

立法會參考資料摘要

《電訊條例》
(第 106 章)

香港商業廣播有限公司和新城廣播有限公司 聲音廣播牌照的中期檢討

引言

在本年六月十四日的會議上，行政會議**建議**，行政長官**指令**，接納廣播事務管理局(「廣管局」)就香港商業廣播有限公司(商業電台)和新城廣播有限公司(新城電台)的聲音廣播牌照進行中期檢討後提出的下列建議，以改善商業電台和新城電台的服務 -

- (a) 商業電台和新城電台須履行各自提交的二零一零至二零一六年投資計劃(第 11 及 12 段)；
- (b) 商業電台和新城電台須每年向廣管局提交管理報告，證明實際投資開支，以便廣管局監察商業電台和新城電台有否履行投資承諾(第 13 段)；
- (c) 商業電台和新城電台須承諾遵從新增的指定播放節目規定，包括 -
 - (i) 每星期增加播放 30 分鐘長者節目；
 - (ii) 每星期增加播放 30 分鐘藝術及文化節目；以及
 - (iii) 每星期播放最少 30 分鐘以 15 歲或以下兒童為對象並具教育意義的兒童節目(第 14 段)；

- (d) 商業電台和新城電台須提交周年報告，說明履行提供指定播放節目承諾的情況，而且報告(商業機密資料者除外)會公開讓市民查閱 (第 15 段)；以及
- (e) 修訂及重訂商業電台和新城電台各自持有的牌照(載於附件 A)。

理據

商業電台和新城電台的牌照

2. 行政長官會同行政會議上次於二零零三年七月批准商業電台和新城電台的牌照續期，有效期為 12 年，由二零零四年八月二十六日至二零一六年八月二十五日(首尾兩天包括在內)。《電訊條例》(第 106 章)第 13D 條訂明，任何牌照均須於有效期內在該牌照所指明的日期續期。商業電台和新城電台的牌照條件第 6.2 條訂明，“依據《電訊條例》第 13D 條的規定，行政長官可發出命令，決定於二零一零年八月二十六日或以後的日期，由行政長官會同行政會議檢討牌照”。

3. 行政長官在二零一零年九月三日發出命令，訂明於二零一零年九月十六日起檢討商業電台和新城電台的牌照。廣管局按照既定的程序及做法，全面評核了兩家持牌機構在過去六年(即二零零四至二零一零年)的表現。廣管局在評核時考慮了下列範疇：

- (a) 兩家持牌機構有否遵守法例規定、牌照條件和廣管局頒布的業務守則；
- (b) 兩家持牌機構所作的投資承諾¹；以及
- (c) 對於兩家持牌機構提供聲音廣播服務的表現，公眾有何期望。

¹ 兩家持牌機構已在二零零二年呈交二零零四至二零一零年的投資計劃。

兩家持牌機構已按廣管局的要求，制訂在牌照餘下有效期(即二零一零至二零一六年)的投資計劃。

廣管局進行的公眾諮詢

4. 為收集公眾對兩家持牌機構提供服務的意見，廣管局在二零一零年進行公眾諮詢，包括進行全港住戶統計調查、舉行兩場公聽會和邀請電視及電台廣播諮詢小組²成員參與兩場小組討論。在檢討期間，廣管局收到101份公眾意見書。廣管局亦於二零一零年十一月十九日出席立法會資訊科技及廣播事務委員會特別會議，聽取各界代表的意見。

5. 全港住戶統計調查共訪問了2 171人，結果顯示兩家持牌機構均大致符合公眾的期望。大部分聽眾滿意兩家機構的廣播服務。少於3%的受訪者不滿意節目質素或節目種類。約10%的受訪者不滿意某幾類節目的數量。從公聽會、小組討論及意見書所收集到的意見，較為深入和集中。公眾除關注持牌機構的削減成本措施外，亦就是次檢討提出了其他建議，重點如下：

- (a) 持牌機構應提供更多種類的節目供聽眾選擇，特別是時事節目、藝術及文化節目、兒童節目和長者節目；以及
- (b) 有意見認為廣管局應每年就持牌機構的表現徵詢公眾意見。

收集所得的意見已詳載於廣管局的公眾諮詢報告。該報告已上載廣管局網址(<http://www.hkba.hk/cn/>)。

廣管局的評核結果

6. 廣管局根據較早前就兩家持牌機構的表現進行的評核結果，以及在檢討期間收到的意見，提出有關商業電台和新城電台牌照的修訂建議(載於**附件 B**)，以回應市民的意見，並改

² 電視及電台廣播諮詢小組屬影視及娛樂事務管理處管理的諮詢機制，旨在評估公眾對電視及電台廣播水準的看法。諮詢小組現時約有540名成員，均為志願人士。廣管局主要根據政府統計處提供的18區人口統計資料招募小組成員。

善兩家持牌機構的服務³。有關建議主要涵蓋兩家持牌機構在二零一零至二零一六年的投資計劃，以及新增的節目規定。

(A) 遵守監管規定

7. 廣管局研究了兩家持牌機構過去六年(即二零零四年八月二十六日至二零一零年七月三十一日)於遵守《電訊條例》、牌照條件和業務守則所載的監管規定方面的紀錄，包括有否遵守公司管制規定(例如與不符合持牌資格人士有關的限制及居港的規定)、技術及覆蓋範圍的規定，以及節目和廣告標準的規定。廣管局知悉，兩家持牌機構偶有失誤而被廣管局懲處，詳情如下：

懲處 電台	道歉	罰款 ⁴	嚴重警告	警告	強烈勸諭	勸諭	合計
商業電台	1	3	0	1	6	7	18
新城電台	0	4	1	0	0	4	9
合計	1	7	1	1	6	11	27

³ 除了根據評核結果提出牌照修訂外，我們亦藉此機會改良牌照在文字上的表達方式，以及在適用範圍內使牌照內容與行政長官會同行政會議在二零一一年三月發出的數碼聲音廣播牌照一致。

⁴ 商業電台被處罰款的三宗個案，分別涉及“架勢堂”和“十八仝人愛落區”節目，以及“普選大聯盟”廣告。

(a) “架勢堂”節目主持人在節目中呼籲聽眾投票選出他們最想非禮的女藝人。由於事態嚴重及受公眾廣泛關注，廣管局向商業電台施加罰款 14 萬元及指示持牌機構在電台廣播中發出道歉聲明。

(b) “十八仝人愛落區”被裁定為有政治色彩的廣告及未經廣管局事先批准下播放。廣管局就此個案向商業電台施加罰款三萬元。

(c) “普選大遊行”的廣告被裁定為有政治色彩及未經廣管局事先批准下播放。廣管局就此個案向商業電台施加罰款三萬元。

至於新城電台被罰款的四宗個案，其中兩宗涉及沒有遵從牌照規定每半小時播放一次新聞報道，以及沒有遵守英文頻道的指定語言規定；其餘兩宗涉及於二零零四年四月十二日至七月三十日期間沒有遵從規定播放 240 次及於二零零五年十二月十二日播放 13 次政府宣傳聲帶。

廣管局滿意新城電台的表現，但備悉商業電台曾涉及一些嚴重違規個案(詳情見註 4)。考慮到兩家持牌機構的服務年期及期內的總播放時數⁵，有關失誤不算頻密。

(B) 投資承諾

8. 商業電台和新城電台在二零零四至二零一零年的原有承諾投資額如下：

	商業電台	新城電台
節目投資	10.72 億元	5.55 億元
資本投資	0.17 億元	0.12 億元
總額：	10.89 億元	5.67 億元

9. 商業電台在二零零四至二零一零年的預計實際開支⁶，較原來承諾的投資額少 26%。商業電台解釋，在期內投資不足的原因包括：將一筆用於發展網站及處理多媒體應用的開支記入商台互動(商業電台為推行有關發展工作而成立的附屬公司)的帳目而非記入商業電台的帳目內、廣告商削減了贊助活動的整體開支、不再與多名受歡迎的節目主持人簽訂獨家合約而節省開支，以及因應期內經濟衰退削減了開支等。商業電台表示，儘管開支減少，該台致力以較少資源提高效益，在期內一直是最多人收聽的電台。廣管局雖然並非不明白商業電台的處境，亦理解該台有需要調整投資計劃，但認為該台作為持牌機構，應以認真的態度對待投資承諾，並應及早向廣管局報告及申請豁免(商業電台遲至二零一零年年初，經影視及娛樂事務管理處(影視處)催促後，才向廣管局匯報投資額不足的問題)。廣管局認為，商業電台的疏忽屬管理層嚴重失誤，因此決定就此向該台發出警告。至於新城電台，二零零四至二零一零年的預計實際開支⁶超逾原來承諾的投資額，廣管局對此感到滿意。

⁵ 兩家持牌機構由二零零四年八月至二零一零年七月的總播放時數約為 312,000 小時。

⁶ 二零零四至二零一零年的實際開支為預測數字，因為商業電台與新城電台均未呈交二零一零年度經審計的開支數字。商業電台的財政年度由四月一日至翌年三月三十一日，新城電台的財政年度則由一月一日至同年十二月三十一日。

10. 商業電台和新城電台提交的二零一零至二零一六年投資計劃摘要如下：

原有建議	商業電台	新城電台
節目投資	7.96 億元	6.41 億元
資本投資	0.17 億元	0.36 億元
總額：	8.13 億元	6.77 億元 ⁷

商業電台在二零一零至二零一六年投資計劃所作的投資承諾，較二零零四至二零一零年的投資承諾減少 25%，主要原因是節目投資減少。商業電台表示，近年經濟倒退導致前景不明朗，加上預期未來六年電台和多媒體行業的競爭日趨激烈，因此在制訂節目投資計劃時較為保守。廣管局就投資計劃諮詢公眾，收到的意見顯示，公眾甚為憂慮持牌機構削減成本可能影響節目質素。廣管局認為有需要與商業電台商議，檢討節目投資計劃。廣管局的建議載於下文第 11 及 12 段。至於新城電台方面，儘管隨着香港逐步發展嶄新的數碼聲音廣播服務⁸，預期聲音廣播市場的競爭將會加劇，其二零一零至二零一六年投資計劃所作的投資承諾，仍較二零零四至二零一零年的原來投資承諾增加 19%。

廣管局的建議

(A) 投資承諾

11. 由於廣管局接納新城電台就資本和節目開支所訂的投資計劃，因此廣管局集中與商業電台討論其投資計劃。雖然廣管局對商業電台的資本開支建議並無異議，但卻注意到二零一零至二零一六年的節目投資(7.96 億元)，金額只相當於過去六年的預計實際節目開支，而過去六年香港經歷了經濟倒退。廣

⁷ 新城電台指出，該筆承諾投資額只用於發展模擬聲音廣播服務，不會與該台根據數碼聲音廣播服務牌照所作的投資承諾重疊。

⁸ 二零一一年三月二十二日，行政長官會同行政會議把三個提供數碼聲音廣播服務的數碼廣播牌照分別批給香港數碼廣播有限公司、新城廣播有限公司和鳳凰優悅廣播有限公司。作為公共廣播機構的香港電台亦會提供數碼聲音廣播服務。四個數碼聲音廣播服務營辦機構會提供共 18 條數碼聲音廣播服務頻道。

管局明白公眾憂慮商業電台減少節目投資或會影響未來六年的服務質素，因此認為有需要回應公眾的關注。

12. 經與廣管局討論後，商業電台於二零一一年四月同意增加二零一零至二零一六年的節目及資本投資。節目投資方面，由原來建議的 7.96 億元增至 8.06 億元，資本投資則由原來建議的 0.17 億元增至 0.21 億元。經修訂後，商業電台和新城電台的二零一零至二零一六年投資計劃如下：

修訂建議	商業電台	新城電台
節目投資	8.06 億元 [原為 7.96 億元]	6.41 億元
資本投資	0.21 億元 [原為 0.17 億元]	0.36 億元
總額：	8.27 億元 [原為 8.13 億元]	6.77 億元

廣管局認為不應強迫持牌機構作出投資決定。總的來說，廣管局建議政府一併接納新城電台的投資計劃和商業電台的修訂投資計劃。

13. 鑑於商業電台在過去六年未能履行投資承諾，廣管局認為須加強對持牌機構的監管，以確保它們會履行承諾。就此，廣管局建議訂定新的牌照條件，規定持牌機構在牌照周年日期起計三個月內提交管理報告，列明每年的實際投資開支。若實際開支與承諾有重大差距，廣管局會要求持牌機構解釋，如有需要，會要求持牌機構補足差額。商業電台和新城電台已接納這項建議。

(B) 節目規定

14. 持牌機構獲授權使用的頻譜是寶貴的公眾資產，因此現行牌照訂明持牌機構有責任根據“指定播放節目”的規定⁹，提供不同類型節目，以確保持牌機構提供的電台節目迎合市民大眾的不同需要。廣管局的調查顯示，大部分聽眾(74%)滿意兩家

⁹ 指定播放節目的規定訂明持牌機構最低限度須播放的新聞、天氣報告、時事節目、年青人節目、長者節目和藝術及文化節目。

持牌機構現時提供的節目種類。由於廣播業的環境不斷轉變，現階段並無充分理由支持廣管局大幅增加指定播放節目的數量，但某幾類節目的數量可酌量增加，以回應公眾的要求。廣管局根據公眾意見建議修訂有關指定播放節目的規定，已獲兩家持牌機構接納。這些修訂如下：

	現行 最低要求	建議 最低要求
時事節目	每星期 90 分鐘	每星期 90 分鐘 ¹⁰
長者節目	每星期 60 分鐘	每星期 90 分鐘
藝術及文化節目	每星期 60 分鐘	每星期 90 分鐘
兒童節目	-	每星期 30 分鐘

(C) 提交報告

15. 廣管局建議增訂新牌照條件，規定持牌機構提交周年報告，說明如何履行指定播放節目方面的規定，而且報告(明確指明為商業機密資料者除外)應公開讓市民查閱。商業電台和新城電台已接納這項建議。

(D) 牌照修訂建議及有效期

16. 根據上文所述的評核結果，廣管局建議修訂商業電台和新城電台的牌照，而牌照的有效期維持不變(由二零零四年八月二十六日至二零一六年八月二十五日)。廣管局已把上文第 11 至 15 段所述的建議納入修訂建議內，詳情載於**附件 B**。

¹⁰ 新城電台於檢討時承諾每星期播放最少 600 分鐘時事節目。商業電台在牌照首六年期間，平均已每星期播放接近 600 分鐘時事節目。

建議的影響

17. 建議對政府收入沒有財政影響。落實廣管局的建議(包括牌照的修訂)而引致的額外工作量和所需資源，會由商務及經濟發展局和影視處以現有資源承擔。建議對經濟、生產力、環境和可持續發展亦沒有重大影響。建議符合《基本法》，包括有關人權的條文。

公眾諮詢

18. 如上文第 4 至 5 段所述，廣管局已進行公眾諮詢，收集市民的意見。廣管局在制訂建議時，已適當考慮收集所得的意見。當局和廣管局代表亦在二零一零年十一月出席立法會資訊科技及廣播事務委員會特別會議，聽取各界代表的意見。

宣傳

19. 我們將於本年六月十七日就上述事宜發出新聞稿。我們亦會向立法會資訊科技及廣播事務委員會匯報。我們會安排發言人回答傳媒及公眾的查詢。

查詢

20. 如欲查詢本參考資料摘要所載事宜，請與商務及經濟發展局首席助理秘書長(通訊及科技)A 廖廣翔先生聯絡(電話：2189 2236；電郵：aaronliu@cedb.gov.hk)。

商務及經濟發展局
二零一一年六月

附件 A

No. 2 of THREE ORIGINALS

(只有英文版本)

Sound Broadcasting Licence

Telecommunications Ordinance (Chapter 106)

**Metro Broadcast Corporation Limited /
Hong Kong Commercial Broadcasting Company Limited**

Amended and Restated Licence

The Hong Kong Special Administrative Region

INDEX

CONDITION

HEADING

1	Amendment and Restatement of Licence
2	Interpretation
3	Authorisation
4	Licence granted, renewed, amended and restated subject to
5	Indemnity
6	Period and review
7	Notice of intent
8	Principles of broadcasting
9	Reservation
10	The Relevant Authority
11	Licence fee
12	Non-assignment
13	Revocation
14	Suspension of Licence
15	Station identification
16	Intellectual property rights
17	Language of books and accounts
18	Number of Sound Broadcasting Service channels, language and hours of service
19	Residential requirement of directors
20	Licensee to formulate general guidelines
21	Discipline and training
22	Comments and complaints
23	News programmes and weather reports
24	Weather-related information
25	Current affairs programmes
26	Programmes for young persons, senior citizens and children
27	Arts and culture programmes
27A	Annual reports
28	Announcement in the public interest
29	Publicity material of the Broadcasting Authority
30	Advertising
31	Restriction on advertising
31A	Management of the Licensee
32	Programme development and capital investment
33	Notices or directions given to the Licensee
34	Purchase of lands, buildings, etc.

35	Licensee to submit audited accounts
36	Licensee to submit returns
37	Non-compliance due to acts of God
38	Liability of Licensee for contraventions
39	Saving of rights granted
40	Statements made on application binding on the Licensee
41	Free competition
42	Publication of Licence
42A	Disclosure of information
43	Other requirements

SCHEDULE: Transmission plan and technical requirements

Background

- (A) On [30 April 1991 (for Metro) / 25 July 1989 (for CRHK)], in the exercise of the powers conferred on him under the Telecommunications Ordinance (Cap. 106) and all the powers enabling him in that behalf, the Chief Executive in Council granted a broadcasting licence to [Metro Broadcast Corporation Limited / Hong Kong Commercial Broadcasting Company Limited] (“the Licensee”), a company formed and registered in Hong Kong under the Companies Ordinance (Cap. 32), whose registered office is situated at [22nd Floor, Hutchison House, 10 Harcourt Road, Hong Kong (for Metro) / No. 3 Broadcast Drive, Kowloon, Hong Kong (for CRHK)].
- (B) The licence referred in (A) was amended, renewed or extended, as the case may be, on [26 February 2002 and 22 July 2003 (for Metro) / 22 August 1989, 9 January 2001 and 22 July 2003 (for CRHK)].
- (C) Pursuant to Condition 6.2 of the licence referred to in (A) (as it was subsequently amended, renewed and extended), a review of the licence has recently been conducted. As a result of the review, the licence is to be further amended and restated as set out herein.

1. Amendment and Restatement of Licence

In exercise of the powers conferred by the Telecommunications Ordinance (Cap. 106) and all the powers enabling him in that behalf, the Chief Executive in Council hereby amends and restates this Licence as follows.

2. Interpretation

- 2.1 Save where the contrary intention appears expressly or by necessary implication in this Licence, the following words and expressions shall have the meanings as follows:-

“associate”

bears the meaning given in Schedule 1 to the Broadcasting Ordinance (Cap. 562).

“auditor”

means a professional accountant registered and holding a practising certificate under the Professional Accountants Ordinance (Cap. 50) who

is neither an employee of the Licensee or its associate nor a person who is required to devote the whole or substantially the whole of his practice to the affairs of the Licensee or its associate.

“clock-hour”

means a period of 60 minutes beginning on any hour.

“Code of Practice”

bears the meaning given in section 2 (in relation to sound broadcasting) of the Broadcasting Authority Ordinance (Cap. 391).

“Commencement Date”

means the date on which the period of validity of this Licence commences.

“day”

means a period of 24 hours beginning at 12:00 midnight.

“director”

includes any person occupying in relation to a company the position of a director (by whatever name called) and any person in accordance with whose directions or instructions (not being advice given in an independent professional capacity) the directors of that company are accustomed to act.

“Licensee’s Proposal”

means the proposals submitted to the Broadcasting Authority and the Government by or on behalf of the Licensee in its application for this Licence, including but not limited to its letters dated [12 April 2011 and 27 May 2011 (for Metro) / 26 May 2011 (for CRHK)] and the Six-year Investment Plan.

“Period of Validity”

means a continuous period of 12 years from 26 August 2004 to 25 August 2016, both dates inclusive.

“Principal officer”

means, in relation to corporation, -

- (a) a person employed or engaged by the corporation who, by himself or with one 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.

“RTHK”

means Radio Television Hong Kong, including its assignee and successor.

“Six-year Investment Plan”

means an investment plan as approved by the Broadcasting Authority relating to the capital investment and programming investment of the Licensee for the period from 26 August 2010 to 25 August 2016 for establishing and maintaining the Sound Broadcasting Service, apparatus and services referred to in Conditions 3(b), and businesses referred to in Condition 3(c), which is contained in the letters dated [26 April 2011 (for Metro) / 10 March 2011 and 27 April 2011 (for CRHK)] to the Broadcasting Authority, and as may be subsequently revised or modified pursuant to the directions or approval of the Broadcasting Authority.

“Sound Broadcasting Service”

means the provision of a service by the Licensee in accordance with this Licence and any law and Ordinance for transmitting sound (otherwise than as part of a television broadcast) for general reception by means of radio waves.

“subsidiary company”

bears the meaning given in section 2 of the Companies Ordinance.

“television programme service licensees”

means holders of any licences within the meaning given in section 2 of the Broadcasting Ordinance or any deemed licences within the meaning given in Schedule 8 of the Broadcasting Ordinance.

“week”

means a continuous period of 7 days beginning on a Monday.

- 2.2 Save where the contrary intention appears expressly or by necessary implication in this Licence, words and expressions used in this Licence shall bear the same meaning, if any, as in the Telecommunications Ordinance and in the Interpretation and General Clauses Ordinance (Cap. 1) and in the event of any conflict or inconsistency between their

meanings, the meaning in the Telecommunications Ordinance shall prevail over that in the Interpretation and General Clauses Ordinance.

- 2.3 The interpretation of this Licence shall not be varied, limited or extended by any indexes or headings annexed to or contained in this Licence.
- 2.4 All references herein to an Ordinance, subsidiary legislation, regulation, direction, Code of Practice, this Licence, any other licence or document, or any provision thereof include that from time to time in force and that enacted or made (as the case may be) in place or substitution in whole or in part of that Ordinance, subsidiary legislation, regulation, direction, Code of Practice, this Licence, and that other licence or document or the provision thereof.
- 2.5 Subject to any express terms or conditions herein, where this Licence requires any act, conduct, matter, issue or thing of the Licensee to be approved, the approval shall not be validly given unless given in writing under the hand of or on behalf of the person giving it.
- 2.6 This Licence shall include the Schedule hereto which shall form and be read as an integral part of this Licence.
- 2.7 In this Licence, save where the contrary intention appears expressly or by necessary implication, words and expressions:-
- (a) which import one gender include the other genders;
 - (b) which import the singular include the plural and vice versa; and
 - (c) extend to their grammatical variations and cognate expressions where those words and expressions are defined herein or by reference to any other definition.
- 2.8 If at any time any terms or conditions of this Licence are or become illegal, invalid or unenforceable in any respect, the legality, validity or enforceability of the remaining provisions shall not in any way be affected or impaired.
- 2.9 In this Licence, all references to a Condition means a condition of this Licence.

3. **Authorisation**

This Licence authorises the Licensee:-

- (a) to establish and maintain Sound Broadcasting Service;
- (b) to establish and maintain such associated telecommunication apparatus and services incidental to the operation of the Sound Broadcasting Service as may be authorised by the Telecommunications Authority; and
- (c) to carry on such types of business which are in the opinion of the Broadcasting Authority directly connected or associated with the foregoing.

4. **Licence granted, renewed, amended and restated subject to**

This Licence has been granted, amended and renewed, and is amended and restated, subject to:-

- (a) the provisions from time to time in force of the Telecommunications Ordinance, the Broadcasting Authority Ordinance and any Ordinance enacted in place or substitution in whole or in part thereof and all subsidiary legislation, regulations, directions and Codes of Practice made thereunder;
- (b) the terms and conditions set out in this Licence; and
- (c) the performance and observance of the several terms and conditions contained in the licence from time to time in force before the Period of Validity (“the Previous Licence”) and on the Licensee’s part to be performed and observed, and of the provisions from time to time in force of the Telecommunications Ordinance, the Broadcasting Authority Ordinance and any Ordinance enacted in place or substitution in whole or in part thereof and all subsidiary legislation, regulations, directions and Codes of Practice made thereunder during the term of the Previous Licence.

5. Indemnity

The Licensee shall indemnify the Broadcasting Authority, the Telecommunications Authority and the Government against any losses, claims, charges, expenses, actions or demands which the Broadcasting Authority, the Telecommunications Authority or the Government may incur or which may be made against any of them, as the case may be, as a result of or in relation to any breach or alleged breach of or failure or alleged failure to observe or perform the said terms and conditions subject to which this Licence is granted, renewed, amended and restated.

6. Period and Review

6.1 Subject to the terms and conditions set out in this Licence and any law or Ordinance, this Licence shall be valid for the Period of Validity and shall be subject to review by the Chief Executive in Council from time to time as the Chief Executive may determine by order.

6.2 For the purposes of or in connection with the review referred to in Condition 6.1, account may be taken of, but not limited to the following matters:-

- (a) the Licensee's compliance with all relevant statutory requirements, licence conditions and Codes of Practice;
- (b) the prevailing broadcasting policy;
- (c) technological developments such as progress in the further development of digital, Internet and multimedia technologies; and
- (d) the public interest.

6.3 The Broadcasting Authority may conduct any public hearing as it thinks fit for the purposes of or in connection with any review referred to in Condition 6.1.

7. Notice of intent

The Licensee shall indicate in writing its interest (if any) in applying for

renewal of this Licence not less than 24 months (or such shorter period as may be determined by the Broadcasting Authority) before this Licence may otherwise expire.

8. Principles of broadcasting

- 8.1 The Licensee shall accept that the radio frequency spectrum assigned, or to be assigned from time to time, as the case may be, to the Licensee, is not the property of the Licensee but of the community and being a natural and limited asset the Licensee shall make proper use of it in the best interests of the whole community and the Licensee shall accept that regulation of that use of the radio frequency spectrum is one of the purposes of this Licence and is necessary and justified because radio programmes go freely into homes and may be readily understood by children and adults.
- 8.2 The Licensee shall:-
- (a) entertain, inform and educate;
 - (b) ensure that its programming is balanced in content and provides an adequate and comprehensive service which is responsive to the diverse needs and aspirations of the community; and
 - (c) apply up-to-date technology to perfect the sounds that it broadcasts.

9. Reservation

- 9.1 There is hereby reserved the power to impose during the Period of Validity of this Licence such further terms and conditions as the Chief Executive in Council may in the public interest specify from time to time and for that purpose the Chief Executive in Council may revoke, vary, limit or extend the terms and conditions of this Licence.
- 9.2 For the purposes of Condition 9.1, the Chief Executive in Council shall afford the Licensee a period of at least 14 days but not exceeding one month from the date of a notice in writing to the Licensee to the effect that the Chief Executive in Council is considering an amendment and the nature thereof, in order for the Licensee to make representations in writing to the Chief Executive in Council as to why the proposed

amendment should not be made or should be modified or qualified and the nature thereof.

- 9.3 In the period referred to in Condition 9.2 and thereafter, the Chief Executive in Council may consult with and receive written recommendations from such persons as he sees fit and the Licensee shall be afforded a period of at least 7 days but not exceeding 14 days to make representations in writing to the Chief Executive in Council on those recommendations.

10. The Relevant Authority

Subject to the express terms and provisions of the Telecommunications Ordinance, the Broadcasting Authority Ordinance and this Licence, the Chief Executive in Council, the Chief Executive, the Broadcasting Authority or the Telecommunications Authority shall in its absolute discretion determine, approve, disapprove, hold an opinion or decide any matter, issue or thing which it is requested, permitted or required to determine, approve, disapprove, hold an opinion regarding or decide under this Licence.

11. Licence fee

- 11.1 Subject to the right of the Chief Executive in Council to revise by notice in writing to the Licensee at any time the amount of licence fee on the basis of recovery of the reasonable costs and expenses incurred by or on behalf of the Government in relation to this Licence, including but not limited to administrative costs and expenses in administering this Licence, the Licensee shall pay to the Government a licence fee for the first year beginning with the Commencement Date and such date shall be referred to as the "Due Date" in this Condition, and for each subsequent year beginning on the anniversary of the Due Date specified as follows:-

- (a) First Year - X
- (b) Second Year - $X \times (1 + \text{GCED for the Second Year})$
- (c) Third Year - $X \times (1 + \text{GCED for the Second Year}) \times (1 + \text{GCED for the Third Year})$

and so on for the subsequent years, where,

- (i) subject to Condition 11.2, $X = \text{HK}\$3,348,800$

If on an anniversary of the Due Date, the remaining term of this Licence is less than a year, the licence fee payable in respect of that portion of the Period of Validity shall be payable on a pro rata basis.

11.2 For the purposes of Condition 11.1,

- (a) if a notice for revision of the amount of licence fee is issued under Condition 11.1, the first payment payable following the date on which the notice is issued shall, for the purpose of determining the amount of licence fee payable thereafter pursuant to the Condition, be regarded as payment for the First Year referred to therein, and payment for each subsequent year shall be made accordingly until another notice is issued pursuant to Condition 11.1. For the avoidance of doubt, this Condition shall apply to each notice issued pursuant to Condition 11.1;
- (b) GCED for any year means the forecast movement of the Government Consumption Expenditure Deflator for the year of publication of “Economic Prospects” published by the Government or of any similar Government publications containing the forecast movement of the Government Consumption Expenditure Deflator. For the avoidance of doubt, the formula for calculating GCED for any year of publication (Year N) is as follows:-

“GCED” for Year N =

$$\frac{\text{Forecast Government Consumption Expenditure for Year N}}{\text{Preliminary Estimates for Year (N-1)}} - 1$$

(1+Forecast Growth Rate of Government Consumption Expenditure in Real Terms for Year N)

- 11.3 The first payment of the licence fee under this Licence shall be made within 14 days of the Due Date, and thereafter payments of the licence fee shall be made on an annual basis during the Period of Validity within 14 days of a demand in writing by the Government made on or after the anniversary of the Due Date.
- 11.4 In the event of a revocation, surrender or suspension of this Licence, no licence fees or other fees or charges paid or payable by the Licensee before the revocation, surrender or suspension shall be refunded to or cease to be payable by the Licensee, as the case may be.

12. Non-assignment

- 12.1 The Licensee shall not, without the approval of the Chief Executive in Council, assign, share, franchise or grant any permission to any person for the use of, in whole or in part, any rights, powers and privileges granted hereunder or purport to do the same.
- 12.2 The Licensee shall not delegate any of its duties or responsibilities granted hereunder other than those commonly carried out by independent professional advisers or auditors.

13. Revocation

- 13.1 Where the Chief Executive in Council considers that there may be cause for revoking this Licence, he may direct the Broadcasting Authority to conduct an inquiry and submit recommendations concerning the revocation of this Licence, and, after having considered such recommendations and such other information, matter and advice as he may see fit, may revoke this Licence.
- 13.2 Revocation of this Licence under Condition 13.1 shall take effect subject to the notice required to be given under Condition 13.5.
- 13.3 Notwithstanding Conditions 13.1 and 13.2, the Chief Executive in Council may at any time revoke this Licence:-
- (a) for failure by the Licensee to pay, within one month after payment thereof has been demanded, any financial penalty imposed on him under the Broadcasting Authority Ordinance;
 - (b) if having regard to such of the following as is or are appropriate in the particular case, namely, the number of times this Licence has been suspended, the number and amount of financial penalties imposed on the Licensee under the Broadcasting Authority Ordinance since the Commencement Date of this Licence, the number of occasions on which, since the Commencement Date, the requirements of the Telecommunications Ordinance have, in relation to the Licensee, been contravened, any failure by the Licensee, whether by act or omission, to comply with a term or condition attached to this Licence, or any such failure to comply

with any direction or order applicable to the Licensee and given or made by the Broadcasting Authority either under the Broadcasting Authority Ordinance or under a provision of a Code of Practice, he is satisfied that this Licence should be revoked;

- (c) if the Licensee:-
- (i) goes into compulsory liquidation or into voluntary liquidation other than for the purpose of amalgamation or reconstruction; or
 - (ii) makes any assignment to, or voluntary arrangement with, its creditors;

and such revocation shall take effect forthwith or on such day as the Chief Executive in Council specifies.

- 13.4 In determining whether to revoke this Licence, the Chief Executive in Council may have regard to the matters to which the Broadcasting Authority had regard under Condition 14.2.
- 13.5 Where it is decided to revoke this Licence pursuant to Condition 13.1, the Chief Executive in Council shall cause notice in writing of the decision to be given to the Licensee, and the decision shall come into effect on the day specified therein which shall be a day not earlier than the 60th day after the date of the notice.
- 13.6 Where it is necessary for the due compliance with this Condition the Chief Executive in Council may extend the term of this Licence.

14. Suspension of Licence

- 14.1 Subject to the provisions of this Condition 14, the Broadcasting Authority may suspend this Licence for such period, being a period not exceeding 30 days, as specified in the suspension.
- 14.2 This Licence shall only be suspended under this Condition 14, if having regard to such of the following as is or are appropriate in the particular case, namely, the number and amount of financial penalties imposed on the Licensee under the Broadcasting Authority Ordinance since the Commencement Date of this Licence, the number of occasions on which, since the Commencement Date, the requirements of the

Telecommunications Ordinance have, in relation to the Licensee, been contravened, any failure by the Licensee, whether by act or omission, to comply with a term or condition attached to this Licence, or any such failure to comply with any direction or order applicable to the Licensee and given or made by the Broadcasting Authority either under the Broadcasting Authority Ordinance or under a provision of a Code of Practice, the Broadcasting Authority is satisfied that this Licence should be suspended.

- 14.3 The Broadcasting Authority shall not suspend this Licence unless and until it has given to the Licensee notice in writing stating that that Authority has under consideration the suspension of this Licence and the grounds upon which such suspension is being considered and the Broadcasting Authority has considered any representation or objection made to it as regards the proposed suspension.
- 14.4 The notice referred to in Condition 14.3 shall, in addition to stating the matters required by that Condition, state that representations and objections as regards the proposed suspension may be made to the Broadcasting Authority (either orally or in writing or both) during such period (being a period of not less than 28 days beginning on the date of receipt by the Licensee of the notice) as shall be specified in the notice.
- 14.5 Where this Licence is suspended under this Condition 14, the suspension shall not come into force before:-
- (a) in case an appeal is not taken under section 26 of the Broadcasting Authority Ordinance, the expiration of the period during which such an appeal may be taken; or
 - (b) in case such an appeal is taken, the appeal is either withdrawn or determined.

15. Station identification

- 15.1 The Licensee shall, when broadcasting any programmes, including any test or experimental transmissions, transmit a station identification signal as frequently as practicable.
- 15.2 Without prejudice to Condition 15.1, the Licensee shall transmit its station identification signal at least once during each clock-hour of the

transmission of its broadcast programmes, unless to do so would cause unreasonable interruption of its broadcast programmes.

- 15.3 The Licensee shall give the Telecommunications Authority not less than 14 days' notice in writing of any proposed change to its station identification signal and shall comply with any direction of that Authority in relation to the signal.
- 15.4 For the purposes of this Licence, "station identification signal" means any aural transmission exclusively for the purpose of identifying the Sound Broadcasting Service as that of the Licensee and, without prejudice to the generality of the foregoing, not for the promotion of the Licensee's station or programme services.

16. Intellectual property rights

The Licensee shall not do any act or permit any act to be done which is an infringement of any intellectual property right or any other rights (including but not limited to moral rights) of any other person which may exist in any published programme or other printed or recorded matter or which is or may be protected under the provision of any enactment for the time being in force or under any other law enforceable in Hong Kong.

17. Language of books and accounts

All books and accounts of the Licensee shall be written in the English or Chinese language.

18. Number of Sound Broadcasting Service channels, language and hours of service

- 18.1 The Licensee shall broadcast not fewer than three Sound Broadcasting Service channels, using a specific range of transmission frequencies as determined or approved by the Telecommunications Authority.
- 18.2 The Licensee shall broadcast at least one Sound Broadcasting Service channel in which at least 80 per cent of the time during which broadcasting takes place on any one day shall be conducted in the English language ("the English language service").

- 18.3 The Licensee shall broadcast at least one Sound Broadcasting Service channel in which at least 80 per cent of the time during which broadcasting takes place on any one day shall be conducted in Cantonese (“the Chinese language service”).
- 18.4 Upon application in writing by the Licensee, the Broadcasting Authority may approve arrangements for languages of service different from those in Conditions 18.2 and 18.3.
- 18.5 The Licensee shall broadcast for at least 10 hours each day in respect of each Sound Broadcasting Service channel.

19. Residential requirement of directors

- 19.1 The Chairman and the managing director (and any person occupying these positions by whatever name called) and the majority of the directors who take an active part in the control of the Licensee shall, unless otherwise approved by the Broadcasting Authority, each be ordinarily resident in Hong Kong and have been so ordinarily resident for one continuous period of at least seven years.
- 19.2 The control and management of the Licensee shall be bona fide exercised within Hong Kong.

20. Licensee to formulate general guidelines

The Licensee shall formulate written guidelines for all staff and agents concerned with the contents of all programmes and advertising, stating the Licensee’s principles regarding its responsibilities to the public, with particular reference to its obligations under the relevant Codes of Practice, and the Licensee shall make these staff and agents aware, and refresh their memory at regular intervals, of the guidelines and the Codes of Practice.

21. Discipline and training

The Licensee shall ensure good discipline and training among its staff as regards adherence to the relevant Codes of Practice.

22. Comments and complaints

- 22.1 The Licensee shall receive and consider all comments and complaints made by or on behalf of any person who believes himself to have been treated unjustly or unfairly in any programme, material or item broadcast by the Licensee or who comments or complains in substance or in form with respect to the whole or part of the content, production, transmission coverage, technical requirements or time of broadcasting of such programme, material or item or of any matter relating thereto, or with respect to the management of the Licensee.
- 22.2 The Licensee shall implement a procedure for dealing with comments and complaints as required from time to time by the Broadcasting Authority.
- 22.3 The Licensee shall keep a complete, accurate and up-to-date record in writing of all comments and complaints received, and submit it to the Broadcasting Authority on a regular basis and on demand. The record shall be retained by the Licensee for not less than 2 years.
- 22.4 The Licensee shall keep a record in writing or in a retrievable and perceivable form, of programmes broadcast showing the date and time of broadcasting and shall retain the written scripts (if any) and recordings of all broadcasts each for such a period as specified by the Broadcasting Authority and shall submit them to the Broadcasting Authority in a visible and legible manner for examination on demand.

23. News programmes and weather reports

- 23.1 Subject to such alternative arrangements as may be approved from time to time by the Broadcasting Authority, the Licensee shall broadcast:-
- (a) in any one Sound Broadcasting Service channel each day:
 - (i) a minimum of two programmes consisting of comprehensive news bulletins of not less than 10 minutes

each between the hours of 12:00 noon and 12:00 midnight;
and

- (ii) half-hourly news and weather reports between the hours of 6:00 a.m. and 12:00 midnight and hourly news and weather reports for the remaining hours of broadcasting unless to do so would cause unreasonable interruption of its broadcast programmes;

- (b) in the remaining two Sound Broadcasting Service channels:

hourly news and weather reports throughout the day during which broadcasting takes place.

- 23.2 In broadcasting any news programmes or reports, the Licensee shall ensure that international and local affairs are treated impartially and broadcast accurately.

24. Weather-related information

- 24.1 Subject to Condition 24.2, the Licensee may broadcast any weather programme or announcement produced from sources which are, in the opinion of the Broadcasting Authority, official or authentic.
- 24.2 The Licensee shall, if it is directed to do so by the Broadcasting Authority, broadcast any weather programme or announcement supplied to it by the Government in place of or in addition to any other such programme or announcement produced by the Licensee or any other person.

25. Current affairs programmes

- 25.1 The Licensee shall broadcast in its Sound Broadcasting Service a minimum of 90 minutes in total of current affairs programmes each week between the hours of 8:00 a.m. and 12:00 midnight.
- 25.2 Upon application in writing by the Licensee, the Broadcasting Authority may approve arrangements for broadcasting current affairs programmes different from those in Condition 25.1.

26. Programmes for young persons, senior citizens and children

26.1 Subject to any directions issued by the Broadcasting Authority:-

- (a) the Licensee shall broadcast in each week between the hours of 8:00 a.m. and 12:00 midnight and in the Chinese language service, a minimum of one half-hour programme which is intended and suitable for the education and proper development of young people in Hong Kong aged 16 years to 24 years (inclusive) (“Young Persons”);
- (b) the Licensee shall broadcast in one or two of its Sound Broadcasting Service channels (one of which must be the Chinese language service) and for no fewer than 90 minutes in aggregate each week between the hours of 8:00 a.m. and 12:00 midnight, programmes which is intended and suitable for the particular requirements, including but not limited to the health, financial position or recreation, of senior citizens in Hong Kong over the age of 60 years (“Senior Citizens”); and
- (c) the Licensee shall broadcast in one or two of its Sound Broadcasting Service channels (one of which must be the Chinese language service) and for no fewer than 30 minutes in aggregate each week between the hours of 9:00 a.m. and 10:00 p.m., programmes with educational values intended and suitable for children in Hong Kong up to and including the age of 15 years (“Children”).

26.2 Upon application in writing by the Licensee, the Broadcasting Authority may approve arrangements for broadcasting programmes for Young Persons or Senior Citizens or Children, or all, different from those in Condition 26.1.

27. Arts and culture programmes

27.1 Subject to any directions issued by the Broadcasting Authority, the Licensee shall broadcast in each of any two of its Sound Broadcasting Service channels (one of which must be the Chinese language service), and for no fewer than 45 minutes in aggregate each week between 8:00 a.m. and 12:00 midnight, programmes intended and suitable for promoting the development and appreciation of the literary, performing and visual arts and other topics or activities of cultural value.

27.2 Upon application in writing by the Licensee, the Broadcasting Authority may approve arrangements for broadcasting arts and culture programmes different from those in Condition 27.1.

27A. Annual reports

27A.1 The Licensee shall submit reports, and such information as the Broadcasting Authority may reasonably require, to the Broadcasting Authority on or before 31 March each year on how each of the requirements under Conditions 25, 26 and 27 has been complied with in the previous calendar year ending on 31 December.

27A.2 The Broadcasting Authority may publish in such manner as it considers fit any information (other than any commercial confidential information expressly designated as such) submitted by the Licensee pursuant to Condition 27A.1.

28. Announcement in the public interest

The Licensee shall broadcast in each of its Sound Broadcasting Service channels for periods not exceeding in total one minute in each clock-hour such announcements in the public interest as the Broadcasting Authority may determine.

29. Publicity material of the Broadcasting Authority

29.1 The Licensee shall broadcast in each of its Sound Broadcasting Service channels such publicity material as the Broadcasting Authority may direct in order to promote knowledge and understanding of the activities and functions of that Authority.

29.2 The publicity material referred to in Condition 29.1 may be directed to be broadcast twice daily for not more than one minute in each of its Sound Broadcasting Service channels between the hours of 6:00 p.m. and 11:00 p.m. subject to a maximum limit of 5 minutes in aggregate each week in each of its Sound Broadcasting Service channels.

30. Advertising

The Licensee shall monitor and ensure strict compliance with the Codes of Practice relating to Advertising Standards issued by the Broadcasting Authority.

31. Restriction on advertising

For each of its Sound Broadcasting Service channels under this Licence, the Licensee shall ensure that the aggregate advertising time on any day shall not exceed 12% of the total broadcast time of that day.

31A. Management of the Licensee

The Licensee shall ensure that the management of the Licensee shall not be performed by persons other than the directors and principal officers of the Licensee and persons duly authorised by the Licensee.

32. Programme development and capital investment

32.1 Unless otherwise approved by the Broadcasting Authority, the Licensee shall implement the Licensee's Proposal.

32.2 Unless otherwise approved by the Broadcasting Authority, the Licensee shall make such acquisitions and investments as are necessary in order to:-

- (a) perform all the Licensee's obligations under this Licence including but not limited to complying with the Six-Year Investment Plan; and
- (b) comply with the provisions from time to time in force of the Telecommunications Ordinance, the Broadcasting Authority Ordinance and all subsidiary legislation, regulations, directions and Codes of Practice made thereunder.

32.3 Within three months from each anniversary of Commencement Date, the Licensee shall submit to the Broadcasting Authority a management report of the Licensee certifying the capital investment and programming investment incurred by the Licensee in providing the Sound

Broadcasting Service, apparatus and services referred to Conditions 3(b), and businesses referred to in Condition 3(c), for the year preceding the anniversary date. The management report shall give a true and fair view of the capital investment and programming investment so incurred by the Licensee, and shall be approved by the directors of the Licensee and signed on behalf of the board by chairman of the meeting at which the management report was approved or by the secretary of the Licensee. The Licensee shall explain to Broadcasting Authority if the actual annual expenditure deviates from the Six-Year Investment Plan.

33. Notices or directions given to the Licensee

- 33.1 Where any consent, notice, direction, authorisation or approval of or from any person is required under this Licence for the doing of any matter or thing by or on behalf of the Licensee, or a notice or notification is required to be given by or on behalf of the Licensee to any person, that consent, notice, direction, authorisation, approval or notification is valid only if given in writing and signed by a person with authority to do so and, subject to Condition 33.2, given before the doing of the said matter or thing in question.
- 33.2 The person referred to in Condition 33.1 may generally or specifically in relation to a particular matter or thing referred to in Condition 33.1 by notice in writing to the Licensee waive the requirement for its or his (as the case may be) consent, notice, direction, authorisation or approval to be given before the doing of the matter or thing in question, provided that no such waiver shall estop that person from withdrawing the waiver, with prospective effect, in whole or in part, or from requiring that the consent, notice, direction, authorisation or approval (as the case may be), be required timeously in relation to other matters or things.
- 33.3 Without any limitation whatsoever on the rights and powers conferred by Part VI (Powers) of the Interpretation and General Clauses Ordinance, where a person other than the Licensee gives any consent, notice, direction, authorisation or approval under this Licence to the Licensee, the same may be:-
- (a) withdrawn, modified or replaced from time to time by that person as if the withdrawal, modification or replacement were the giving of a consent, notice, direction, approval or authorisation under this Licence and the Licensee shall comply therewith;

- (b) given once or from time to time; and
- (c) made subject to such conditions as that person, may impose.

33.4 All references in this Licence to the doing of any matter or thing by a person other than the Licensee include the delegate of such person, or other agent of that person, who is authorised in that regard by or under any law or Ordinance.

33.5 Any communication in writing moving from a person to the Licensee under this Licence may be validly served or given either by delivering it to an officer or employee of the Licensee at the registered office of the Licensee or its last known place of business in Hong Kong or by forwarding it by registered post to its registered office or last known place of business in Hong Kong.

34. Purchase of lands, buildings, etc.

34.1 Where:-

- (a) notice of non-renewal of this Licence is given under section 13E of the Telecommunications Ordinance; or
- (b) this Licence is or has been, or is to be, revoked or surrendered;

the Chief Executive in Council may, subject to Condition 34.2(a), not later than 3 years from the date of expiry, revocation or surrender of this Licence, direct The Financial Secretary Incorporated to acquire by purchase any lands (which for the purposes of this Condition 34 shall include any licence or option over land), installations, plant and equipment in or over which the Licensee has a right, title or interest and used by the Licensee for the purposes of this Licence within 6 years prior to the date of expiry, revocation or surrender of this Licence.

34.2 Where a direction of the Chief Executive in Council has been given pursuant to Condition 34.1, The Financial Secretary Incorporated shall within the following period specify the land, installations, plant and equipment to be acquired –

- (a) Not less than 4 months and not more than 8 months after the giving of notice of non-renewal of this Licence under section 13E of the Telecommunications Ordinance; or

- (b) where this Licence is or has been, or is to be, revoked or surrendered, within 12 months after the giving of the direction under Condition 34.1,

provided that the specification may be made by The Financial Secretary Incorporated more than once and from time to time during the relevant period.

34.3 The consideration to be paid to the Licensee for the right, title or interest in or over the said land, installations, plant and equipment shall be a sum equal to the open market value thereof at the date of non-renewal, revocation or surrender (as the case may be) of this Licence as between a willing buyer and a willing seller but without regard to:-

- (a) loss of profit;
- (b) goodwill;
- (c) the right of pre-emption;
- (d) the cost of raising capital; and
- (e) all the property being placed on the market at one and the same time.

34.4 In the event of the price offered by The Financial Secretary Incorporated being refused, the price shall be determined by arbitration in accordance with the Arbitration Ordinance (Cap. 341) and for the purpose of giving effect to the foregoing, The Financial Secretary Incorporated and the Licensee shall be regarded as having concluded an arbitration agreement (within the meaning of that Ordinance) whose provisions shall be taken to include a provision that the aforesaid price shall, in the absence of agreement, be determined by a single arbitrator.

34.5 Where land or any interest in land is acquired under this Condition 34 on the direction of the Chief Executive in Council, The Financial Secretary Incorporated shall, within 1 month after the acquisition, register in the Land Registry by memorial a declaration that it has been so acquired.

34.6 All property acquired under this Condition 34 on the direction of the Chief Executive in Council shall, as the case may be, vest in The Financial Secretary Incorporated:-

- (a) upon the expiry of this Licence after notice of a decision not to renew;
- (b) where this Licence is revoked or surrendered, when the revocation or surrender (as the case may be) takes effect or when a price is offered by The Financial Secretary Incorporated, whichever is the later, and thereupon all rights in such property on the part of the Licensee shall cease and determine.

34.7 Nothing in this Condition 34 shall confer on the Licensee any right to require The Financial Secretary Incorporated to acquire any part of its lands, installations, plant or equipment.

34.8 The Licensee shall notify the Broadcasting Authority:-

- (a) of all land in respect of which the Licensee has right, title or interest (as the case may be) as at the Commencement Date within 14 days thereafter and within 14 days after the date of each binding agreement entered into by or on behalf of the Licensee to acquire such right, title or interest;
- (b) of all land and interests in land which it uses or ceases to use for the purposes of this Licence within 14 days after the commencement of the use or cessation to use; and
- (c) of all land and interests in land which the Licensee has ceased to have right, title or interest (as the case may be) within 14 days after the date the Licensee ceased to have such right, title or interest.

35. Licensee to submit audited accounts

35.1 The Licensee shall submit to the Broadcasting Authority, not later than 6 months after the end of its accounting year, audited accounts prepared by the auditor of the Licensee in such manner and containing such details as may be approved and required by the Broadcasting Authority. The audited accounts to be submitted for an accounting year shall include, without limitation, a reconciliation statement as at the end of the accounting year on the management report submitted by the Licensee under Condition 32.3 during the accounting year and other financial information contained in the audited accounts.

35.2 Where a company is a subsidiary company of the Licensee, the Licensee shall, not later than 6 months after the end of an accounting year of the company, submit, or cause to be submitted, to the Broadcasting Authority a copy of the company's audited accounts by the auditor of the Licensee for that year.

36. Licensee to submit returns

36.1 The Licensee shall submit to the Broadcasting Authority not later than the end of the month of April each year a return in a form specified by it showing the name of each director, whether he is ordinarily resident in Hong Kong and has been so ordinarily resident for a continuous period of at least seven years, together with such supporting details and evidence as the Broadcasting Authority may reasonably require.

36.2 Without prejudice to Condition 36.1, the Licensee shall submit to the Broadcasting Authority in a form specified by it a return showing:-

- (a) particulars of every change of or addition to the persons who are directors;
- (b) whether following the said change or addition, each of the directors is ordinarily resident in Hong Kong and has been so for a continuous period of at least seven years; and
- (c) such details and evidence in support of the foregoing as the Broadcasting Authority may reasonably require.

36.3 Unless otherwise approved by the Broadcasting Authority, the return referred to in Condition 36.2 shall be submitted to the Broadcasting Authority not later than 14 days after the said change or addition.

36.4 The Licensee shall submit to the Broadcasting Authority on demand such other information as it may reasonably requires for the purposes of exercising its functions under the Broadcasting Authority Ordinance.

37. Non-compliance due to acts of God

37.1 Subject to Condition 37.2, the Licensee shall be exonerated from observing or performing the terms and conditions of this Licence if and so long as the failure to observe or perform those terms and conditions

shall be directly attributable to any act of God, any riot, civil commotion or disturbance, the restraint of any ruler, any strike, combination of workmen or lockout, any fire, explosion, typhoon, storm, flooding, landslide, subsidence of ground or other catastrophe, any war, blockade or embargo, any breakdown of plant, machinery or equipment not due to the negligence or want of reasonable maintenance on the part of the Licensee, its servants or agents, any commandeering or requisitioning of the Licensee's installations, equipment or facilities or any other interference or circumstance wholly beyond the control of the Licensee.

- 37.2 The Licensee shall, with all due diligence and speed, repair, rebuild, restore, reinstate and take all such actions as may be required to repair, rebuild, restore and reinstate in all respects the Sound Broadcasting Service in accordance with the terms and conditions of this Licence and resume observing and performing those terms and conditions.

38. Liability of Licensee for contraventions

The Licensee shall be liable for the contravention of:-

- (a) any provision of the Telecommunications Ordinance, the Broadcasting Authority Ordinance, any other Ordinance, subsidiary legislation, regulation, direction, Code of Practice or any provision thereof; and
- (b) subject to Condition 37, any term or condition of this Licence,

where the contravention is due to the act or omission of any director, officer, staff or agent of the Licensee acting for or on behalf of the Licensee.

39. Saving of rights granted

- 39.1 Notwithstanding anything contained in this Licence, the Licensee shall not in any way whatsoever abrogate or interfere with any of the telecommunications services, Sound Broadcasting Service or off-air broadcasts authorised under the Telecommunications Ordinance or Broadcasting Ordinance.

- 39.2 Nothing in this Licence shall prejudice or affect the right of the Government to establish, extend, maintain, operate or provide any

telecommunications, broadcasting or communications services or Sound Broadcasting Services, or systems or to receive, distribute or broadcast any matter or to enter into any agreements or grant any licences for the establishment, extension, maintenance, operation or provision of any such services or systems.

40. Statements made on application binding on the Licensee

Unless otherwise approved by the Broadcasting Authority, the Licensee shall comply at all times with any statements (including statements of intention) and representations made by or on its behalf in its application for this Licence submitted by it except in so far as such statements and representations are no longer applicable due to amendment of the laws of Hong Kong relating to the establishment, maintenance, operation and provision of Sound Broadcasting Service, apparatus and services referred to in Conditions 3(b), and business referred to in Condition 3(c).

41. Free competition

41.1 The Licensee shall not,

(a) enter into any agreement or arrangement with, or offer any inducement (whether financial or otherwise) to, any person; or

(b) enforce by way of legal proceedings, arbitration, forfeiture of liquidated damages, adjustment or rebate of charges or otherwise any term or condition; or

(c) solicit or permit another to do, or refrain from doing, anything; or

(d) otherwise engage in conduct,

which has the effect or purpose of restricting, impeding or restraining competition in relation to the establishment, maintenance, operation or provision of any service or network for telecommunications in Hong Kong, or broadcasting in Hong Kong of any television programme service licensee or sound broadcasting licensee.

41.2 The Licensee shall not be regarded to have contravened Condition 41.1 if it satisfies the Broadcasting Authority that any aforesaid restriction, impediment or restraint is one that is and remains fair and reasonable in

reference to the interests of the public in Hong Kong including without limitation the preservation of the freedom from restriction, impediment or restraint of competition protected by that Condition and having regard to the interests of licensees referred to therein and of the Licensee.

41.3 Condition 41.1 shall not apply in respect of any aforesaid restriction, impediment or restraint on:-

- (a) broadcasting any programme material acquired or produced by or for the Licensee and broadcast by it under this Licence;
- (b) any person from:-
 - (i) disclosing or using any proprietary right vested in the Licensee or other person (including without limitation the disclosure of any information in respect of which there is such a proprietary right);
 - (ii) using or exploiting his artistic talent or ability;
- (c) any employee or former employee of the Licensee who has or had access to information in which the Licensee has a proprietary right from engaging in any business, or being employed by any person, in competition with the Licensee during the period of his employment and for a reasonable period not exceeding 6 months from the date of termination of his employment,

provided that the said restriction, impediment or restraint is not void or unenforceable under any law or Ordinance or would not be void or unenforceable if the proper law governing the restriction, impediment or restraint were that of Hong Kong.

41.4 For the purposes of this Condition 41, without prejudice to the other rights, power and duties of the Broadcasting Authority, that Authority may consult with and seek the views of any person.

42. Publication of Licence

42.1 The Licensee shall make available for inspection by members of the public, free of charge, a true copy of this Licence (other than the Licensee's Proposal) at:-

- (a) its registered office or principal place of business; and
- (b) the head office of the Television and Entertainment Licensing Authority.

42.2 The Government may at its own discretion make the terms and conditions of this Licence (other than any commercial confidential information expressly designated as such) publicly available in any manner it thinks fit.

42A. Disclosure of information

42A.1 Nothing in this Licence shall be construed as prohibiting disclosure of any information (including any commercial confidential information) –

- (a) with a view to the institution of or otherwise for the purposes of any criminal proceedings or any investigation in connection therewith in Hong Kong;
- (b) in connection with civil proceedings to which the Chief Executive in Council, the Chief Executive, the Government, the Broadcasting Authority or the Telecommunications Authority (each a “Relevant Recipient”) is a party;
- (c) which facilitates a Relevant Recipient investigating or determining a complaint that the Licensee is engaging in conduct that contravenes a provision of this Licence, the Telecommunications Ordinance, the Broadcasting Authority Ordinance or any Code of Practice;
- (d) which the Relevant Recipient considers it is in the public interest to disclose;
- (e) which a Relevant Recipient can reasonably demonstrate is in the public domain through no fault of his own;
- (f) which is required to be disclosed by law, pursuant to a court order or by a regulatory body; or
- (g) to any adviser of a Relevant Recipient in confidence for the purpose of giving or obtaining advice or assistance in connection

with his powers, rights or obligations pursuant to this Licence.

42A.2 A Relevant Recipient shall give the person supplying the commercial confidential information a reasonable opportunity to make representations on a proposed disclosure of the information under Condition 42A.1(c), (d) or (e), and shall consider all representations made before the Relevant Recipient makes a final decision to disclose the information.

43. Other requirements

For the avoidance of doubt, the Licensee shall apply for such other licences, permissions, approvals, agreements or grants as may be required under any law or Ordinance if any such licence, permission, approval, agreement or grant is or becomes necessary for or in connection with the establishment, maintenance, operation and provision of the Sound Broadcasting Service.

SCHEDULE**Transmission Plan and Technical requirements**

<u>CONDITION</u>	<u>HEADING</u>
1	Broadcasting coverage requirement
2	Transmission plan
3	Radio signals
4	Combined transmitting equipment
5	Interference with other services
6	Compliance with international conventions
7	Common facilities
8	Station power supplies
9	Standard equipment
10	Sufficient spare parts
11	Test equipment

1. Broadcasting coverage requirement

- 1.1 The Licensee shall broadcast to those parts of Hong Kong as specified by the Broadcasting Authority and construct such additional relay stations within such period of time as directed from time to time by the Broadcasting Authority.
- 1.2 For the purpose of Condition 1.1 of this Schedule, “broadcast” means broadcasting in such a manner as to enable the Licensee’s transmissions to be received to the satisfaction of the Broadcasting Authority.
- 1.3 The field strength produced by the transmission of each Sound Broadcasting Service channel operated by the Licensee shall be such that equal facility for the reception of the service operated by any licensees (including the Licensee) in a given area is available to any audience using a suitable receiver and aerial. All transmitters and relay stations operated by the Licensee shall be required to maintain minimum field strengths specified by the Telecommunications Authority within the areas to be served.

2. Transmission plan

- 2.1 The Licensee shall be required to transmit its programmes in accordance with the transmission plan specified by the Telecommunications Authority.
- 2.2 The transmission plan referred to in Condition 2.1 of this Schedule may be amended from time to time by the Telecommunications Authority.
- 2.3 The Licensee shall not activate any additional transmitter or associated equipment established after the Commencement Date without the approval of the Telecommunications Authority and shall observe such conditions as may be imposed by the Telecommunications Authority regarding the testing and operation of the said equipment.

3. Radio signals

The transmission system operated by the Licensee shall transmit radio signals in accordance with the characteristics specified in the appropriate Codes of Practice issued by the Broadcasting Authority.

4. Combined transmitting equipment

- 4.1 If required by the Telecommunications Authority, the Licensee shall use, in co-operation with any other licensee or person (including RTHK) designated by the Telecommunications Authority, combined transmitting antenna systems for all transmitter and relay stations from the Commencement Date or at a later date specified by the Telecommunications Authority and thereafter shall continue the use without interruption throughout the Period of Validity of this Licence.
- 4.2 Each of the combined transmitting antenna systems referred to in Condition 4.1 of this Schedule shall comply with technical specifications provided by the Telecommunications Authority.
- 4.3 All costs involved in providing any combined transmitting antenna system shall be shared equally between the Licensee and any other licensee or person (including RTHK).

5. Interference with other services

- 5.1 The Licensee shall use all of its apparatus and equipment in such a manner as not to cause interference with any authorised or permitted telecommunications, broadcasting or communications services or Sound Broadcasting Service, or apparatus operating in or outside Hong Kong.
- 5.2 In order to avoid or remedy any such interference, the Licensee shall comply with all instructions given to it by the Telecommunications Authority in respect of the operation and use of its apparatus and equipment. Pending the implementation by the Licensee to the satisfaction of the Telecommunications Authority of any measures to avoid or remedy any such interference instructed by the Telecommunications Authority, the Telecommunications Authority may, if he reasonably considers that such interference is likely to cause injury (including death), loss or damage, order the cessation of the Licensee's transmissions for such a period as the Telecommunications Authority considers necessary.

6. Compliance with international conventions

The Licensee shall to the extent required by the Telecommunications Authority perform and observe the requirements of all international telecommunications conventions and agreements relevant to broadcasting or telecommunications which may from time to time be acceded to by or applied to Hong Kong.

7. Common facilities

7.1 The Licensee shall allow other licensees and persons (including RTHK) to use jointly with it such common facilities of or at any transmitter or relay station as specified by the Telecommunications Authority.

7.2 The common facilities referred to in Condition 7.1 of this Schedule shall include the transmitting antenna system, tower, building, standby generator and other site amenities as specified by the Telecommunications Authority.

7.3 The Telecommunications Authority may appoint the Licensee, or another licensee or person to maintain the common facilities referred to in Condition 7.1 of this Schedule, and the person so appointed shall ensure that no licensee (including the Licensee) or other person shall have any operational advantages over any other licensee or person.

7.4 All costs involved in the provision and maintenance of the common facilities referred to in Condition 7.1 of this Schedule shall be shared on an equitable and reasonable basis between the Licensee and the other licensee or person (including RTHK), in such manner as may be determined or approved by the Telecommunications Authority.

8. Station power supplies

8.1 The Licensee shall provide a standby power supply at each transmitter and relay stations that is used by the Licensee to ensure compliance of each transmitter and relay station with Condition 8.2 of this Schedule.

8.2 The standby power supply referred to in Condition 8.1 of this Schedule shall be able to restart proper function of each relevant transmitter or relay station, such that uninterrupted transmission of the Licensee's Sound Broadcasting Service is resumed within one minute after

disconnection of the public electricity supply to such transmitter or relay station and such uninterrupted transmission of Sound Broadcasting Service is maintained for at least 48 hours after the restart.

9. Standby equipment

The Licensee shall provide and maintain standby transmitters with automatic changeover devices at each transmitter and relay station.

10. Sufficient spare parts

The Licensee shall maintain sufficient spare parts in Hong Kong to ensure that interruption of transmission due to equipment fault shall be avoided or minimised as far as reasonably possible.

11. Test equipment

The Licensee shall maintain and provide such test equipment, operating staff and other assistance as may be required by the Telecommunications Authority for the purpose of the Telecommunications Authority performing his functions under this Licence in order to ensure the Licensee's compliance with the terms and conditions of this Licence.

Granted on [30 April 1991 (for Metro) / 25 July 1989 (for CRHK)]
[Amended and extended on 26 February 2002 (for Metro) /
Amended on 22 August 1989 and 9 January 2001 (for CRHK)]
Renewed this 22nd day of July 2003
Amended and Restated on [Issue date of the amended and restated licence]

Clerk to the Executive Council

COUNCIL CHAMBER

Accepted by:.....

Signature:.....

Capacity:.....

Date:.....

商業電台和新城電台的聲音廣播牌照
主要修訂建議

	項目	牌照條件	修訂建議	理據
1.	六年投資計劃	2.1	<p>“六年投資計劃”的定義由下文取代(修訂以粗體標示)：</p> <p>“六年投資計劃” 指與持牌人在二零一零年八月二十六日至二零一六年八月二十五日期間的資本投資和節目投資、用於條件第 3(b)條所述的設置和維持聲音廣播服務、器具和服務，以及條件第 3(c)條所述的業務有關，並獲廣播事務管理局批准的投資計劃；該計劃載於[二零一一年四月二十六日(適用於新城電台) / 二零一一年三月十日及二零一一年四月二十七日(適用於商業電台)]發給廣播事務管理局的信件內，其後可按廣播事務管理局的指示或批准予以修訂或修改</p>	<p>二零零四至二零一零年首六年投資計劃的有效期已經屆滿，須以新條文取代原文，訂明持牌人承諾履行獲廣管局批准的二零一零至二零一六年新訂六年計劃。</p>
2.	年青人節目、長者節目和兒童節目	26.1 和 26.2	<p>修訂條件第 26.1 和 26.2 條如下(主要修訂以粗體標示)：</p> <p>26. 年青人節目、長者節目和兒童節目</p> <p>26.1 (b) 持牌人須於上午 8 時至午夜 12 時之間，在其任何一條或兩條聲音廣播服務頻道(其中一條必須為中文語言服務)，合共每星期播放不少於 90 分鐘以 60 歲以上香港長者(“長者”)為對象、適合他們收聽並符合他們的</p>	<p>廣管局建議把每星期最低限度須播放的長者節目由 60 分鐘增至 90 分鐘，但取消該類節目須為兩個 30 分鐘節目的規定，讓持牌人在節目編排方面有更大彈性。</p>

	項目	牌照條件	修訂建議	理據
			<p>特定需要(包括但不限於健康、經濟狀況或娛樂需要)的節目； 以及</p> <p>(c) 持牌人須於上午 9 時至晚上 10 時之間，在其任何一條或兩條聲音廣播服務頻道(其中一條必須為中文語言服務)，合共每星期播放不少於 30 分鐘以 15 歲或以下香港兒童(“兒童”)為對象、適合他們收聽並具教育意義的節目。</p> <p>26.2 在收到持牌人書面申請後，廣播事務管理局可批准持牌人採用有別於條件第 26.1 條所載的安排播放年青人節目、長者節目或兒童節目或所有該等節目。</p>	<p>廣管局建議加入新的牌照條件，規定持牌人每星期最少播放 30 分鐘兒童節目。</p> <p>因應條件第 26.1 條而作出文字上的修訂。</p>
3.	藝術及文化節目	27.1	<p>修訂條件第 27.1 條如下(主要修訂以粗體標示)：</p> <p>持牌人須於上午 8 時至午夜 12 時之間，在其任何兩條聲音廣播服務頻道(其中一條必須為中文語言服務)，每條頻道每星期播放不少於 45 分鐘以促進文學、表演藝術和視覺藝術發展和欣賞及其他具文化意義的主題或活動為目標的合適節目，或按廣播事務管理局發出的任何指示播放該等節目。</p>	<p>廣管局建議規定持牌人每星期增加播放 30 分鐘的藝術及文化節目，合共每星期播放最少 90 分鐘的藝術及文化節目。</p>

	項目	牌照條件	修訂建議	理據
4.	周年報告	27A	<p>加入新條件第 27A.1 和 27A.2 條如下(修訂以粗體標示)：</p> <p>27A.1 持牌人須在每年三月三十一日或之前向廣播事務管理局提交報告及該局合理要求的資料，說明在截至上一曆年十二月三十一日，如何符合條件第 25、26 和 27 條所載的每項規定。</p> <p>27A.2 廣播事務管理局可以其認為合適的方式，公布持牌人根據條件第 27A.1 條提交的任何資料(任何明文指定為商業機密資料者除外)。</p>	<p>廣管局建議加入新的牌照條件，規定持牌人提交周年報告，說明如何符合指定播放節目的規定和目標。廣管局如認為合適，可公開報告(商業機密資料者除外)讓市民查閱。</p>
5.	節目發展和資本投資	32.3	<p>加入新條件第 32.3 條如下(修訂以粗體標示)：</p> <p>32.3 持牌人須在生效日期的每個周年日起計三個月內，向廣播事務管理局提交持牌人管理報告，證明在周年日前的一年內持牌人為提供聲音廣播服務而作出的資本投資和節目投資，及用於條件第 3(b)條所述的設置和維持聲音廣播服務、器具和服務，以及條件第 3(c)條所述的業務有關的投資。管理報告須真實而中肯地反映持牌人如此作出的資本投資和節目投資，並須經持牌人的董事通過，以及由通過管理報告的會議的主席或持牌人的秘書代表董事局簽署。如每年的實際開支與六年投資計劃有差異，持牌人須向廣播事務管理局解釋。</p>	<p>為加強對持牌人的監管，以及與數碼聲音廣播牌照保持一致，廣管局建議規定持牌人在周年日起計三個月內向該局提交管理報告，核實每年的實際投資額。</p>

	項目	牌照條件	修訂建議	理據
6.	持牌人提交經審計帳目	35.1	<p>修訂條件第 35.1 條如下(修訂以粗體標示)：</p> <p><i>持牌人須在其會計年度完結後六個月內向廣播事務管理局提交由持牌人的審計師擬備的經審計帳目，而該等帳目須採用廣播事務管理局批准和要求的形式，並須載列該局批准和要求的詳細資料。就任何一個會計年度提交的經審計帳目須包括(但不限於)截至該會計年度完結日有關持牌人在該會計年度內根據條件第 32.3 條提交的管理報告及經審計帳目其他財務資料的對帳表。</i></p>	<p>因應第 5 項作出的修訂。為了與數碼聲音廣播牌照保持一致，廣管局建議持牌人須在審計帳目內加入對帳表，以核實持牌人管理報告所載的每年投資開支。</p>