



By email (mleung@legco.gov.hk)

Date: 9 December 2011

Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central
Hong Kong

Attention: Ms. YUE Tin-Po
Clerk to the Panel on Information Technology and Broadcasting

Dear Sirs

Re: Panel on Information Technology and Broadcasting – Meeting on 12 December 2011

We refer to your letter of 6 December 2011 in which the Panel on Information Technology and Broadcasting (the “Panel”) invited our Mr. James Shing and Mr. HY Kwong to attend its meeting on 12 December 2011 in respect of item VI of the meeting agenda (namely, the outcome of the Broadcasting Authority’s investigation into the complains against us).

On 5 December 2011, the Broadcasting Authority have released in a press release a report on its findings and sanctions decisions relating to (a) the complaints against our misreporting of the news on the death of the former national leader Mr. Jiang Zemin on 6 and 7 July 2011, (b) the complaints against our program “Wealth Blog” broadcast on 19 and 21 July 2011 and (c) the complaints against our advertising magazine “Corporate Excellence” broadcast on 29 May 2011 and 21 August 2011.

We believe the Broadcasting Authority must have thoroughly investigated into the subject matters. In particular with respect to the complaints referred to in item (a) above, the Broadcasting Authority reported that it had reviewed the recording of the news programmes in question, requested us to submit representations on the issues raised in the complaints, and conducted interviews with relevant parties (including Mr. Shing and Mr. Kwong). The Authority indicated in its report that, where interviewees put forward inconsistent or conflicting accounts as to what happened leading to the misreporting and subsequent events, it had assessed the evidence and reached its findings on balance of probabilities.

We wish to stress that we had provided full cooperation and all necessary information to the Broadcasting Authority in its investigation by making submissions and providing supporting documents. Mr. Shing and Mr. Kwong had also attended interviews with the Broadcasting Authority. A full report on the two sets of complaints as referred to in items (b) and (c) above was submitted by us to the Panel on 14 November 2011. As the Broadcasting Authority had already reported on its findings, we trust that it is in a position to answer the inquiries asked at the Panel meeting on the evidence it had obtained.

香港新界大埔工業邨大盛街 25-37 號
25-37 Dai Shing Street, Tai Po Industrial Estate, Tai Po, N.T., H.K.



Further, we are currently seeking legal advice on the implications of the Broadcasting Authority's decisions relating to the complaints referred to in items (a), (b) and (c). We do not wish to take any steps which might prejudice our position on such matters, including attending the forthcoming Panel meeting on 12 December 2011.

On a separate note, if the Honourable Members of the Legislative Council are interested in the role played by Mr. Wong Ching in Asia Television Limited, we wish to point out the following:

- (1) There is an ongoing investigation conducted by the Broadcasting Authority under *section 25* of the *Broadcasting Authority Ordinance* into the role of Mr Wong Ching in the control and management of Asia Television Limited and the aim of the investigation is to determine whether we may have breached our licensing condition, and if so, the Broadcasting Authority may revoke the licence or impose penalties.
- (2) We have received preliminary legal advice that the subject matter of the Broadcasting Authority's ongoing investigation is *sub judice*, given that the nature of the investigation is quasi-judicial, wherefore the *sub judice* rule applies (whether directly or by analogy) such that neither the Legislative Council nor we are expected to take any steps which might carry the consequence of either impeding or prejudicing the such investigation: see *Halsbury's Laws of England (4th ed Reissue) Vol 9(1)*, §§421, 422 and 424.

Lastly, the notice which the Panel has given for the meeting is too short and does not allow sufficient time for us to take full legal advice in relation to such meeting. Also, our Mr. Shing and Mr. Kwong had prior travelling plans which could not be re-scheduled.

Based on the above grounds, we do not intend to send representatives to attend the Panel meeting on 12 December 2011.

Yours faithfully,

James Shing
Executive Director
Asia Television Limited