for RTHK is subject to the Government's overall fiscal position. The annual funding cycle may not be conducive to longer-term planning.
- (d) RTHK is not subject to any regulatory or licensing regime. There is no independently constituted governing board to ensure that RTHK is carrying out its functions according to its public service remit and is meeting its performance targets.
- (e) There is no open and established mechanism to subject RTHK's performance to regular reviews or evaluations against objective yardsticks.
- (f) The accountability system is not well defined or provided in legislation.
- (g) There is no independent complaint handling mechanism.
- (h) The Producers' Guidelines are drafted and approved in-house.

Public access channels

4.51 As explained in **Chapter III**, the Government has not assigned any broadcasting spectrum for the use of the community or certain social groups, nor issued any licence for such purposes. The Panel considers that the Government should look at the demand for additional channels to be used by broadcasters for a public purpose. The recent incident involving the Citizens' Radio⁷⁹ is an example reflecting the lack of opportunities for community groups to utilize the airwaves to broadcast their programmes. The Panel is aware that one of the Government's concerns is that such channels could be misused if they were not properly regulated. However, so long as the public service remit is well defined for the broadcasters and a proper regulatory system is in place, the Panel sees no reason why broadcasting channels should not be made available to the general public.

4.52 There has been considerable discussion over the past few years that the Government should "open up the airwaves" for the use of the community or certain social groups in addition to the existing licensed sound and television programme services and the broadcasting services provided by RTHK. The Panel sees the merits of public access channels in complementing the existing broadcasting services as these channels can cater for the needs of certain community groups or providing an additional platform for the public to express their ideas. There is broad agreement in principle among LegCo Members that the feasibility of setting up public access channels should be looked into, as indicated by the motions passed at the Council meetings on 18 February 2004 and 8 February 2006 calling for, among other things, the setting up of such channels. In fact, at the ITB Panel meeting held on 25 January 2006, concern has been raised as to whether the Review Committee would also study the issue in the context of its review on PSB in Hong Kong⁸⁰.

⁷⁹ The Citizens' Radio has applied to BA in September 2005 for a licence to operate a public radio station but so far no approval has been given.

⁸⁰ See the minutes of the ITB Panel special meeting held on 25 January 2006. Available from <http://www.legco.gov.hk/yr05-06/english/panels/itb/minutes/itb060125.pdf>.

Chapter IV : Constraints and Opportunities

4.53 On the availability of frequency spectrum, the Panel notes that Cable TV is already required to make available to the Government up to three television channels for government use pursuant to the licence conditions imposed on it in 1993. These channels have never been utilized. The Panel also notes RTHK's under-utilization of its channel capacity as a result of the merged broadcasting of some of its radio programmes. Some Panel members are thus concerned that on the one hand, some frequency spectrum assigned for broadcasting has not been utilized; while on the other hand, individuals keen on operating broadcasting services are not given approval to utilize the surplus spectrum.

4.54 The Panel is aware of the Government's policy stance against the setting up of public access channels in Hong Kong. Nevertheless, in view of developments such as the imminent introduction of DTT services in 2007, the advent of digital technology resulting in more efficient use of frequency spectrum and the emergence of a more diversified and vibrant broadcasting sector, the Panel considers that this subject should be further examined and believes that more informed public discussion will certainly achieve a better understanding in the subject, in particular the need or otherwise for public access channels in Hong Kong, how they should be operated and their role in the local broadcasting sector. The Panel is also mindful of the need to work out an acceptable regulatory framework for such channels, if provided, to ensure that the public access channels can achieve their intended purposes.

Public service broadcasters as pioneers

4.55 In the motion on "Policy on public service broadcasting" passed by LegCo on 8 February 2006, Members have urged the Government to, among other things, allocate adequate resources to expedite the development of digital broadcasting, so as to allow the development of PSB to sustain in an era of digital convergence. Public service broadcasters are expected to capitalize on new opportunities arising from the digital age in serving the public. Being free from commercial considerations such as financial returns, public service broadcasters are in a better position to be at the vanguard of new technologies,

Chapter IV : Constraints and Opportunities

pioneering new initiatives which commercial broadcasters may be less motivated to undertake.

4.56 BBC is a case in point. In the White Paper *A public service for all : the BBC in the digital age* issued by DCMS in March 2006, BBC was given a new purpose of "building Digital Britain", which is unique among all broadcasters. It is outlined in the White Paper that throughout its history, BBC has been instrumental in introducing the British public to new ways of receiving media services and encouraging their take-up. The digital switchover of television services in Britain will be completed in 2012 and currently, Britain has the world's highest digital television take-up rate with two-thirds of its households receiving digital services. DCMS confirms that BBC should continue to take a leading role in facilitating digital switchover by (a) extending the digital network; (b) informing the public; and (c) establishing help schemes for the most vulnerable television viewers such as the elderly and people with disabilities. BBC also has plans to extend digital radio coverage to at least 90% of the UK population over the next 10 years⁸¹.

4.57 RTHK has set its vision to be a leading public broadcaster in the new media environment and was the first local broadcaster to offer radio and television programmes online by launching RTHK ON INTERNET in December 1994. Meanwhile, tests conducted by RTHK on digital sound transmission using Eureka 147 in Band III are still underway and new services such as webcasting and "myrthk"⁸² have been launched. According to RTHK, the estimated cost of migrating existing RTHK services to digital broadcasting for both television and radio is roughly \$200 million but it lacks additional and stable funding to plan for digital development. Its existing premises also can hardly support digitalized operations. The Panel is concerned about inadequate resources and the lack of a clear policy direction on RTHK's strategic role in pioneering the development of new broadcasting technologies.

⁸¹ Department for Culture, Media and Sport, UK. (2006) *A public service for all : the BBC in the digital age*.

⁸² "myrthk" is an online channel provided by RTHK which allows registered users to personalize their setting for playing radio, television and news programmes online.

Chapter IV : Constraints and Opportunities

4.58 During past discussions, the Panel has considered that as Hong Kong's sole publicly-funded broadcaster, RTHK should be provided with sufficient public resources to serve the public in a digital environment. Looking ahead, the Panel is keen to ensure that Hong Kong's future public service broadcaster will be able to keep pace with technology and harness its potentials to serve the community. This pioneering role should be taken into account when conceiving the public purposes of the future broadcaster in Hong Kong.

Chapter V : Summary of Findings

5.1 In view of the Administration's appointment of the Review Committee in January 2006 to undertake a fundamental and critical review of PSB and its future development, the Panel has found it necessary to conduct this study on the development of PSB in Hong Kong. The political development in the last 20 years or so has made it difficult for the Hong Kong Government to take any bold step to formulate a clear policy on how PSB could be developed and how RTHK, being the only publicly-funded broadcaster with the role "to inform, educate and entertain", should continue to serve a broad spectrum of audiences through multi-media programming. In the absence of a clear policy on PSB, it would take years for Hong Kong to put in place an environment with the requisite public support and necessary legislative and regulatory framework to facilitate the growth of PSB. This study, which looks into the general philosophy and principles of PSB and the methodologies in implementing PSB, aims to provide useful reference to Members as well as the general public on how PSB can be taken forward in Hong Kong.

5.2 In this report, the Panel has made reference to selected PSB systems overseas, each with its unique political and socio-economic background and history of development. The information we have obtained from these places does not only illustrate what PSB is meant for, but the process of how the relevant governments, regulatory bodies and public service broadcasters have worked together and engaged the public in considering how quality PSB should be delivered. It was through these joint efforts and years of public discussion that PSB has become part of the society and the everyday life of the citizens in those places.

5.3 In this Chapter, we provide primarily a summary of the key pointers to facilitate more systematic public discussion in the years ahead. These key pointers, which are explained in the ensuing paragraphs, will serve as a checklist of the major issues which should be taken into account when mapping out the roadmap for the development of PSB.

Community awareness and strategic planning

5.4 The development of PSB requires the continuous support from the public, not only its patronage, but its willingness to support and invest in the infrastructure and the development of the public service broadcasters and related institutions. The subject of PSB in Hong Kong has not been thoroughly or systematically discussed by the community. Without well-informed public discussion, there is the misconception that PSB is only about editorial independence and freedom of expression. PSB is in fact an important instrument to ensure plurality and social inclusion, and to strengthen the civil society. In view of the heavy commitment involved in the development of PSB, it is important that the public should be engaged at an early stage, so as to create an environment conducive to more focused and well-informed discussion on the subject.

5.5 On strategic planning, the Panel notes that the Government is studying the subject through the help of the Review Committee. The Government has also indicated that based on the outcome of the review, it will formulate a roadmap for the development of PSB for consultation with the public before implementation. The Panel welcomes the extensive consultation conducted by the Review Committee and the opportunities arranged by the Committee to enable overseas experts to share their experience in PSB with Hong Kong. It would be useful if the views received can be systematically compiled and analyzed in a highly transparent manner for more focused discussion before the Government decides the way forward. The Government should also take into consideration the views of stakeholders and the public when drawing up strategic plans on how PSB should be taken forward in Hong Kong.

Setting of objectives and financial assessment

5.6 For PSB, "**universality**", "**diversity**", "**independence**" and "**distinctiveness**", as detailed in paragraph 4.7, are the internationally recognized core principles. For a public service broadcaster, "**editorial**"

independence" is its major core value. It is important that every citizen, irrespective of his income and social status, has access to diversified genres of programmes of high quality and distinctiveness, and which are free from political and commercial influence. The Panel considers that these core principles and values are also applicable to Hong Kong in drawing up the public service mandate and public service remit of public service broadcaster(s) in Hong Kong.

Setting of objectives

5.7 The Panel notes that in Hong Kong, RTHK is almost the only model which can be referred to when talking about PSB. PSB is in fact not just about the development of a single public service broadcaster. It is an instrument to develop citizens' knowledge, broaden their horizon and enable them to better understand themselves by understanding the world and other people. Before formulating any plans on the future of RTHK, it may be necessary to first determine what PSB is set out to achieve for the people of Hong Kong. Once the objectives are defined, it will be easier for policy makers, legislators, stakeholders and members of the public to consider the way forward, including the role to be played by RTHK in the achievement of these overall objectives. The determination of these objectives should not be the job of just a few policy makers, as it is the general public who will eventually "pay" for and benefit from the service. Early involvement of stakeholders and the general public at the stages of policy formulation and implementation is important.

5.8 The Panel notes that the Framework Agreement has set out a number of objectives which RTHK should aim to achieve. While agreeing that such promulgated objectives can continue to be pursued, the Panel considers that in devising the future objectives of PSB, the Government should give due regard to Hong Kong's status as an international city of China and include as its public service objectives the promotion of biliteracy in Chinese and English and trilingualism in Cantonese, English and Putonghua; as well as fostering the cultural and linguistic diversity of Hong Kong society. More importantly, the public service broadcaster should be able to affirm unequivocally and

Chapter V : Summary of Findings

demonstrate that it serves the people of Hong Kong, and does not function as an instrument of the Government or the commercial market.

Assessment of financial implications

5.9 The Panel recognizes that the financial implications of implementing a PSB system in Hong Kong should be carefully assessed. Once the objectives of PSB are defined, there should be public discussion on the necessary infrastructure of PSB, including the legal and licensing framework, the role of public service broadcasters, etc. In this connection, there has been considerable public discussion in support of an independent statutory corporation to serve as the future public service broadcaster for Hong Kong, such as by corporatizing RTHK. It is important that the resources requirements to develop and sustain a full-fledged public service broadcaster, as set out in paragraph 4.12, with its own radio and television channels, be properly understood and assessed. Then, there are the infrastructural requirements which have to be met, such as the provision of a well-equipped production and broadcasting house and the capacity to pioneer technological advances to bring the broadcasting environment of Hong Kong into line with international standards and practices. Other financial considerations are the costs arising from the provision of administrative support to institutions within the regulatory framework of PSB. Based on the assessment of the financial implications, the Government will then be in a better position to explore how far it is prepared to meet the financial commitment in the development of PSB.

Public participation in devising the PSB model for Hong Kong

5.10 Institutional independence, stable and sustainable funding and appropriate accountability requirements are essential features underpinning a PSB model. There is no ideal model which is suitable for all places. Hong Kong should develop its own model in the light of its special political and social environment, public expectations, and diversified needs of the community. Participation of stakeholders and the public is important not only in the early consultation stage, but throughout the planning and implementation

Chapter V : Summary of Findings

stages so that the views of stakeholders and the general public will be taken into account at various stages of devising the PSB model.

Institutional arrangement to ensure editorial independence

5.11 PSB is mandated to serve the public. The practice adopted by many overseas jurisdictions under which a public service broadcaster operates at arm's length with the government and the regulatory authority through institutional arrangements is an effective way to safeguard the editorial independence of the public service broadcaster. A regulatory framework will help ensure that the public service broadcaster's use of public resources is subject to proper scrutiny and control.

5.12 In drawing up a legal framework for PSB, Hong Kong may take note of the common practice adopted overseas to include freedom of expression as a core principle in the system of broadcasting regulation. The conditions and restrictions which must be observed in exercising such freedom should also be prescribed in law. The Panel has set out some of the elements which may need to be embodied in the relevant legislation in paragraph 4.17. These include the public service mandate and objectives of the public service broadcasters, funding arrangements and governance structure, regulatory framework, licensing or regulatory procedures and the mechanism for assessing the performance of the public service broadcasters, the accountability requirements, and the complaints handling mechanism.

Stable and sustainable funding

5.13 Hong Kong should have at least one full-fledged public service broadcaster supported mainly by public resources. As regards the sources of funding, it is the general consensus of the Panel that the major public service broadcaster should not rely on advertising revenue to support its services. However, the different types of funding models, ranging from government appropriations to limited commercial sponsorships as highlighted in paragraph 4.11 should be explored. The Panel's initial views on the options are in paragraph 4.13.

Chapter V : Summary of Findings

Corporate governance and accountability

5.14 The Panel attaches great importance to putting in place a standing mechanism to effectively evaluate the performance of public service broadcasters and to enhance their public accountability. While the regulator ensures the broadcasters' compliance with the conditions of licence and the relevant legislation, the broadcasters themselves should be underpinned by a corporate structure which is not subject to political or commercial interference. Apart from a codified set of accountability requirements, as set out in paragraph 4.24, including the publication of editorial guidelines, tabling of reports and budgets at the legislature and systematic arrangements to obtain public feedbacks, the feasibility of establishing an Ombudsman within the public service broadcaster to deal with complaints against the broadcaster should be considered.

5.15 In addition to the corporate structure and codes of practice, other measures such as the establishment of independent advisory bodies and providing access for various sectors of the community to the PSB system will help the public service broadcaster monitor standards and develop programme genres which will meet the current and future needs of the community.

Programme content

5.16 It is also a common practice in overseas jurisdictions to specify the public service remit of the public service broadcaster, including programme content requirements and objectives, in law. The Panel has provided a checklist of how programme content is described in the relevant legislation, mandate or missions of some overseas broadcasters in paragraph 4.31. The Panel does not consider that the public service broadcaster should only produce programmes which are not supplied by commercial broadcasters. However, the Panel recognizes that public service broadcasters should produce programmes in a distinctive manner, as well as play a leading role in pioneering new programme genres. To cater for the diverse needs of society and to provide choices, there may be a need to consider if there should be more than one public service broadcaster in Hong Kong. In some overseas

Chapter V : Summary of Findings

jurisdictions, there are different public service broadcasters serving different purposes and audiences and providing services at the national, regional and local level. If Hong Kong is to proceed along this direction, consideration will have to be given to the establishment of a licensing regime and the publication of codes of practice applicable to all licensees.

5.17 The Panel sees the merits of having multiple broadcasters undertaking PSB in Hong Kong. It considers that having more than one public service broadcaster may not necessarily require additional financial resources from the Government, as explained in paragraphs 4.33 and 4.34. Nevertheless, the Panel concurs that there should be sufficient public funding for operating at least one full-fledged public service broadcaster which provides a wide range of public service programmes.

5.18 As to whether public service broadcasters should promote or publicize the government or its policies, the Panel notes, as detailed in paragraphs 4.35 to 4.37, that in some overseas jurisdictions, public service broadcasters have a duty to provide a forum for free expression of public views. In order that the public can be well-informed of government policies, understand their implications and have adequate opportunities to discuss them, it is common for the public service broadcasters to make available such opportunities by producing programmes which feature researches or commentaries by experts or stakeholders.

Competition

5.19 While concurring that there is need for at least one full-fledged public service broadcaster in Hong Kong, the Panel has not taken a position on whether there should be multiple public service broadcasters in Hong Kong but agrees there are merits in such an arrangement. The subject should therefore be further examined having regard to factors such as the market size of Hong Kong, the possible sources of funding and the public service remits of the broadcasters.

Chapter V : Summary of Findings

5.20 In principle, the Panel agrees that public service broadcasters should not seek to compete with commercial broadcasters for advertising revenue and ratings. In terms of programming, public service broadcasters should serve a broad spectrum of audiences but at the same time, cater for the needs of minority interest groups in society as part of their mission. There should be a sufficient control mechanism to ensure that publicly-funded public service broadcasters are working within their public service remit.

Opening of spectrum to facilitate the development of public access channels

5.21 The Panel is aware of considerable discussion over the past few years that the Government should "open up the airwaves" for the use of the community or certain social groups. There is also broad agreement in principle among LegCo Members that the feasibility of setting up public access channels should be looked into, as indicated by the motions passed at the Council meetings on 18 February 2004 and 8 February 2006. Despite the Government's policy stance against the setting up of public access channels in Hong Kong, the Panel considers that in view of developments such as the imminent introduction of DTT services in 2007, the advent of digital technology resulting in more efficient use of frequency spectrum and the emergence of a more diversified and vibrant broadcasting sector, the subject of public access channels should be further examined by the Government and the public at large.

Concluding remark

5.22 Compared to other places with comparable international exposure, Hong Kong obviously lags behind in the development of PSB. Yet, in designing its own PSB model, Hong Kong has the advantage of being able to benefit from the experiences of other places. The Panel will continue to follow up the development of PSB in Hong Kong. We hope that the Government would take into account the findings of this report when

Chapter V : Summary of Findings

formulating a roadmap for the development of PSB. We also urge the Government to involve the public not only at the consultation stage, but throughout the process of policy formulation and implementation. We believe that genuine public engagement will enable the public to become part of the PSB system and is conducive to fostering communication and mutual trust between the media and the public. To quote from UNESCO's *Public Service Broadcasting : A Best Practices Sourcebook*, "[T]he common people should be the ultimate beneficiaries of any PSB network. And it is because of this that the public should be accorded an equally important role in the whole process... It is therefore critical ... to put in place mechanisms that will certainly go a long way in building citizens' participation and empowering them while at the same time making public broadcasters themselves more credible and responsible public institutions."

Abbreviations

Abbreviations

ABC	Australian Broadcasting Corporation
ABC Act	Australian Broadcasting Corporation Act
ACMA	Australian Communications and Media Authority
APIs	Announcements in the public interest
ARD	Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland
ATV	Asia Television Limited
BA	Broadcasting Authority
BAO	Broadcasting Authority Ordinance
BBC	British Broadcasting Corporation
BO	Broadcasting Ordinance
CA	Communications Authority
Cable TV	Hong Kong Cable Television Limited
CBC	Canadian Broadcasting Corporation
CE	Chief Executive
CITA	Communications, Information Technology and the Arts
CITB	Commerce, Industry and Technology Bureau
CPAC	Cable Public Affairs Channel
CPB	Corporation for Public Broadcasting
CRHK	Hong Kong Commercial Broadcasting Company Limited

Abbreviations

CRTC	Canadian Radio-television and Telecommunications Commission
DAB	digital audio broadcasting
DCH	Department of Canadian Heritage
DCMS	Department of Culture, Media and Sports
DTT	digital terrestrial television
FCC	Federal Communications Commission
HDTV	high-definition television
IBA	Interstate Broadcasting Agreement
ITBB	Information Technology and Broadcasting Bureau
ITB Panel	Panel on Information Technology and Broadcasting
LegCo	Legislative Council
Metro	Metro Broadcast Corporation Limited
NPR	National Public Radio
Ofcom	Office of Communications
OFTA	Office of the Telecommunications Authority
PBS	Public Broadcasting Service
PEG	public, educational, or governmental
PSB	Public service broadcasting
the Review Committee	Committee on Review of Public Service Broadcasting in Hong Kong
RTHK	Radio Television Hong Kong

Abbreviations

SBS	Special Broadcasting Service Corporation
SBS Act	Special Broadcasting Service Act
SSCMS	Secretary of State for Culture, Media and Sport
TA	Telecommunications Authority
TELA	Television and Entertainment Licensing Authority
TVB	Television Broadcasts Limited
UK	United Kingdom
UNESCO	United Nations Educational, Scientific and Cultural Organization
US	United States
ZDF	Zweites Deutsches Fernsehen

Appendices

Panel on Information Technology and Broadcasting

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to information technology, telecommunications, broadcasting and film services.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

Panel on Information Technology and Broadcasting

Membership List for the 2005-2006 Session

Chairman	Hon SIN Chung-kai, JP
Deputy Chairman	Hon Albert Jinghan CHENG
Members	Hon Fred LI Wah-ming, JP Dr Hon LUI Ming-wah, SBS, JP Hon Jasper TSANG Yok-sing, GBS, JP Hon Howard YOUNG, SBS, JP Hon Emily LAU Wai-hing, JP Hon Timothy FOK Tsun-ting, GBS, JP Hon Ronny TONG Ka-wah, SC
Clerk	Miss Polly YEUNG
Legal Adviser	Ms Connie FUNG

Non-Panel Member Who Has Participated in the Study

Member	Hon Margaret NG
---------------	-----------------

***Other Staff of the LegCo Secretariat Who Have Assisted
in the Preparation of This Report***

Mr Jimmy MA, Legal Adviser
Ms Pauline NG, Assistant Secretary General
Mr Watson CHAN, Head (Research & Library Services)
Ms Elyssa WONG, Deputy Head (Research & Library Services)
Ms Debbie YAU, Senior Council Secretary
Ms Vicky LEE, Research Officer
Mr Michael YU, Research Officer
Ms Guy YIP, Council Secretary
Ms Sharon CHAN, Legislative Assistant

Consultation Note

Introduction

1. At present, there is no clear policy on public service broadcasting (PSB) in Hong Kong. For many years, PSB has been delivered mainly by Hong Kong's sole publicly-funded broadcaster, Radio Television Hong Kong (RTHK), as well as through the public interest programmes provided by commercial television and sound broadcasting licensees in accordance with their respective licences. Although some studies were undertaken in the 80s and early 90s on RTHK's status as a government department-cum-public broadcaster, there has been very little public discussion on Hong Kong's PSB needs and the future direction of how PSB should be developed in Hong Kong.

2. Frequency spectrum for broadcasting is a scarce public asset and part of the airwaves should also be used for the benefit of citizens. It is recognized internationally that PSB plays an important part in developing citizens' knowledge, broadening their horizons and enabling them to better understand themselves by better understanding the world and others. PSB is an instrument to ensure plurality and social inclusion and to strengthen the civil society. With the objectives to inform, educate and entertain, and with appropriate funding, accountability and transparency, PSB can serve as a cornerstone of democracy. It is therefore important that public broadcasting is accessible to every citizen (*universality*), provides diversified services (*diversity*), free from political and commercial influences (*independence*), and be distinguished in the quality and particular character of programmes and be innovative (*distinctiveness*). In exercising their rights to use the public spectrum without interferences, public service broadcasters should observe the golden rules of neutrality in the manner of reporting and should ensure all people's right to access true and accurate information and quality programmes.

3. Against this background, the Panel has considered it necessary to conduct a study into the subject and examine issues related to how PSB can be developed in Hong Kong. The Administration's announcement on 17 January 2006 of the appointment of the Committee on Review of Public Service Broadcasting (the Review Committee) also provides a timely opportunity for more public discussion on the subject. The Panel has since met with the Administration and the Review Committee, and exchanged views with

stakeholders and other interested parties. To acquire first-hand information on the development of PSB in places with a long history in PSB, the Panel visited the United Kingdom, Canada and the United States. Initial observations on the essential factors which have attributed to the success and sustainability of the PSB systems in these overseas countries are available at: <http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itbcb1-1393-e.pdf>. The Panel has also conducted literature research into the PSB systems in Germany and Australia.

Public views being invited

4. The Panel intends to compile a report which identifies and analyzes the key issues which ought to be addressed when mapping out the future development of PSB in Hong Kong. To gauge public aspirations, the Panel is inviting views on the following issues and has also listed thereunder some questions to facilitate consideration:

(a) *Need for more vigorous action to develop PSB in Hong Kong*

- Is there any need to strengthen Hong Kong's position as a knowledge-based society through PSB?
- Should PSB in Hong Kong continue to be undertaken by RTHK and commercial broadcasting licensees as under the current arrangement?
- Has RTHK been able to fulfil its role as a public service broadcaster so far?
- How far do people in Hong Kong understand the purposes of PSB, are aware of the need for investing public resources in its development and have an expectation on the standard of PSB?

(b) *Public service remit*

- What should be the public service remit for PSB in Hong Kong? (a checklist of some examples in other places is given in the **Annex**)
- What should be the purposes of and core values underpinning PSB in Hong Kong? How far should the principles of universality, diversity, independence and distinctiveness apply to Hong Kong?
- Where public service broadcasters are established and operated in accordance with the PSB principles, should the

Government still be given airtime on commercial channels to promote its services and policies? Or should the Government be assigned one or more channels of its own for such purposes? If yes, how should a public service broadcaster be distinguished from a government broadcaster?

- Should PSB be undertaken by a single public service broadcaster? Should more than one public service broadcaster be allowed to operate in Hong Kong?

(c) *Funding for PSB*

- Should PSB be fully funded by the Government?
- Should public service broadcasters be financed by commercial advertisements and sponsorships? If yes, to what extent? Will such activities create unfair competition with commercial broadcasters?
- If there are more than one public service broadcaster, should government funding be provided for the operation of at least one of the public service broadcasters?
- Apart from government funding, what other funding models are considered appropriate for Hong Kong?
- Should a licence fee be paid by viewers/listeners to provide direct funding to the public service broadcaster(s) so as to obviate the need for public funding through the government appropriation process?
- What is the most appropriate funding cycle for a public service broadcaster financed by public funding?

(d) *Institutional arrangement for the public service broadcaster*

- Should public service broadcaster(s) be subject to regulation and be required to be accountable to the public?
- Should a licensing regime be established for regulating public service broadcaster(s)?
- What are the appropriate regulatory and institutional frameworks for the public service broadcaster(s)? How should the necessary arrangements, such as the public service mandate, be given effect (e.g. by way of legislation)?
- How should the public service broadcaster(s) keep an arm's length relationship with the Government?

(e) Editorial independence and public accountability

- What safeguards should be built into the regulatory framework to ensure editorial independence for public service broadcaster(s)?
- What corporate structure or measures should be adopted by the public service broadcaster(s) so as to preserve editorial independence but at the same time making the broadcaster(s) accountable and responsive to the public?
- How should the public be involved in monitoring the performance of the broadcaster(s) in fulfilling its public service mandate?
- Should public service broadcaster(s) be allowed to produce programmes outside their public service remit? If yes, would it create unfair competition for other broadcasters?

(f) Public access channels

- Should public access channels be set up in Hong Kong? Should these channels be subject to the same licensing regulation as that may be applicable to public service broadcaster(s)?
- Should public access channels be subject to the same performance monitoring mechanism as that may be applicable to public service broadcaster(s)?
- Whether and how such channels can complement the services of the public service broadcaster(s)?

5. The Panel wishes to stress that its report on the study is not meant to be a policy proposal but a checklist of important issues to facilitate Legislative Council's consideration of the subject together with the community. The report will also be provided to the Administration and the Review Committee for their reference. Given that the PSB systems in some overseas countries have taken long years to evolve to their present form, the Panel considers that it is now timely to engage the community in active discussion on the most appropriate way forward.

**Public service remits of selected broadcasters
in some overseas countries**

- (a) To provide, as public services, sound and television broadcasting services and to provide sound and television programmes of information, education and entertainment for general reception. (British Broadcasting Corporation, United Kingdom)
- (b) To provide a broad range of high quality and diverse programmes (a) demonstrating innovation, experiment and creativity; (b) appealing to the tastes and interest of a culturally diverse society; (c) providing an educational nature and educative values; and (d) exhibiting a distinctive character. (Channel 4, United Kingdom)
- (c) To provide radio and television services incorporating a wide range of programming that informs, enlightens and entertains. (Canadian Broadcasting Corporation, Canada)
- (d) To facilitate the full development of public telecommunications in which program of high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature. (Corporation for Public Broadcasting, United States)
- (e) To serve the public as a whole with programmes providing information, education and entertainment. (Arbeitsgemeinschaft der öffentlich-rechtlichen Rundfunkanstalten der Bundesrepublik Deutschland (ARD), Germany)
- (f) To provide information, education and entertainment in ZDF's programming, reaching viewers of all ages and in all parts of Germany. (Zweites Deutsches Fernsehen (ZDF), Germany)
- (g) To provide within Australia innovative and comprehensive broadcasting services of a high standard; To broadcast programmes that contribute to a sense of national identity, inform and entertain, and reflect the cultural diversity of the Australian community; To broadcast programmes of an

educational nature; To encourage and promote the musical, dramatic and other performing arts in Australia; To transmit to countries outside Australia programmes of news, current affairs, entertainment and cultural enrichment. (Australian Broadcasting Corporation, Australia)

- (h) To provide multi-lingual and multi-cultural radio and television services that inform, educate and entertain all Australians and, in doing so, reflect Australia's multi-cultural society. (Special Broadcasting Service Corporation, Australia)

**Synopsis of Major Views and Concerns on
"Public Service Broadcasting"
Received in response to the Panel's Invitation for Views**

Issues	Views/concerns
Public service mandate	Public service broadcasting (PSB) plays an important part in developing citizens' knowledge, broadening their horizons and enabling them to better understand themselves, others and the world. The Government should take a proactive role in developing PSB so as to build a pluralistic, inclusive, liberal and open civil society. There is general agreement that public service broadcasting (PSB) should serve the community, be accountable to the public and be free from political and commercial interests. The programming of a public service broadcaster should cater for a broad spectrum of audiences, including the needs of children, young people and minority interest groups, and to promote racial and gender equality. ATV has expressed the view that PSB should also provide non-commentary and comprehensive introduction of the Government's policies. Some members and deputations however caution that a public service broadcaster should not serve as the Government's "mouthpiece" or a propaganda machine. A distinction should be drawn between public service broadcasters and state-run broadcasters. The former should produce programmes to meet the public service needs of broadcasting while the latter is more often mandated to promote government policies and information. Some deputations consider that in general, RTHK has been able to fulfil the role of a public service broadcaster.

Issues	Views/concerns
Respective roles of public service and commercial broadcasters in the provision of PSB programmes	The commercial broadcasters express grave concern about unfair competition and take the view that a publicly-funded broadcaster should not compete with commercial broadcasters for advertising revenue, commercial sponsorship and ratings. In their opinion, a public service broadcaster should focus on alternative programming and produce programmes that are considered by commercial broadcasters as not commercially viable. Its programming should not duplicate the productions of commercial broadcasters. Some deputations and members however do not agree entirely that PSB is "a form of market intervention". They consider that a certain extent of programme overlap and competition between commercial and public broadcasters can serve a positive purpose of driving improvement. In their view, PSB programming can provide audiences with a different perspective and such programming should not be restricted to catering for minority or niche interests. TVB and Metro state that as PSB is primarily a responsibility of the Government, the existing licence conditions on commercial broadcasters to provide public service programmes should be suitably relaxed. On the contrary, there is a view that commercial broadcasting licensees should continue to provide PSB programmes, in particular news and current affairs programmes, given that frequency spectrum for broadcasting is a scarce public asset and should not be utilized solely for deriving commercial gains. There is agreement in principle that the future public service broadcaster should be assigned its own television channel. Even so, there is a suggestion that transitional arrangement should still be made for commercial broadcasters to continue to carry PSB programmes during the

Issues	Views/concerns
Respective roles of public service and commercial broadcasters in the provision of PSB programmes (cont'd)	initial operation of the public service broadcaster in order that the latter can establish its position in the market and build up its audienceship.
PSB provider	The Professor from HKBU opines that given Hong Kong's relatively small market, a single major PSB provider should be adequate and efficient. In addition, the Government should also consider assisting local universities that offer broadcasting degree programmes to set up their own PSB stations with a view to nurturing a critical mass of broadcasting professionals.
Funding	According to the CUHK Professors, Hong Kong is among the lowest in PSB expenditure when compared to other developed economies. They consider that the Government should first affirm the scope and objectives of PSB and make available the amount of resources necessary to fulfil these objectives. There is general agreement that the public service broadcaster should be publicly-funded. The source of funding should be stable and the funding level should be adequate. There is a suggestion that the level of the subsidy should be determined by the Legislative Council, on the recommendation of the public service broadcaster's board of governors. While maintaining an open attitude on the PSB funding model, RTHK is in favour of a hybrid model in which 80-85% of the funding is derived from direct government subsidy appropriated on a 3 or 5-year cycle and the remaining funding made up by sponsorships, donations and revenue generated from programme sales and commercial sources. Other alternatives proposed by some deputations include appropriation from the Government's income from tax, rates and licence fees collected while others have stated their reservation on these alternative options.

Issues	Views/concerns
Funding (cont'd)	The commercial broadcasters hold the view that the public service broadcaster should not seek advertising revenue and commercial sponsorship as this will pose unfair competition to the private sector. Some members however consider it acceptable to allow the public service broadcaster to seek a limited level of revenue through commercial activities. An academic further suggests that the amount of commercial sponsorship, if allowed, should not exceed 15% of the total operational cost of the public service broadcaster. RTHK suggests that a set of guidelines should be developed on the permissible sponsorship announcements that a public service broadcaster can broadcast, as in the case of some overseas public service broadcasters. Commercial sponsorships may also be allowed for certain programmes which are not or rarely provided by commercial broadcasters.
Institutional arrangement	There is general agreement that the public service broadcaster should be established as an independent statutory body operating at an arm's length with the government and free from commercial and political interferences. Relevant legislation should be enacted to set out the PSB framework. The public service broadcaster should also be subject to regulation by the Broadcasting Authority (or any future industry regulatory body) under a licensing regime. To ensure accountability, the public service broadcaster should be required to conduct periodic public meetings in order to review whether its programming meets the needs of the public. Consideration should also be given to making use of the public service broadcaster's internal complaints mechanism to discuss listeners' and viewers' feedbacks.

Issues	Views/concerns
Institutional arrangement (cont'd)	Members and most deputations share the view that RTHK's current status as a government department constrains its role as a public service broadcaster.
Editorial independence	There is general agreement that the public service broadcaster must be able to operate with editorial independence and free from political and commercial influences. Even if limited commercial sponsorship is allowed, this must not compromise the editorial independence of the public service broadcaster. Editorial independence should be enshrined in the governing legislation of the public service broadcaster. HKJA has specifically pointed out that the existing Framework Agreement between RTHK and the policy bureau is insufficient to safeguard the editorial independence of the broadcaster. To enable the public service broadcaster to operate with genuine independence, most of the deputations consider it necessary to put in place by way of legislation an appropriate institutional set-up, governance structure and financial support. There is also the suggestion that the important principles of universality, diversity, distinctiveness and transparency of the broadcaster should also be enshrined in the legislation.
Governance	To ensure effective governance and accountability, there is general agreement that the public service broadcaster should be governed by an independently constituted governing board while the chief executive officer (CEO) should serve as the chief editor of the public service broadcaster. RTHK further suggests that the public service broadcaster should take part in the selection of its CEO and the appointment of senior staff.

Issues	Views/concerns
Governance (cont'd)	On the composition of the governing board, RTHK suggests that it should comprise 10 to 20 unofficial members drawn from relevant sectors such as broadcasting, education, arts, culture, technology, journalism, law, etc. They should be elected or openly nominated by community organizations from the relevant sectors and Legislative Council (LegCo) should play a role in the nomination procedure. The RTHK Programme Staff Union considers that the membership of the governing board should not be less than 20 and one of the members should be a staff member of RTHK. To enhance accountability, there is also a suggestion that LegCo should be empowered to appoint or remove members of the boards or the CEO. The Citizens' Radio, however, does not support the suggestion for reason that not all LegCo Members are returned by direct elections and hence, cannot fully represent the interest of the general public. Some deputations suggest that a majority of members of the governing board should be elected by the public through one-man one-vote.
Community/public access channels	Metro considers that existing broadcasters already provide a diversity of programmes and the need to set up public access channels is questionable. Members and a number of deputations however support the establishment of public access channels, which will provide an open platform for the public to voice their views and promote the development of democracy in Hong Kong. The Government is urged to open up frequency spectrum for public access channels and to devise a streamlined licensing regime so that interested parties can apply without difficulty to operate these channels.

Issues	Views/concerns
Carriage platform	At present, RTHK does not have its own carriage platform to broadcast its television productions. TVB and ATV's position is that a public service broadcaster should not use the spectrum and airtime of commercial free-to-air television licensees and should be provided with its own television channel or group of channels. RTHK urges that it should be allocated its own independent television channel and be given adequate funding for programme production. In principle, members and deputations support RTHK's aspiration. PCCW considers that as pay television has become an increasingly pervasive medium and gains more household penetration, RTHK should step up its cooperation with pay television licensees to use the latter's platform to carry its programmes.
Digitalization	With the launch of digital terrestrial television in 2007, ATV and TVB urge that RTHK should make use of the digital platform to run its own channel, thus freeing them from the obligation to transmit RTHK programmes on their spectrum. RTHK aspires to develop digitalization of broadcasting in radio and high-definition television, to reinforce its multimedia services and to relocate to a new broadcasting house. HKHRM considers that financial assistance should be provided by the Government to help RTHK migrate to digitalized services. Members and most of the deputations look forward to digitalization of media technologies as an opportunity to provide a wider range of programming choice, with diverse audiences' needs better served.

Issues	Views/concerns
Accessibility	Hong Kong Association of the Deaf urges that TV broadcasts of PSB programming such as media briefings by key government officials should be accompanied by subtitles and sign language to assist viewers with impaired hearing.
Staff concerns	RTHK and its programme staff union stress the importance of staff consultation in the review of PSB, in particular the arrangements, if any, for corporatization of RTHK. The Union does not subscribe to the view that existing civil service staff of RTHK must give up their civil servant status if RTHK is corporatized. On the contrary, the job security of the civil service would enable RTHK staff to carry out their public duties in a professional and committed manner without the fear of losing their jobs easily.
Public consultation and participation in the review of PSB	Some deputations and members share the view that unlike in other places, there has been very little informed public discussion on PSB in Hong Kong. To engender greater public awareness, the Government is urged to make available more information on the needs for and core values of PSB in a civil society. They also agree with a member's suggestion that having regard to the recommendations of the Review Committee, the Government should publish a consultation paper setting out the background with relevant information (such as overseas PSB models) and putting forward some policy options on how PSB should be developed in Hong Kong. As such, the community can focus their discussion on pertinent issues, such as governance, funding method and public service remit of PSB etc. There is also a suggestion that apart from setting up a discussion zone on its website, RTHK should consider producing a programme to serve as a platform for the public to voice their views on PSB.

Issues	Views/concerns
Public consultation and participation in the review of PSB (cont'd)	There is a suggestion that if the Review Committee needs more time to complete the review of PSB, it should consider the feasibility of issuing an interim report on its findings and observations. This would encourage more focused public discussion.

Abbreviations :

ATV	: Asia Television Limited
Metro	: Metro Broadcast Corporation Limited
HKBU	: Hong Kong Baptist University
TVB	: Television Broadcasts Limited
CUHK	: The Chinese University of Hong Kong
HKJA	: Hong Kong Journalists Association
RTHK	: Radio Television Hong Kong
PCCW	: PCCW Media Limited
HKHRM	: Hong Kong Human Rights Monitor
The Union	: The RTHK Programme Staff Union
Review Committee	: Committee on Review of Public Service Broadcasting

For details of the deliberations at the special ITB Panel meetings held on 11 March and 1 August 2006 and the submissions received, please visit the following websites:

<http://www.legco.gov.hk/yr05-06/english/panels/itb/agenda/itag0311.htm>
<http://www.legco.gov.hk/yr05-06/english/panels/itb/minutes/itb060311.pdf>
<http://www.legco.gov.hk/yr05-06/english/panels/itb/agenda/itag0801.htm>
<http://www.legco.gov.hk/yr05-06/english/panels/itb/minutes/itb060801.pdf>
http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itb_aa.htm

Appendix I-(d)

List of Organizations/Individuals That Have Submitted Views to the Panel on the Subject of Review of Public Service Broadcasting

Broadcasting licensees and other broadcasters

1. Asia Television Limited
2. Citizens' Radio
3. Hong Kong Commercial Broadcasting Company Limited
4. Metro Broadcast Corporation Limited
5. PCCW Media Limited
6. Radio Television Hong Kong
7. Television Broadcasts Limited

Academics and educational institutions

1. Prof Leonard CHU, Chair Professor, School of Communication, Hong Kong Baptist University
2. ELCHK Lutheran Secondary School
3. School of Communication, Hong Kong Baptist University
4. School of Journalism and Communications, The Chinese University of Hong Kong

Concern groups and others

1. ARTICLE 19
2. Asia Human Rights Commission
3. Democratic Party
4. Hong Kong Association of the Deaf
5. Hong Kong Human Rights Monitor
6. Hong Kong Journalists Association
7. Radio Television Hong Kong Programme Staff Union
8. Mr CHUI Ying-yan and Mr LO Tak-tsun, students of La Salle College
9. Mr LEE Chi-wing, Member, Sha Tin District Council

Editorial/Producers' Guidelines of Public Service Broadcasters in Selected Places

	The United Kingdom (UK)		Canada	Australia		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Canadian Broadcasting Corporation (CBC)	Australian Broadcasting Corporation (ABC)	Special Broadcasting Service (SBS)	Radio Television Hong Kong (RTHK)
Name of document	<i>Editorial Guidelines – The BBC's Values and Standards</i>	<i>Office of Communications (Ofcom) Broadcasting Code</i>	<i>Journalistic Standards and Practices</i>	<i>Editorial Policies</i>	<i>Editorial Guidelines</i>	<i>Producers' Guidelines</i>
Latest edition	2005	2005	2004	2002	2002	2003
Legal basis	The BBC Royal Charter and its accompanying Framework Agreement	• The <i>Communications Act 2003</i>; and • the <i>Broadcasting Act 1996</i>	The <i>Broadcasting Act</i> (S.C. 1991, c. 11)	The <i>Australian Broadcasting Corporation Act 1983</i>	The <i>Special Broadcasting Service Act 1991</i>	The Framework Agreement between the Secretary for Commerce, Industry and Technology and the Director of Broadcasting
Drafting authority	• The BBC Editorial Policy Unit • The Controller of the Editorial Policy Unit reports directly to the BBC's Chief Executive, who is also the Editor-in-Chief, on all editorial matters.	• The Ofcom Content Board • Chaired by the Deputy Chairman of the Ofcom Board, the Content Board is composed of 12 members appointed by the Ofcom Board. • The majority of the Content Board members are part-time and drawn from diverse backgrounds across the UK.	• The CBC Journalistic Standards and Practices Committee • The Committee comprises the heads of news for English, French, Radio, Television and New Media.	• The Editorial Policies Committee of the ABC Board • The Committee comprises six members, including the Chairman, four Non-Executive Directors appointed by the Governor-General and one staff-elected Director.	The SBS Policy Unit	The RTHK management team

	The United Kingdom (UK)		Canada	Australia		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Canadian Broadcasting Corporation (CBC)	Australian Broadcasting Corporation (ABC)	Special Broadcasting Service (SBS)	Radio Television Hong Kong (RTHK)
Approving authority	• The BBC Board of Governors • The Board comprises 12 members, appointed by the Queen on advice from the government in accordance with the Nolan principles that public appointments should be made on merits.	• The Ofcom Board • The Ofcom Board comprises an Executive Chairman, five Non-Executive Directors and four Executive Directors including the Chief Executive Officer. • Both the Secretary of State for the Department for Culture, Media and Sport and the Secretary of State for the Department of Trade and Industry are responsible for appointing up to six Members to the Board (known as "Members") and approving the appointment of the Chief Executive Officer. • Additional members of staff (known as "Staff Members") may be appointed to the Board by the Members. There may be up to a total of nine Members and Staff Members (together known as the "Board Members").	• The CBC Board • Appointed by the Governor in Council, the Board comprises 11 members, including the Chairman and the President who also serves as the Chief Operating Officer. • Board members are selected from among prominent citizens eminent in fields such as law, accounting, business, education and the arts.	• The ABC Board • The Board comprises the Managing Director, one staff-elected Director and up to seven Non-Executive Directors who are appointed by the Governor-General on the recommendation of the government.	• The SBS Board • The Board comprises the Managing Director and between four and eight Non-Executive Directors. • The Non-Executive Directors are appointed by the Governor-General, while the Managing Director is appointed by the Board.	• The Director of Broadcasting • The post is a civil service establishment created by the Government.

	The United Kingdom (UK)		Canada	Australia		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Canadian Broadcasting Corporation (CBC)	Australian Broadcasting Corporation (ABC)	Special Broadcasting Service (SBS)	Radio Television Hong Kong (RTHK)
Public consultation	Nil.	Public consultation among broadcasters, viewers, listeners and other interested parties.	Nil.	Nil.	See Note 1.	Nil.
Key editorial principles/elements coverage	• Truth and accuracy – programmes must be well sourced and presented in clear and precise language; • Impartiality and diversity of opinion – programmes must reflect all significant strands of opinion over an appropriate time scale; • Editorial integrity and independence – decisions are independent of both state and partisan interests; • Serving the public interest – stories of significance must be reported and analysed; • Fairness – output must be based on fairness, openness and straight dealing;	• Material that might seriously impair the development of people under 18 must not be broadcast; • Harmful and offensive material is judged against "generally accepted standards"; • Programmes should not encourage crime or lead to disorder; • Programmes should respect faiths and views of various religions; • News and controversial matters should be reported in due impartiality and due accuracy. Due impartiality may be achieved within a programme or over a series of programmes taken as a whole;	• Journalistic principles include accuracy, integrity and fairness; • Diversity – programming must not be limited to what the largest audience wants to know but what the public is entitled and needs to know and that the widest possible range of views is expressed; • Balance – programmes must ensure equitable treatment of views on matters of public interest. Programme balance should be achieved within a single programme or an identifiable series of programmes;	• Honesty – factual content of programmes must be correct and in context; • Balance – principal relevant viewpoints on matters of importance should be presented. This may not be achieved within a single programme but should be achieved as soon as possible; • Fairness – content of news and current affairs should be balance and impartial; • Independence – no external interference is allowed in the presentation or content of programmes;	• Editorial principles include balance and objectivity; • Programmes must present different sides of an issue in a fair and balanced manner. Balance can be achieved within the same programme or over a reasonable period of time; • Information must be truthful, reflect equitably the relevant facts and significant points of view; • Presenters and journalists must be aware of potential conflicts of interest and must not present a personal bias or partisan approach; and	• Impartiality – programme content must be accurate and impartial according to recognized standards of objective journalism. It may not be necessary to achieve the balance of views within a single programme. Instead, it can be done over a period of time; • Accuracy – programmes should not rely on only one source and factual matters should be checked; • Taste and decency – programmes should respect and reflect the generally accepted values in society;

Note 1: SBS is currently undertaking a review of its Code of Practice which sets out the principles and policies that SBS uses to guide its programming. A draft amendment to its previous Code was published on 11 August 2006 and the deadline for public consultation was 8 September 2006.

	The United Kingdom (UK)		Canada	Australia		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Canadian Broadcasting Corporation (CBC)	Australian Broadcasting Corporation (ABC)	Special Broadcasting Service (SBS)	Radio Television Hong Kong (RTHK)
Key editorial principles/elements coverage (cont'd)	• Privacy – there should be no coverage on private matters unless there is a clear public interest; • Programmes must safeguard the welfare of children and young people; and • Programmes must be accountable to the audiences.	• Undue prominence of views and opinions on controversial matters must be prevented; • Due weight must be given to the coverage of all parties concerned during the election period; • Unjust or unfair treatment of individuals or organizations must be avoided in programmes; • Unwarranted infringement of privacy must be avoided in programmes and in connection with obtaining material included in programmes;	• Privacy – individual's personal and private life, as opposed to his or her public life, must be protected from intrusion or exposure to the public view; • Confidentiality of sources should be respected to allow free flow of information; and • Programmes must avoid taking unfair advantage of members of the public who may be ignorant of certain journalistic practices.	• Privacy – programmes must show respect for the rights of programme participants, audience and subject matters; and • Cultural diversity – programmes must represent Australia's cultural, ethnic and racial diversity.	• Presenters/journalists must ensure that their programmes do not become or are not used by individuals or organizations as vehicles for inflaming community tensions.	• Violence must not be exploited except where its depiction is an essential fact of the reality being portrayed; • Conflicts of interest – programme-makers are free from inappropriate outside commitments; • Fairness to interviewees – programme-makers should be open about their plans, and honest with anyone taking part in a programme; and • Respect for privacy – the rights of individuals to privacy should be respected in all programmes.

	The United Kingdom (UK)		Canada	Australia		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Canadian Broadcasting Corporation (CBC)	Australian Broadcasting Corporation (ABC)	Special Broadcasting Service (SBS)	Radio Television Hong Kong (RTHK)
Key editorial principles/elements coverage (cont'd)		• Programme-makers must ensure that (i) sponsorship arrangements are transparent; (ii) sponsorship messages are separate from programmes; and (iii) editorial control over sponsored programmes is maintained; and • Editorial independence over programme content must be maintained.				

	The United Kingdom (UK)		Canada	Australia		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Canadian Broadcasting Corporation (CBC)	Australian Broadcasting Corporation (ABC)	Special Broadcasting Service (SBS)	Radio Television Hong Kong (RTHK)
Guidelines on the presentation of personal views of presenters	BBC staff, regular BBC presenters or reporters associated with news or public policy related programmes seldom present programmes with personal views on controversial subjects.	• Presenters and reporters (with the exception of news presenters and reporters in news programmes) may express their own views on controversial matters. However, alternative viewpoints must be adequately represented. • Presenters must not use the advantage of regular appearances to promote their views in a way that compromises the requirement for due impartiality.	• Hosts and interviewers must treat their guests fairly. They should refrain from personal advocacy in their public statements and discussions as well as the selection of questions. • CBC reporters must not take a partisan position on controversial matters, even when participating in an interview or discussion programme. • In the event that reporters offer some context to news events, they should present an explanation of the background to the event based on careful research. They must keep their personal views separate from their reporting	ABC editorial staff should observe the highest standards and should not allow their professional judgment to be influenced by pressures from political, commercial or other sectional interests or by their own personal views.	Presenters/journalists must not be seen to be representing any group, political viewpoint or party. They should ensure that affiliations or personal views be remained separate from their obligation to observe and advance the programming policies and practices of SBS.	• RTHK staff or regular presenters or reporters associated with news and public policy related programmes should not normally present personal platform programmes. • Presenters, using their journalistic knowledge and judgement, may question, comment, challenge or criticize to stimulate the debate, bring out new insights and encourage the widest possible airing of views in both talk shows and phone-in programmes. • Presenters must treat the subject matter and their callers fairly.

	The United Kingdom (UK)		Canada	Australia		Hong Kong
	British Broadcasting Corporation (BBC)	Channel 4	Canadian Broadcasting Corporation (CBC)	Australian Broadcasting Corporation (ABC)	Special Broadcasting Service (SBS)	Radio Television Hong Kong (RTHK)
Circumstances not covered by / breaching the Code or Guidelines	Any proposal to step outside these guidelines must be discussed with the Controller of the Editorial Policy Unit.	- Ofcom will publish the case in the event that the Code is breached. - In the event that a broadcaster deliberately, seriously or repeatedly breaches the Code, Ofcom may impose statutory sanctions against the broadcaster.	Doubts on the application of the Journalistic Standards and Practices should be referred to a senior officer in information programming or an authorized delegate.	- Programme-makers with problems or doubts on editorial management should consult the next higher level of editorial management for guidance. - If a programme-maker does not refer the issue upwards, he or she will be responsible for the editorial decision made.	- Programme-makers with doubts on the legal aspects of broadcasting a programme should refer the case upwards. - Editorial material that has legal implications must be referred to the SBS Corporate Counsel. The final editorial decision on whether to broadcast, or in what manner, rests with the editorial staff.	Programme-makers should refer potentially contentious issues upwards through their respective editorial chain of command.

Some Changes Arising from the Review of the BBC's Royal Charter

Introduction

1. In December 2003, the UK government published a public consultation document, *Review of the BBC's Royal Charter*, and received about 5 500 responses. In July 2004, a summary of the consultation and research findings entitled *What You Said about the BBC* was published, leading to the issuance of a Green Paper in March 2005, which attracted some 4 500 responses. On 14 March 2006, the government published the White Paper entitled *A public service for all: the BBC in the digital age*, setting out the future of BBC.

Governance

2. Under the new Charter, the Board of Governors will be replaced by the BBC Trust, which is tasked to represent the interest of licence fee payers and assess their views, secure the independence of the BBC, ensure BBC observe high standards of openness and transparency, exercise rigorous stewardship of public money, and give regard to the competitive impact of the BBC's activities on the wider market.

Standards in BBC's productions

3. To ensure the highest standards in the BBC's production, a "triple lock" system will be established. In future, every service will be run according to a new, detailed service licence issued by the BBC Trust. Moreover, new criteria of quality, originality, innovation, challenge and engagement will be established for each service. Any significant change in or establishment of new services will undergo detailed scrutiny via a Public Value Test conducted by the BBC Trust, which will be weighed against a Market Impact Assessment to be carried out by a Joint Steering Group comprising members drawn from Ofcom and the BBC Trust.

Governing Legislation

4. The new Charter and Framework Agreement will set out in detail the purposes, responsibilities, duties and obligations of the BBC as well as the Trust and Executive Board within it.

Funding

5. During the Charter Review, the UK government has examined alternative funding options for the BBC. Government funding has been considered but there are concerns that direct government funding will be subject to the biennial Government Spending Review process and may also threaten the independence of the BBC from the UK government.

6. Funding through advertising may affect the direction of BBC's programming as there is a conflict between its needs to fulfil public purposes and to generate revenue. There may also be fierce competition with other broadcasters for advertising revenue. Programme sponsorship was not accepted by some audiences who indicated that they may be distracted if commercial messages are attached to their favourite programmes.

7. Funding by subscription from users may undermine the BBC's public mission and principle of universal free access, and hence reduce its benefit to the society. The UK government decides that the licence fee funding model will continue but the scope for alternative funding mechanism will be reviewed around the end of the digital switchover in 2012.

**Extract of the Producers' Guidelines of Radio Television Hong Kong
on "Due Impartiality"**

3.1 Impartiality

The guiding principles for RTHK programme-makers will always be that the programmes we broadcast are accurate and impartial according to recognized standards of objective journalism. DUE IMPARTIALITY remains our core value. It requires programme-makers to show open-mindedness, fairness and a respect for the truth. We must not allow our professional judgement to be influenced by pressures from political, commercial or other sectional interests or by our personal bias.

RTHK is not unique in laying stress on DUE IMPARTIALITY. All established broadcasters throughout the world place similar emphasis on it. In Hong Kong, the Broadcasting Authority's codes of practice, which are applicable to RTHK and other broadcasters, stipulate that every current affairs or documentary programme dealing with controversial issues of public importance must attempt to be impartial.

In achieving DUE IMPARTIALITY the term "due" is to be interpreted as meaning adequate or appropriate to the nature of the subject and the type of programme.

There are generally more than two sides to any issue and impartiality in factual programmes cannot be achieved simply by a mathematical balance, i.e. a crude form of balance in the sense of equal time or an equal number of lines in the script being devoted to each view.

DUE IMPARTIALITY also does not require absolute neutrality on every issue of public concern or detachment from such fundamental principles as freedom, human rights, democracy, and the rule of law - principles which are essential to a just and open society. We will be failing in our duty if in the attempt to upset no-one, to disturb no institution, we limit the comprehensiveness and open examination of issues and events.

In trying to achieve DUE IMPARTIALITY, the following standards apply:

- Programme-makers will avoid any conflict of interest in the performance of their duties.
- Balance will be sought through the presentation as far as possible of principal relevant viewpoints on matters of importance. This requirement may not always be reached within a single programme or news bulletin, but will be achieved within a reasonable period.
- Impartiality does not require programme-makers to be unquestioning, or for RTHK to give all sides of an issue the same amount of time. Editorial values and judgements will be the guiding criteria in reaching decisions.
- In serving the public's right to know, editorial staff will be enterprising in perceiving, pursuing and presenting issues which affect the community and the individual.

It cannot be emphasised strongly enough that the over-riding principle in all programming areas must always be that we report or reflect equitably relevant facts and significant points of view; that we deal fairly and ethically with persons and institutions, issues and events.

Here it is worth mentioning TALK SHOWS and PHONE-IN PROGRAMMES and the role the hosts of these programmes play or ought to play. When the programmes were first introduced by us, the idea that listeners might be given the chance to air their views and to criticize was considered not only undesirable but even dangerous. Attitudes changed as the community became more open and overcame their inhibition to question authority or to voice complaints. Today, the popularity of talk shows and phone-in programmes is proof that they are part of everyday life in Hong Kong. The role of the hosts of these programmes is also evolving and will continue to evolve as public attitudes change. Instead of being passive and merely acting as on-air telephone operators, they have to be demonstrably inter-active. On-air personalities are expected to contribute to the discussion in talk shows and phone-in programmes. Using their journalistic knowledge and judgement, they may question, comment, challenge or criticize to stimulate the debate, bring out new insights, and generally encourage the widest possible airing of views. There is no place, however, for personal bias or prejudice. Programme hosts must always treat the subject matter and their callers fairly.

CREDIBILITY is the most essential attribute of a good media organization. Credibility is dependent not only on qualities such as accuracy and fairness in reporting and presentation, but also upon avoidance by both the organization and its journalists of association or contacts which could reasonably give rise to perceptions of partiality. Credibility is built up over time and we have to be constantly on guard to retain the trust that the community has placed in us.

FACTUAL PROGRAMMES : A factual programme dealing with controversial public policy or matters of political, economic or social controversy will meet its commitment to due impartiality if it is fair, accurate and maintains a proper respect for the truth. A programme may choose to explore any subject, at any point on the spectrum of the debate, so long as there are good editorial reasons for doing so. It may choose to test or report one side of a particular argument. However, it must do so with fairness and integrity. It should ensure that contentious views are signalled as such and opposing views are not misrepresented.

NEWS AND CURRENT AFFAIRS : News is to be presented with due accuracy and impartiality and in context. Reporting should be dispassionate, wide-ranging and well-informed. News and current affairs programmes should offer viewers and listeners an intelligent and informed account of issues that enables them to form their own views. Reporters and on-air personalities may express a professional journalistic judgement but not a personal view. For journalists to be professional is not to be without opinions, but to be aware of those opinions and make allowances for them so that their reporting and presentation is judicious and fair.

PHONE-IN PROGRAMMES : Phone-in programmes are an accepted and very popular way of broadcasting individual points of view. However, as mentioned earlier on, care must be taken to maintain the principles of fairness, integrity and balance by securing a broad range of views. Presenters of phone-in programmes are expected to participate in discussions on air and must always treat their callers fairly. Additionally, programmes must be protected against capture by organized pressure groups or by irresponsible individuals.

PERSONAL PLATFORM PROGRAMMES : RTHK regularly invites individuals or groups such as academics, specialists and journalists to provide a range of views. The diversity of perspectives enrich programmes. We should try to use different people. In making the selection we should go for

commentators and analysts whose background qualifies them to give expert opinion. Their credentials/qualifications should be stated to help listeners appraise the views being expressed.

RTHK staff or regular presenters or reporters associated with news and public policy related programmes should normally not present personal platform programmes.

PROGRAMME SERIES : There are two types of series:

- A number of programmes where each programme is clearly linked to the other/s and which deal with the same or related issues. In this case, the programmes may achieve impartiality over an entire series, or over a number of programmes within a series.
- Where a number of programmes are broadcast under the same title, but where widely disparate issues are tackled from one edition to the next. In this type of series, due impartiality should normally be exercised within each individual programme.

RIGHT OF REPLY : When a programme reveals evidence of inequity or incompetence, or where a strong critique of an individual or institution is laid out, those criticized should be, or should have been (as is normally the case in documentary productions), given an opportunity to respond. However, there may be occasions when this is not possible (for example for legal reasons) in which case the section head concerned should be consulted. It may also be appropriate to consider whether an alternative opportunity should be offered for a reply at a subsequent date.