

The Legislative Council Meeting on 28 November 2012

Motion on “Domestic free television programme service licence applications”

Progress Report

Purpose

At the Legislative Council meeting on 28 November 2012, the above motion moved by the Hon Claudia Mo, as amended by Ir Dr Hon Lo Wai-kwok, was carried. The wording of the motion carried is at **Annex**.

2. This report sets out the progress of processing the three applications for domestic free television programme service licence (the free TV licence applications).

Prevailing Broadcasting Policy and Licensing Regime

3. The Government’s broadcasting policy objectives have all along been to broaden programme choices, encourage innovation, maintain Hong Kong’s competitiveness and enhance its position as a regional broadcasting hub. In 1998, the Government conducted a comprehensive review of television policy. The public was consulted during the review process. Upon completion of the review, the Government announced in 1998 its decision to open up the television market. This policy remains unchanged up to now.

4. In line with the above published policy, the Broadcasting Ordinance (BO) (Cap. 562) enacted in July 2000 has not specified any limit on the number of free TV licences to be issued by the Chief Executive (CE) in Council. Section 9(2) of the BO provides that the Communications Authority (or the Broadcasting Authority before 1 April 2012¹) (the Authority) shall consider applications for a domestic free television programme service licence and make recommendations thereon to the CE in Council.

5. Section 9(3) of the BO further provides that the Authority shall consult the public on the application by publishing a notice in the Gazette stating the name of the applicant and the type of licence sought by the

¹ The Broadcasting Authority has been replaced by the Communications Authority since 1 April 2012, with the latter taking over all functions of the former and becoming a unified regulatory body tasked with overseeing the broadcasting and telecommunications sectors.

applicant together with such other particulars as the Authority thinks fit. Interested members of the public may forward their representations on the application to the Authority by a date specified in the notice, being a date not less than 21 days after the notice is published. The Authority shall consider the representations received.

6. Section 10(1) of the BO provides that after considering recommendations made by the Authority, the CE in Council may grant a domestic free television programme service licence, subject to such conditions as it thinks fit specified in the licence.

Processing of the Free TV Licence Applications

7. Hong Kong Television Network Limited², Fantastic Television Limited and HK Television Entertainment Company Limited submitted the free TV licence applications on 31 December 2009, 15 January 2010 and 31 March 2010 respectively.

8. Earlier on, the Authority completed the assessment in accordance with the BO and established procedures, and made recommendations to the CE in Council on the free TV licence applications.

9. As set out in the “Guidance Note for Those Interested in Applying for Domestic Free Television Programme Service Licences in Hong Kong”, the Authority assessed the free TV licence applications in accordance with the following criteria –

- (a) financial soundness and commitment to investment;
- (b) proven managerial and technical expertise;
- (c) the variety, quantity and quality of programmes;
- (d) technical soundness and a satisfactory quality of service;
- (e) speed of service roll-out;
- (f) minimum inconvenience to members of the public;

² City Telecom (HK) Limited has been renamed as Hong Kong Television Network Limited with effective from 10 January 2013.

- (g) benefit to the local broadcasting industry, viewers/customers and the economy as a whole; and
- (h) quality control and compliance.

10. The Authority also took into account the public views received in processing the free TV licence applications. Pursuant to the BO and its consultation guidelines, the Authority published notices on the free TV licence applications on 9 July 2010 in the Gazette, one Chinese newspaper and one English newspaper, and uploaded them onto its website. By the end of the two-month consultation on 8 September 2010, the Authority received a total of 256 submissions, covering a large number of areas such as the variety and quality of programmes, technical viability, commitment to investment and impact on the broadcasting industry and the viewing audience, etc. The Authority had regard to all views gathered when formulating its recommendations and submitted a summary of such views to the CE in Council for consideration.

11. Since the Authority's submission of its recommendations, the Government has been processing each free TV licence application expeditiously and prudently in accordance with established procedures and the requirements under the BO. The processing of the free TV licence applications involve complicated issues, including those relating to the statutory requirements and procedural fairness, the handling of which is time-intensive. During the process, new developments emerge, such as an interested party's attempt to appeal to the CE in Council by way of petition against the Authority's recommendation and the subsequent judicial review against the CE in Council's relevant decision. It takes time to handle these issues which concern statutory requirements and procedures.

Way Forward

12. The CE in Council will continue to process the free TV licence applications in strict compliance with the relevant procedures. The outcome will be announced as soon as possible after a decision is made by the CE in Council.

**Commerce and Economic Development Bureau
January 2013**

(Translation)

**Motion on
“Domestic free television programme service licence applications”
Moved by Hon Claudia MO
at the Council meeting of 28 November 2012**

Motion as amended by Ir Dr Hon LO Wai-kwok

That, given that the progress of vetting the three applications for domestic free television programme service licences (‘free TV licences’) has always been of major concern to the society, but the Government has not yet announced the application results, causing various speculations in society; in order to give the local free television industry a business environment for fair competition and sustainable development, this Council puts forward the following views and recommendations, and urges the relevant authorities to respond positively, including:

- (a) as the Government has been promoting a pluralistic and open society, but on the applications for free TV licences, it has not made a decision after almost three years, this Council therefore requests the Government to undertake to issue additional free TV licences before the end of March next year and issue the licences as soon as possible;
- (b) as the cultural and creative industry is one of the six industries where Hong Kong enjoys clear advantages, and in Hong Kong a considerable number of young people enroll in relevant multi-media courses, in order to increase employment opportunities for these young people and facilitate the development of creative media, the Government should proactively formulate the relevant policies and measures; and
- (c) the Government should make the vetting process of free TV licence applications open and transparent to dispel public misgivings; the relevant broadcasting ordinances and codes of practice should keep pace with the times and, on a fair and equal basis, apply across the board to existing free TV licensees and operators joining the competition in the future.