For Information

7 June 2012

立法會 CB(1)2133/11-12(01)號文件
LC Paper No. CB(1)2133/11-12(01)

City Telecom (H.K.) Limited ("CTI")

Paper on Applications for Domestic Free Television Programme Service Licence

Agenda VI for Meeting on Monday, 11 June 2012, at 2:30pm in Conference Room 1 of the Legislative Council Complex (the "Meeting")

This paper is prepared in response to the Legislative Council's invitation of 1 June 2012 for CTI to provide written information to the Panel on Information Technology and Broadcasting (the "**Panel**") in relation to the Applications (the "**Applications**") for Domestic Free Television Programme Service Licence ("**Free TVLicence**") scheduled as Agenda VI for the Meeting.

Purposes

The purposes of this paper are to:

1. Comment on the unreasonable and inexplicable delay in the final determination of the Applications by the Government.

2. Comment on some of the common arguments against granting further Free TV Licences.

3. Update the Panel on CTI's readiness to provide more competition to the incumbents and to provide more choice to the public

4. Urge the Government to commit to a clear time line for the final determination of the Applications.

A. Unreasonable and Inexplicable Delay

We set out below a chronology of key events in relation to the Applications.

Date	Event
31 December 2009	Submission of CTI's Application for a Licence to the then Broadcasting Authority ("**BA**")
15 January 2010	Submission of Fantastic Television Limited's Application for a Licence to the BA
31 March 2010	Submission of HK Television Entertainment Company Limited's Application for a Licence to the BA
9 July 2010	BA's published notice for interested members of the public to provide comments on the Applications
23 May 2011	Newspaper reports that the BA made a recommendation to the Chief Executive in Council (the "**CE in Council**") to approve the Applications (the "**BA's Recommendations**")

10 February 2012	Application by Asia Television Limited ("**ATV**") for leave to apply for Judicial Review (the "**JR Application**")
6 March 2012	Decision by the Honourable Mr Justice Lam dismissing ATV's JR Application

It has been almost 30 months since the submission of the Application by CTI and over 12 months since the BA's Recommendations. The delay is unreasonable, both from the perspective of the public and the perspective of the commercial operators.

As stated by Mr Donald Tsang Yam-kuen during an interview on the Commercial Radio Channel 1 programme on 26 February 2012, the CE in Council usually accepts the then Broadcasting Authority's recommendations except in special circumstances. We are not aware of, nor has the Government articulated, the existence of any special circumstances for the BA's Recommendations not to be followed.

It is in the public interest that the Applications be granted, and we urge the CE in Council to make a final determination of the Applications without any further delay.

B. Commonly Raised Arguments against the Grant of Licence

We address below some of the common arguments against the grant of further Free TV Licences.

<u>(1) Sustainability of the Applicants in the Market</u>

We are aware that the sustainability of the Applicants in the free TV market has been called into question, given that there are already two incumbents, the duopoly of Television Broadcasts Limited ("**TVB**") and ATV, in the market.

It is alleged that advertising revenues simply could not support more than two Free TV Licensees and new entrants may have the potentially adverse effect of significantly negatively impacting, and perhaps even eliminating, the incumbents. It is also alleged that free TV advertising sales have experienced little to no real growth in the past decade.

We respectfully disagree with these unsubstantiated claims. We attach herewith at **Annexure A** a set of graphs setting out the 2002 to 2011 growth figures of advertising spending across various media sectors in Hong Kong, including the more contemporary platform such as Pay TV, and the more traditional platforms of free television, newspaper and magazine (figures taken from admanGo). As may be readily ascertained from the table below, with the exception of free TV, all of these other media platforms have witnessed exponential growths in advertising spending despite fierce competition brought by the entry of new players: for example, in pay TV, the number of players rose from 1 to 2, with advertising spending mushrooming by a staggering 1,463%; in magazine, the number of players rose from 57 to 153, while advertising spending rose by an impressive 146%; and when everybody was predicting the closure of newspapers with the entry of free newspapers, the number of players rose from 13 to 19, while advertising spending enjoyed a cumulative growth of 162%.

Table : Advertising Spending Growth - by Medium

	2002		2011			
	No. of players	Advertising Spending (HKD in million)	No. of players	Advertising Spending (HKD in million)	Cumulative growth (2002-2011)	Compound Annual Growth Rate (CAGR)
Free TV	2	12,843	2	18,241	**41%**	4%
Paid TV	1	853	2*	13,237	**1463%**	36%
Newspaper	13	11,186	19	29,269	**162%**	11%
Magazine	57	5,564	153	13,670	**146%**	11%
Radio	3	692	3	3,440	**399%**	20%

*Included Now TV and Cable TV

Source: admanGo (monitored figures with listed price)

We also note from media reports that, one of the incumbents, TVB, is reported to have claimed on 17 May 2012 that there has been no real growth in advertising revenues from free-to-air TV for the past 15 years. TVB's own annual reports do not support this claim. According to TVB's annual returns relating to the financial years 2002 to 2011, TVB's advertising revenue from terrestrial television broadcasting increased by approximately 55%. We attach herewith for reference at **Annexure B** copies of the relevant section of the said annual reports.

The only conclusion which can be drawn from the above is that competition will NOT kill the incumbents. It is the complacency of the incumbents in the free TV sector which is responsible for the relatively less impressive growth in advertising spending in that sector. The free TV sector can benefit from more competition.

Turning to the specific case of CTI, we welcome competition and have a track record of successfully challenging the dominant market player(s) in a particular sector while sustaining its operations in a commercially viable manner. CTI's first two large scale and long term innovations since its establishment include its IDD business started during the 1990's, which it believes dramatically brought down the cost of making IDD calls from Hong Kong for the benefit of the general public, and its fixed telecommunication network services introduced in the last 12 years, which deliver affordable fixed telephony and high speed broadband internet access to the general public. The public has benefited from lower prices and more choices in each case.

<u>(2) Assumption of Government Allowing Only 2 Licensees</u>

We understand there may be a claim that the incumbents when devising their investment plan for 2010 to 2015 assumed that there would only be two domestic Free TV Licensees in the market up to 2015. There is simply no legal or factual basis for this claim.

The Government stated in the 1998 Review of Television Policy that there would be no limit on the number of domestic free licences to be issued.

Furthermore, pursuant to clause 5 of the respective domestic free television programme service amended licenses dated 29 June 2010 granted to each of TVB and ATV, it is expressly stated that the terms of the licence granted to each incumbent would not in any way abrogate or interfere with any rights, whether exclusive or otherwise, granted under any law or Ordinance to any person other than the Licensee. The CE in Council's right pursuant to s.10(1) of the Broadcasting Ordinance to exercise its absolute discretion to grant a Free TV License constitutes such right.

CTI submitted its Application on 31 December 2009 and the other two applicants also submitted their applications immediately following CTI. Both incumbentsshould have been well aware of the fact that there were three new players seeking to enter the free TV market as at the date of the grant of their respective licences in June 2010.

We invite the Panel to call upon the Government to clarify if any representation was made by the Government to either TVB or ATV at or around the time of their respective submissions of their investment plans for 2010 to 2015 that there would be only two domestic free television operators in the market.

We respectfully submit that any such assurance is at the very least morally shocking, since the Government does not have a duty to protect the interests of the incumbent duopoly by maintaining the status quo or limiting entry into the market, but rather has a duty to protect the public interest.

C. CTI is Ready

We are ready to go live and to significantly broaden viewers' choice in terms of variety, quantity and quality of programmes. At launch, we will provide 12 channels.

Additionally, CTI has since February 2012 started building a world class Multimedia Centre with a gross floor area of 500,000 square ft. consisting 12 studios on land granted by Hong Kong Science and Technology Parks Corporation at Tseung Kwan O Industrial Estate. If a Free TV Licence is granted, the free TV operation will benefit from state of the art facilities at the Multimedia Centre.

On the people front, CTI has recruited 420 production crew and talent artistes since 2011 and they all share CTI's enthusiasm and vision to introduce more variety into and improve the quality of the free TV market. They are all ready to go into action, pending the go ahead from the Government.

D. Timeline

The BA's Report on the Public Consultation Exercise for the Mid-Term Review of the Domestic Free Television Programme Service Licences published in 2010, which summarises the views collected in the BA's public consultation exercise, clearly concludes that competition in the free television market is welcomed by the general public and should be encouraged to enhance programme quality and diversity.

We are strongly of the view that the grant of the Applications will enhance the domestic free TV market by encouraging innovation and creativity and boosting Hong Kong's position as a regional broadcasting hub. We respectfully submit that competition should not be seen as a hindrance, but rather a welcome stimulus of the market for the benefit of the general public.

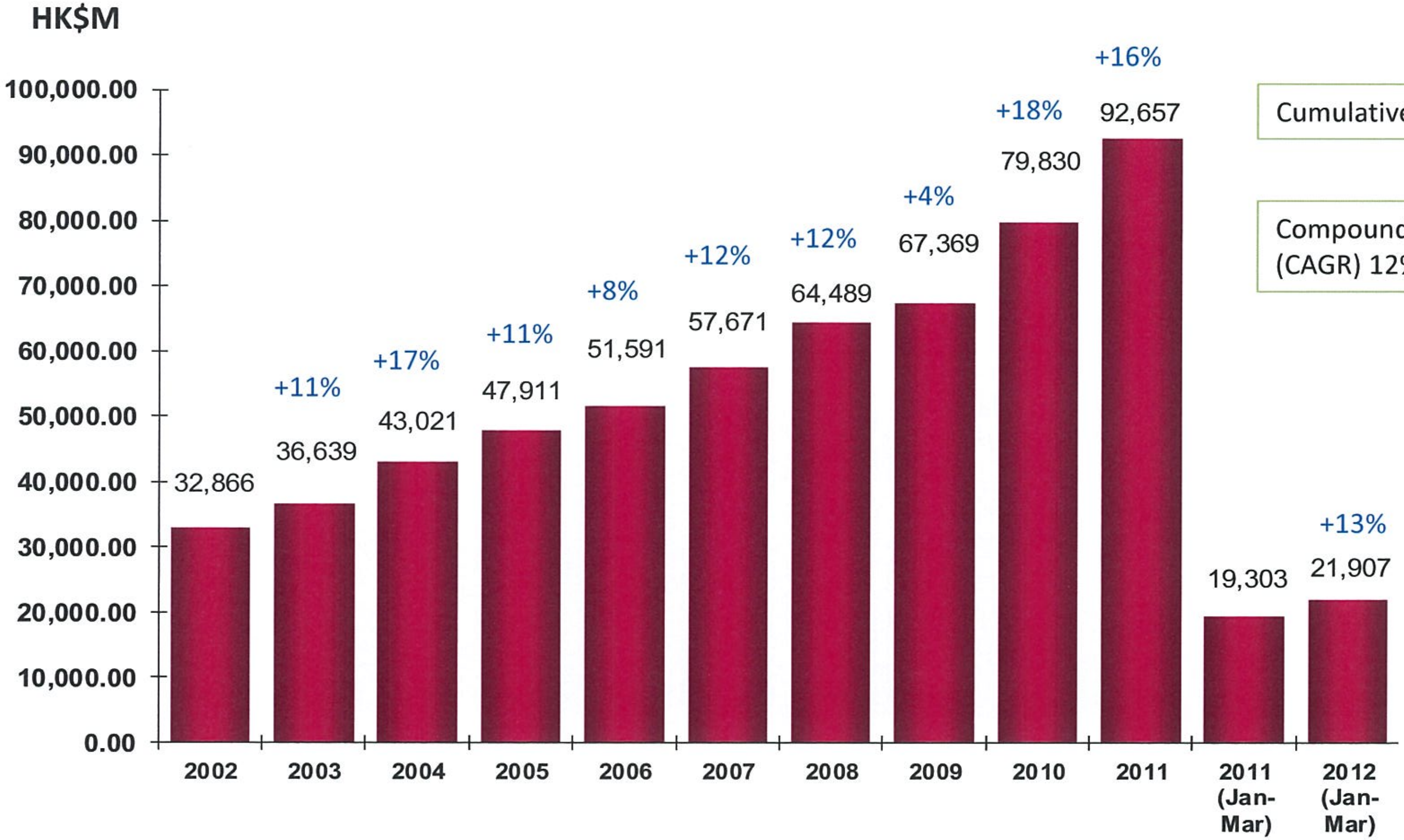
There should not be any further delay. We urge the Government to commit itself to a clear timeline for the final determination of the Applications as soon as possible.

City Telecom (H.K.) Limited

7 June 2012

ANNEXURE A

Total Advertising Spending in HK market (2002 -2011)



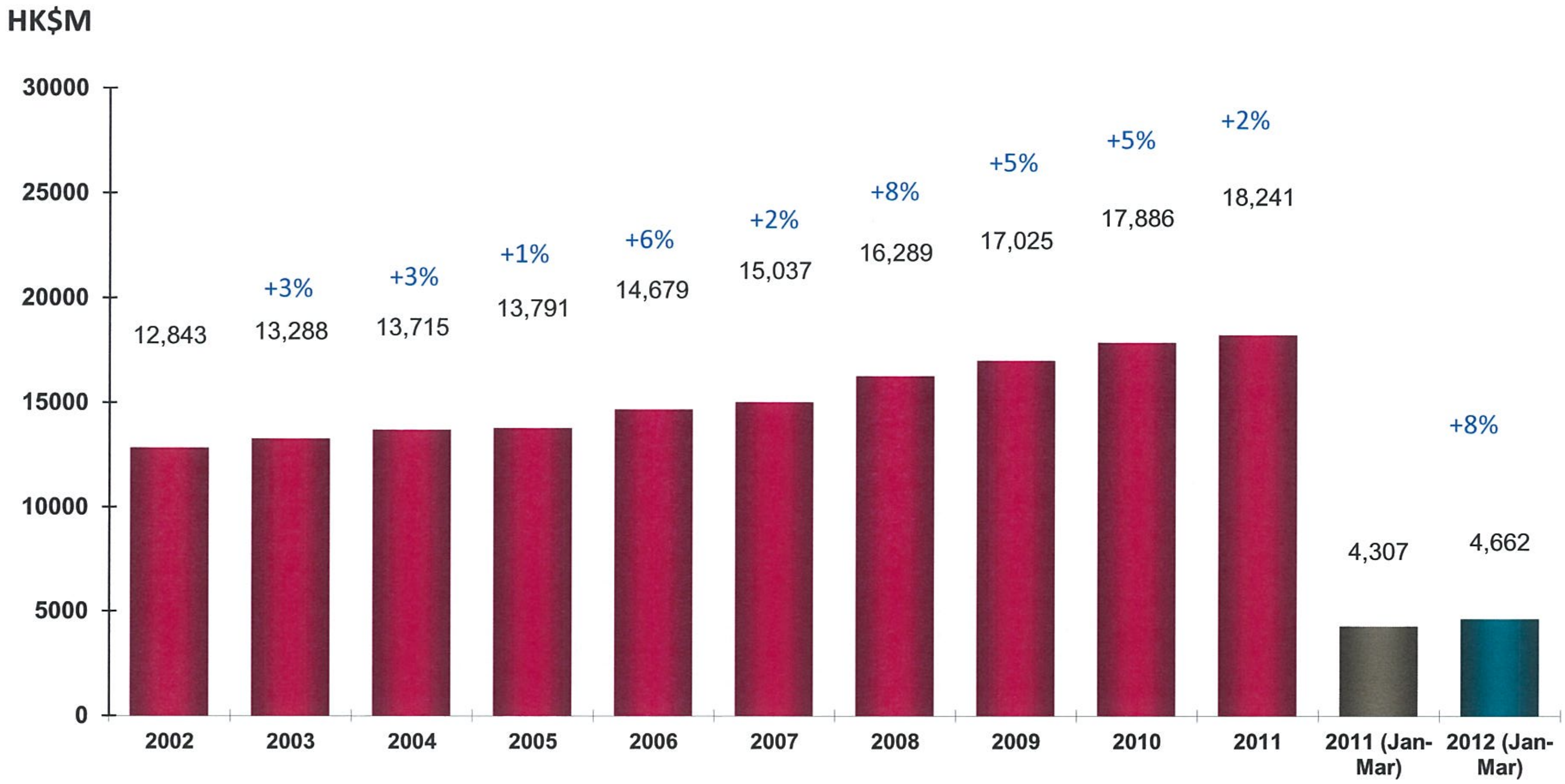
Cumulative Growth : 182%

Compound Annual Growth Rate (CAGR) 12%

Notes :
1. 2003 onwards included Cable TV spending
2. Online spending included from 2007 onwards
3. Ad spend of HD Jade has been included from Jan 2010
4. Ad spend of J2 and iNews has been included from Jan 2011

Source : admanGo (monitored figures with listed price)

Advertising Spending - Free TV

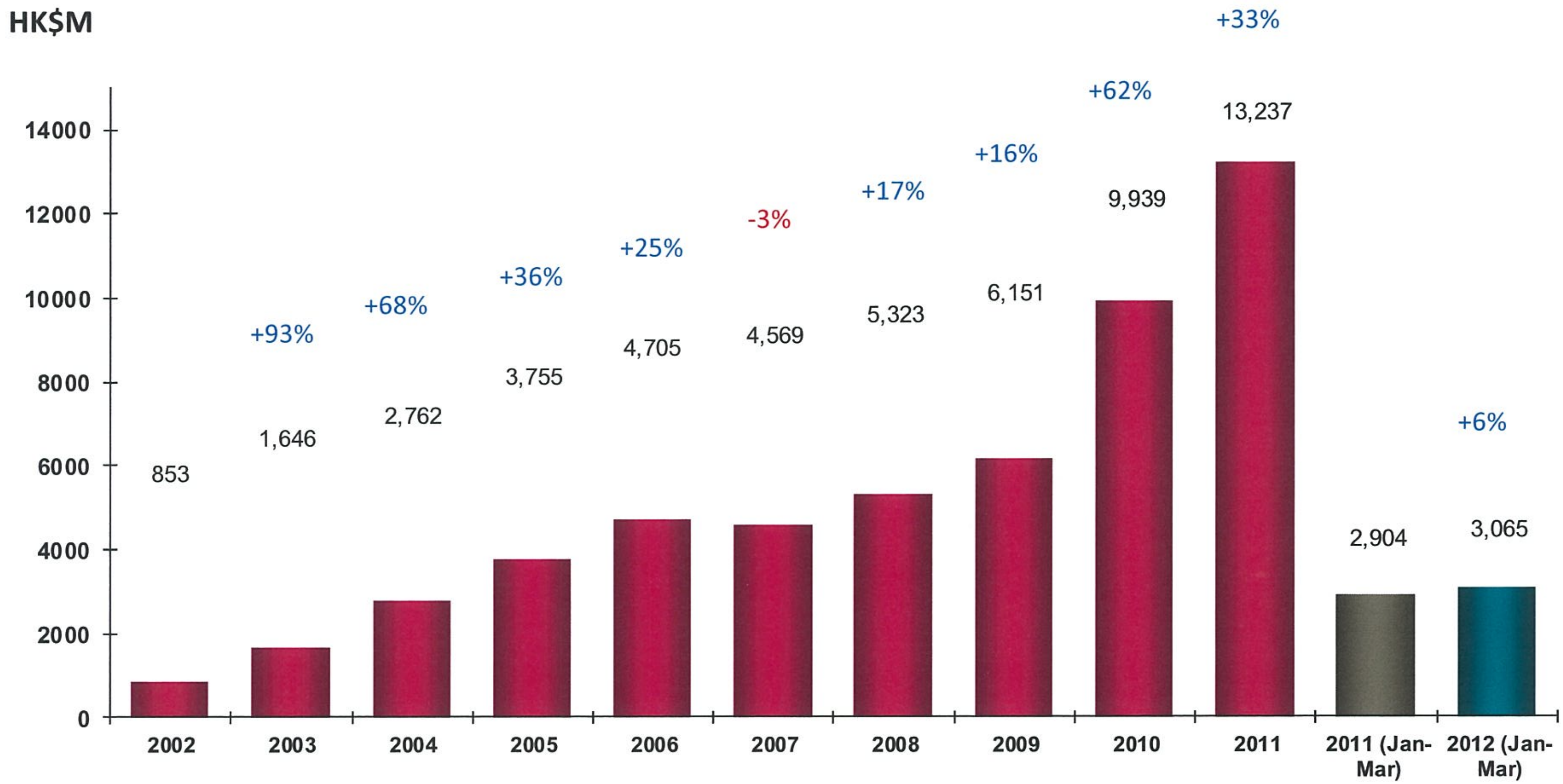


Notes :

1. Ad spend of HD Jade has been included from Jan 2010
2. Ad spend of J2 and iNews has been included from Jan 2011

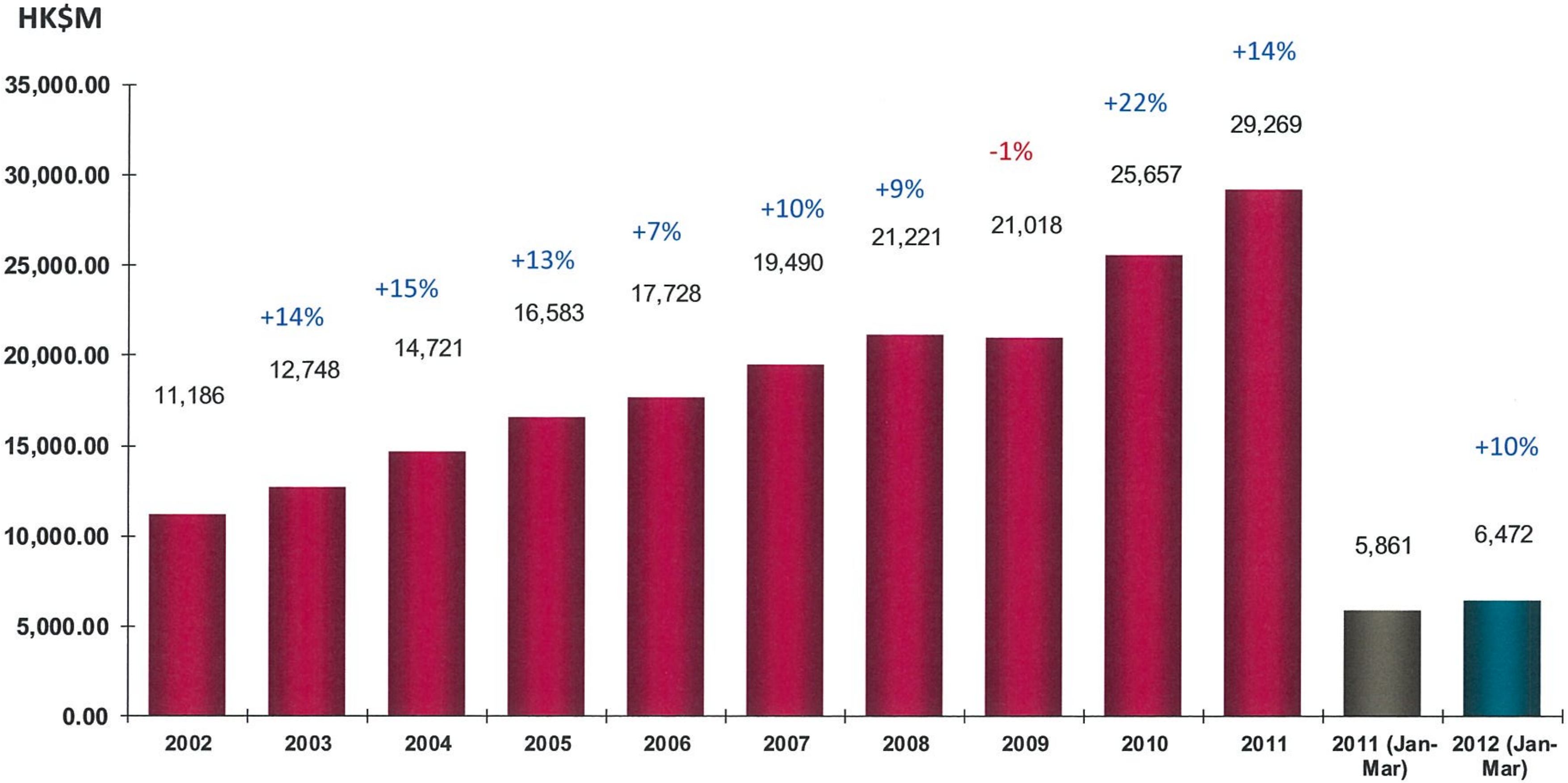
Source : admanGo (monitored figures with listed price)

Advertising Spending - Pay TV



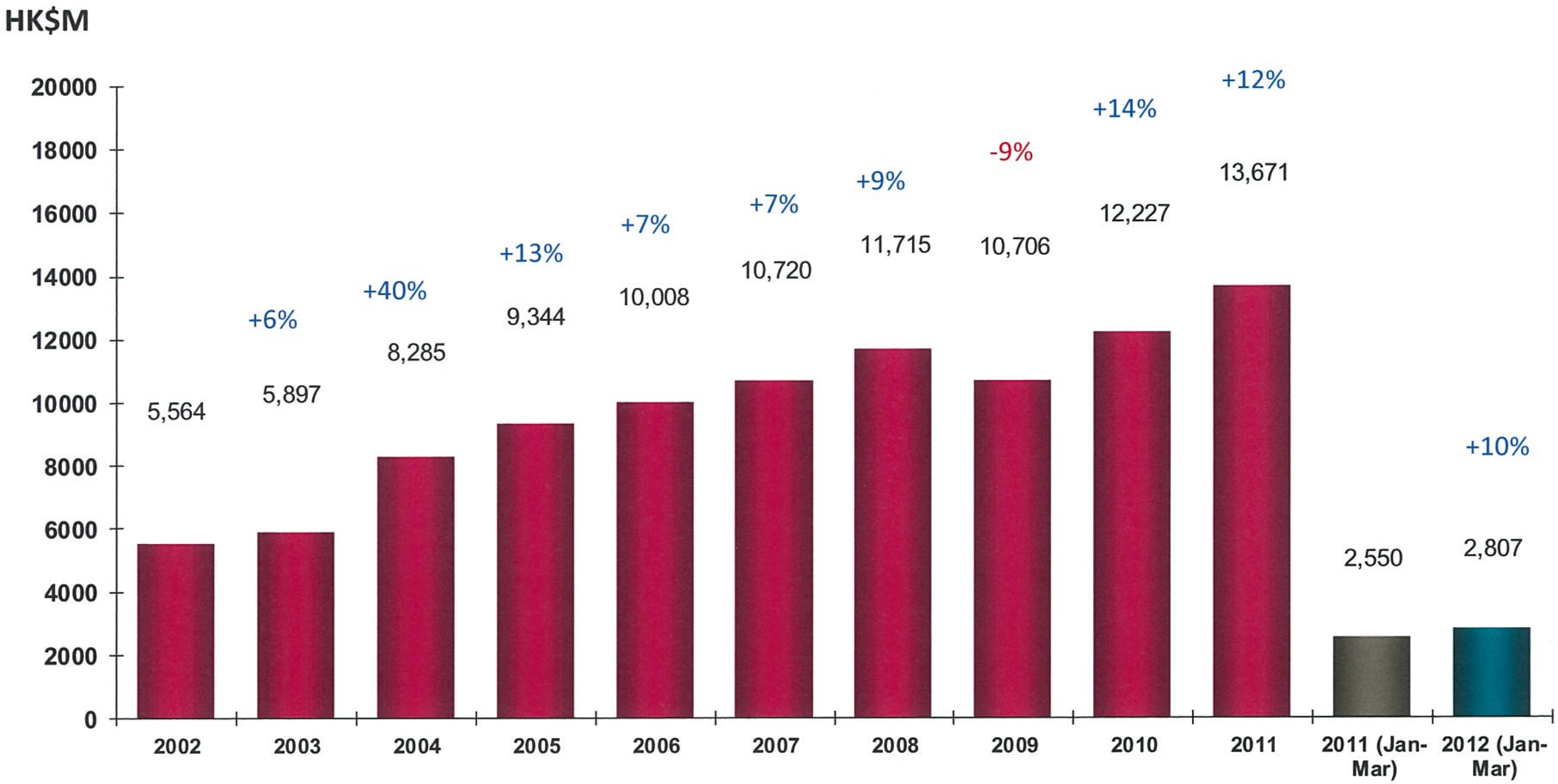
Source : admanGo (monitored figures with listed price)

Advertising Spending - Newspaper



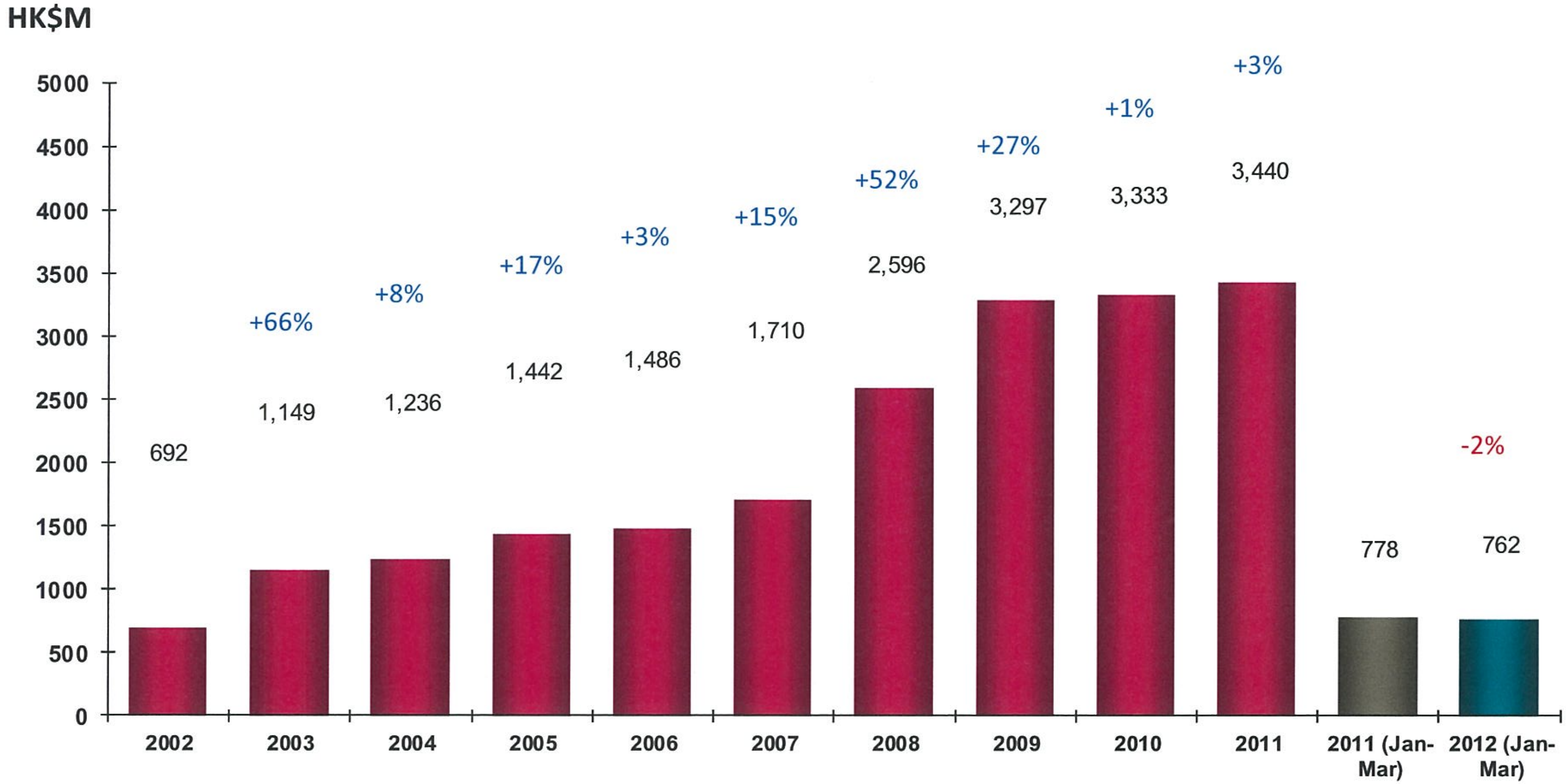
Source : admanGo (monitored figures with listed price)

Advertising Spending - Magazine



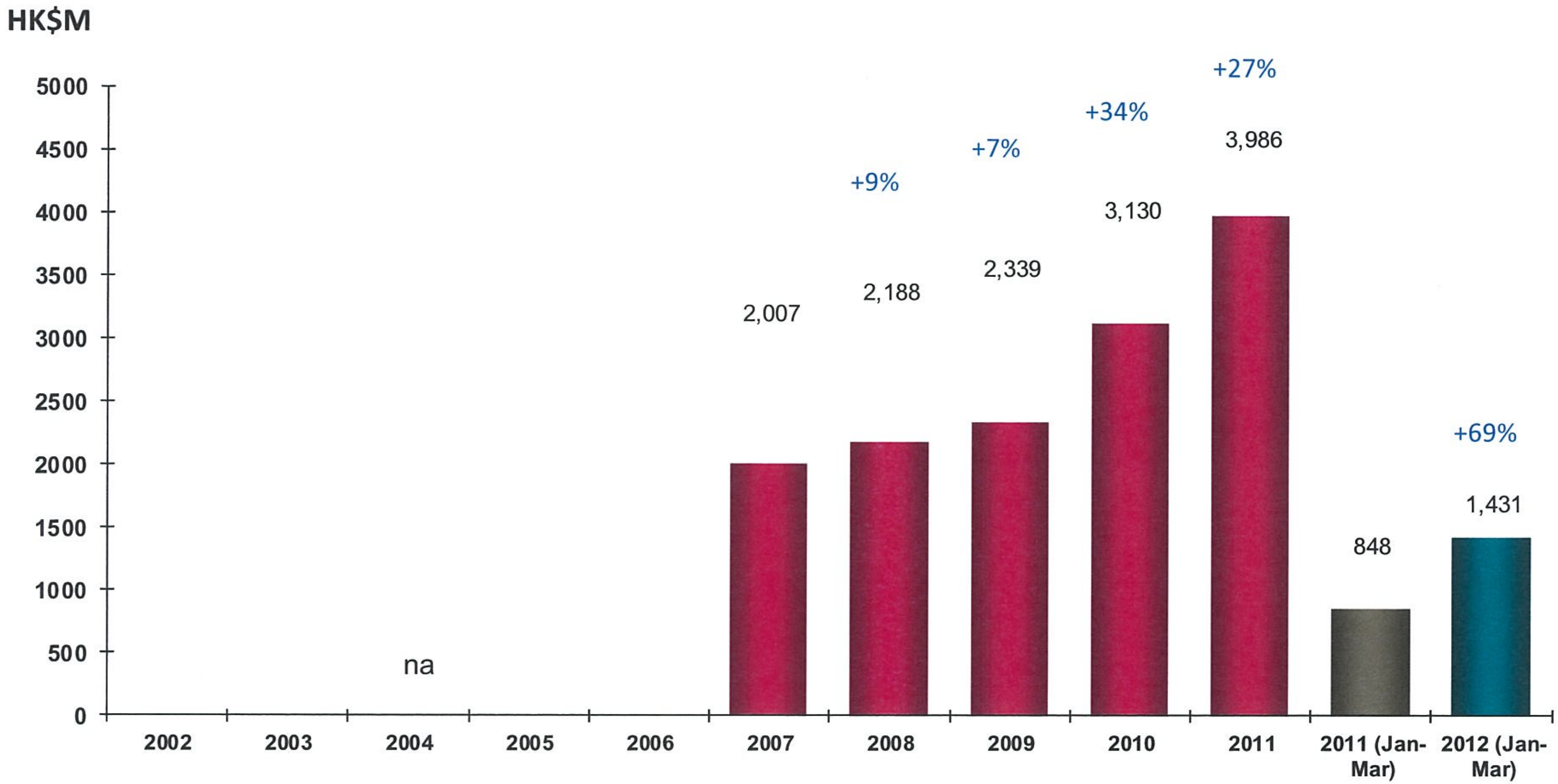
Source : admanGo (monitored figures with listed price)

Advertising Spending - Radio



Source : admanGo (monitored figures with listed price)

Advertising Spending - Online

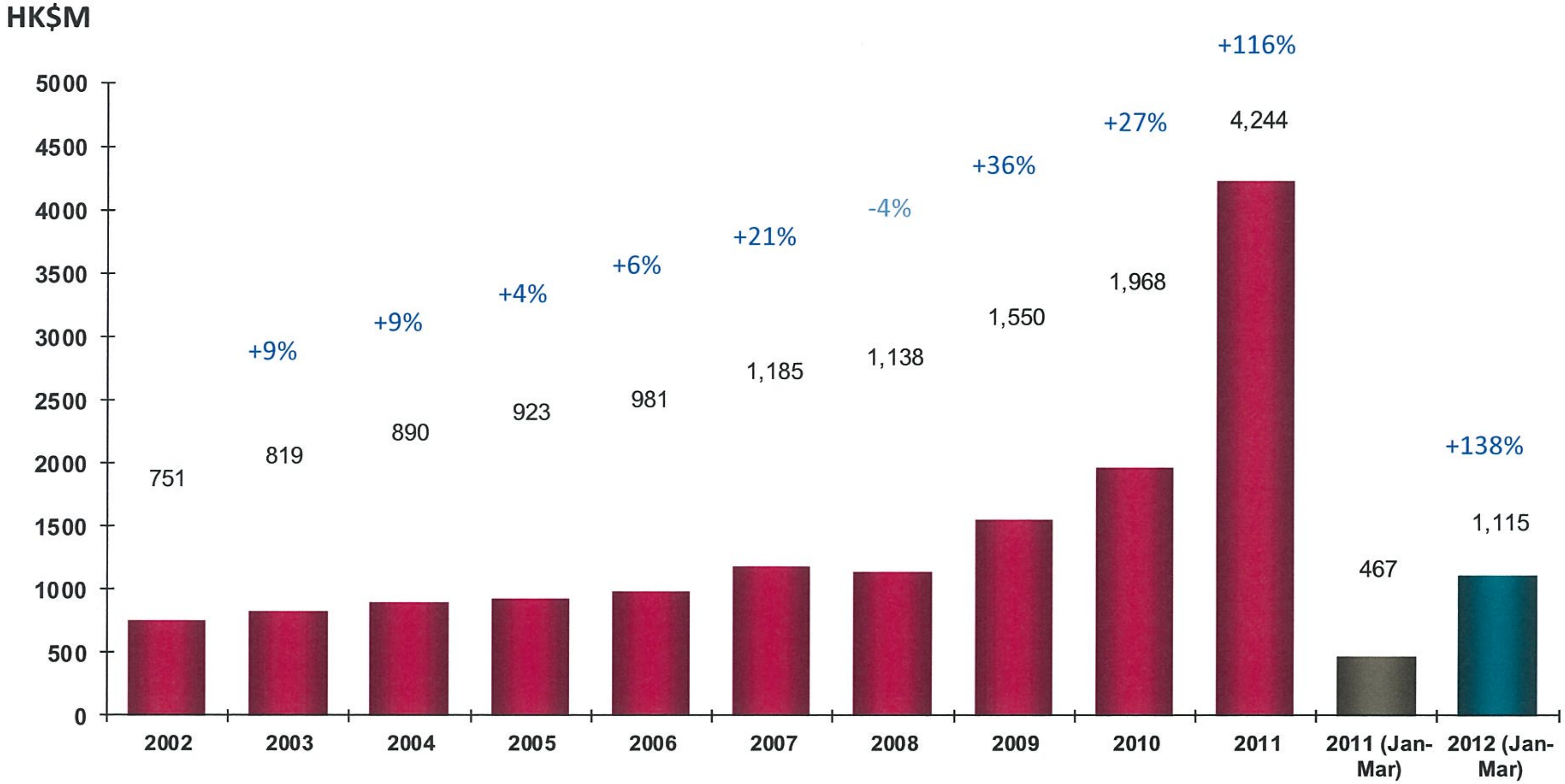


Notes :

1. Online spending included from 2007 onwards

Source : admanGo (monitored figures with listed price)

Advertising Spending - MTR



Notes :

1. MTR has adjusted Digital Ad Space since May 2011.

Source : admanGo (monitored figures with listed price)

ANNEXURE B

Television Broadcasts Limited(0511) - Annual Report 2002
電視廣播有限公司(0511) - 二○○二年度週年報告

CONTENTS
目錄

NOTES TO THE ACCOUNTS (Continued)

1 PRINCIPAL ACCOUNTING POLICIES (Continued)

(p) Segment reporting

In accordance with the group's internal financial reporting the group has determined that business segments be presented as the primary reporting format and geographical as the secondary reporting format.

Segment assets consist primarily of fixed assets, stocks, receivables and operating cash, and mainly exclude investments in securities. Segment liabilities comprise operating liabilities and exclude items such as taxation and borrowings. Capital expenditure comprises additions to fixed assets (note 12).

In respect of geographical segment reporting, sales are based on the country in which the customer is located. Total assets and capital expenditure are where the assets are located.

2 TURNOVER, REVENUE AND SEGMENT INFORMATION

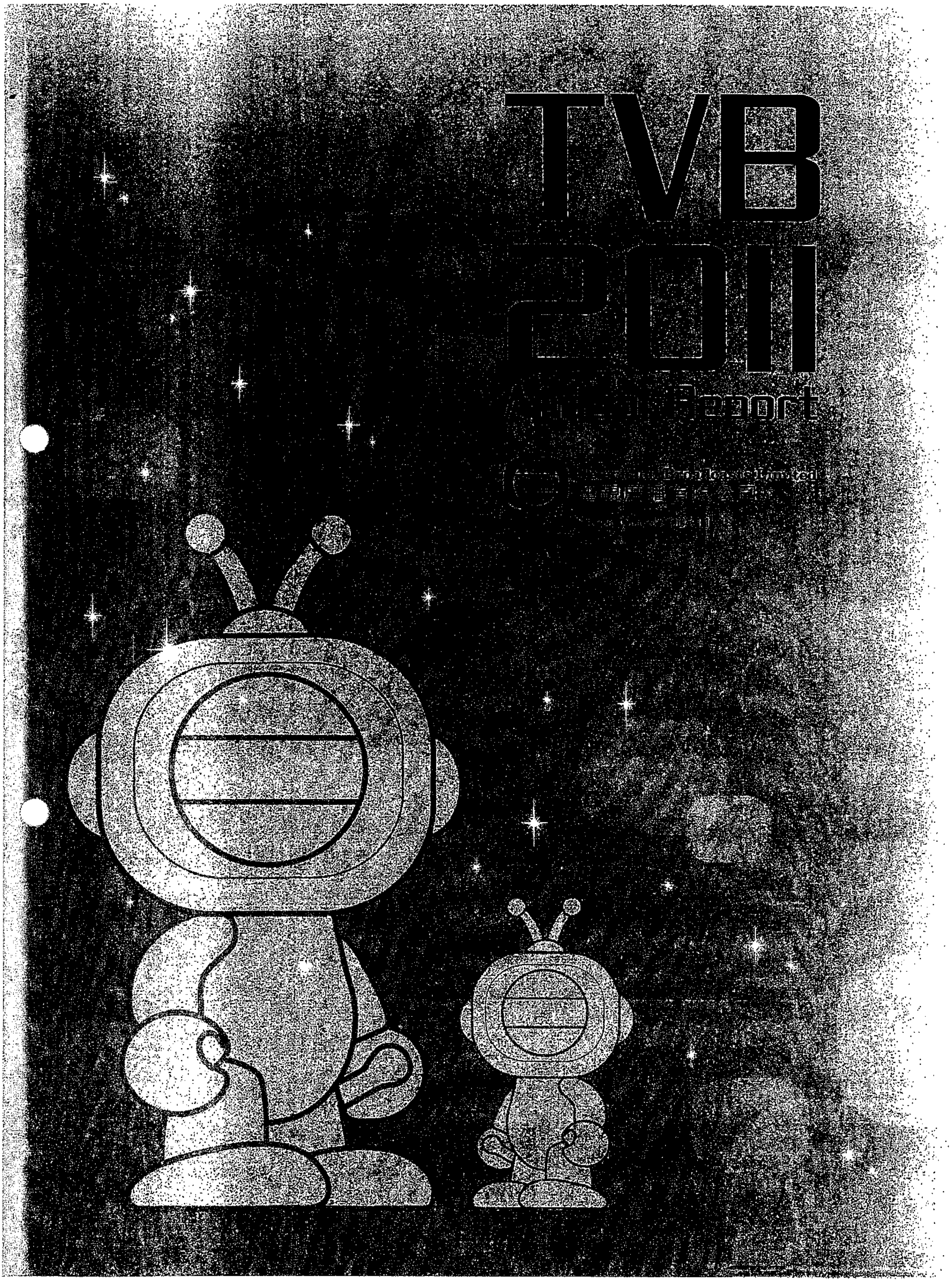
The group is principally engaged in terrestrial television broadcasting with programme production, programme licensing and distribution, overseas satellite pay TV operations, channel operations and other related activities.

Turnover comprises advertising income net of agency deductions, licensing income, subscription income, as well as income from uplink and playback services, video tape rentals, sale of animation productions and sale of magazines.

Other revenues comprise interest income, commercial production income, merchandising income, management fee income, service fee income and facility rental income.

The amount of each significant category of revenue recognised during the year is as follows:

	2002	2001
	HK$'000	HK$'000
Turnover		
Advertising income, net of agency deductions	**2,192,488**	2,460,850
Licensing income	**476,884**	471,194
Subscription income	**382,868**	240,087
Others	**124,121**	109,186
	3,176,361	3,281,317
Less: Withholding tax	**(14,499)**	(16,687)
	3,161,862	3,264,630
Others revenues		
Interest income	**7,786**	49,868
Others	**33,297**	33,305
	41,083	83,173
Total revenues	**3,202,945**	3,347,803


TVB
2011
Report

5 TURNOVER, OTHER REVENUES AND SEGMENT INFORMATION

The Group is principally engaged in terrestrial TV broadcasting with programme production, programme licensing and distribution, overseas satellite pay TV operations, Taiwan operations, channel operations and other related activities.

Turnover comprises advertising income net of agency deductions, licensing income, subscription income, as well as other income from sales of decoders, sales of magazines, programmes/commercial production income, management fee income, facility rental income and other service fee income.

Other revenues comprise mainly interest income and others.

The amount of each significant category of revenue recognised during the year is as follows:

	2011 HK$'000	2010 HK$'000
Turnover		
Advertising income, net of agency deductions	3,403,988	2,970,742
Licensing income	917,554	891,307
Subscription income	535,134	508,228
Others	426,427	367,496
	5,283,103	4,737,773
Less: Withholding tax	(74,238)	(63,117)
	5,208,865	4,674,656
Other revenues		
Interest income	42,695	17,037
Others	15,179	13,626
	57,874	30,663
	5,266,739	4,705,319

城市電訊(香港)有限公司
CITY TELECOM (HK) LTD

城市電訊(香港)有限公司

就本地免費電視節目服務牌照申請的意見

目的

- 就政府處理申請時，不合理及難以理解的延誤表達意見
- 就外界部份反對發新牌照的理據表達意見
- 爲立法會提供最新資料，顯示城市電訊已準備就緒，增加電視市場競爭並爲公眾提供更多服務選擇
- 促請政府就發牌的最終決定訂立時間表

免費電視牌照時序

日期	事件
2009年12月31日	城市電訊向廣播事務管理局遞交申請
2010年1月15日	奇妙電視向廣播事務管理局遞交申請
2010年3月31日	香港電視娛樂向廣播事務管理局遞交申請
2010年7月9日	廣播事務管理局邀請公眾人士就三份申請提出意見
2011年5月23日	報章報道指廣播事務管理局已向行政長官會同行政會議建議發出三個免費電視新牌照
2012年2月10日	亞洲電視就發牌事宜向法庭申請司法覆核
2012年3月6日	高等法院法官林文瀚拒絕亞洲電視的司法覆核申請

城市電訊的意見

- 距離申請已經超過30個月，而廣播事務管理局向行政長官會同行政會議建議發出三個免費電視新牌照亦已超過12個月
- 行政長官曾蔭權於本年2月26日接受商業電台訪問時表示，除出現特別情況，行政會議一般會接納廣播事務管理局的建議
- 城市電訊認爲：
  - 並無特別情況，政府亦沒有表示出現特別情況，影響行政會議考慮有關發牌建議
  - 新牌照涉及公眾利益，敦促行政會議盡快作出最後決定

外界部份反對發新牌照的理據

- 新牌照申請者在市場上的持續發展

  無綫電視意見：

  – 香港市場的廣告收益不足以支持兩家以上的免費電視台；過往十年，免費電視廣告收益並無實質增長

  城市電訊意見：

  – 由2002年至2011年期間，本港各媒體平台，包括收費電視及傳統的免費電視、報章及雜誌的廣告開支均有增長

本港各媒體的廣告開支

- 除免費電視外，各媒體於新加入經營者後，廣告開支仍有明顯增幅

	2002		2011			
	No. of players	Advertising Spending (HKD in million)	No. of players	Advertising Spending (HKD in million)	Cumulative growth (2002-2011)	Compound Annual Growth Rate (CAGR)
Free TV	2	12,843	2	18,241	**41%**	4%
Paid TV	1	853	2*	13,237	**1463%**	36%
Newspaper	13	11,186	19	29,269	**162%**	11%
Magazine	57	5,564	153	13,670	**146%**	11%
Radio	3	692	3	3,440	**399%**	20%

一・回應有關廣告收益並無增長

- 電視廣播有限公司曾表示，過往15年廣告收入並無增長，維持於約30億港元的水平
- 根據電視廣播有限公司的年報，2002至2011年間，其廣告收入增加約55%

二・回應有關新牌照影響投資計劃

城市電訊認爲：

- 兩家電視台於訂立2010至2015年的投資計劃時假設只有兩家電視台，並無法律或事實基礎
- 政府於1998年檢討本地免費電視節目服務牌照時，已清楚表示並無發牌數目限制
- 城市電訊於2009年12月31日遞交申請，其餘兩家牌照申請者亦緊隨提出申請，兩家電視台於2010年6月獲續牌時，應已得悉可能有三家新經營者進入市場
- 懇請議員與政府澄清，有否承諾市場上只會有兩家電視台
- 政府並無責任保護兩家電視台的利益，反而應顧及社會大眾的利益

城市電訊已準備就緒

- 於開始初期提供12條頻道
- 於本年2月開始，於將軍澳工業村興建樓面面積約500,000平方呎的電視及多媒體製作中心內有12個錄影廠
- 自2011年起籌備，現有420名同事的製作隊伍及藝員；待政府發牌，隨時可全面投入運作

結論

- 強烈要求政府盡快審批新牌，鼓勵創作、提升本港免費電視市場，令香港重上亞洲區廣播樞紐的地位

- 競爭不應被視爲障礙，反而能刺激市場發展，有利於公眾利益

- 促請政府爲發牌訂立時間表