

Focus Group on PSB Governance Structure
Synopsis of Discussion Outcome

Need for a statutory framework

1. The governance structure of a public broadcaster should be underpinned by legislation.

Separation of power between Governing Board and Management

2. The powers and responsibilities of the Governing Board and Management should be clearly defined and delineated.

Role of the Governing Board

3. The Board of Directors should -
 - (a) determine strategies and broad policies in accordance with the public service broadcasting (PSB) mission as prescribed by law;
 - (b) ensure fulfillment of public service missions in a proper, efficient and economical manner to render maximum social benefits;
 - (c) uphold the independence and integrity of the public broadcaster;
 - (d) ensure compliance with legal and applicable regulatory requirements, and uphold the universally recognized standards of ethical journalism, including, but not limited to, accuracy, fairness, balance and impartiality;
 - (e) determine the terms and tenure of employment of the Chief Executive Officer (CEO) including appointment, reappointment and removal; and
 - (f) approve the employment terms of other key senior staff.

Role of the CEO

4. The CEO should also be the Editor-in-Chief who shoulders editorial responsibilities and exercises editorial decisions independently. Therefore, he/she must possess substantial editorial experience and managerial experience.
5. The CEO should be responsible for –
 - (a) implementing the strategies and broad policies determined by the Board;

- (b) exercising editorial decisions independently;
- (c) all aspects of day-to-day operation;
- (d) staff appointment, reappointment and removal (including approval of the employment terms of key senior staff by the Board); and
- (e) keeping the Board informed in a timely manner of all issues of strategic importance.

Formation of the Governing Board

Appointment authority

- 6. The Chief Executive of the HKSAR (CE) should appoint members of the Board in accordance with the legislation governing size, composition and the nomination process. The CE should also appoint the Chairman of the Board from amongst Board members (except the CEO and elected staff representative – see paragraph 8).

Size

- 7. The optimal size of the Board should not be more than 15 to bring in the range of expertise required whilst preserving efficiency and operability. Many overseas public broadcasters have a board of 9 to 12 members, and the international trend is towards smaller boards.

Composition

- 8. The Board should include –
 - (a) At least one person from each of the following categories –
 - (i) person(s) with experience in the media sector;
 - (ii) person(s) with experience in journalism;
 - (iii) person(s) with experience in education;
 - (iv) person(s) with experience in arts and culture;
 - (v) person(s) with experience in technology;
 - (vi) person(s) with legal qualification and experience;
 - (vii) person(s) with qualification and experience in accounting and/or finance;
 - (viii) person(s) with senior managerial expertise and experience;

- (ix) person(s) with experience in serving minority interests and/or providing social services;
 - (b) the CEO;
 - (c) an elected staff representative; and
 - (d) subject to the maximum size of the Board, lay member(s) who, in the opinion of the CE, may contribute positively to the good governance of the public broadcaster and effective operation of the Board.
9. Board members other than the CEO and elected staff representative should be appointed in a personal capacity. They should not represent the sector or organization from which they are drawn, but should serve the best interest of the public broadcaster.
10. To preserve the independence of a public broadcaster and protect it from political, government and commercial interferences, the following categories of persons should not be considered for appointment to the Board –
- (a) a serving Member of the Executive Council of the HKSAR;
 - (b) a serving Member of the Legislative Council of the HKSAR;
 - (c) a full-time employee of the HKSAR Government, whether pensionable or otherwise;
 - (d) a judicial officer;
 - (e) a public officer;
 - (f) a serving member of any national, regional or municipal congress, legislature, assembly or council of any place outside Hong Kong, or a member of the Chinese People’s Political Consultative Conference.
 - (g) an officer or member of any armed forces;
 - (h) a person employed by any government outside Hong Kong;
 - (i) an undischarged bankrupt;
 - (j) a person legally of an unsound mind; and
 - (k) a person convicted, whether in Hong Kong or elsewhere, of corrupt or illegal conduct, bribery, treason, or any offence which attracted death sentence or imprisonment for more than 3 months either within the immediate 10 years prior to appointment, or at any time and has not suffered the punishment.

11. Ideally, serving political party executives should not be considered for appointment to the Board to guard against partisan influences. However, such exclusion is not feasible in the absence of local legislation on political parties.

Tenure

12. A fixed term of 3 years on first appointment will provide stability and continuity, subject to reappointment for a maximum of another 3 years. With the exception of the CEO, no Board member should serve longer than 6 consecutive years.
13. To enhance continuity, by the end of the first 3-year term, the duration of re-appointment should be staggered. This will help bring in new members from the 4th year onward.

Advertisement

14. Board vacancies should be advertised publicly. Individual candidates can come forth voluntarily. Community and professional organizations can also put forward names for consideration.

Nomination

Long-term arrangement

15. The Board should know best what expertise it needs, and thus well placed to nominate candidates for appointment. This will also enhance the independence of the public broadcaster.
16. Except the Board serving the first term, or under such other circumstances when there is no outgoing Board members, applications and nominations for appointment (including reappointment) to the Board should be considered by a Nomination Committee (NC) comprising of outgoing Board members, i.e. -
 - (a) all serving Board members not eligible for reappointment (e.g. those who had served up to six consecutive years); and
 - (b) those serving Board members who declared they would not accept reappointment.
17. The NC's nomination list must contain at least 2 names for each of the categories of Board membership except the CEO and elected staff representative (where there will only be one) and lay members (who should be appointed directly by the CE). The CE must appoint Board

members who belong to these categories from amongst the candidates nominated by the NC.

Interim arrangement

18. Prior to the formation of a formal NC (when there is no out-going members), the CE should appoint not fewer than 3 persons to form a provisional NC. All other statutory requirements relating to the appointment, including advertisement of vacancies, should be implemented. Members of the provisional NC should be committed to upholding the independence and integrity of a public broadcaster.
19. The option of election for Board members in some categories is not preferred because this may exert pressure on Board members to represent the interests of a particular constituency rather than that of the public at large. The process may also be unduly complex and susceptible to political or other unwarranted influences. The proposed scheme of advertisement, nomination and appointment in line with specific statutory provisions should instill transparency and credibility for the appointment process.

Code of Conduct for Board members

20. A code of conduct should be developed and adopted by the Board for its members to reflect the following key values and principles -
 - (a) integrity and honesty;
 - (b) objectivity and independent judgement;
 - (c) openness and accountability;
 - (d) selflessness;
 - (e) compliance with laws and regulations; and
 - (f) leading by example.

Statutory committees

21. The Board should initially set up two standing committees, namely: an Audit Committee and a Management and Administration Committee (to cover finance, administration, human resource policies and remuneration for senior staff). Other standing or ad hoc committees may also be established. All Board committees should be chaired by a Board member.

22. The CEO should set up a Community Advisory Committee (CAC) to receive feedback and inputs on all aspects of operation and service. Members of the CAC should be drawn from the community at large. Other advisory bodies may also be set up. The CEO should report any matters of strategic importance discussed by the advisory bodies to the Board in a timely manner.

Complaints handling

23. The Board should charge the CEO with setting up a mechanism for receiving and handling public complaints. The number and nature of substantiated complaints and actions taken should be reported to the Board at regular intervals. Complaints against the CEO and appeals against the complaint findings of the management should be referred to the Board for decision.

Regulatory oversight

24. The regulatory regime, including requirements and guidelines, that govern commercial broadcasters should be equally applicable to a public broadcaster (insofar as they were relevant).

END

Focus Group on PSB Accountability Measures **Synopsis of Discussion Outcome**

Scope of accountability

1. A public broadcaster should be held accountable to the public in four respects so that it will perform its functions with integrity and command public respect and trust.
 - (a) Service scope – to ensure delivery of the range of service that fulfills the public service mandate.
 - (b) Programming quality – to ensure that a public broadcaster delivers quality service in terms of both the programmes and their scheduling.
 - (c) Financial propriety – to ensure that a public broadcaster uses public resources in a proper, prudent and cost effective manner, and in line with its public service mandate.
 - (d) Management – to ensure that a public broadcaster manages its own operation properly and efficiently, with due regard to the principles of fairness and transparency.

Internal accountability measures

2. Internal accountability measures entrust a public broadcaster with the primary responsibility of proper management of its own operation. They must be transparent so that the compliance will be subject to public scrutiny. These measures include -
 - (a) The management should formulate internal procedures for taking editorial, programming and financial decisions, subject to endorsement by the governing body. Parties who are required to comply with the procedures should be clearly specified, and penalties for breaches defined.
 - (b) The management should formulate programme standards for staff compliance, and seek endorsement from the governing body. The endorsed programme standards should be promulgated and be publicly accessible. External assessors should be appointed to conduct regular audits on compliance with the programme standards, and report to the governing body. The audit outcome should be made known by the governing body to the management for necessary follow up. The public should also be informed of the assessment in a suitable form.

- (c) Conduct regular internal reporting, reviews and audits to ensure compliance with statutory requirements and internal procedures, to identify problems and correct them. The regularity of these internal exercises and a compliance assessment by the governing body should be covered in the annual report of a public broadcaster.
- (d) Formulate mechanisms and procedures for receiving and handling complaints from the public, and publicise widely through reasonable channels. The complaint handling authority should report to the governing body. Keep a proper record of all complaints received and how they have been handled, and make the record accessible free of charge to the public on request. The annual report should contain a section on complaints handling.
- (e) Formulate mechanisms for obtaining feedback from the audience and other stakeholders. The annual report should give an account of feedback received.

External measures

- 3. The proposed external measures are set out below -
 - (a) Subject to the regulatory oversight of the Broadcasting Authority, and comply with all applicable regulatory requirements (including fulfillment of public service mission) and codes of practice. Given the unique nature of PSB, some of the requirements and codes imposed on the commercial broadcasters may need adjustment for application to a public broadcaster.
 - (b) An external auditor should be appointed by the governing body to audit the accounts and financial statements annually.
 - (c) Annual reports should be published to review performance and announce corporate plans. Without limiting the information that may be included in an annual report, it should cover matters discussed in paragraph 2(c) to (e) above, and the annual audited accounts and financial statements as proposed in (b) of this paragraph. The annual report should be submitted to the authority that appoints the governing body of the public broadcaster, who in turn should cause the report to be tabled before the Legislative Council.
 - (d) The Director of Audit may conduct an examination into the economy and efficiency with which a public broadcaster has expended its resources in performing its functions and exercising its powers.

- (e) The appropriation of public money to a public broadcaster should be subject to the approval of the Finance Committee of the Legislative Council.

Stakeholders' involvement

4. Legislature - Scrutinize the spending of public money at regular intervals, and such other aspects of its operation when so warranted out of public interest.
5. Government - Monitor compliance with applicable statutory requirements and codes of practice through the Broadcasting Authority, and keep an eye over its economy and efficiency through the Director of Audit when necessary. The relevant policy bureau should ensure overall consistency with the prevailing broadcasting policy.
6. Receiving public and other stakeholders in the community - Provide feedback on the performance of a public broadcaster. The disclosure of information as proposed above will equip the community to play a monitoring role in an informed manner.

END

Focus Group on PSB Funding Arrangements **Synopsis of Discussion Outcome**

Key considerations

1. A suitable funding model for a public broadcaster should –
 - (a) provide a stable source of revenue to reflect the community's commitment to PSB and enable its sustainable development.
 - (b) promote a sense of public ownership, and generate incentive for a public broadcaster to respond to public expectations.
 - (c) protect a public broadcaster from commercial and political (including government) interference.
 - (d) promote cost-effective and value for money in the provision of PSB.
2. A combined funding model with multiple funding sources is needed to meet the array of considerations.

Recurrent expenditure

Primary source

3. The primary source of PSB funding should come from government appropriation, subject to approval by the Legislative Council. The real value of government appropriation should be preserved through annual adjustment in line with inflation.
4. To underline the independence of PSB and the transparency of government appropriation, expenditure for PSB funding should be established as a separate head of expenditure, and should not be included in the financial “envelope” of any Principal Official.
5. Other options have been considered but found inappropriate –
 - (a) An audience licence fee will create a stronger sense of public ownership, but may meet with significant public resistance in Hong Kong, incur a high administrative cost and suffer from potential leakage. Hence, it may not yield the stable stream of revenue required to support PSB.
 - (b) Carving out a fixed percentage of rates revenue would provide stable PSB funding and avoid possible political and government interference during annual resource allocation exercises. However, there is a lack of

linkage between property (especially commercial property) ownership/occupancy and PSB consumption.

Other sources of revenue

6. A public broadcaster should be allowed to raise funds from other sources, provided that doing so (a) is consistent with PSB's role and mission; (b) does not affect programme editorial control or programme agenda; (c) preserves independence from commercial and/or political influence; (d) does not affect the status and image of PSB; and (e) complies with the common standards of courtesy, decency and good taste. The management should formulate guidelines to reflect these principles, seek endorsement of the Board, and promulgate the guidelines.
7. The permitted supplementary sources should include (a) sponsorship, except for news and current affairs programmes; (b) donation; (c) voluntary subscription from the public; (d) fees on audience-payers for on-demand services; and (e) programme and merchandise sale. Advertising revenue should not be raised to maintain a clear delineation of PSB from commercial broadcasting, and keep out commercial pressure and influence.

Funding cycle

8. A 3-year budgetary cycle will allow greater flexibility in financial planning, and reduce exposure to political and financial negotiations (hence pressure).

Phased implementation

9. The combined funding model should be implemented in phases.
 - (a) 1st triennium: Full funding through government appropriation to offer financial certainty and stability and allow time for a public broadcaster to establish a footing. (The real value of the amount of annual government appropriation in the first triennium will be referred to as the "baseline".)

A public broadcaster may also raise revenue from other supplementary sources, subject to agreed rules and guidelines. Such revenue should not affect the "baseline", and should be retained for PSB-related investment, including transfer into a development fund.

- (b) From 2nd triennium onwards: Raise revenue through other supplementary sources, and increase the percentage of such revenue

progressively up to 20% of the “baseline” by the end of the 10th year. The amount of governing appropriation will be reduced correspondingly to maintain the “baseline”.

The governing body should work out an implementation programme for achieving the 20% target within the 10-year time frame, thereby establishing a combined funding model.

10. Government appropriation should not fall below 80% of the “baseline” during the first 10 years to preserve the level of public commitment to PSB. Surplus should be retained for PSB-related investment, including transfer into a development fund.
11. A review should be conducted on whether to maintain the “baseline” and/or vary the proportion of different sources of revenue from the 11th year onwards. The review should take account of the practical experience gained, and public feedback on the performance of the public broadcaster in terms of programming, management and governance quality.

Capital expenditure

12. Capital projects such as significant expansion in service scope and major upgrading in facilities and equipment cannot be met from within recurrent expenditure, and should be catered for separately.
13. A public broadcaster should fund capital projects by drawing on a development fund build up with accumulated surplus income. It should also be given lending powers under the law. Should these avenues be inadequate for meeting legitimate capital investment needs, it should apply for government appropriation of capital expenditure, subject to approval by the Legislative Council.

Sizing up PSB funding requirement

14. No advice was offered on the nominal amount required to meet PSB needs. It is felt that a separate and detailed consultancy study should be commissioned, having regard to the agreed PSB mission, scale of operation, and nature and characteristics of the broadcasting industry (and of PSB in particular).

END

Focus Group on PSB Programming

公共廣播服務節目事宜專題小組

Membership/成員

Ms May FUNG	馮美基女士 (Co-convener/聯合召集人)
Mr. Mathias Woo	胡恩威先生 (Co-convener/聯合召集人)
Ms CHAN Kim-shing	陳劍聲女士
Mr. CHUA Hoi-wai	蔡海偉先生
Ms Ann HUI	許鞍華女士
Mr. Kenneth IP	葉健行先生
Mr. Andy LAU	劉德華先生
Prof. LUI Tai Lok	呂大樂教授
Ms. Nansun SHI	施南生女士
Ms SIU King Lo, Dominica	蕭景路女士
Mr. Peter TSI	戚家基先生
Mr. Louis YU	茹國烈先生

Scope of Discussion/研討範疇

1. Discuss how to reflect PSB missions through programming. This may include (but is not limited to) -
 - Cultivation of talents through external commissioning of programmes - purpose, guiding principles (e.g. creativity, originality, quality assurance, risk-taking)
 - PSB positioning and programming strategy: comprehensive programming to cater for all, or niche programming for targetted audience groups, or both?
 - Quality programmes to promote civic-mindedness, encourage lifelong learning and enhance media literacy

討論如何通過節目反映公共廣播的使命，其中可涉及(但不限於)下述課題：

- 外聘節目製作，以培育人才 – 目的、指導原則(例如：創意、原創、質量保證、風險承擔)
- 公共廣播服務的定位與節目策略：是提供全面節目以服務大眾，還是提供具特色節目以針對特定受眾群，或兩者兼容？
- 通過優質節目促進公民意識，鼓勵終生學習，以及提高對傳媒的認識

2. Identify programme genres that should be provided by a public broadcaster (as opposed to formulating a precise programme mix, or suggesting specific programmes)

確定公共廣播應提供的節目種類(但並非制定特定的節目組合，或建議具體的節目)

3. Discuss the impact of technology advancements on PSB programming (e.g. digitization and the consequent audience segmentation, and transmission of audio and visual contents via other platforms beyond the confines of TV and radio)

討論科技發展對公共廣播節目事宜的影響(例如數碼化引致的受眾區隔，以及通過電視和電台以外的平台提供音訊及視訊內容)

ENDS