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Panel on Information Technology and Broadcasting

Special meeting on 5 October 2009

Updated background brief on public service broadcasting

Purpose

This paper summarizes previous discussions by Members in following up the review on public service broadcasting (PSB), including issues related to the future of Radio Television Hong Kong (RTHK) and the opening up of radio/TV channels for use of the community.

Background

2. 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 most 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, 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. 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.

3. With the continuous changes in the broadcasting market and rising community expectation in recent years, the Government has considered that there is an urgent need to examine the pertinent issues relating to the development of PSB in Hong Kong, and to formulate a clear policy framework for PSB in facilitating both its future development and that of the broadcasting industry. As such, the Chief Executive appointed in January 2006 a Review Committee, comprising seven non-official professionals from the broadcasting and related industries, to study in depth and comprehensively the future development of PSB in Hong Kong.

Previous discussions

4. Issues related to Hong Kong's overall broadcasting policy have received ongoing attention by Members, as evidenced by the passing of motions on the subject matter at the Council meetings on 18 February 2004, 8 February and 1 November 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.

Study of Public Service Broadcasting for Hong Kong

5. Over the years, the Panel on Information Technology and Broadcasting (the Panel) attached great importance to the development of PSB in Hong Kong, in particular the role of RTHK in the delivery of PSB. However, the development of PSB in Hong Kong was quite limited. Other than the services provided by RTHK through its seven radio channels and some allocated airtime on commercial channels, the Panel did not see any clear policy on PSB and how it was going to develop to meet public expectations and demands. In view of the Government's appointment of the Review Committee in 2006 to undertake a fundamental and critical review of PSB and its future development, the Panel invited the Chairman and several members of the Review Committee to Panel meetings in March and August 2006 to explain the scope of the review and the work plan, and also exchange views with members and deputations.

6. The Panel conducted an overseas duty visit to Canada, the United States and the United Kingdom where there had been marked developments in their PSB systems. The Panel published a report in October 2006 on its observations and recommendations on the way forward for PSB in Hong Kong with a view to providing useful reference on how PSB could be taken forward in Hong Kong. In brief, the Panel considered that the future PSB system in Hong Kong should be founded on the core principles of "universality", "diversity", "independence" and "distinctiveness", while "editorial independence" was the core value of a public service broadcaster. The future public service broadcaster, if set up as an independent statutory body, could operate independently of the Government, free from political and commercial interferences and be accountable to the public. The Panel also considered that Hong Kong should have at least one public service broadcaster which was supported mainly by public resources to provide full-fledged services. The Panel also explored other issues including funding sources, corporate governance, accountability requirements and programming of the future public service broadcaster, competition and the opening up of the airwaves. Details of the Panel's deliberations are given in the Panel's Report on the Study of Public Service Broadcasting for Hong Kong in October 2006.

The role and future of Radio Television Hong Kong

7. The Review Committee submitted its report to the Chief Executive on 28 March 2007. Subsequently, the Panel held several meetings to exchange views

with the Administration and the Review Committee on its Report findings, and to receive views from deputations which comprised RTHK's staff representatives, Citizens' Radio, other media executives, academics, various special interest and social concern groups.

8. While noting the Review Committee's Report which set out the governance structure, accountability measures, funding arrangements and programming for a new public broadcaster to be set up in Hong Kong, the Panel expressed grave concern about the Review Committee's recommendation against the transformation of RTHK into a public broadcaster. Panel members generally considered that without conducting any detailed analysis of the pros and cons of the transformation, the Review Committee should not lightly come up with such a recommendation, and that the public had not been presented with all possible choices including the transformation option for objective deliberation. In this connection, the Panel requested the Administration to include the option of RTHK's transformation into a public broadcaster in the public consultation to gauge the views of the public, and take note of the views and concerns of the Panel and the deputations in formulating the way forward.

9. The Review Committee had advised that its mandate was to review and make recommendations on PSB but not to review the role and future of RTHK. Nevertheless, in examining whether there was a genuine need for PSB in Hong Kong and how best to deliver PSB services, the issue on the role of RTHK would inevitably come up as it was the only publicly-funded broadcaster in Hong Kong. The Review Committee therefore had examined in detail the option of transforming RTHK into a public broadcaster, but noted that the requisite change in RTHK's status, structure and entrenched corporate culture as a Government department would bring about practical problems and difficulties. The transformation of RTHK into a new public broadcaster was therefore not recommended. The Review Committee highlighted that its recommendation was only a proposal put forth for consideration by the Government and the public.

10. The Administration had advised that the Review Committee's recommendations did not represent the Government's views on PSB. The Government would, after a thorough study of the Review Committee's Report and having regard to all other relevant reference materials including the Panel's report, views expressed by the public and Members, formulate its own views on the way forward for public consultation in the second half of 2007.

11. For members' easy reference, a summary of the comparison of the Panel's recommendations and deputations' views vis-à-vis recommendations made by the Review Committee has been prepared in the **Appendix**.

Recent developments

12. At the Panel meetings held on 29 January 2008 and 13 July 2009, members

expressed grave concern that the Administration had deferred issuing the consultation paper on PSB and the future of RTHK. Panel members considered that the recruitment freeze of RTHK and the lack of promotion prospect and job security had hampered the development of RTHK and adversely affected staff morale. As the issues relating to PSB had dragged on for a long time, the Panel urged the Administration to make the best effort to finalize the consultation paper and to widely consult the public and RTHK as soon as possible.

Latest position

13. Following the deliberations of the Executive Council on 22 September 2009, the Administration issued a LegCo Brief (File Ref: CTB(CR) 9/17/9) announcing that it had decided on the way forward in respect of PSB and the future of RTHK. In gist, RTHK should remain as a Government department with key recommendations in the Review Committee's report implemented to allow it to fulfill its role as a public service broadcaster serving with specific public purposes, strengthened corporate governance and greater accountability to the community. The Administration will brief the Panel on 5 October 2009 on the details.

Relevant papers

Motion at the Council meeting on 18 February 2004 on "Policy on broadcasting"
http://www.legco.gov.hk/yr03-04/english/legco_rpt/1_rpt_0219.htm

Motion at the Council meeting on 8 February 2006 on "Policy on public service broadcasting"
http://www.legco.gov.hk/yr05-06/english/legco_rpt/1_rpt_0209.htm

Report on the Study of Public Service Broadcasting for Hong Kong issued by the Information Technology and Broadcasting Panel (October 2006)
<http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itb-rpt061009-e.pdf>

Motion at the Council meeting on 1 November 2006 on "Public service broadcasting for Hong Kong"
http://www.legco.gov.hk/yr06-07/english/legco_rpt/legco_motion1102-e.pdf

Report on Review of Public Service Broadcasting in Hong Kong issued by the Committee on Review of Public Service Broadcasting (March 2007)
<http://www.legco.gov.hk/yr06-07/english/panels/itb/papers/itbcb1-1258-e.pdf>

Summary of recommendations in the Report on Review of Public Service Broadcasting in Hong Kong
<http://www.legco.gov.hk/yr06-07/english/panels/itb/papers/itb0517cb1-1259-1-e.pdf>

Paper provided by the Administration for the Information Technology and Broadcasting Panel meeting on 17 May 2007

<http://www.legco.gov.hk/yr06-07/english/panels/itb/papers/itb0517cb1-1584-1-e.pdf>

Minutes of Information Technology and Broadcasting Panel meeting on 17 May 2007

<http://www.legco.gov.hk/yr06-07/english/panels/itb/minutes/itb070517.pdf>

Submissions provided by the deputations for the Information Technology and Broadcasting Panel meeting on 29 June 2007 (Please refer to the agenda)

<http://www.legco.gov.hk/yr06-07/english/panels/itb/agenda/itag0629.htm>

Minutes of Information Technology and Broadcasting Panel meeting on 29 June 2007

<http://www.legco.gov.hk/yr06-07/english/panels/itb/minutes/itb070629.pdf>

Executive Summary of the "Report on the Study of Public Service Broadcasting for Hong Kong" and the relevant extract on public access channels issued by the Information Technology and Broadcasting Panel in October 2006

<http://www.legco.gov.hk/yr07-08/english/panels/itb/papers/itb0129cb1-711-1-e.pdf>

Summary of recommendations in the "Report on Review of Public Service Broadcasting in Hong Kong" and the relevant extract on community broadcasting and public access broadcasting issued by the Committee on Review of Public Service Broadcasting in March 2007

<http://www.legco.gov.hk/yr07-08/english/panels/itb/papers/itb0129cb1-711-2-e.pdf>

Minutes of Information Technology and Broadcasting Panel meeting on 29 January 2008

<http://www.legco.gov.hk/yr07-08/english/panels/itb/minutes/itb080129.pdf>

Question No. 15 at the Council meeting on 10 December 2008 on "Public Service Broadcasting"

<http://www.info.gov.hk/gia/general/200812/10/P200812100173.htm>

Paper provided by the Administration for the Information Technology and Broadcasting Panel meeting on 13 July 2009

<http://www.legco.gov.hk/yr08-09/english/panels/itb/papers/itb0713cb1-2180-3-e.pdf>

Panel on Information Technology and Broadcasting

Public Service Broadcasting

A comparison of the Panel's recommendations and deputations' views vis-à-vis recommendations made by the Committee on Review of Public Service Broadcasting (the Review Committee)

Issues	Panel's recommendations (Note 1)	The Review Committee's recommendations (Note 2)	Views expressed by deputations (Note 3)
Public service mandate	<p>"Universality", "diversity", "independence" and "distinctiveness" are the internationally recognized core principles of public service broadcasting (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.</p> <p>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.</p>	<p>PSB in Hong Kong should serve four specific public purposes:</p> <ul style="list-style-type: none"> (a) sustain citizenship and civil society; (b) foster social harmony and promote pluralism; (c) help establish education value and promote lifelong learning; and (d) stimulate creativity and excellence to enrich the multi-cultural life of the people of Hong Kong. 	<p>There is general agreement that PSB should serve the community, be accountable to the public and be free from Government pressure, as well as political and commercial interests. The programming of a public service broadcaster should cater for a broad spectrum of audience, including the needs of minority interest groups such as the ethnic minorities, senior citizens, children and students.</p> <p>In addition to the four public missions recommended by the Review Committee, some deputations maintain that the protection of press freedom and editorial independence as well as the monitoring of the Government should be made the public missions of PSB.</p> <p>The public service broadcaster must be able to operate with editorial independence.</p>
Legislative framework to ensure accountability	The framework of a PSB system in Hong Kong should best be provided in law. Some of the elements which may need to be embodied in the legislation include the public service mandate and	The governance structure of a public service broadcaster in Hong Kong should be underpinned by legislation to uphold the organizational and editorial independence of the public service	Relevant legislation should be enacted to set out the PSB framework. The public service broadcaster should be established as an independent statutory body

Issues	Panel's recommendations <i>(Note 1)</i>	The Review Committee's recommendations <i>(Note 2)</i>	Views expressed by deputations <i>(Note 3)</i>
	<p>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.</p>	<p>broadcaster from potential commercial, political and/or government influences.</p> <p>The relevant legislation should also ensure transparency and provide for a broad governance and accountability framework within which the public service broadcaster would operate. However, such legislation should not seek to prescribe all the detailed arrangements, so that appropriate degrees of flexibility might be given to the public service broadcaster to perform its functions effectively.</p>	<p>operating at an arm's length with the government and free from commercial and political interferences.</p> <p>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 and to make use of its internal complaints mechanism to discuss listeners' and viewers' feedbacks.</p>
Funding	<p>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 regulatory infrastructure. There should be adequate public resources to support at least one full-fledged public service broadcaster and its long term development.</p> <p>Public service broadcasters overseas derive revenue from various sources, 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.</p> <p>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.</p>	<p>The primary source of PSB funding should come from government appropriation, subject to approval by the Legislative Council. To maintain the level of public commitment to PSB, the real value of government appropriation should be preserved through annual adjustment in line with inflation.</p> <p>To provide greater flexibility and autonomy to a public service broadcaster, it should be allowed to raise funds from sources other than government appropriation ("supplementary sources").</p> <p>A three to five-year funding cycle is proposed to allow a public service broadcaster greater flexibility in financial planning. From the second funding cycle onward, a public service broadcaster should be required to raise revenue through supplementary sources. The percentage of revenue from supplementary sources should increase progressively up to 20% of the "baseline" by the 10th anniversary of incorporation.</p>	<p>There is general agreement that the public service broadcaster should mainly be publicly funded and be allowed to actively explore sources of revenue other than government appropriation. There is suggestion that the proposed funding arrangements be reviewed after the first five years of operation and the public service broadcaster be provided with a defined percentage of funding by way of legislation to ensure a stable source of revenue.</p> <p>RTHK suggests that a set of guidelines should be developed on the permissible sponsorship announcements that a public service broadcaster can broadcast. Commercial sponsorships may also be allowed for certain programmes which are not or rarely provided by commercial broadcasters.</p>

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Corporate governance	<p>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.</p> <p>The Panel does not have a strong view on whether delineation of functions between policy oversight and executive management should be adopted by the governance of the future public service broadcaster in Hong Kong. It is however important to monitor global developments and benchmark the governance structure of the future public service broadcaster against international best practices.</p>	<p>The powers and responsibilities of the Board of a public service broadcaster (for policy setting and monitoring) and its management (for implementation, supervision and daily operation) must be clearly defined and delineated.</p> <p>The optimal size of the Board should not be more than 15. It should include three categories of members:</p> <ul style="list-style-type: none"> (a) at least one person from each of the media; journalism; education; arts and culture; technology; legal; accounting and/or finance; and management fields and one person with experience in serving the interests of minorities and/or the underprivileged; (b) two ex-officio members (the Chief Executive Officer (CEO) of the public service broadcaster and a representative elected by the non-executive staff at large); and (c) lay members, the number of which should be subject to the proposed maximum size of the Board. <p>The Board members should be nominated by a Nomination Committee and appointed by the Chief Executive.</p>	<p>Some deputations object to the appointment mechanism of the public service broadcaster Board (the Board) as recommended by the Review Committee. Some deputations advocate that the Board and the management should be appointed through a fair and open election system with representatives drawn from various community sectors such as broadcasting-related industries, relevant stakeholders, professional and journalistic groups, academics from relevant faculties, and non-governmental groups including the disadvantaged.</p> <p>RTHK suggests that the public service broadcaster should take part in the selection of its CEO and the appointment of senior staff. Its Programme Staff Union further 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.</p>
Licensing regime	<p>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.</p>	<p>The regulatory regime as well as requirements and guidelines that apply to commercial broadcasters should be equally applicable to a public service broadcaster insofar as they are relevant.</p> <p>However, before contemplating a second or more public service broadcasters for Hong Kong, time</p>	<p>The public service broadcaster should be subject to regulation by the Broadcasting Authority (or any future industry regulatory body) under a licensing regime.</p>

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		<p>should be allowed for the first public service broadcaster to establish its footing and the public to review its value and performance. During the initial stage when there should be only one public service broadcaster, licensing does not seem to be a necessity, provided that major aspects such as public purposes, governance, accountability, funding and regulatory obligations are clearly spelled out in law. The need for and merits of a PSB licensing scheme should be revisited periodically.</p>	
<p>Programme content</p>	<p>A public service broadcaster should produce programmes in a distinctive manner and pioneer in new programme genres. 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.</p> <p>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.</p>	<p>PSB programme content should:</p> <ul style="list-style-type: none"> (a) promote the humanities, arts, sciences and education to broaden the international, national and regional perspectives of the public, and enhance the quality of life for the people; (b) provide accurate, comprehensive, in-depth and interactive news and current affairs programmes to promote rational discussion, uphold the tradition of responsible press freedom, and promote the social values of diversity and tolerance; and (c) consciously develop programmes as education resources to enhance public interest in and knowledge of a wide range of subject matters, and promote lifelong learning. <p>There are no valid reasons to stay clear of programme genres already available in commercial broadcasting.</p>	<p>A deputation 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.</p>

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Competition	<p>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.</p> <p>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.</p>	<p>PSB and commercial broadcasting should complement, rather than threaten the viability of, each other. Their coexistence should create a balanced broadcasting ecology that contributes to plurality and promotes healthy competition.</p> <p>Provided that PSB does not pursue rating for its own sake and at the expense of neglecting or defying its public service remit or any part of it, competition between PSB and commercial broadcasting for audience popularity is supported as it drives all broadcasters to excel in the services they provide. PSB also needs to reach the widest possible audience to achieve social and cultural impacts.</p>	<p>Commercial broadcasters state that fair competition should be maintained between the public service and the commercial broadcasters and that the former should not compete with the latter for advertising revenue, commercial sponsorship and ratings.</p> <p>There is agreement in principle that the future public service broadcaster should be assigned its own TV 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 initial operation of the public service broadcaster in order that the latter can establish its position in the market and build up its audienceship.</p>
The future of RTHK	<p>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.</p> <p>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</p>	<p>The Review Committee considers it important for the future public service broadcaster to have a high degree of autonomy in determining its own organizational structure, internal rules and practices as well as staff requirements and employment terms, subject only to statutory provisions and public scrutiny.</p> <p>Any proposal to modify RTHK into a public service broadcaster will also pre-empt government decision on what role it may assign to RTHK, as a government department, following the formation of a public service broadcaster.</p> <p>A sea change in RTHK's status is bound to be</p>	<p>Most deputations object to the Review Committee's recommendation that a brand new public service broadcaster should be set up. The Government should give due recognition to RTHK's contribution in the past 80 years as a key public service broadcaster and actively explore how RTHK can be reconstituted into a genuinely independent statutory public service broadcaster. They urge the Administration to include the option of RTHK's transformation into the public service broadcaster.</p> <p>The RTHK Programme Staff Union points</p>

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	contrast, none of the major overseas public service broadcasters studied by the Panel 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.	fraught with practical and insurmountable problems, and not conducive to the start-up of a new public service broadcaster. Therefore, the Review Committee does not favour the transformation of RTHK into a public service broadcaster. Instead, it proposes the establishment of a new public service broadcaster with a fresh start, to be named the Hong Kong Public Broadcasting Corporation.	out that most overseas public service broadcasters evolved from government departments or quasi-government agencies.
Opening up of the airwaves	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.	Given the high penetration of free television and radio services in Hong Kong, and a small and relatively homogeneous population, there is no apparent case for funding community broadcasting with public money. Should certain sectors in the society find value in receiving community broadcasting services tailored for their specific needs, it should be pursued on a self-financed basis.	Some deputations advocate for the liberalization of the licensing regime and the early development of community/public access channels to provide more platforms to cater for diversity of views and programming content.
Digitization	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. 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 public service broadcaster in Hong Kong.	A public service broadcaster in Hong Kong, when established, should operate on a digital platform to provide a full range of broadcasting services: TV, radio and multimedia services. The Review Committee recommends that the Hong Kong's public service broadcaster be allocated: (a) one multiplex for digital broadcasting of radio and multimedia services; and (b) until complete digital switchover is achieved,	With the launch of digital terrestrial TV in 2007, the two incumbent domestic free television programme service licensees 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. Most deputations look forward to digitalization of media technologies as an

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		sufficient FM frequency bands to allow public access to a level of PSB services comparable to what is currently available.	opportunity to provide a wider range of programming choice, with diverse audiences' needs better served.

Note 1: Extracted from the Report on the Study of Public Service Broadcasting for Hong Kong issued by the Panel in October 2006 (<http://www.legco.gov.hk/yr05-06/english/panels/itb/papers/itb-rpt061009-e.pdf>)

Note 2: Extracted from the Report on Review of Public Service Broadcasting in Hong Kong issued by the Review Committee in March 2007 (<http://www.legco.gov.hk/yr06-07/english/panels/itb/papers/itbcb1-1258-e.pdf>)

Note 3: Summary of submissions received from deputations for the Panel meetings on 11 March 2006, 1 August 2006 and 29 June 2007.