

~~(3) 如任何人管有或使用任何未經批准的解碼器以收看任何擬供或可供公眾在定期或以其他方式繳付收看費的情況下在香港接收的電視節目服務，或授權另一人如此行事，持牌人可針對該人提起訴訟而申索損害賠償或申請發出強制令或申索其他適當的補救、命令或濟助。~~

~~(由 2004 年第 8 號第 5 條增補)~~

第 IV 部

牌照——一般條文

8. 可獲批給牌照的人

(1) 行政長官會同行政會議可應任何公司以指明格式向其提出的申請，按照本條例批給牌照，以准許提供本地免費電視節目服務或本地收費電視節目服務。

(2) 廣管局可應任何公司以指明格式向該局提出的申請，按照本條例批給牌照，以准許提供非本地電視節目服務或其他須領牌電視節目服務。

~~(3) A licensee may bring an action for damages, an injunction or other appropriate remedy, order or relief against any person who possesses or uses, or authorizes another person to possess or use an unauthorized decoder to view any television programme service which is intended or available for reception by the public, on payment, whether periodically or otherwise, of a subscription in Hong Kong.~~

~~(Added 8 of 2004 s. 5)~~

PART IV

LICENCES—GENERAL PROVISIONS

8. To whom licence may be granted

(1) The Chief Executive in Council may in accordance with this Ordinance grant a licence to provide a domestic free television programme service or domestic pay television programme service on application made to him in the specified form by a company.

(2) The Broadcasting Authority may in accordance with this Ordinance grant a licence to provide a non-domestic television programme service or an other licensable television programme service on application made to it in the specified form by a company.

(3) 在不抵觸第(4)款的條文下，如任何公司屬某法團的附屬公司，則本地免費電視節目服務牌照不得批給該公司。

(4) 在不損害附表 1、4、5、6 及 7 的實施的原則下，除非本條例另有規定，否則不符合以下說明的公司不得獲批給及持有牌照——

- (a) 就本地免費電視節目服務牌照或本地收費電視節目服務牌照而言——
- (i) 該公司符合第 2(1) 條“通常居於香港”定義中 (b) 段的說明；
 - (ii) 第 (iv) 節所規定的過半數董事積極參與該公司的督導；
 - (iii) 該公司每次董事會議的法定人數中，過半數董事均是在當其時屬通常居於香港，並最少曾於一段不少於 7 年的連續期間通常居於香港的個人；
 - (iv) 該公司過半數董事及該公司過半數主要人員 (包括負責挑選或製作電視節目或安排電視節目播放時間的主要人員) 均是在當其時屬通常居於香港，並最少曾於一段不少於 7 年的連續期間通常居於香港的個人，但經廣管局事先以書面批准者除外；及
 - (v) 並無任何不符合持牌資格人士對該公司行使控制，但如在申請牌照時已披露某人不符合資格一事，則屬例外；
- (b) 就非本地電視節目服務牌照或其他須領牌電視節目服務牌照而言，不少於一位該公司的董事或主要人員是在當其時屬通常居於香港，並最少曾於一段不少於 7 年的連續期間通常居於香港的個人；及
- (c) 就任何牌照而言，該公司根據其組織章程大綱及組織章程細則獲賦權全面遵從本條例條文及其牌照條件 (不論是實際上有的或所建議有的條件)。

(3) Subject to subsection (4), a domestic free television programme service licence shall not be granted to a company which is a subsidiary of a corporation.

(4) Without prejudice to the operation of Schedules 1, 4, 5, 6 and 7, unless otherwise provided in this Ordinance, a licence shall not be granted to and held by a company unless—

- (a) in the case of a domestic free television programme service licence or domestic pay television programme service licence—
- (i) the company complies with paragraph (b) of the definition of “ordinarily resident in Hong Kong” in section 2(1);
 - (ii) the majority of the directors required under subparagraph (iv) actively participate in the direction of the company;
 - (iii) a quorum of every meeting of the directors of the company has a majority of directors who is each for the time being ordinarily resident in Hong Kong in accordance with paragraph (a) of the definition of “ordinarily resident in Hong Kong” in section 2(1) and has been so resident for at least one continuous period of not less than 7 years;
 - (iv) except with the prior approval in writing of the Broadcasting Authority, the majority of the directors of the company and the majority of the principal officers of the company, including the principal officer of the company in charge of the selection, production or scheduling of television programmes, is each an individual who is for the time being ordinarily resident in Hong Kong in accordance with paragraph (a) of the definition of “ordinarily resident in Hong Kong” in section 2(1) and has been so resident for at least one continuous period of not less than 7 years; and
 - (v) no disqualified person, other than a person whose disqualification is disclosed in the application for the licence, exercises control in the company;
- (b) in the case of a non-domestic television programme service licence or an other licensable television programme service licence, not less than one director or principal officer of the company is an individual who is for the time being ordinarily resident in Hong Kong in accordance with paragraph (a) of the definition of “ordinarily resident in Hong Kong” in section 2(1) and has been so resident for at least one continuous period of not less than 7 years; and
- (c) in the case of any licence, the company is empowered under its memorandum and articles of association to comply fully with the provisions of this Ordinance and its licence conditions (whether actual or proposed).

附表 1

[第 2、8、42 及
43 條及附表
4 及 8]

不符合本地免費或收費電視節目服務的持牌資格以及
對表決控權人的表決控制權的限制

第 1 部

釋義及適用範圍

1. 釋義

(1) 在本附表中，除文意另有所指外——

“一般表決控權人”(qualified voting controller)指——

- (a) (i) 屬通常居於香港的個人，並最少曾於一段不少於 7 年的連續期間通常居於香港的表決控權人；或
- (ii) 屬通常居於香港的法團的表決控權人；或
- (b) 屬以下人士的表決控權人——
 - (i) 根據《證券及期貨條例》(第 571 章)第 104 條獲認可為集體投資計劃的任何單位信託或互惠基金的受託人或管理人；(由 2002 年第 5 號第 407 條修訂)
 - (ii) 藉任何具司法管轄權的法院所作出的命令而設立的慈善計劃的受託人；
 - (iii) 在死者去世至遺產管理書批出期間內死者遺產所歸屬的司法人員；
 - (iv) 高等法院司法常務官；或
 - (v) 訂明的其他人士；

“不符合持牌資格人士”(disqualified person)指第 4、5、6 或 7 條所指的不符合持牌資格人士的人；

“主要人員”(principal officer)就任何法團而言，指——

- (a) 該法團所僱用或聘用並在該法團的董事的直接權限下，本人或連同其他人負責處理該法團業務的人；或
- (b) 該法團所僱用或聘用並在該法團的一名董事或一名 (a) 段所適用的人的直接權限下，就該法團而執行管理職能的人；

“表決控制權”(voting control)指控制(不論直接或間接)附於 1 股或多於 1 股持牌人的有表決權的股份的表決權的行使的控制權，亦指控制(不論直接或間接)該等表決權的行使的能力，而該項控制是——

- (a) 藉行使一項權利(此項權利的行使是賦予行使表決權的能力或控制行使表決權的能力)而進行的；
- (b) 藉一項行使上述表決權的權利而進行的；
- (c) 根據任何責任或義務而進行的；
- (d) 透過代名人而進行的；
- (e) 透過或藉着一項信託、協議、安排、諒解或常規而進行的，不論該項信託、協議、安排、諒解或常規是否具有法律上或衡平法上的效力，亦不論其是否基於法律上或衡平法上的權利；或
- (f) 作為持牌人的有表決權股份的押記人而進行的，但如該等股份的承押記人(或承押記人的代名人)已根據有關押記向押記人發出書面通知，表示有意行使附於該等股份的表決權，則作別論；

SCHEDULE 1

[ss. 2, 8, 42 & 43
& Schs. 4 & 8]

DISQUALIFICATION FOR HOLDING DOMESTIC FREE OR PAY
TELEVISION PROGRAMME SERVICE LICENCES AND
RESTRICTION ON VOTING CONTROL OF
VOTING CONTROLLERS

PART 1

INTERPRETATION AND APPLICATION

1. Interpretation

(1) In this Schedule, unless the context otherwise requires—

“advertising agency”(廣告宣傳代理商) means a person who—

- (a) carries on business as an advertising agent; or
- (b) exercises control of a person who carries on business as an advertising agent;

“associate”(相聯者), in relation to a voting controller holding voting control (whether the controller is qualified or unqualified), means—

- (a) where the voting controller holding the voting control is an individual—
 - (i) a relative of the voting controller;
 - (ii) a partner of the voting controller or a relative of the partner;
 - (iii) a partnership in which the voting controller is a partner;
 - (iv) a corporation influenced by—
 - (A) the voting controller;
 - (B) a partner of the voting controller; or
 - (C) a partnership in which the voting controller is a partner; or
 - (v) a director or principal officer of a corporation mentioned in paragraph (iv);
- (b) where the voting controller holding the voting control is a corporation—
 - (i) an associated corporation;
 - (ii) a voting controller who—
 - (A) influences the corporation and, if the voting controller is an individual, a relative of the voting controller; or
 - (B) is a partner of the voting controller to whom or which sub-subparagraph (A) applies, and if the partner is an individual, a relative of the partner;
 - (iii) a director or principal officer of the corporation or of an associated corporation and a relative of the director or officer;
 - (iv) a partner of the corporation and, if the partner is an individual, a relative of the partner; or
- (c) where the voting controller holding the voting control is a partnership—
 - (i) a member of the partnership and, if the partner is an individual, a relative of the member;
 - (ii) a partner of the partnership and, where the partner—
 - (A) is an individual, a relative of the partner; or
 - (B) is itself a partnership, a relative of a member of the partnership who is an individual;
 - (iii) a corporation influenced by—
 - (A) the partnership;
 - (B) a partner of it; or
 - (C) where the partner is an individual, a relative of the partner;
 - (iv) a corporation of which a partner of the partnership is a director or principal officer;
 - (v) a director or principal officer of a corporation mentioned in subparagraph (iii);

“表決控權人”(voting controller)指單獨或連同 1 名或多於 1 名其他人持有表決控制權的人；

“受限制表決控權人”(unqualified voting controller)指不屬一般表決控權人的表決控權人；

“持牌人”(licensee)指牌照持有人；

“持牌人登記冊”(licensee's register)就某持牌人而言，指根據《公司條例》(第 32 章)第 95 條規定備存的登記冊；

“相聯法團”(associated corporation)就任何持有表決控制權的表決控權人(不論符合資格與否)而言，指——

- (a) 受該表決控權人影響的法團；
- (b) 對本身是法團的表決控權人(“另一法團”)有影響力的法團；
- (c) 受另一法團影響的法團；

“相聯者”(associate)就任何持有表決控制權的表決控權人(不論符合資格與否)而言——

- (a) 如該表決控權人屬個人，指——
 - (i) 該表決控權人的親屬；
 - (ii) 該表決控權人的合夥人或該合夥人的親屬；
 - (iii) 該表決控權人擔任合夥人的合夥；
 - (iv) 受下述人士影響的法團——
 - (A) 該表決控權人；
 - (B) 該表決控權人的合夥人；或
 - (C) 該表決控權人擔任合夥人的合夥；或
 - (v) 第(iv)段所述法團的董事或主要人員；
- (b) 如該表決控權人屬法團，指——
 - (i) 相聯法團；
 - (ii) 符合以下說明的表決控權人——
 - (A) 對該法團及(如該表決控權人屬個人)該表決控權人的親屬有影響力；或
 - (B) (A)分節適用的表決控權人的合夥人及(如該合夥人屬個人)該合夥人的親屬；
 - (iii) 該法團或任何相聯法團的董事或主要人員，以及該董事或主要人員的親屬；
 - (iv) 該法團的合夥人及(如該合夥人屬個人)該合夥人的親屬；或
- (c) 如該表決控權人屬一個合夥，指——
 - (i) 該合夥的成員及(如該合夥人屬個人)該成員的親屬；
 - (ii) 該合夥的合夥人及——
 - (A) (如該合夥人屬個人)該合夥人的親屬；或
 - (B) (如該合夥人本身是一個合夥)該合夥屬個人的成員的親屬；
 - (iii) 受下述人士影響的法團——
 - (A) 該合夥；
 - (B) 該合夥的其中一名合夥人；或
 - (C) (如該合夥人屬個人)該合夥人的親屬；
 - (iv) 該合夥的其中一名合夥人擔任董事或主要人員的法團；
 - (v) 第(iii)節所述法團的董事或主要人員；

“牌照”(licence)指本地免費電視節目服務牌照或本地收費電視節目服務牌照；

“廣告宣傳代理商”(advertising agency)指——

- (a) 經營廣告宣傳代理業務的人；或
- (b) 對經營廣告宣傳代理業務的人行使控制的人；

“影響力”(influence)就任何法團而言，指一名表決控權人——

- (a) 藉着持有該法團或任何其他法團的股份中或持有與該法團或任何其他法團有關的股份，或藉着具有該法團或任何其他法團的表決權或具有該法團或任何其他法團有關的表決權；或

“associated corporation”(相聯法團), in relation to a voting controller holding voting control (whether qualified or unqualified), means—

- (a) a corporation over which the voting controller has influence;
- (b) a corporation which has influence over the voting controller being itself a corporation (“the second corporation”);
- (c) a corporation which is under the influence of the second corporation;

“disqualified person”(不符合持牌資格人士) means a person who is a disqualified person under section 4, 5, 6 or 7;

“influence”(影響、影響力), in relation to a corporation, means the power of a voting controller to ensure—

- (a) by means of the holding of shares or possession of voting power in or in relation to that or any other corporation; or
- (b) by virtue of any powers conferred by the memorandum or articles of association regulating that or any other corporation,

that the affairs of the first-mentioned corporation are conducted in accordance with the wishes of the voting controller;

“licence”(牌照) means a domestic free television programme service licence or domestic pay television programme service licence;

“licensee”(持牌人) means the holder of a licence;

“licensee's register”(持牌人登記冊), in relation to a particular licensee, means the register required to be kept under section 95 of the Companies Ordinance (Cap. 32);

“principal officer”(主要人員), in relation to a corporation, means—

- (a) a person employed or engaged by the corporation who, by himself or with 1 or more other persons, is responsible under the immediate authority of the directors of the corporation for the conduct of the business of the corporation; or
- (b) a person so employed or engaged who, under the immediate authority of a director of the corporation or a person to whom paragraph (a) applies, performs managerial functions in respect of the corporation;

“qualified voting controller”(一般表決控權人) means—

- (a) a voting controller who—
 - (i) in the case of an individual, is ordinarily resident in Hong Kong in accordance with paragraph (a) of the definition of “ordinarily resident in Hong Kong” in section 2(1) of this Ordinance and has been so resident for at least one continuous period of not less than 7 years;
 - (ii) in the case of a corporation, is ordinarily resident in Hong Kong; or
- (b) a voting controller who is—
 - (i) the trustee or manager of any unit trust or mutual fund authorized as a collective investment scheme under section 104 of the Securities and Futures Ordinance (Cap. 571); (*Amended 5 of 2002 s. 407*)
 - (ii) the trustee of a charitable scheme made by order of a court of competent jurisdiction;
 - (iii) a judicial officer in whom the estate of a deceased is vested between the time of death and the grant of letters of administration;
 - (iv) the Registrar of the High Court; or
 - (v) such other person as may be prescribed;

“relative”(親屬), in relation to an individual, means the spouse, parent, child, brother, sister, brother-in-law, father-in-law, mother-in-law, sister-in-law, daughter-in-law, son-in-law, aunt, cousin, uncle, niece, nephew, grandfather or grandmother of the individual, and for the purposes of this definition, an adopted child shall be regarded as a child both of the natural parents and the adoptive parents and a stepchild as the child both of the natural parents and any step parents;

“total voting control”(總計表決控制權) means the aggregate of voting control;

“unqualified voting controller”(受限制表決控權人) means a voting controller who is not a qualified voting controller;

“voting control”(表決控制權) means the control of or the ability to control, whether directly or indirectly, the exercise of the right to vote attaching to 1 or more voting shares of a licensee—

- (a) by the exercise of a right, where such exercise confers the ability to exercise a right to vote or to control the exercise of a right to vote;
- (b) by an entitlement to exercise such a right to vote;

(b) 憑藉規管該法團或任何其他法團的組織章程大綱或章程細則所賦予的任何權力，以確保所述法團的事務是按照該表決控權人的意願處理的權力；

“親屬”(relative)就任何個人而言，指該人的配偶、父或母、子或女、兄或弟、姊或妹、配偶之父或母、嫂或弟婦或配偶的姊或妹、姊夫或妹夫或配偶的兄或弟、媳婦、女婿、父或母的姊或妹或父或母的嫂或弟婦、父或母的兄或弟或父或母的姊夫或妹夫、表兄、表弟、表姊、表妹或堂兄、堂弟、堂姊、堂妹、姪女或甥女、姪兒或外甥、祖父或外祖父、祖母或外祖母；而為本定義的目的，被領養的子女須當作既是其親生父母的子女，亦是其領養父母的子女，而繼子女則須當作既是其親生父母的子女，亦是其任何繼父母的子女；

“總計表決控制權”(total voting control)指表決控制權的總和。

(2) 如——

(a) 多於 1 名表決控權人就同一有表決權股份而言同屬表決控權人；而

(b) 他們之中有人是不符合持牌資格人士，

則為施行本附表，就 (a) 段所述的股份而言，該段提述的表決控權人中的每一人，均須視為不符合持牌資格人士。

(3) 如有多於 1 名表決控權人就同一有表決權股份而言同屬表決控權人，而他們之中有人是受限制表決控權人，則為施行本附表，就該股份而言，該等表決控權人中的每一人，均須視為受限制表決控權人。

(4) 就本附表而言，不能識別以某人作為表決控權人的有表決權股份並不具關鍵性。

(5) 為施行本附表，任何對行使控制的提述——

(a) 就法團而言，須按照第 (6) 款解釋；

(b) 就並非法團的團體而言，指任何人憑藉規管該團體或任何其他團體的規則確保該團體的事務是按照該人意願處理的權力。

(6) 為施行第 (5)(a) 款，任何人如屬下述人士，即屬對某法團行使控制——

(a) 該法團的董事或主要人員；

(b) 實益擁有該法團多於 15% 的有表決權股份的實益擁有人；

(c) 該法團多於 15% 的有表決權股份的表決控權人；或

(d) 除在上述情況外憑藉規管該法團或任何其他法團的組織章程大綱或章程細則或其他文書所賦予的權力，具有確保該法團的事務是按照其意願處理的權力的人，

而在本附表中，提述對持牌人行使控制須據此解釋。

(7) 在本附表中，提述任何人處於以下狀況——

(a) 持有法團股份或有權享有法團股份實益權益；或

(b) 作為法團的有表決權股份的表決控權人，

須解釋為提述他處於該狀況，不論是他本人或聯同其他人而處於該狀況，亦不論是直接或透過 1 名或多於 1 名代名人而處於該狀況。

(8) 為施行本附表，2 個法團如有下述情況，即屬同一集團的成員——

(a) 其中一個法團為另一法團的附屬公司；或

(b) 兩個法團均為另一法團的附屬公司。

(9) 在第 (8) 款中，“附屬公司”(subsidiary)就法團而言，其涵義與附屬公司根據《公司條例》(第 32 章) 第 2(4) 及 (6) 條就公司而言所具有者相同。

(c) under a duty or obligation;

(d) through a nominee;

(e) through or by means of a trust, agreement or arrangement, understanding or practice, whether or not the trust, agreement or arrangement, understanding or practice has legal or equitable force or is based on legal or equitable rights; or

(f) as a chargor of voting shares of a licensee unless the chargee of the voting shares or the nominee of the chargee has given notice in writing to the chargor under the charge of an intention to exercise the right to vote attaching to such voting shares;

“voting controller”(表決控權人) means a person who either alone or with 1 or more other persons holds voting control.

(2) Where—

(a) 2 or more voting controllers together are voting controllers in relation to the same voting share; and

(b) 1 or more of them is a disqualified person,

then, for the purposes of this Schedule, each of the voting controllers referred to in paragraph (a) shall, in relation to the voting share mentioned in that paragraph, be regarded as a disqualified person.

(3) When 2 or more voting controllers together are voting controllers in relation to the same voting share and 1 or more than 1 of those voting controllers is an unqualified voting controller, then for the purposes of this Schedule, each of those voting controllers shall, in relation to that voting share, be regarded as an unqualified voting controller.

(4) For the purposes of this Schedule, the fact that the particular voting share or shares in relation to which a person is a voting controller cannot be identified is immaterial.

(5) For the purposes of this Schedule, any reference to exercise of control—

(a) in relation to a corporation, shall be construed in accordance with subsection (6);

(b) in relation to a body other than a corporation, means the power of a person to ensure, by virtue of the rules regulating that or any other body, that the affairs of the first-mentioned body are conducted in accordance with the wishes of that person.

(6) For the purposes of subsection (5)(a), a person exercises control of a corporation if—

(a) he is a director or principal officer of the corporation;

(b) he is the beneficial owner of more than 15% of the voting shares in the corporation;

(c) he is a voting controller of more than 15% of the voting shares in the corporation;

or

(d) he otherwise has the power, by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating that corporation or any other corporation, to ensure that the affairs of the first-mentioned corporation are conducted in accordance with the wishes of that person,

and any reference in this Schedule to exercising control of a licensee shall be construed accordingly.

(7) Any reference in this Schedule to a person—

(a) holding or being beneficially entitled to shares in a corporation; or

(b) being a voting controller of any voting shares in a corporation,

shall be construed as a reference to his being so entitled, whether by himself or jointly with other persons, and whether directly or through 1 or more nominees.

(8) For the purposes of this Schedule, 2 corporations are members of the same group if—

(a) 1 of them is a corporation of which the other is a subsidiary; or

(b) both are subsidiaries of another corporation.

(9) In subsection (8), “subsidiary”(附屬公司), in relation to a corporation, has the same meaning which a subsidiary has in relation to a company under section 2(4) and (6) of the Companies Ordinance (Cap. 32).

2. 適用範圍

第 3 部不適用於本地收費電視節目服務、本地收費電視節目服務牌照或本地收費電視節目服務牌照的持牌人。

2. Application

Part 3 shall not apply to a domestic pay television programme service, domestic pay television programme service licence or domestic pay television programme service licensee.

第 2 部

不符合本地免費或收費電視節目服務的持牌資格以
及對表決控制權的限制

3. 不符合持牌資格人士不得持有牌照或行使控制

(1) 除非不符合持牌資格人士不符合該資格一事已在牌照申請中披露，否則該人不得成為牌照的持有人或對持牌人行使控制。

(2) 除非行政長官會同行政會議應持牌人以指明格式提出的申請，而信納為公眾利益而有此需要並予以批准，否則——

- (a) 不符合持牌資格人士不得成為或繼續為牌照的持有人；及
- (b) 不符合持牌資格人士不得對持牌人行使控制。

(3) 在為施行第(2)款而考慮公眾利益時，須考慮(但不限於)下述事項——

- (a) 對有關服務市場的競爭的影響；
- (b) 觀眾獲提供更多元化電視節目選擇的程度；
- (c) 對廣播業的發展的影響；及
- (d) 對經濟所帶來的整體利益。

4. 持牌人不符合資格的情況

(1) 除第(2)款另有規定外，就牌照而言，下述人士均為不符合持牌資格人士——

- (a) 同類牌照的持牌人；
- (b) 不同類牌照(包括非本地電視節目服務牌照及其他電視節目服務牌照)的持牌人(但就本地收費電視節目服務牌照而言，非本地電視節目服務持牌人並非不符合持牌資格人士)；
- (c) 對(a)或(b)段所述的持牌人行使控制的人；
- (d) 憑藉(a)、(b)或(c)段而屬不符合持牌資格人士的相聯者。

(2) 凡第(1)(a)或(b)款所述的持牌人已根據第4部取得行政長官會同行政會議的事先書面批准，以持有或獲取屬不符合持牌資格人士公司的權益，該持牌人並不僅因此而不符合持有牌照的資格。

(3) 就任何屬持牌人的公司而言，任何人不會僅因他是該公司的董事或主要人員或他持有或控制該公司多於15%的有表決權股份，而屬不符合持牌資格人士。

5. 聲音廣播持牌人不符合資格的情況

就牌照而言，下述人士均為不符合持牌資格人士——

- (a) 《電訊條例》(第106章)第IIIA部所指的聲音廣播持牌人；
- (b) 對(a)段所述的持牌人行使控制的人；或
- (c) (i) (a)段所述的持牌人的相聯者；或
- (ii) (b)段所述的人的相聯者。

PART 2

DISQUALIFICATION FOR HOLDING DOMESTIC FREE OR PAY
TELEVISION PROGRAMME SERVICE LICENCES AND
RESTRICTIONS ON VOTING CONTROL

3. Disqualified person not to hold licence or exercise control

(1) A disqualified person shall not become the holder of a licence or exercise control of a licensee unless the disqualification was disclosed in the application for the licence.

(2) Unless the Chief Executive in Council, on application in the specified form by a licensee, is satisfied that the public interest so requires and approves otherwise—

- (a) a person shall not become or remain the holder of a licence if he is a disqualified person; and
- (b) a person shall not exercise control of a licensee if he is a disqualified person.

(3) In considering the public interest for the purposes of subsection (2), account shall be taken of, but not limited to, the following matters—

- (a) the effect on competition in the relevant service market;
- (b) the extent to which viewers will be offered more diversified television programme choices;
- (c) the impact on the development of the broadcasting industry; and
- (d) the overall benefits to the economy.

4. Disqualification of licensees

(1) Subject to subsection (2), any one of the following shall be a disqualified person in relation to a licence—

- (a) a licensee in the same category of licence;
- (b) a licensee in a different category of licence, including a non-domestic television programme service licence and an other television programme service licence (except that a non-domestic television programme service licensee is not a disqualified person in relation to a domestic pay television programme service licence);
- (c) a person who exercises control in the licensee mentioned in paragraph (a) or (b);
- (d) an associate of a person who is a disqualified person by virtue of paragraph (a), (b) or (c).

(2) A licensee mentioned in subsection (1)(a) or (b) shall not be disqualified from holding a licence by reason only of the fact that it has, under Part 4, obtained the prior approval in writing of the Chief Executive in Council to hold or acquire an interest in a company which is a disqualified person.

(3) A person shall not be a disqualified person in relation to a company which is a licensee by reason only of the fact that he is a director or a principal officer of, or holds or controls more than 15% of the voting shares in, that company.

5. Disqualification of sound broadcasting licensees

The following are disqualified persons in relation to a licence—

- (a) a sound broadcasting licensee under Part IIIA of the Telecommunications Ordinance (Cap. 106);
- (b) a person who exercises control over a licensee mentioned in paragraph (a); or
- (c) an associate of—
 - (i) a licensee mentioned in paragraph (a); or
 - (ii) a person mentioned in paragraph (b).

6. 廣告宣傳代理商不符合資格的情況

就牌照而言，下述人士均為不符合持牌資格人士——

- (a) 廣告宣傳代理商；
- (b) 對廣告宣傳代理商行使控制的人；或
- (c) (i) 廣告宣傳代理商的相聯者；或
(ii) (b) 段所述的人的相聯者。

7. 本地報刊不符合資格的情況

就牌照而言，下述人士均為不符合持牌資格人士——

- (a) 指在香港印刷或製作的報刊的東主；
- (b) 對 (a) 段所述東主行使控制的人；或
- (c) (i) (a) 段所述的東主的相聯者；或
(ii) (b) 段所述的人的相聯者。

8. 對表決控權人與不符合持牌資格人士相聯行事的限制

(1) 如表決控權人作為不符合持牌資格人士的相聯者而持有或獲取持牌人有表決權股份的表決控制權，而廣管局覺得該項持有或獲取的目的是逃避本部施加於不符合持牌資格人士的限制，則廣管局可藉送達該局相信是該項持有或獲取其中一方的表決控權人的書面通知，向該表決控權人作出該局覺得是達致以下兩者所需的指示——

- (a) 終止該項持有或獲取；及
- (b) 確保該項限制獲得遵從。

(2) 根據第 (1) 款送達的通知——

- (a) 在有關指示是為第 (1)(a) 款的目的而作出的情況下，須指明該等指示；
- (b) 在有關指示是為第 (1)(b) 款的目的而作出的情況下，須指明該等指示及須予遵從的限制；及
- (c) 須指明遵從該等指示的限期。

(3) 本條不得解釋為限制或以其他方式影響任何人轉讓有表決權股份的權力。

(4) 如有多於 1 人共同行事，以持有或獲取持牌人有表決權股份的表決控制權，則為施行本部，就持牌人的有表決權股份而言，該等人士中的每一人，均須視為其餘的人的相聯者，並須視為按照他們之中任何一人的指示行事以持有或獲取該等有表決權股份的表決控制權的任何其他人的相聯者。

9. 持牌人調查不符合持牌資格人士的權力

(1) 如持牌人知道或有合理理由相信任何人——

- (a) 是持牌人的有表決權股份的表決控權人；
- (b) 在有關期間內的任何時間曾是持牌人的有表決權股份的表決控權人；或
- (c) 在有任何交易就任何該等有表決權股份而言涉及表決控權人的更改的情況下，曾在該宗交易中提供協助或作為該宗交易的一方，

則持牌人可藉送達該人的書面通知，要求該人——

- (i) 確認或否認該項事實；及
- (ii) 在確認該項事實的情況下，提供可根據第 (2) 款要求他提供的進一步詳情。

(2) 凡持牌人根據第 (1) 款向某人送達通知——

- (a) 該通知可要求該人提供關乎他在有關期間內的任何時間屬不符合持牌資格人士或其他人士的身分的詳情；

6. Disqualification of advertising agencies

The following are disqualified persons in relation to a licence—

- (a) an advertising agency;
- (b) a person who exercises control over an advertising agency; or
- (c) an associate of—
(i) an advertising agency; or
(ii) a person mentioned in paragraph (b).

7. Disqualification of local newspapers

The following are disqualified persons in relation to a licence—

- (a) the proprietor of a newspaper printed or produced in Hong Kong;
- (b) a person who exercises control over a proprietor mentioned in paragraph (a); or
- (c) an associate of—
(i) a proprietor mentioned in paragraph (a); or
(ii) a person mentioned in paragraph (b).

8. Restriction on disqualified persons acting in association with voting controllers

(1) Where a voting controller holds or acquires voting control of the voting shares of a licensee as an associate of a disqualified person and it appears to the Broadcasting Authority that a purpose of the holding or acquisition is to avoid a restriction imposed on a disqualified person under this Part, then the Broadcasting Authority may, by notice in writing served on any voting controller whom it believes to be a party to the holding or acquisition, give directions to the voting controller which appear to the Broadcasting Authority to be necessary to—

- (a) effect a cesser of the holding or acquisition; and
- (b) ensure compliance with the restriction.

(2) A notice under subsection (1) shall specify—

- (a) where the directions are given for the purpose of subsection (1)(a), those directions;
- (b) where the directions are given for the purpose of subsection (1)(b), those directions and the restriction required to be complied with; and
- (c) the period within which the directions are required to be complied with.

(3) Nothing in this section shall be construed as restricting or otherwise affecting a person's power to transfer a voting share.

(4) Where 2 or more persons act together to hold or acquire the voting control of the voting shares of a licensee, then, for the purposes of this Part, each of those persons shall be regarded in relation to the voting shares of the licensee as being an associate of the other and of any other person acting on the directions of any of them to hold or to acquire voting control over those voting shares.

9. Licensee's power to investigate a disqualified person

(1) Where a licensee knows or has reasonable cause to believe a person—

- (a) to be a voting controller of voting shares of the licensee;
- (b) to have been such a controller at any time during the relevant period; or
- (c) to have assisted in or been a party to any transaction involving, in respect of any such voting share, a change of voting controller,

then the licensee may, by notice in writing served on the person, require the person—

- (i) to confirm or refute that fact; and
- (ii) if he confirms it, to give such further particulars as may be required under subsection (2).

(2) A notice under subsection (1) may require the person on whom it is served—

- (a) to give particulars as to his status as a disqualified person or otherwise at any time during the relevant period;

- (b) 該通知可要求該人提供關乎身為第 8(1)條所述的持有或獲取的一方的地址及身分，並且是在他所知或所信的範圍內的詳情；
- (c) 而該人在有關期間內的任何時間曾是表決控權人，但在獲發通知時已不再是表決控權人，該通知可要求該人提供關乎緊接他不再是表決控權人之後成為表決控權人的人的地址及身分，並且是在他所知或所信的範圍內的詳情；及
- (d) 而該人在有關期間內的任何時間，在有任何交易就任何有表決權股份而言涉及表決控權人的更改的情況下，曾在該交易中提供協助或作為該宗交易的一方，該通知可要求該人提供關乎在該項更改後成為表決控權人的人的地址及身分，並且是在他所知或所信的範圍內的詳情。
- (3) 根據第 (1) 款送達的通知，須指明遵從該通知的要求的限期。
- (4) 如有任何詳情根據本條向持牌人提供，持牌人須於自收到該等詳情之日起計 15 天內，就該等詳情向廣管局發出書面通知。
- (5) 在本條中，“有關期間”(relevant period) 就某通知而言，指緊接該通知的送達日期前的 3 年期間。

10. 廣管局獲取不符合持牌資格人士資料的權力

(1) 如廣管局覺得有理由調查持有持牌人的有表決權股份的表決控權人，而該局有合理理由相信某人管有關於任何現任或前任表決控權人的姓名或名稱及地址，以及關於代表該等控權人行事或曾代表他們行事的人的資料，或該人能夠提供或取得該等資料，則廣管局可要求該人向該局提供該等資料。

- (2) 在不損害第 (1) 款的一般性原則下，如廣管局有合理理由相信任何人——
- (a) 是持牌人有表決權股份的表決控權人；
- (b) 在有關期間內的任何時間曾是持牌人的有表決權股份的表決控權人；或
- (c) 在有任何交易就任何該等有表決權股份而言，涉及表決控權人的更改的情況下，曾在該宗交易中提供協助或作為該宗交易的一方，
- 則廣管局可藉送達該人的書面通知，要求該人——
- (i) 確認或否認該項事實；及
- (ii) 在確認該項事實的情況下，提供可根據第 (3) 款要求他提供的進一步詳情。
- (3) 凡廣管局根據第 (2) 款向某人送達通知——
- (a) 該通知可要求該人提供關乎他在有關期間內的任何時間屬不符合持牌資格人士或其他人士的身分的詳情；
- (b) 該通知可要求該人提供關乎身為第 8(1) 條所述的持有或獲取的一方的地址及身分，並且是在他所知或所信的範圍內的詳情；
- (c) 而該人在有關期間內的任何時間曾是表決控權人，但在獲發通知時已不再是表決控權人，該通知可要求該人提供關乎於緊接他不再是表決控權人之後成為表決控權人的人的地址及身分，並且是在他所知或所信的範圍內的詳情；及
- (d) 而該人在有關期間內的任何時間，在有任何交易就任何有表決權股份而言涉及表決控權人的更改的情況下，曾在該交易中提供協助或作為該宗交易的一方，該通知可要求該人提供關乎在該項更改後成為表決控權人的人的地址及身分，並且是在他所知或所信的範圍內的詳情。
- (4) 根據第 (2) 款送達的通知，須指明遵從該通知的要求的限期。

- (b) to give particulars which are within his knowledge or belief relating to the address and identity of any person who is a party to any holding or acquisition mentioned in section 8(1);
- (c) where he has at any time during the relevant period been a voting controller, but at the time the notice is given has ceased to be so, to give particulars which are within his knowledge or belief relating to the address and identity of any person who became a voting controller immediately upon his ceasing to be a voting controller; and
- (d) where he has at any time during the relevant period assisted in or been a party to any transaction involving, in respect of any voting share, a change of voting controller, to give particulars which are within his knowledge or belief relating to the address and identity of any person who became a voting controller upon the change.
- (3) A notice under subsection (1) shall specify a period within which the requirements of the notice are to be complied with.
- (4) Where any particulars are given to a licensee under this section, it shall, not later than 15 days beginning on the date it receives the particulars, give the Broadcasting Authority notice in writing of the particulars.
- (5) In this section, “relevant period” (有關期間), in relation to a particular notice, means the period of 3 years immediately preceding the date on which the licensee serves the notice.

10. Broadcasting Authority's power to obtain information as to disqualified persons

(1) If it appears to the Broadcasting Authority that there is reason to investigate the voting controllers of any voting shares of a licensee, it may require any person whom it has reasonable cause to believe to have, or to be able to provide or obtain, any information as to any present or past voting controllers and their names and addresses and of those persons who act or have acted on their behalf, to give that information to the Broadcasting Authority.

- (2) Without prejudice to the generality of subsection (1), where the Broadcasting Authority has reasonable cause to believe a person—
- (a) to be a voting controller of voting shares of the licensee;
- (b) to have been such a controller at any time during the relevant period; or
- (c) to have assisted in or been a party to any transaction involving, in respect of any such voting shares, a change of voting controller,
- then it may, by notice in writing served on the person, require the person—
- (i) to confirm or refute that fact; and
- (ii) if he confirms it, to give such further particulars as may be required under subsection (3).

- (3) A notice under subsection (2) may require the person on whom it is served—
- (a) to give particulars as to his status as a disqualified person or otherwise at any time during the relevant period;
- (b) to give particulars which are within his knowledge or belief relating to the address and identity of any person who is a party to any holding or acquisition mentioned in section 8(1);
- (c) where he has at any time during the relevant period been a voting controller, but at the time the notice is served has ceased to be so, to give particulars which are within his knowledge or belief relating to the address and identity of any person who became a voting controller immediately upon his ceasing to be a voting controller; and
- (d) where he has at any time during the relevant period assisted in or been a party to any transaction involving, in respect of any voting share, a change of voting controller, to give particulars which are within his knowledge or belief relating to the address and identity of any person who became a voting controller upon the change.
- (4) A notice under subsection (2) shall specify a period within which the requirements of the notice are to be complied with.

(5) 廣管局可藉送達持牌人的書面通知，指示持牌人向該通知所指定的人行使持牌人根據第 9 條具有的調查權力；凡廣管局有此指示——

- (a) 持牌人須予遵從；及
- (b) 以下條文即適用——
 - (i) 持牌人須於調查完成後 15 天內，將他經調查而收到的任何資料及詳情，以書面向廣管局提供；
 - (ii) 在不損害第 (i) 節的原則下，如調查未能於自該通知送達持牌人之日起計的 3 個月內完成，持牌人須在自下述時間起計的 15 天內——
 - (A) 該 3 個月限期屆滿時；及
 - (B) 調查完成前的每段 3 個月的接續期間屆滿時，就其在 (A) 或 (B) 分節（視屬何情況而定）提述的期間內收到的資料及詳情，向廣管局作出中期報告；
 - (iii) 當持牌人已作出所有為進行調查而屬必要或合宜的查訊，調查須視為已完成；而當持牌人已收到回應或持牌人所定的回應限期已屆滿，則任何該等查訊須視為已完成。

(6) 在本條中，“有關期間”（relevant period）就某通知而言，指緊接該通知的送達日期前的 3 年期間。

11. 關於持牌人紀錄的格式及內容的額外規定

(1) 持牌人如根據第 9(1) 條送達通知，或由於根據第 10(5) 條作出的指示而送達該通知，則須以指明格式，備存一份載有下述事項的紀錄——

- (a) 該通知的日期；
- (b) 獲送達該通知的人的姓名或名稱；及
- (c) 持牌人所收到的回應該通知的詳情。

(2) 持牌人須按照廣管局根據第 16 條就此作出的任何指示，保留第(1)款所述的紀錄。

12. 廣管局施加限制的權力

(1) 如——

- (a) 有不符合持牌資格人士就第 17(2) 或 (3) 條所訂罪行而被定罪；或
- (b) 有任何人就第 17(1)、(4)、(5) 或 (6) 條所訂罪行而被定罪，

而廣管局覺得該罪行是就持牌人的有表決權股份而犯的，則廣管局可藉指明該股份的書面通知，指示該股份須受第 (3) 款所述並在該通知指明的限制所規限，直至廣管局根據本款就該股份另作通知為止。

(2) 如在與根據第 9 或 10 條進行的調查有關連的情況下，廣管局覺得難以確定任何關於該局認為是或看似是持牌人的任何有表決權股份的表決控權人的人的有關事實，則廣管局可藉指明該股份的書面通知，指示該股份須受第 (3) 款所述並在該通知指明的限制所規限，直至廣管局根據本款就該股份另作通知為止。

(3) 就第 (1) 及 (2) 款而言的限制是——

- (a) 轉讓該有表決權股份或（如屬未發行的有表決權股份）轉讓獲發該股份的權利或發行該股份，均屬無效；

(5) The Broadcasting Authority may, by notice in writing served on a licensee, direct the licensee to exercise its powers of investigation under section 9 in respect of a person named in the notice and, where the Broadcasting Authority gives such a direction—

- (a) the licensee shall comply with it; and
- (b) the following shall apply—
 - (i) the licensee shall, not later than 15 days after the investigation is concluded, give in writing to the Broadcasting Authority any information and particulars received by the licensee as a result of the investigation;
 - (ii) without prejudice to subparagraph (i), where the investigation is not concluded within 3 months beginning on the date the relevant notice under this subsection was served on the licensee, the licensee shall, not later than 15 days beginning on—
 - (A) the expiry of that 3 months period; and
 - (B) the expiry of every successive period of 3 months before the conclusion of the investigation,
 give to the Broadcasting Authority an interim report relating to the information and particulars received by it during the period referred to in sub-subparagraph (A) or (B), as the case may be;
 - (iii) an investigation shall be regarded as concluded when the licensee has made all the inquiries necessary or expedient for the purpose of the investigation and any such inquiry shall be regarded as concluded when a response has been received by the licensee or the time given by it for a response has expired.

(6) In this section, “relevant period” (有關期間), in relation to a particular notice, means the period of 3 years immediately preceding the date on which the Broadcasting Authority serves the notice.

11. Additional requirements regarding form and content of licensee's records

(1) Where a licensee serves a notice under section 9(1), or serves such notice in consequence of a direction under section 10(5), it shall keep a record in the specified form containing—

- (a) the date of the notice;
- (b) the name of any person on whom it is served; and
- (c) the particulars received by the licensee in response to the notice.

(2) A licensee shall retain a record mentioned in subsection (1) in accordance with any direction in that behalf given by the Broadcasting Authority under section 16.

12. Power of Broadcasting Authority to impose restrictions

(1) If—

- (a) a disqualified person is convicted of an offence under section 17(2) or (3); or
- (b) a person is convicted of an offence under section 17(1), (4), (5) or (6),

and it appears to the Broadcasting Authority that the offence was committed in relation to any voting share of a licensee, then the Broadcasting Authority may, by notice in writing, direct that the share, which shall be specified in the notice, shall be subject to such of the restrictions mentioned in subsection (3) as are specified in the notice until the Broadcasting Authority makes a further notice under this subsection in respect of the share.

(2) If, in connection with an investigation under section 9 or 10, it appears to the Broadcasting Authority that there is difficulty in ascertaining the relevant facts regarding a person who, in the opinion of the Broadcasting Authority, is or appears to be the voting controller of any voting share of a licensee, then the Broadcasting Authority may, by notice in writing, direct that the share, which shall be specified in the notice, shall be subject to such of the restrictions mentioned in subsection (3) as are specified in the notice until the Broadcasting Authority makes a further notice under this section in respect of the share.

(3) The restrictions for the purposes of subsections (1) and (2) are that—

- (a) any transfer of the voting share or, in the case of a voting share that has not been issued, any transfer of the right to be issued with it or any issue of the share is void;

- ~~(6) 任何人在持有他明知當其時正受第 12(3) 條所訂限制所規限的有表決權股份的情況下，或在他有權依憑首述股份而獲發另一有表決權股份的情況下，或在他有權在非清盤的情況下就首述股份收取任何付款的情況下，訂立任何根據第 12(4) 或 (5) 條屬無效的協議，即屬犯罪。~~
- ~~(7) 任何人犯本條所訂罪行，一經定罪，可處罰款 \$1,000,000 及監禁 2 年。~~

18. 對罪行的檢控及對提起檢控的限制

- (1) 在不影響律政司長在檢控刑事罪行方面的權力的原則下，廣管局可對本部所訂罪行提起檢控。
- (2) ~~儘管有《裁判官條例》(第 227 章) 第 26 條的規定，關於本部所訂罪行的任何告發或申訴，如在罪行發生日期起計的 3 年內或在自檢控人最初發現該罪行之日起計的 12 個月內(以首先屆滿的期間為準)的任何時間提出或作出(視屬何情況而定)，則仍可予以審訊。~~

第 3 部

對受限制表決控權人持有的表決控制權的限制
(不適用於本地收費電視節目服務牌照)

19. 對受限制表決控權人的表決控制權的百分率的限制

(1) 除第 (2) 款另有規定外，即使持牌人的組織章程大綱或章程細則載有任何規定或有本條以外的任何法律條文，凡有問題或事宜須於持牌人的股東大會上藉投票決定，下列規定即適用——

- (a) 在該次投票中，只有符合以下條件的人方可親身投票或由代表代為投票，其他人不得親身或由代表代為投票：該人在該股東大會舉行時是持牌人的有表決權股份的註冊股東，而就該股份而言，是已有第 22(1)(b) 條所述的文件按照廣管局根據第 30 條就此而發出的指示填具並交回該持牌人；
- (b) 如受限制表決控權人所行使的總計表決控制權的總數，本會超逾由一般表決控權人與受限制表決控權人兩者在該次投票中行使的總計表決控制權的 49%，則就決定該問題或事宜而言，須將受限制表決控權人在該次投票中所投的票數藉乘以按 (c) 段指明的公式釐定的百分率而予以扣減；
- (c) 為 (b) 段的目的而定出的公式為——

$$\frac{1}{B} \times \frac{(49 \times A)}{51} \times 100$$

在公式中 A = 在該次投票中，由一般表決控權人作為表決控權人所投的總票數所佔的百分率；

B = 在該次投票中，由受限制表決控權人作為表決控權人所投的總票數所佔的百分率。

- (2) 即使持牌人的組織章程大綱或章程細則載有任何規定，本條於以下情況下不適用——

- ~~(6) A person who being the holder of a voting share which, to his knowledge, is for the time being subject to a restriction under section 12(3) or having a right to be issued with another voting share in the right of the first-mentioned share, or to receive any payment in respect of the first-mentioned share otherwise than in a liquidation, enters into an agreement which is void under section 12(4) or (5) commits an offence.~~
- ~~(7) A person who commits an offence under this section is liable on conviction to a fine of \$1,000,000 and to imprisonment for 2 years.~~

18. Prosecution of offences and limitation on institution of proceedings

- (1) Without affecting the powers of the Secretary for Justice in relation to the prosecution of criminal offences, prosecution for an offence under this Part may be instituted by the Broadcasting Authority.
- (2) Notwithstanding section 26 of the Magistrates Ordinance (Cap. 227), any information or complaint relating to an offence under this Part may be tried if it is laid or made, as the case may be, at any time within 3 years beginning on the date of the commission of the offence or within 12 months beginning on the first discovery of the offence by the prosecutor, whichever period expires first.

PART 3

RESTRICTIONS ON VOTING CONTROL HELD BY UNQUALIFIED VOTING CONTROLLERS (NOT APPLICABLE IN RELATION TO DOMESTIC PAY TELEVISION PROGRAMME SERVICE LICENCE)

19. Restrictions on percentage of voting control of unqualified voting controllers

(1) Subject to subsection (2), notwithstanding anything contained in the memorandum or articles of association of a licensee or any provision of any law apart from this section, where any question or matter is to be determined by a poll at any general meeting of the licensee, the following shall apply—

- (a) no vote shall be cast on the poll, whether in person or by proxy, other than by or by proxy on behalf of any person who, at the time of the general meeting, is a registered shareholder of voting shares of the licensee in respect of which a document mentioned in section 22(1)(b) has, in accordance with any direction in that behalf issued by the Broadcasting Authority under section 30, been completed and returned to the licensee;
- (b) where the total voting control exercised by unqualified voting controllers would otherwise exceed, in the aggregate, 49% of the total voting control exercised on the poll by both qualified and unqualified voting controllers, the votes cast on the poll by unqualified voting controllers shall, for the purpose of determining the question or matter, be reduced by multiplying those votes by the percentage determined by the formula specified in paragraph (c);
- (c) the formula for the purposes of paragraph (b) is—

$$\frac{1}{B} \times \frac{(49 \times A)}{51} \times 100$$

where A = the percentage of the total votes cast on the poll, the voting controllers of which are qualified voting controllers;

B = the percentage of the total votes cast on the poll, the voting controllers of which are unqualified voting controllers.

- (2) Notwithstanding anything contained in the memorandum or articles of association of the licensee, this section shall not apply—

(a) 在持牌人的股東大會上藉投票決定的問題或事宜是就持牌人設立不同類別的股份；或

(b) (如持牌人的股本當其時正分為不同類別的股份) 對任何附於該等不同類別的股份的特別權利的更改，包括廢止在內。

(3) 廣管局可在持牌人的任何股東大會舉行之之前、之時或期間的任何時間，以口頭方式或藉書面通知指示持牌人就任何決議進行投票，而如有該項指示作出，持牌人即須遵從。

20. 受限制表決控權人須經廣管局批准始可享有的 2% 至 10% 控制限額

(1) 如事先未經廣管局書面批准，受限制表決控權人不得——

(a) 持有；

(b) 獲取；或

(c) 行使、或導致或准許他人行使，

在持牌人的總計表決控制權中合計佔 2% 或多於 2% 但不足 6%，或 6% 或多於 6% 但不多於 10%，或多於 10% 之數。

(2) 如任何受限制表決控權人違反第 (1)(a) 款而持有持牌人的總計表決控制權合計多於 10%，則即使持牌人的組織章程大綱或章程細則載有任何規定或在本條以外的香港法例任何條文，該人仍不得就在持牌人的股東大會上出現的問題或事宜，行使或導致或准許他人行使合計超逾持牌人的總計表決控制權 10% 的表決權。

(3) 廣管局可就違反第 (1) 款的受限制表決控權人，藉送達他的書面通知作出該局覺得為達致終止該項違反所須作出的指示。

(4) 根據第 (3) 款送達的通知，須指明——

(a) 根據該款作出的指示；及

(b) 遵從該等指示的限期。

(5) 本條不得解釋為限制或以其他方式影響任何人轉讓有表決權股份的權力。

21. 對與其他表決控權人相聯行事的受限制表決控權人的限制

(1) 如任何人是——

(a) 一般表決控權人；或

(b) 受限制表決控權人，

並且作為某名受限制表決控權人的相聯者而持有或獲取持牌人的有表決權股份的表決控制權，而廣管局覺得該項持有或獲取的目的是逃避本部施加於受限制表決控權人的限制，則廣管局可藉送達該局相信是該項持有或獲取的其中一方的表決控權人的書面通知，向該表決控權人作出該局覺得是達致以下兩者所需的指示——

(i) 終止該項持有或獲取；及

(ii) 確保該項限制獲得遵從。

(2) 根據第 (1) 款送達的通知——

(a) 在有關指示是為第 (1)(i) 款的目的而作出的情況下，須指明該等指示；

(b) 在有關指示是為第 (1)(ii) 款的目的而作出的情況下，須指明該等指示及須予遵從的限制；及

(c) 須遵從該等指示的限期。

(3) 本條不得解釋為限制或以其他方式影響任何人轉讓有表決權股份的權力。

(a) where the question or matter which is to be determined by a poll at any general meeting of the licensee is the creation of different classes of shares in the licensee; or

(b) where the share capital of the licensee is for the time being divided into different classes of shares, to the variation, including abrogation, of any special rights attaching to any such classes of shares.

(3) The Broadcasting Authority may at any time before, at or during a general meeting of a licensee, direct the licensee orally or by notice in writing to conduct a poll upon any resolution and, where such a direction is given, the licensee shall comply with it.

20. 2% to 10% control limits by unqualified voting controller subject to approval of Broadcasting Authority

(1) An unqualified voting controller shall not, without the prior approval in writing of the Broadcasting Authority—

(a) hold;

(b) acquire; or

(c) exercise or cause or permit to be exercised,

2% or more but less than 6%, or 6% or more but not more than 10%, or more than 10%, in the aggregate, of the total voting control of a licensee.

(2) If an unqualified voting controller holds more than 10%, in the aggregate, of the total voting control of a licensee in contravention of subsection (1)(a), notwithstanding anything contained in the memorandum or articles of association of the licensee or any provision of the laws of Hong Kong apart from this section, he shall not exercise or cause or permit to be exercised, in relation to any question or matter arising at a general meeting of the licensee, voting rights exceeding, in the aggregate, 10% of the total voting control of the licensee.

(3) The Broadcasting Authority may, in respect of any unqualified voting controller who is in contravention of subsection (1), by notice in writing served on him, give such directions as appear to it to be required to effect a cesser of the contravention.

(4) A notice under subsection (3) shall specify—

(a) the directions given under subsection (3); and

(b) a period within which the directions are to be complied with.

(5) Nothing in this section shall be construed as restricting or otherwise affecting the power of a person to transfer a voting share.

21. Restriction on unqualified voting controllers acting in association with other voting controllers

(1) Where a person being—

(a) a qualified voting controller; or

(b) an unqualified voting controller,

holds or acquires voting control of the voting shares of a licensee as an associate of an unqualified voting controller and it appears to the Broadcasting Authority that a purpose of the holding or acquisition is to avoid a restriction imposed on an unqualified voting controller under this Part, then the Broadcasting Authority may, by notice in writing served on any voting controller whom it believes to be a party to the holding or acquisition, give directions to the voting controller which appear to the Broadcasting Authority to be necessary to—

(i) effect a cesser of the holding or acquisition; and

(ii) ensure compliance with the restriction.

(2) A notice under subsection (1) shall specify—

(a) where the directions are given for the purpose of subsection (1)(i), those directions;

(b) where the directions are given for the purpose of subsection (1)(ii), those directions and the restriction required to be complied with; and

(c) the period within which the directions are required to be complied with.

(3) Nothing in this section shall be construed as restricting or otherwise affecting a person's power to transfer a voting share.

(4) 如有多於 1 人共同行事，以持有或獲取持牌人有表決權股份的表決控制權，則為施行本部，就持牌人的有表決權股份而言，該等人士中的每一人，均須視為其餘的人的相聯者，並須視為按照他們之中任何一人的指示行事以持有或獲取該等有表決權股份的表決控制權的任何其他人的相聯者。

**22. 持牌人就股東大會而知會
廣管局等的責任**

(1) 為施行本部，持牌人就任何股東大會而言，須按照廣管局根據第 30 條發出的有關指示——

- (a) 就任何股東大會向廣管局發出書面通知，並將持牌人已送交其註冊股東的與該股東大會有關的所有文件的副本一份送交廣管局；
- (b) 向在緊接分發文件前名列於持牌人的登記冊上的每一人，分發一份關乎附於以該人名義註冊的有表決權股份的表決控制權的文件，以供該人填具並交回持牌人；
- (c) 在接獲註冊股東為此提出的書面要求時，以書面方式並藉參照 (b) 段所述文件，將持牌人的有表決權股份 (而就該等股份而言，該股東屬第 19(1)(a) 條所描述的人) 的數目及識別資料知會該股東；
- (d) 以書面方式並藉參照 (b) 段所述文件，將第 19(1)(a) 條所描述的人所持有的有表決權股份 (該等股份由受限制表決控權人及一般表決控權人所控制) 的總數，以及由受限制表決控權人控制的股份在該總數所佔的百分率，知會廣管局；
- (e) 在有受限制表決控權人藉參照 (b) 段所述文件而屬持有持牌人的總計表決控制權的 2% 或以上的情況下將該等受限制表決控權人的姓名或名稱、地址及該局所規定的進一步詳情，以書面方式知會廣管局；及
- (f) 將該股東大會上進行的任何投票的進行細節，包括根據第 19(1)(b) 條對表決控制權所作任何計算的詳情，以及廣管局規定的進一步詳情，以書面方式知會廣管局。

(2) 根據第 (1)(b) 款獲分發的文件的人，如不能據其本人所知或所信填具該文件，或並無如此行事的權限，而他合理相信另一人可能可以填具或協助填具該文件或有此權限，並且知道該人的姓名或名稱及地址，則他須將該文件送交該人。

23. 持牌人調查表決控權人的權力

- (1) 如持牌人知道或有合理理由相信任何人——
 - (a) 是持牌人的有表決權股份的表決控權人；
 - (b) 在有關期間內的任何時間曾是持牌人的有表決權股份的表決控權人；或
 - (c) 在有任何交易就任何該等有表決權股份而言涉及表決控權人的更改的情況下，曾在該宗交易中提供協助或作為該宗交易的一方，

則持牌人可藉送達該人的書面通知，要求該人——

- (i) 確認或否認該項事實；及
 - (ii) 在確認該項事實的情況下，提供可根據第 (2) 款要求他提供的進一步詳情。
- (2) 凡持牌人根據第 (1) 款向某人送達通知——

(4) Where 2 or more persons act together to hold or acquire the voting control of the voting shares of a licensee, then, for the purposes of this Part, each of those persons shall be regarded in relation to the voting shares of the licensee as being an associate of the other and of any other person acting on the directions of any of them to hold or to acquire voting control over those voting shares.

**22. Duty of licensee to notify Broadcasting
Authority in relation to general
meetings, etc.**

(1) For the purposes of this Part, a licensee shall, in relation to any general meeting and in accordance with any relevant directions given by the Broadcasting Authority under section 30—

- (a) give the Broadcasting Authority notice in writing of any general meeting and a copy of all the documents relevant to the general meeting sent by it to its registered shareholders;
- (b) distribute to each person whose name appeared in the licensee's register immediately before the distribution, a document relating to the voting control attaching to the voting shares registered in that person's name, to be completed and returned to the licensee;
- (c) on receiving a request in writing from a registered shareholder, in that behalf, by reference to the document mentioned in paragraph (b), notify in writing the registered shareholder of the number and identity of the voting shares of the licensee in respect of which that registered shareholder is a person described in section 19(1)(a);
- (d) by reference to the document mentioned in paragraph (b), notify in writing the Broadcasting Authority of the total number of voting shares held by any person mentioned in section 19(1)(a) and controlled by unqualified voting controllers and by qualified voting controllers and the proportion, expressed as a percentage, that the former bears to the whole;
- (e) notify in writing the Broadcasting Authority of the name, address, and such further particulars as the Broadcasting Authority may require of all unqualified voting controllers who, by reference to the document mentioned in paragraph (b), hold 2% or more of the total voting control of the licensee; and
- (f) notify in writing the Broadcasting Authority as to the details of the conduct of any poll held at the general meeting, including particulars of any calculation of voting control under section 19(1)(b), and such further particulars as the Broadcasting Authority may require.

(2) Where a person to whom a document is distributed under subsection (1)(b) is unable, from his own knowledge or belief, to complete the document or has no authority to do so, he shall, where he knows the name and address of any other person whom he has reason to believe may be able to complete or to assist in the completion of the document or who has authority to do so, send the document to that person.

**23. Licensee's power to investigate
voting controllers**

- (1) Where a licensee knows or has reasonable cause to believe a person—
 - (a) to be a voting controller of voting shares of the licensee;
 - (b) to have been such a controller at any time during the relevant period; or
 - (c) to have assisted in or been a party to any transaction involving, in respect of any such voting shares, a change of voting controller,

then the licensee may, by notice in writing served on the person, require the person—

- (i) to confirm or refute that fact; and
- (ii) if he confirms it, to give such further particulars as may be required under subsection (2).

(2) A notice under subsection (1) may require the person on whom it is served—

- (a) 該通知可要求該人提供關乎他在有關期間內的任何時間屬受限制表決控權人或其他人士的身分的詳情；
- (b) 該通知可要求該人提供關乎身為第 21(1) 條所述的持有或獲取的一方的人的地址及身分，並且是在他所知或所信的範圍內的詳情；
- (c) 而該人在有關期間內的任何時間曾是表決控權人，但在獲送達通知時已不再是表決控權人，該通知可要求該人提供關乎緊接他不再是表決控權人之後成為表決控權人的人的地址及身分，並且是在他所知或所信的範圍內的詳情；及
- (d) 而該人在有關期間內的任何時間，在有任何交易就任何有表決權股份而言涉及表決控權人的更改的情況下，曾在該交易中提供協助或作為該宗交易的一方，該通知可要求該人提供關乎在該項更改後成為表決控權人的人的地址及身分，並且是在他所知或所信的範圍內的詳情。
- (3) 根據第 (1) 款送達的通知，須指明遵從該通知的要求的限期。
- (4) 如有任何詳情根據本條向持牌人提供，持牌人須於自收到該等詳情之日起計 15 天內，就該等詳情向廣管局發出書面通知。
- (5) 在本條中，“有關期間”(relevant period) 就某通知而言，指緊接該通知的送達日期前的 3 年期間。

24. 廣管局取得關於表決控權人的資料的權力

- (1) 如廣管局覺得有理由調查持有持牌人的有表決權股份的表決控權人，而該局有合理理由相信某人管有關於任何現任或前任表決控權人的姓名或名稱及地址，以及關於代表該等控權人行事或曾代表他們行事的人的資料，或該人能夠提供或取得該等資料，則廣管局可要求該人向該局提供該等資料。
- (2) 在不損害第 (1) 款的一般性原則下，如廣管局有合理理由相信任何人——
- (a) 是持牌人有表決權股份的表決控權人；
- (b) 在有關期間內的任何時間曾是持牌人的有表決權股份的表決控權人；或
- (c) 在有任何交易就任何該等有表決權股份而言，涉及表決控權人的更改的情況下，曾在該宗交易中提供協助或作為該宗交易的一方，
- 則廣管局可藉送達該人的書面通知，要求該人——
- (i) 確認或否認該項事實；及
- (ii) 在確認該項事實的情況下，提供可根據第 (3) 款要求他提供的進一步詳情。
- (3) 凡廣管局根據第 (2) 款向某人送達通知——
- (a) 該通知可要求該人提供關乎他在有關期間內的任何時間屬受限制表決控權人或其他人士的身分的詳情；
- (b) 該通知可要求該人提供關乎身為第 21(1) 條所述的持有或獲取的一方的人的地址及身分，並且是在他所知或所信的範圍內的詳情；
- (c) 而該人在有關期間內的任何時間曾是表決控權人，但在獲發通知時已不再是表決控權人，該通知可要求該人提供關乎緊接他不再是表決控權人之後成為表決控權人的人的地址及身分，並且是在他所知或所信的範圍內的詳情；及
- (d) 而該人在有關期間內的任何時間，在有任何交易就任何有表決權股份而言涉及表決控權人的更改的情況下，曾在該交易中提供協助或作為該宗交易的一方，該通知可要求該人提供關乎在該項更改後成為表決控權人的人的地址及身分，並且是在他所知或所信的範圍內的詳情。
- (4) 根據第 (2) 款送達的通知，須指明遵從該通知的要求的限期。

- (a) to give particulars as to his status as an unqualified voting controller or otherwise at any time during the relevant period;
- (b) to give particulars which are within his knowledge or belief relating to the address and identity of any person who is a party to any holding or acquisition mentioned in section 21(1);
- (c) where he has at any time during the relevant period been a voting controller, but at the time the notice is served has ceased to be so, to give particulars which are within his knowledge or belief relating to the address and identity of any person who became a voting controller immediately upon his ceasing to be a voting controller; and
- (d) where he has at any time during the relevant period assisted in or been a party to any transaction involving, in respect of any voting share, a change of voting controller, to give particulars which are within his knowledge or belief relating to the address and identity of any person who became a voting controller upon the change.
- (3) A notice under subsection (1) shall specify a period within which the requirements of the notice are to be complied with.
- (4) Where any particulars are given to a licensee under this section, it shall, not later than 15 days beginning on the date it receives the particulars, give the Broadcasting Authority notice in writing of the particulars.
- (5) In this section, “relevant period” (有關期間), in relation to a particular notice, means the period of 3 years immediately preceding the date on which the licensee serves the notice.

24. Broadcasting Authority's power to obtain information as to voting controllers

- (1) If it appears to the Broadcasting Authority that there is reason to investigate the voting controllers of any voting shares of a licensee, it may require any person whom it has reasonable cause to believe to have, or to be able to provide or obtain, any information as to any present or past voting controllers and their names and addresses and of those persons who act or have acted on their behalf, to give that information to the Broadcasting Authority.
- (2) Without prejudice to the generality of subsection (1), where the Broadcasting Authority has reasonable cause to believe a person—
- (a) to be a voting controller of voting shares of the licensee;
- (b) to have been such a controller at any time during the relevant period; or
- (c) to have assisted in or been a party to any transaction involving, in respect of any such voting shares, a change of voting controller,
- then it may, by notice in writing served on the person, require the person—
- (i) to confirm or refute that fact; and
- (ii) if he confirms it, to give such further particulars as may be required under subsection (3).
- (3) A notice under subsection (2) may require the person on whom it is served—
- (a) to give particulars as to his status as an unqualified voting controller or otherwise at any time during the relevant period;
- (b) to give particulars which are within his knowledge or belief relating to the address and identity of any person who is a party to any holding or acquisition mentioned in section 21(1);
- (c) where he has at any time during the relevant period been a voting controller, but at the time the notice is served has ceased to be so, to give particulars which are within his knowledge or belief relating to the address and identity of any person who became a voting controller immediately upon his ceasing to be a voting controller; and
- (d) where he has at any time during the relevant period assisted in or been a party to any transaction involving, in respect of any voting share, a change of voting controller, to give particulars which are within his knowledge or belief relating to the address and identity of any person who became a voting controller upon the change.
- (4) A notice under subsection (2) shall specify a period within which the requirements of the notice are to be complied with.

(5) 廣管局可藉送達持牌人的書面通知，指示持牌人向該通知所指名的人行使持牌人根據第 23 條具有的調查權力；凡廣管局有此指示——

- (a) 持牌人須予遵從；及
- (b) 以下條文即適用——
 - (i) 持牌人須於調查完成後 15 天內，將持牌人經調查而收到的任何資料及詳情，以書面向廣管局提供；
 - (ii) 在不損害第 (i) 節的原則下，如調查未能於自該通知送達持牌人之日起計的 3 個月內完成，持牌人須在自下述時間起計的 15 天內——
 - (A) 該 3 個月限期屆滿時；及
 - (B) 調查完成前的每段 3 個月的接續期間屆滿時，就其在 (A) 或 (B) 分節（視屬何情況而定）提述的期間內收到的資料及詳情，向廣管局作出中期報告；
 - (iii) 當持牌人已作出所有為進行調查而屬必要或合宜的查訊，調查須視為已完成；而當持牌人已收到回應或持牌人所定的回應限期已屆滿，則任何該等查訊須視為已完成。

(6) 在本條中，“有關期間”（relevant period）就某通知而言，指緊接該通知的送達日期前的 3 年期間。

25. 關於持牌人紀錄的格式及內容的額外規定

(1) 持牌人如根據第 23(1) 條送達通知，或由於根據第 24(5) 條作出的指示而送達該通知，則須以指明格式，備存一份載有下述事項的紀錄——

- (a) 該通知的日期；
- (b) 獲送達該通知的人的姓名或名稱；及
- (c) 持牌人所收到的回應該通知的詳情。

(2) 持牌人須按照廣管局根據第 30 條就此作出的任何指示，保留第 (1) 款所述紀錄。

26. 廣管局施加限制的權力

(1) 如——

- (a) 有受限制表決控權人就第 31(2) 或 (3) 條所訂罪行而被定罪；或
- (b) 有任何人就第 31(4)、(5)、(6)、(7) 或 (8) 條所訂罪行而被定罪，

而廣管局覺得該罪行是就持牌人的有表決權股份而犯的，則廣管局可藉指明該股份的書面通知指示該股份須受第 (3) 款所述並在該通知指明的限制所規限，直至廣管局根據本款就該股份另作通知為止。

(2) 如在與根據第 23 或 24 條進行的調查有關連的情況下，廣管局覺得難以確定任何關於該局認為是或看似是持牌人的任何有表決權股份的表決控權人的人的有關事實，則廣管局可藉指明該股份的書面通知，指示該股份須受第 (3) 款所述並在該通知指明的限制所規限，直至廣管局根據本款就該股份另作通知為止。

(5) The Broadcasting Authority may, by notice in writing served on a licensee, direct the licensee to exercise its powers of investigation under section 23 in respect of a person named in the notice and, where the Broadcasting Authority gives such a direction—

- (a) the licensee shall comply with it; and
- (b) the following shall apply—
 - (i) the licensee shall, not later than 15 days after the investigation is concluded, give in writing to the Broadcasting Authority any information and particulars received by the licensee as a result of the investigation;
 - (ii) without prejudice to subparagraph (i), where the investigation is not concluded within 3 months beginning on the date the relevant notice under this subsection was served on the licensee, the licensee shall, not later than 15 days beginning on—
 - (A) the expiry of that 3 months period; and
 - (B) the expiry of every successive period of 3 months before the conclusion of the investigation,
 give to the Broadcasting Authority an interim report relating to the information and particulars received by it during the period referred to in sub-subparagraph (A) or (B), as the case may be;
 - (iii) an investigation shall be regarded as concluded when the licensee has made all the inquiries necessary or expedient for the purpose of the investigation and any such inquiry shall be regarded as concluded when a response has been received by the licensee or the time given by the licensee for a response has expired.

(6) In this section, “relevant period” (有關期間), in relation to a particular notice, means the period of 3 years immediately preceding the date on which the Broadcasting Authority serves the notice.

25. Additional requirements regarding form and content of licensee's records

(1) Where a licensee serves a notice under section 23(1), or serves such notice in consequence of a direction under section 24(5), it shall keep a record in the specified form containing—

- (a) the date of the notice;
- (b) the name of any person on whom it is served; and
- (c) the particulars received by the licensee in response to the notice.

(2) A licensee shall retain a record mentioned in subsection (1) in accordance with any direction in that behalf given by the Broadcasting Authority under section 30.

26. Power of Broadcasting Authority to impose restrictions

(1) If—

- (a) an unqualified voting controller is convicted of an offence under section 31(2) or (3); or
- (b) a person is convicted of an offence under section 31(1), (5), (6), (7) or (8),

and it appears to the Broadcasting Authority that the offence was committed in relation to any voting share of a licensee, then the Broadcasting Authority may, by notice in writing, direct that the share, which shall be specified in the notice, shall be subject to such of the restrictions mentioned in subsection (3) as are specified in the notice until the Broadcasting Authority makes a further notice under this subsection in respect of the share.

(2) If, in connection with an investigation under section 23 or 24, it appears to the Broadcasting Authority that there is difficulty in ascertaining the relevant facts regarding a person who, in the opinion of the Broadcasting Authority, is or appears to be the voting controller of any voting share of a licensee, then the Broadcasting Authority may by notice in writing direct that the share, which shall be specified in the notice, shall be subject to such of the restrictions mentioned in subsection (3), as are specified in the notice until the Broadcasting Authority makes a further notice under this subsection in respect of the share.