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立法會參考資料摘要

《廣播條例》條例
(第 562 章)

奇妙電視有限公司
本地免費電視節目服務牌照申請

引言

在二零一六年五月三十一日的行政會議上，行政會議建議和行政長官指令－

- (a) 按通訊事務管理局(通訊局)根據《廣播條例》(第562章)(條例)第9(2)條提交的建議，**批准**奇妙電視有限公司(奇妙電視)提出的本地免費電視節目(免費電視)服務牌照申請(有關申請)；
- (b) 根據條例第8(1)條及第10(1)條，**通過附件A**所載的免費電視服務牌照擬本，並向奇妙電視批出牌照，牌照期由上文(a)項所述作出決定當日起計，為期12年；
- (c) **通過**憲報公告擬本(載於**附件B**)，訂明有關奇妙電視免費電視服務牌照有效期及對該牌照作出覆檢的期間；以及
- (d) 根據《防止賄賂條例》(第201章)第35條，制定載於**附件C**的《2016年防止賄賂條例(修訂附表1)令》將奇妙電視指明為公共機構。

理據

根據法定架構處理有關申請

2. 條例第8至10條訂明免費電視服務的發牌制度。概括而言，任何有意申請的機構均可隨時向通訊局提出免費電視服務牌照申請。通訊局在接獲免費電視服務牌照申請後，須考慮該等申請，並就申請向行政長官會同行政會議作出建議。行政長官會同行政會議考慮通訊局的建議後，可向申請機構批出免費電視服務牌照，而牌照須受行政長官會同行政會議認為合適的條件所規限。

3. 奇妙電視於二零一零年一月十五日提交有關申請。在審議有關申請及另外兩宗免費電視服務牌照申請(即分別在二零一零年三月及二零零九年十二月收到由香港電視娛樂有限公司及香港電視網絡有限公司提出的申請)後，行政長官會同行政會議在二零一三年十月十五日決定採用循序漸進方式，為免費電視服務市場引入競爭，原則上批准奇妙電視的有關申請和另一宗由香港電視娛樂提出的申請，但正式批出牌照與否，仍須視乎行政長官會同行政會議在第二階段(第二階段)¹進一步檢視並根據條例作出最終決定。有關通訊局在第二階段的跟進工作詳情載於以下第15至18段。

通訊局在第二階段的評核結果

4. 通訊局在其評核中已考慮下列因素－

(a) 是否符合條例訂明的法定要求；

(b) 通訊局發出的《本地免費電視節目服務牌照申請指南》

¹ 第二階段指在稍後階段時，行政長官會同行政會議將獲邀考慮是否根據條例第8(1)條及第10(1)條，分別向香港電視娛樂及奇妙電視正式批出免費電視服務牌照。

(申請指南)第 V 部所載列的評核準則；

- (c) 行政長官會同行政會議指令須作出的額外承諾；
- (d) 所收到的公眾意見：包括自行政長官會同行政會議公布原則上批准有關申請的決定以來公眾主動提交的意見；以及
- (e) 奇妙電視能否遵守建議施加的牌照條件。

除上述評核外，通訊局向行政長官會同行政會議作出建議時，亦已考慮政府各局／部門就規管模式的相關政策考慮因素。

(A) 符合條例訂明的法定要求

5. 通訊局已於二零一三年十月至二零一五年一月期間審核奇妙電視的更新申請(更新申請)，檢視其是否符合條例訂明的法定要求。通訊局的最終評核結果如下－

(a) *非附屬公司的規定(條例第8(3)條及附表4第2條)*

根據條例第8(3)條及條例附表4第2條，公司如屬某法團的附屬公司，不得獲批給或持有免費電視服務牌照。奇妙電視在二零一零年一月提交原有申請時，是有線寬頻通訊有限公司(有線寬頻)的附屬公司。在獲給予原則上批准前，奇妙電視曾承諾在獲得行政長官會同行政會議原則上批准申請後的30日內，並於正式獲發免費電視服務牌照前，進行擬議的企業改組，使該公司不再是任何法團的附屬公司。擬議的企業改組涉及將由有線寬頻持有85.1%奇妙電視的有表決權股份，轉讓予兩名全權信託人，兩人所持的股數相同，而有線寬頻則會保留奇妙電視14.9%的有表決權股份(以及100%的無表決權股份)。

奇妙電視於二零一六年三月十一日確認已完成擬議的企業改組，並提交相關文件，包括承諾書、法定聲明、信託聲明、信託服務的協議及獨立法律意見，以供通訊局核實其公司狀況。通訊局注意到，儘管奇妙電視已完成的企業改組與原有申請所建議的相同，惟其中有一項重要變動，亦即原有的受託人已由兩名新的受託人取代。在擬議的企業改組完成後，兩名新的全權信託受託人，即Great Vision PTC Limited (Great Vision)和HKTC PTC Limited (HKTC PTC)各自持有奇妙電視42.55%的有表決權股份，而有線寬頻則保留奇妙電視14.9%的有表決權股份(以及100%的無表決權股份)。

根據奇妙電視所提供的資料，通訊局信納奇妙電視符合條例訂明的非附屬公司的規定。

(b) 註冊為公司的規定²(條例第8(1)條及第8(4)(c)條)

奇妙電視表示，該公司是根據《公司條例》(第622章)在香港註冊及成立為法團的公司，並已獲組織章程細則賦權全面遵從條例的條文和免費電視服務牌照的條款及條件。

(c) 居港規定(條例第8(4)(a)條)

奇妙電視表示，該公司及其董事和主要人員符合居港規定³。

² 條例第 8(4)(c)條訂明，持牌人應根據其組織章程細則獲賦權全面遵從條例條文及其牌照條件。

³ 條例第 8(4)(a)條訂明，為符合居港規定，申請機構須證明－

- (a) 持牌機構符合「通常居於香港」的定義(條例第 8(4)(a)(i)條)。這指－
 - (i) 機構過半數董事(假設有多於兩名董事)必須是在當其時屬通常居於香港，並最少曾於一段不少於七年的連續期間通常居於香港的個人；以及
 - (ii) 機構的控制及管理是真正在香港作出及進行；以及
- (b) 機構過半數董事及主要人員(包括負責挑選或製作節目或安排節目播放時間的主要人員)通常居於香港，並最少曾於一段不少於七年的連續期間通常居於

(d) 適當人選的規定(條例第21條)

奇妙電視表示，該公司及所有對該公司行使控制的人⁴，均符合適當人選的準則⁵。

(e) 對受限制表決控權人的限制⁶(條例附表1第20(1)條)

奇妙電視表示，根據目前的持股量結構，沒有受限制表決控權人須經通訊局批准，才能持有在奇妙電視的總計表決控制權中佔 2%或多於 2%之數⁷。

香港(條例第 8(4)(a)(iv)條)。

就個人而言，「通常居於香港」指在任何公曆年內，居於香港不少於 180 天；或在任何連續兩個公曆年內，居於香港不少於 300 天。

- ⁴ 根據條例附表 1 第 1(6)條，任何人如屬下述人士，即屬對某法團行使控制－
- (a) 該法團的董事或主要人員；
 - (b) 實益擁有該法團多於 15%的有表決權股份的實益擁有人；
 - (c) 該法團多於 15%的有表決權股份的表決控權人；或
 - (d) 憑藉規管該法團或任何其他法團的組織章程大綱或章程細則或其他文書所賦予的權力，具有確保該法團的事務是按照其意願處理的權力的人。
- ⁵ 條例第 21(1)條規定，持牌人及任何對持牌人行使控制的人，須為適當人選，並須保持為適當人選。根據條例第 21(4)條，在決定持牌人或對持牌人行使控制的人是否適當人選時，須考慮－
- (a) 持牌人或該人的業務紀錄；
 - (b) 持牌人或該人在其必須具誠信公正品格的情況下的紀錄；
 - (c) 持牌人或該人在香港的刑事紀錄，而該等紀錄是關於香港法律所訂的涉及賄賂、偽造帳目、貪污或不誠實的罪行的；以及
 - (d) 持牌人或該人在香港以外地方的刑事紀錄，而該等紀錄所關乎的行為，假若是在香港作出的即會構成或組成上文(c)段所述的持牌人或該人的香港刑事紀錄部分內容者。
- ⁶ 根據條例附表 1 第 1(1)條，受限制表決控權人指不屬「一般表決控權人」的表決控權人。至於一般表決控權人，就個人而言，指符合「通常居於香港」規定並最少曾於一段不少於七年的連續期間通常居於香港的個人；就法團而言，過半數董事須符合「通常居於香港」規定並最少曾於一段不少於七年的連續期間通常居於香港，而法團的控制及管理均真正在香港作出及進行，該法團才視為一般表決控權人。某人憑藉擔任條例附表 1 第 1(1)條所列的職位，亦可符合資格成為「一般表決控權人」。
- ⁷ 如事先未經通訊局批准，受限制表決控權人不得持有、獲取、或行使、或導致或准許他人行使，在免費電視服務持牌機構的總計表決控制權中合計佔 2%或多於 2%之數(條例附表 1 第 20 條)。

(f) 不符合持牌資格人士的限制⁸(條例附表1第3(1)條、第3(2)條及第33(1)條)

奇妙電視表示，沒有不符合持牌資格人士對公司行使控制。

根據奇妙電視在二零一六年三月所提供的資料，通訊局信納奇妙電視及所有對該公司行使控制的人(包括其董事及主要人員)，均符合上文(b)至(f)項的法定要求。

(g) 向通訊局申請關於建議免費電視服務是否以香港為主要目標市場的裁定(條例第12(2)條)

奇妙電視根據條例第 12(2)條向通訊局提出申請，要求該局參考條例第 12(6)條所載的因素⁹，基於下述理由，裁定其建議服務以香港為主要目標市場－

(i) 服務涵蓋範圍－擬議服務將會使用覆蓋香港的固定

⁸ 根據條例附表 1，不符合持牌資格人士指從事某些類別業務或與該等業務有關連的人士或公司，他們不可持有免費電視服務牌照或對持牌人行使控制，除非行政長官會同行政會議應有關持牌人提出的申請，信納為公眾利益而有此需要並予以批准。下列不符合持牌資格人士不得對本地免費電視節目服務持牌人行使控制－

- (a) 其他電視節目服務牌照的持牌人(條例附表 1 第 4 條)；
- (b) 聲音廣播持牌人(條例附表 1 第 5 條)；
- (c) 廣告宣傳代理商(條例附表 1 第 6 條)；
- (d) 在香港印刷或製作的報刊(包括雜誌)的東主(條例附表 1 第 7 條)；
- (e) 對上文(a)至(d)項所述的人行使控制的人(條例附表 1 第 4 至 7 條)；以及
- (f) 上文(a)至(e)項所述的人的相聯者(條例附表 1 第 8 條)。

⁹ 在裁定任何電視節目服務是否以香港為主要目標市場時，須考慮(但不限於)以下事項－

- (a) 該服務是否涵蓋香港；
- (b) 該服務的廣告及收看費的收入(如適用的話)是否主要來自香港；
- (c) 提供該服務的語言，以及該服務目標市場的觀眾性質及人數；以及
- (d) 持牌人有否在香港積極推廣該服務或由第三方代其在香港積極推廣該服務。

網絡傳送；

(ii) 收入－廣告收入來源將會主要來自香港；

(iii) 語言－擬議服務將會以粵語及英語廣播；以及

(iv) 市場推廣－奇妙電視將會積極向香港觀眾推廣其服務。

根據奇妙電視所提交的資料，通訊局信納該公司的建議免費電視服務將會以香港為主要目標市場。

(B) 根據通訊局申請指南載列的準則作出的考慮

6. 申請指南訂明八項概括準則，通訊局根據各項準則，對奇妙電視有關申請的最新資料進行評核，結果如下－

(a) *申請機構在財政上的穩健程度*

財政上的穩健程度

奇妙電視表示，有線寬頻是上市公司，在二零一六年五月六日的資本市值為港幣 11.87 億元，該公司會在財政上全力支持奇妙電視的營運。有線寬頻已向通訊局提交承諾書，確認會在財政上支持奇妙電視的營運。

通訊局信納奇妙電視在財政上的穩健程度。

投資額

奇妙電視在有關申請獲原則上批准後，建議在首六年營運期內累積投資港幣 11.76 億元。

通訊局認為，相對於亞洲電視有限公司(亞視)及電視廣播有限公司(無綫)各自建議在二零一六至二零二一年間投資的金額，奇妙電視建議的投資額雖然較低，但以其建議的免費電視服務範圍和規模而言，屬於相稱，可以接受。

(b) *在投資方面所作出的承擔*

奇妙電視建議簽訂履約保證(保證金額為港幣 2,000 萬元)，以開展服務時間、傳送網絡覆蓋單位數目及投資開支為里程碑。

通訊局認為奇妙電視建議的履約保證可以接受。

(c) *申請機構是否具備營辦建議廣播服務所需的技術專門知識和相關管理技巧*

奇妙電視的董事局及主要人員具備營辦奇妙電視建議廣播服務所需的技術專門知識和相關管理技巧。

(d) *擬提供的節目種類、數量及質素*

奇妙電視就擬提供的節目種類及質素提出下述事項—

(i) 粵語綜合頻道及英語綜合頻道

奇妙電視承諾在獲發免費電視服務牌照後 12 個月及 24 個月內，分別開設一條粵語綜合頻道(粵語頻道)和一條英語綜合頻道(英語頻道)。兩條頻道將會提供 24 小時服務。

(ii) 指定播放節目規定

奇妙電視同意符合下述指定播放節目規定—

- (1) 新聞節目(在每條粵語頻道及英語頻道每日播放30分鐘的節目)；
- (2) 紀錄片(在每條粵語頻道及英語頻道每星期播放60分鐘的節目，當中包括在粵語頻道每星期播放30分鐘完全屬香港本地製作的節目¹⁰)；
- (3) 時事節目(在每條粵語頻道及英語頻道每星期播放60分鐘的節目，當中包括在每條粵語頻道及英語頻道每星期播放30分鐘完全屬香港本地製作的節目)；
- (4) 兒童節目(在每條粵語頻道及英語頻道每日播放60分鐘的節目，當中包括在粵語頻道每日播放30分鐘完全屬香港本地製作的節目，以及在英語頻道每星期最少播放兩小時以青少年為對象並具教育意義的節目)；
- (5) 年輕人節目(只須在粵語頻道每星期播放30分鐘的節目)；
- (6) 長者節目(只須在粵語頻道每星期播放60分鐘的節目)；以及
- (7) 文化藝術節目(在粵語頻道每星期播放 60 分鐘

¹⁰ 「完全屬香港本地製作」指一

(a) 節目

(i) 在本質和形式上在香港製作；或

(ii) 由持牌機構、或持牌機構的任何僱員、或條例第 2(1)條所指任何附屬於持牌機構的公司或其僱員，或由持牌機構僱用的在香港或境外的任何其他獨立製作公司製作；以及

(b) 通訊局信納是以香港市場為主的製作。

的節目，當中包括每星期播放 15 分鐘完全屬香港本地製作的節目)。

為給予新免費電視服務持牌機構更大彈性，通訊局認為新持牌機構應獲准逐步增加播放屬於「完全屬香港本地製作」的指定播放節目如下－

- (a) 「完全屬香港本地製作」的規定將會在啓播後 24 個月內適用於粵語頻道(相對原先承諾為 12 個月)；以及
- (b) 「完全屬香港本地製作」的規定將會在啓播後 36 個月內適用於英語頻道(相對原先承諾為 24 個月)。

(iii) 播放香港電台(港台)節目¹¹及學校電視節目(教育電視節目)¹²的要求

經考慮商務及經濟發展局局長(商經局局長)及教育局關於提供港台節目及教育電視節目的意見後，通訊局同意－

港台節目

- (1) 港台提供的節目一直以來對彌補商營廣播服務的不足十分重要。盡量擴闊港台節目的觀眾接觸面，是符合公眾利益的做法。由於奇妙電視使用

¹¹ 現時，無綫須按通訊局的指示，提供每星期最少三小時半港台節目。一俟通訊局批准香港電視娛樂的申請，讓其除了可使用固定網絡外，亦可使用頻譜作為新增的傳送模式，傳送其持牌免費電視服務，香港電視娛樂須按指示，由二零一七年四月一日起，提供每星期最少二小時半港台節目。

¹² 通訊局已指示無綫，須在每個上課日播放一小時教育電視節目。另一方面，亞視於二零一六年四月二日終止其免費電視服務後，港台已接替亞視播放教育電視節目(每個上課日播放一小時)。

固定網絡傳送服務，並只能逐步達到覆蓋全港的目標，因此無法在投入營運後首數年內，便具備擴闊觀眾接觸面的能力。即使要求奇妙電視在未來數年內播放港台節目，亦不大可能顯著提升港台節目播送到各家各戶的能力；

- (2) 為了增加準免費電視服務持牌機構在節目播放安排上的彈性，只要亞視及無綫繼續按現行安排廣播¹³，奇妙電視(如獲批給牌照)應獲准選擇是否在其平台播放港台節目，直至就其免費電視服務牌照進行中期檢討為止；
- (3) 倘若奇妙電視播放港台節目，在決定其是否符合指定播放節目的規定時，可把港台節目時數計算在內；以及

教育電視節目

- (4) 同樣基於上文(1)段所述的理由，在亞視及無綫會繼續按現行播放安排¹⁴的前提下，通訊局不應指示奇妙電視(如獲批給牌照)播放教育電視節目，直至就其免費電視服務牌照進行中期檢討為止。然而，奇妙電視的免費電視服務牌照須反映通訊局保留其法定權力，日後可指示奇妙電視播放教育電視節目。

¹³ 上述意見的前提是：亞視及無綫將獲得續牌，並在獲續牌的年期內維持同樣遍及全港的覆蓋範圍；以及奇妙電視獲批給牌照後，會根據協定的開展服務承諾，使用固定網絡傳送免費電視服務。在二零一五年四月一日，行政長官會同行政會議指令根據條例第 11(5)條，不將亞視的免費電視服務牌照續期。

在二零一六年一月，通訊局批准香港電視娛樂的申請，讓其除了可使用固定網絡外，亦可使用頻譜作為新增的傳送模式，傳送其持牌免費電視服務，但其中一項條件是在建議傳送安排生效後，香港電視娛樂所須遵守的節目規定，須與現時適用於無綫的節目規定(包括播放港台節目)大致相同。

¹⁴ 請參閱註腳 13。

奇妙電視備悉上述關於港台及教育電視節目的意見，並且沒有就港台節目提出任何關乎廣播安排的建議。

(iv) 字幕

奇妙電視同意按照前廣播事務管理局(廣管局)所建議並經行政長官會同行政會議接納的方式，逐步提供字幕服務，詳情如下－

- (1) 粵語及英語頻道啓播後18個月內，為所有新聞、時事節目、天氣報告和緊急公告提供字幕；
- (2) 粵語頻道啓播後24個月內，為晚上七時至晚上十一時播放的節目提供中文字幕；以及
- (3) 英語頻道啓播後六個月內，為每星期以青少年為對象並具教育意義的兩小時英語節目提供英文字幕。

(v) 高清晰度(高清)電視服務

奇妙電視建議其粵語頻道的節目，以高清格式提供。

(e) 建議廣播服務的質素及技術可行性

(i) 傳送方式

奇妙電視建議租用香港有線電視有限公司(有線電視)營辦的混合光纖同軸電纜網絡傳送免費電視服務。至於未有混合光纖同軸電纜網絡未有覆蓋的大廈，如獲通訊局批准，奇妙電視會採用有線電視營辦的微波多點傳輸系統平台，傳送其免費電視服務。

通訊局認為，奇妙電視以上述網絡傳送其免費電視服務可以接受。

(ii) 模擬及數碼服務

奇妙電視透過大廈內同軸電纜系統傳送的免費電視訊號採用 I/PAL 模擬制式或符合「標準號 GB20600-2006」的數碼地面電視制式播送，而相關制式符合通訊局發出的《電視通用業務守則—技術標準》。

(iii) 使用大廈內同軸電纜系統的頻道

奇妙電視建議使用三條甚高頻頻帶(54至470兆赫)的大廈內同軸電纜系統頻道，以模擬及數碼制式傳送兩條節目頻道。奇妙電視亦建議使用一條特高頻頻帶(470至862兆赫)的大廈內同軸電纜系統頻道，以數碼制式同時傳送這些節目頻道。

基於奇妙電視提出最新的建議，希望只以數碼制式提供英語頻道(以模擬及數碼兩種制式提供粵語頻道)，通訊局認為，奇妙電視確實有需要使用兩條甚高頻頻帶(54至470兆赫)的大廈內同軸電纜系統頻道，以數碼制式傳送英語頻道，並以模擬及數碼兩種制式傳送粵語頻道。通訊局亦注意到，目前大廈內同軸電纜系統應有足夠的剩餘頻道，應付奇妙電視建議的免費電視服務所需。通訊局會考慮在行政長官會同行政會議正式批出牌照後，將兩條甚高頻頻帶的大廈內同軸電纜系統頻道編配予奇妙電視。

(iv) 接收奇妙電視電視節目的設備費用

接駁混合光纖同軸電纜網絡的住戶可透過現有的模擬制式電視及／或數碼地面電視服務接收器，接收奇

妙電視的模擬制式及數碼制式服務，而無須安裝任何附加設備。

當混合光纖同軸電纜網絡與大廈的大廈內同軸電纜系統妥善連接後，大廈管理處／業主立案法團如有需要，須自費為有關連接安裝頻道濾波器及頻道轉換器(費用約為港幣2,000元至7,500元)。屆時居民可通過大廈內同軸電纜系統，接收奇妙電視以數碼制式提供的服務。

通訊局注意到，觀眾須承擔進行大廈內同軸電纜系統升級工程(每條大廈內同軸電纜系統的費用約為港幣一萬元)及用以接收奇妙電視數碼服務的設備(即每個約港幣500元的數碼地面電視解碼器)所需的費用，以接收免費電視訊號。然而，個別觀眾所須負擔的費用總額並不算高。整體而言，通訊局認為建議的安排是可以接受的。儘管購置接收設備牽涉費用，但通訊局認為奇妙電視的建議服務仍可視為免費電視服務。

(f) 開展服務的速度

要奇妙電視在開展服務初期即通過固定網絡使服務覆蓋全港，技術上並不可行。通訊局認為應容許奇妙電視逐步達到覆蓋全港的目標。關於通過固定網絡提供免費電視服務，奇妙電視已承諾遵守下列覆蓋要求－

位於網絡10米範圍內的處所 ¹⁵	可在28天內獲提供服務的處所 ¹⁶
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¹⁵ 「位於網絡10米範圍內的處所」指處所(由持牌機構指定，並獲通訊局接納)所位處的樓宇、屋苑或村的外牆主要出入口與相關網絡最接近部分的直線距離(或通訊局同意的其他距離)不超過10米。如樓宇、屋苑或村的外牆有超過一個出入口，而應通訊局的要求，持牌機構須選定以何者作為此定義下的主要出入口，並以書面通知通訊局，一經選定，不得更改。

第一年：220萬	第一年：220萬
第六年：240萬 (其中15萬將通過微波多點 傳輸系統接達)	第六年：225萬

通訊局注意到，亞視及無綫的數碼地面電視於二零零七年年年底獲豁免遵從有關覆蓋全港的規定，以便兩家機構可分階段推展各自的數碼地面電視網絡。因此，通訊局認為奇妙電視以分階段的方式達到覆蓋全港的目標，可以接受。

(g) 會否進行建設工程及對公眾造成的不便程度

奇妙電視建議租用有線電視現有的混合光纖同軸電纜網絡以傳送其免費電視服務，並確認無須進行大型建設工程。

因此，通訊局認為對市民造成的影響甚微。

(h) 為本地廣播業、觀眾及整體社會帶來的利益

在第二階段前所收到的公眾意見顯示，大多數市民都支持開放免費電視服務市場，並十分認同發出新牌照符合公眾利益。

¹⁶ 「28 天內可獲提供服務的處所」指持牌機構在收到一

- (a) 大廈管理處、業主立案法團或大廈業主(指定處所位處的大廈)；以及
- (b) 指定處所住客(如適用)；

以書面要求服務傳送到有關大廈及指定處所並取得協議(如適用)後，有能力在 28 天內為其提供該持牌機構的電視節目服務的指定處所(處所由持牌機構指定，並獲通訊局接納)。協議是就進入有關大廈及指定處所，以進行因提供或接收持牌機構的服務所需的任何工作。接收持牌機構的服務所需的設備是由持牌機構指定的送遞方法，並通過(a)或(b)所提供。

通訊局注意到，奇妙電視的建議免費電視服務，在首六年營運期所涉及的投資總額約為港幣 11.76 億元，這對本地廣播業的發展大有幫助。推出新的免費電視服務可促進市場競爭、增加對節目和本地內容製作的投資，以及增加觀眾的節目選擇，對社會有利。

(i) *申請機構為確保符合條例的規定、其他適用的法例及牌照條款和條件而提出的安排*

奇妙電視已提出設立內部監察制度，以確保符合規管要求。

通訊局認為奇妙電視所提出的機制，與現有免費電視服務持牌機構採用的機制相若，可以接受。

(C) 行政長官會同行政會議在給予原則上的批准時所指令的額外承諾

7. 為跟進行政長官會同行政會議提出的要求，通訊局已—

(a) 要求奇妙電視提供確認書，述明建議的免費電視服務不會以「捆綁」方式，與任何收費的傳送服務或電視節目服務一併推出(捆綁限制)¹⁷；

(b) 要求奇妙電視提供承諾書，保證奇妙電視聯營公司的收費電視服務現有觀眾有權收看奇妙電視所建議的免費電視節目，不論有關客戶會否繼續使用該聯營公司的收費電視服務(有權收看節目的規定)¹⁸；以及

¹⁷ 免費電視服務可向社會提供資訊、教育及娛樂節目，具有獨特的社會功能。有關當局應確保公眾在任何時間均可免費(購買接收設備所引致的費用除外)接收有關服務，並且確保有關服務不會與其他電視節目服務或傳送網絡服務一併以套餐形式提供，藉以吸引用戶訂購服務。因此，向公眾提供新免費電視服務，不應與任何形式訂購任何電視節目服務或傳送網絡服務「捆綁」一起，或換言之作為預設條件。能接收新免費電視服務的客戶，不應限於若干電視節目服務或傳送網絡的訂購客戶。

¹⁸ 鑑於免費電視具有獨特功能，有關當局須確保將會提供的擬議服務根據條例第 2(1)

- (c) 取得確認書，述明奇妙電視不會純粹擔當「內容提供者」，向其任何屬本地收費電視節目服務持牌機構的聯營公司提供節目材料(非純粹內容提供者的規定)¹⁹。

捆綁限制及收看權

8. 通訊局曾就如何執行捆綁限制及收看權的規定，與兩家獲原則上批准的申請機構多次通訊。經仔細考慮收到的陳述書後，通訊局認為捆綁限制及收看權的規定屬同一概念的一體兩面，就兩種情況而言，關鍵都在於一點，就是假如市民所居住的處所屬於奇妙電視在承諾中指明可以隨時收看免費電視服務的覆蓋範圍內，他們是否可以接收到奇妙電視的擬議免費電視服務，而無須成為該機構其中一家聯營公司的收費電視服務或傳送服務的用戶並繳納費用。

9. 經考慮兩家獲原則上批准的申請機構的意見和商經局局長的政策意見後，通訊局認為以務實方式把捆綁限制及收看權的規定結合為單一規定，屬合理的做法。通訊局已就經修訂的規定邀請奇妙電視作出申述如下－

- (a) 奇妙電視須確保其免費電視服務在所有關鍵時間均提供予市民，市民並可收看，無需費用；

條是真正的免費電視服務，而公眾(包括奇妙電視聯營公司的收費電視服務現有或將來的使用者)在任何時間均可免費接收免費電視服務，並且不受任何形式的訂購電視節目服務或傳送網絡服務的預設條件所限。

¹⁹ 「純粹內容提供者」一詞是指奇妙電視純粹充當其收費電視聯營公司的內容提供者。政府的廣播政策目標一直是擴闊節目選擇，令廣大觀眾受惠。免費電視和收費電視是兩個截然不同的電視市場，照顧本地社會不同的節目需要。本地市民殷切期盼免費電視服務市場引入更多競爭後能帶來好處，可促使節目更有新意，更為多元化。要求取得確認書，正是為了確保奇妙電視的營運不會附屬於其收費電視聯營公司，只成為聯營公司的製作機構，以致最終奇妙電視所製作的一切節目材料均會先供應給收費電視聯營公司在用戶平台上作首播，然後才在免費電視頻道播放。此確認書實際上是要奇妙電視承諾投資於自行製作足夠的高質素節目，主要以免費電視服務的觀眾為目標，首播給他們收看。奇妙電視在節目方面的投資，應以在免費電視服務平台上播放為目標。

- (b) 無須任何先決條件或技術規定令到根據牌照條件，獲提供免費電視服務的人實際上必須成為奇妙電視聯營公司所提供服務的用戶²⁰，或必須支付任何費用或收費，才可獲提供免費電視服務；
- (c) 奇妙電視提供免費電視服務的方式，須使沒有訂購其聯營公司所提供服務的市民也能獲得的服務質素－
 - (i) 不低於通訊局在《電視通用業務守則－技術標準》訂明的要求；或
 - (ii) 在奇妙電視的合理控制範圍內，該服務的標準與奇妙電視聯營公司向用戶提供服務的標準的差別程度，不應導致大部分市民認為有必要成為用戶，以獲取用戶享有的相同服務質素；以及
- (d) 根據奇妙電視的覆蓋及鋪設網絡承諾，奇妙電視須確保可在有關各方(例如處所佔用人)提交申請後28天內通過其聯營公司提供的電訊網絡，為可即時獲提供服務的指定處所²¹提供免費電視服務²²。

奇妙電視已就履行上述規定提供確認書。

²⁰ 「用戶」指已訂購或在免費電視服務牌照生效期內的任何時間訂購由持牌機構的聯營公司提供的收費電視服務或由任何其他持牌機構的聯營公司提供寬頻接達線路或任何接收設備安排的市民。

²¹ 關於「指定處所」的定義，請參閱註腳 16。

²² 在符合下列條件的情況下，奇妙電視須把指定處所接駁至其聯營公司的網絡或安裝設備，使有關各方能獲得免費電視服務－

- (a) 必須獲得有關各方的授權；
- (b) 在有關各方當中，有一方或多方承擔把其聯營公司的網絡接駁至指定處所的合理費用；
- (c) 相關樓宇有合適的大廈內同軸電纜系統頻道，無須向奇妙電視收取費用；以及
- (d) 得到有關各方適時而合理的合作。

非純粹內容提供者

10. 在徵詢商經局局長的意見後，通訊局認為要求奇妙電視符合非純粹內容提供者的規定，承諾提供最低要求的數量的首播節目如下，屬合理的做法－

- (a) 奇妙電視不會純粹擔當內容提供者，為聯營公司的收費電視服務提供節目材料；
- (b) 奇妙電視不會純粹成為聯營公司的製作機構，把其製作的一切節目材料供應予聯營公司的收費電視服務；以及
- (c) 奇妙電視至少會提供下列「首播節目」－
 - (i) 在粵語頻道啓播後 12 個月內，每星期提供七小時首播節目；
 - (ii) 在粵語頻道啓播後 36 個月內，每星期提供 14 小時首播節目；以及
 - (iii) 在粵語頻道啓播後 72 個月內，每星期提供 21 小時首播節目。

就上文而言，「首播節目」指從未在奇妙電視的收費電視聯營公司播放的節目。

奇妙電視已就履行上述規定提供確認書。

(D) 公眾意見

11. 自二零一三年十月十五日公布給予原則上批准牌照申請以來，通訊局收到市民提交逾 400 份意見書，當中要點摘錄如下－

- (a) 公眾要求新持牌機構提供更多元化的節目；以及
- (b) 新營辦商須提供更多本地製作或獨立本地製作，以促進創意產業的發展。

12. 為回應公眾對增加節目種類及選擇的需求，奇妙電視同意逐步提供本地製作節目²³，詳情如下－

- (a) 在粵語頻道啓播後 24 個月內，每星期提供 8 小時的本地製作節目；
- (b) 在粵語頻道啓播後 48 個月內，每星期提供 12 小時的本地製作節目；以及
- (c) 在粵語頻道啓播後 72 個月內，每星期提供 18 小時的本地製作節目。

此外，奇妙電視同意在其粵語頻道逐步提供獨立本地製作節目²⁴，由啓播第二年每年20小時，逐步增加至第六年每年60小時，這承諾與無綫在二零一五年就其免費電視服務牌照續期申請中所作並隨後獲行政長官會同行政會議接納的承諾相同。奇妙電視亦同意，在符合相關指定播放節目的規定方面，重播相同節目的時數不會計算在內。因此，通訊局認為奇妙電視已妥善回應公眾對新持牌機構提供更多節目種類及選擇的要求。

(E) 牌照條件

13. 在給予原則上批准後，通訊局與奇妙電視商討後者的免費電視服務牌照擬本的建議條件。通訊局向奇妙電視清楚表明，

²³ 就此而言，「本地製作節目」指本地製作及迎合本地觀眾喜好的節目，不論這些節目是否部分或全部由電視台自行製作、特約製作、合作製作或與其他機構合資製作，但不包括政府提供的節目(例如港台節目)。在符合本地製作節目的規定方面，指定播放節目「完全屬香港本地製作」內容的時數可計算在內。

²⁴ 「獨立本地製作節目」指由獨立於奇妙電視及其聯營公司的製作公司所製作的節目。

牌照條件擬本是根據奇妙電視在其有關申請中所作的承諾而擬定的，而奇妙電視已在第一階段對此表示同意。這是前廣管局向行政長官會同行政會議作出原先建議的前提，也是行政長官會同行政會議就有關申請給予原則上批准的基礎所在。奇妙電視在某一階段曾要求建議的牌照條件與指配廣播頻譜一事聯繫。奇妙電視亦要求通訊局應放寬一些牌照條件(特別是在奇妙電視取得頻譜之前)。

14. 儘管如上文所述，奇妙電視在二零一五年五月表示，承諾會盡最大努力與通訊局解決所有待決事項，包括建議的牌照條件。奇妙電視其後於二零一五年八月確認同意遵守建議的牌照條件。

通訊局在第二階段的跟進工作

15. 自行政長官會同行政會議公布有關決定(載於第三段)後，通訊局著手進行第二階段的跟進工作。在評核奇妙電視更新申請時，通訊局向奇妙電視索取所須的進一步資料及說明，並以此根據條例及既定程序檢視奇妙電視的更新申請，其後於二零一五年一月十九日向行政長官會同行政會議呈交建議。總括而言，通訊局就奇妙電視的更新申請的評核結果如下 —

- (a) 通訊局無法確定奇妙電視是否符合條例訂明的非附屬公司規定，理由是奇妙電視認為無須在通訊局向行政長官會同行政會議呈交通訊局的建議前完成所擬議的企業改組。基於同一理由，通訊局無法核實奇妙電視是否符合多項其他法定要求，包括該等關於註冊為公司、居港、適當人選、對受限制表決控權人及不符合持牌資格人士的法定要求；
- (b) 對於通訊局發出的申請指南所載的若干準則(即提供指定播放節目和字幕服務)，奇妙電視的立場等同違背了其在原有申請中所作的承諾，而該等承諾是行政長官會同行政會議給予原則上批准所依據前提的一部分。通訊局亦

關切到，倘同意奇妙電視提出的要求，放寬有關節目規定，會影響擬向觀眾提供的節目種類及質素；

- (c) 有關行政長官會同行政會議所指令的關乎「捆綁限制」、「收看權的規定」及「非純粹內容提供者的規定」的額外承諾，通訊局指出，奇妙電視已原則上同意為落實「捆綁限制」及「收看權的規定」這兩項規定，提供確認書。然而，奇妙電視卻對「非純粹內容提供者的規定」表示強烈反對；
- (d) 通訊局認為，奇妙電視並無妥善回應公眾對新持牌機構向觀眾提供節目的種類及質素的關注，以及並無承諾提供本地／獨立本地節目；以及
- (e) 奇妙電視並未接納行政長官會同行政會議在給予原則上批准時所指令的擬議牌照條件。

基於上述評估結果，並考慮到奇妙電視的申述，通訊局向行政長官會同行政會議建議不應向奇妙電視批出免費電視牌照。

16. 儘管如上文所述，奇妙電視在二零一五年五月表示，承諾會盡最大努力與通訊局解決所有待決事項，並要求行政長官會同行政會議暫緩考慮通訊局於二零一五年一月十九日呈交的建議。經考慮通訊局於二零一五年一月十九日呈交的建議及奇妙電視提出的要求，行政長官會同行政會議在二零一五年五月十二日決定容許奇妙電視在二零一五年九月十五日或之前，解決所有待決事項和妥善地回應通訊局就其更新申請提出的關注。行政長官會同行政會議並邀請通訊局與奇妙電視就後者的更新申請的待決事項恢復討論，並進一步考慮奇妙電視將會提供的任何補充資料及確認書，就奇妙電視的更新申請向行政長官會同行政會議作進一步建議。

17. 二零一五年九月十六日，通訊局提交報告，表示更新申請的五個主要範疇待決事項中，有四個獲妥善解決。奇妙電視沒有

在行政長官會同行政會議所訂的期限，即二零一五年九月十五日或之前，提交所須的資料及文件，供通訊局核實奇妙電視的公司狀況，以及核實該公司和所有對其行使控制的人在企業改組後是否符合適用的法定要求。在二零一五年十月六日的行政會議上，行政長官會同行政會議決定，因應奇妙電視的進一步要求²⁵，容許奇妙電視在二零一五年十二月一日或之前，解決所有待決事項和妥善地回應通訊局就其有關申請提出的關注，包括所擬議的企業改組。行政長官會同行政會議亦邀請通訊局進一步考慮奇妙電視提交的任何相關的補充資料及確認書，向行政長官會同行政會議就奇妙電視的更新申請提供進一步建議。奇妙電視在其二零一五年十一月三十日給行政會議秘書處的信件中表示，奇妙電視未能在二零一五年十二月一日或之前完成擬議的企業改組²⁶。經考慮奇妙電視的解釋後，行政長官會同行政會議在二零一六年二月二日決定容許奇妙電視在二零一六年三月十八日或之前，解決所有待決事項和妥善地回應通訊局就其更新申請提出的關注。

18. 奇妙電視在二零一六年三月十一日知會通訊局，表示已完成擬議的企業改組，並提供通訊局所要求的確認書和資料。通訊局已檢視奇妙電視就其符合條例訂明的相關法定要求所提交的文件，並於二零一六年四月十八日向行政長官會同行政會議呈交進一步建議。

通訊局的建議

19. 基於上述對奇妙電視更新申請的評核結果，通訊局認為奇妙電視已證明符合條例所訂明的所有法定要求及申請指南載列的評核準則。此外，奇妙電視已同意遵從行政長官會同行政會議給予原則上的批准時要求作出的額外承諾及附加的各種條件，並已妥善回應公眾對新持牌機構擬提供的節目種類及質素的

²⁵ 由於其中一名受託人在最後一刻才退出，不為奇妙電視提供所協議的受託人服務，奇妙電視向行政長官會同行政會議要求把期限延長十個星期，以完成企業改組程序。

²⁶ 由於突然出現另一受託人可能會在擬議的企業改組安排中退出的風險，奇妙電視要求延後期限以完成企業改組程序。

關注。奇妙電視已同意遵從建議施加的牌照條件，這些牌照條件大體上按照行政長官會同行政會議在原則上批准申請時所指令的。基於上述的評核結果，通訊局建議行政長官會同行政會議向奇妙電視批出免費電視服務牌照。

行政長官會同行政會議的決定

20. 行政長官會同行政會議同意通訊局的建議，並決定向奇妙電視批出免費電視服務牌照(載於**附件 A**)，牌照期由二零一六年五月三十一日起計，為期 12 年，須於二零二二年五月三十一日後作中期檢討。

《2016 年防止賄賂條例(修訂附表 1)令》

21. 目前，所有在條例下的免費電視服務持牌機構及《電訊條例》(第 106 章)下的聲音廣播持牌機構(包括模擬及數碼聲音廣播兩者)，均視為受政府特別委託進行指定工作，屬《防止賄賂條例》(第 201 章)附表 1 下的公共機構。凡在《防止賄賂條例》附表 1 下指明為公共機構的組織，其僱員及成員均為《防止賄賂條例》第 2 條所指的「公職人員」。根據《防止賄賂條例》第 35 條，行政長官會同行政會議可藉憲報刊登的命令修訂該條例中的各附表。在奇妙電視獲發免費電視服務牌照後，行政長官會同行政會議指令修訂《防止賄賂條例》的附表 1，將奇妙電視指明為公共機構。名為《2016 年防止賄賂條例(修訂附表 1)令》(生效日期為二零一六年七月十六日)的命令擬本載於**附件 C**。

建議的影響

22. 批出牌照對經濟、財政、公務員和可持續發展會有影響。在經濟影響方面，通過在電視內容製作方面所帶來的額外投資，以及增加競爭，奇妙電視進軍免費電視服務市場能進一步促進廣

播業和創意產業的發展。社會亦會受惠於更多的優質節目及更佳服務。至於對可持續發展的影響，奇妙電視的加入，將為本港的廣播業創造就業機會、鼓勵競爭和向觀眾提供更多的優質節目選擇。這可促進實現具競爭性和繁榮的市場主導經濟的可持續發展原則，滿足公眾的期望。在對財政和公務員的影響方面，為免費電視服務市場引入新營辦商，預期可根據《廣播(牌照費)規例》(第 562 章 A)及《電訊(傳送者牌照)規例》(第 106 章 V)帶來牌照費收入。處理新牌照的行政工作和相關的投訴將會產生額外工作。通訊事務管理局辦公室會以現有資源應付相關的額外工作。建議符合《基本法》(包括有關人權的條文)，且對生產力、環境、家庭或兩性沒有影響。

公眾諮詢

23. 行政長官會同行政會議在原則上批准有關申請時，已考慮直至當時為止所收到的所有公眾意見，包括前廣播局在二零一零年七月至九月期間進行法定諮詢時收集所得的意見，以及公眾在有關申請獲給予原則上批准前不時主動向通訊局及／或政府提交的意見。自二零一三年十月公布給予原則上批准以來，通訊局收到市民提交逾 400 份意見書。至於二零一三年十月以來主動向政府提出的公眾意見，則大致相若。以上所提及的公眾意見已呈交行政長官會同行政會議考慮。

宣傳安排

24. 政府會以新聞公報公布有關決定。

查詢

25. 如有查詢，請與商務及經濟發展局首席助理秘書長(通訊及創意產業)A杜永恒先生聯絡(電話：2810 2708)。

商務及經濟發展局
通訊及創意產業科
二零一六年五月三十一日

No. of THREE ORIGINALS

Domestic Free Television Programme Service Licence

Broadcasting Ordinance (Cap.562)

Fantastic Television Limited

[Date of Licence]

**Department of Justice
The Hong Kong Special Administrative Region**

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FIRST SCHEDULE

SECOND SCHEDULE - FORM OF PERFORMANCE BOND

In exercise of the powers conferred by sections 8(1) and 10(1) of the Broadcasting Ordinance (Cap.562) and all the powers enabling him in that behalf, the Chief Executive in Council hereby grants a domestic free television programme service licence (“Licence”) to Fantastic Television Limited (“Licensee”, which expression shall include its lawful successors and assigns), a company formed and registered under the Companies Ordinance (Cap.622), whose registered office is situated at 16th Floor, Ocean Centre, Harbour City, Canton Road, Kowloon, Hong Kong on the conditions under this Licence.

Interpretation

- 1.1 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 Broadcasting 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 Broadcasting Ordinance shall prevail over that in the Interpretation and General Clauses Ordinance.
- 1.2 The headings and index used in this Licence shall not in any way vary, limit or extend the interpretation of this Licence.
- 1.3 This Licence shall receive such fair, large and liberal construction and interpretation as will best ensure the attainment of its objects according to its true intent, meaning and spirit.
- 1.4 The Schedule(s) hereto, shall form part of this Licence.
- 1.5.1 Save where the contrary intention appears expressly or by necessary implication in this Licence, the following words and expressions mean:

“auditor”	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.
“Code of Practice”	a code of practice which bears the same meaning given in section 2(1) of the Broadcasting Ordinance.
“Commencement Date”	the date on which the period of validity of this Licence commences.
“day”	a period of 24 hours beginning at midnight.
“designated integrated channels”	integrated Chinese channel and integrated English channel.
“digital form”	an arrangement of signals transmitted by telecommunications and represented by digits or similar discrete form as may be authorised or approved by the Communications Authority.
“integrated Chinese channel”	integrated television programme service channel in the Cantonese dialect provided in accordance with Condition 17.4.1 of this Licence.

“integrated English channel” integrated television programme service channel in the English language provided in accordance with Condition 17.4.1 of this Licence.

“Investment Plan” an investment plan as approved by the Communications Authority regarding the Licensee’s commitment of capital expenditure and operating expenditure (including programming cost) to be spent on the Service for the period from [*] to [*](*Note: dates to be provided for each licensee*), which is contained in a letter dated [*](*Note: date to be provided for each licensee*) from the Licensee to the Communications Authority, and as may be subsequently updated, revised or modified pursuant to the directions or approvals of the Communications Authority from time to time.

“Licensee’s Proposal”	all statements and representations (including statements of intention) made to the Communications Authority and the Government by or on behalf of the Licensee in its application for this Licence, including but not limited to its application dated [*], the letters dated [*](<i>Note: dates to be provided for each licensee</i>), the Investment Plan and the updated application dated [*].
“period of validity”	[31 May 2016] to [30 May 2028](<i>Note: each licensee shall, subject to the CE in Council’s final decision, be valid for a period of 12 years from the Commencement Date</i>) (both dates inclusive), being the period specified by the Chief Executive in Council in a notice in the Gazette issued pursuant to section 4 of Schedule 4 to the Broadcasting Ordinance or such period as may be renewed or extended pursuant to section 11 of the Broadcasting Ordinance.
“Premises Ready for Service”	premises (to be specified by the Licensee and accepted by the Communications Authority) to which the Service is capable of being provided by the Licensee within 28 days

after receipt of a request for the Licensee's Service in writing from:

- (a) the Building Management Office, Incorporated Owners, or owner of the relevant building in which the specified premises are situated; and
- (b) the resident of the specified premises (where applicable),

in which an agreement is obtained from (a) and (b) (where applicable) above for access to the relevant building and the specified premises to carry out any work necessary for the provision or reception of the Service, and in which the equipment necessary for receiving the Service via delivery means designated by the Licensee is made available by (a) or (b).

“Premises
within Network
Reach”

premises (to be specified by the Licensee and accepted by the Communications Authority) in a building, an estate or a village with a main entrance in the external wall thereof not exceeding 10 metres, as measured in a straight line (or such other distance as approved by the Communications Authority), from the nearest part of the network concerned. In the event of there being more than one entrances in the external walls of a building, an estate or a village, and upon request from the Communications Authority, the Licensee shall irrevocably elect by notice in writing to the Communications Authority as to which entrance it will treat as the main entrance for the purpose of this definition.

“relevant Authority”

(a) the Communications Authority in connection with either a condition of this Licence in respect of which the Communications Authority is the regulator or similarly empowered under any law, Ordinance, determination, consent, notice, direction, authorisation or approval; or

(b) the Secretary for Commerce and Economic Development in connection with either a condition of this Licence in respect of which that Secretary is the regulator or similarly empowered under any law, Ordinance, determination, consent, notice, direction, authorisation or approval.

“Service” the domestic free television programme service, whether transmitted in analogue form or digital form, which the Licensee is authorised and required to provide during the period of validity in accordance with this Licence and any law or Ordinance.

“week” a continuous period of 7 days beginning on a Monday.

1.5.2 The word “person” bears the same meaning as in section 3 of the Interpretation and General Clauses Ordinance and includes “Government”.

1.5.3 The expressions “telecommunications”, “telecommunications installation”, “telecommunications line” and “telecommunications service” bear the same meaning as in the Telecommunications Ordinance (Cap.106).

1.6 In this Licence, save where the contrary intention appears expressly or by necessary implication, words and expressions:

- (a) which import one gender include the two 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.

1.7 If at any time any condition of this Licence is or becomes illegal, invalid or unenforceable in any respect, the legality, validity or enforceability of the remaining conditions shall not in any way be affected or impaired.

1.8 In this Licence, a reference to an Ordinance, whether the word is used by itself or as part of any title to an Ordinance, shall mean the Ordinance for the time being in force as well as any modification or substitution thereof, in whole or in part, and all subsidiary legislation, regulations, directions, codes of practice and instruments made thereunder and for the time being in force.

1.9 In forming an opinion or making a determination, direction or decision under this Licence, the relevant Authority shall:

- (a) only do so on reasonable grounds and having regard to relevant considerations; and
- (b) provide reasons for it in writing.

Terms of Licence

2.1 (a) This Licence authorises and requires the Licensee to provide a Service in accordance with this Licence.

- (b) The Secretary for Commerce and Economic Development may by notice served on the Licensee require the Licensee to provide the Service in digital form in the entirety from a date as specified in the notice, the date being not less than 18 months of the date of the service of the notice.

2.2 Unless the Communications Authority otherwise approves or determines, the Licensee shall commence the provision of the Service in accordance with the time schedule specified in its Licensee's Proposal or within 12 months from the Commencement Date, whichever is earlier.

2.3 The Licensee shall, as soon as practicable and in any event not less than 30 days in advance, notify the Communications Authority in writing of the date on which the Licensee will commence the provision of:

- (a) the Service on the integrated Chinese channel as authorised and required in Condition 17.4.1(a);
- (b) the Service on the integrated English channel as authorised and required in Condition 17.4.1(b); and
- (c) the Service on any television programme service channel as authorised and approved by the Communications Authority under this Licence.

2.4 This Licence is granted subject to:

- (a) the provisions from time to time in force of the Broadcasting Ordinance, the Telecommunications Ordinance, the Communications Authority Ordinance (Cap.616), the Broadcasting (Miscellaneous Provisions) Ordinance (Cap.391) and, including without limitation, any other Ordinance, and any Ordinance enacted in place or substitution in whole or in part thereof and all subsidiary legislation, regulations, technical standards, directions and codes of practice made thereunder; and
- (b) the terms and conditions set out in this Licence, and as any of them may be amended from time to time.

**Commencement
Date and period
of validity of
Licence**

3.1 Subject to the terms and conditions of this Licence and any law or Ordinance, this Licence shall be valid for the period of validity.

3.2 Pursuant to section 4(2)(b) of Schedule 4 to the Broadcasting Ordinance, this Licence shall be subject to review by the Chief Executive in Council during the period from [31 May 2022] to the date of expiry of the period of validity (*Note: date to be inserted 6 years after the Commencement Date*).

Power to amend

4.1 The Chief Executive in Council may, if he considers it is in the public interest to do so, vary this Licence in accordance with the Broadcasting Ordinance.

4.2 Without prejudice to the aforesaid, the Chief Executive in Council may vary this Licence with the prior consent in writing of the Licensee at any time and from time to time during the period of validity.

Saving of rights granted

5. This Licence shall not in any way whatsoever abrogate or interfere with any rights, whether exclusive or otherwise, granted under any law or Ordinance to any person other than the Licensee.

Publication of Licence

6.1 Subject to Condition 6.3, the Licensee shall make available for inspection by members of the general public, free of charge, a certified true copy of this Licence at:

- (a) its registered office and principal place of business; and
- (b) the principal office of the Office of the Communications Authority.

6.2 The Government or the Communications Authority may in its discretion make this Licence publicly available in any manner it thinks fit, in whole or in part.

6.3 For the purposes of Condition 6.1 and without prejudice to Condition 6.2, the Licensee's Proposal may be excluded in the Licensee's discretion.

**Notification of
place of
business**

7. The Licensee shall promptly notify the Communications Authority of any change in the address of its registered office or principal place of business, as the case may be.

**Prohibition
against transfer
of Licence**

8. This Licence or any interest in this Licence shall not in any way be transferred in whole or in part.

**Directions etc. by
the relevant Authority**

- 9.1 Where any determination, consent, notice, direction, authorisation or approval of or from the relevant Authority is required 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 the relevant Authority, that determination, 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 9.2, given before the doing of the said matter or thing in question. If a digital signature is used, it shall be supported by a recognized certificate under the Electronic Transactions Ordinance (Cap.553). For the purpose of this Condition, “digital signature” and “recognized certificate” shall bear the same meaning as in the Electronic Transactions Ordinance.
- 9.2 The relevant Authority may generally or specifically in relation to a particular matter or thing referred to in Condition 9.1 by notice in writing to the Licensee waive the requirement for its or his, as the case may be, determination, 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 the relevant Authority from withdrawing the waiver, with prospective effect, in whole or in part, or from requiring that the determination, consent, notice, direction, authorisation or approval, as the case may be, be required timeously in relation to other matters or things.
- 9.3 Without any limitation whatsoever on the rights and powers conferred by any law or Ordinance, where a relevant Authority gives any determination, consent, notice, direction, authorisation or approval to the Licensee, the same may be:

- (a) withdrawn, modified or replaced from time to time by the relevant Authority, in the same circumstances, and with the same effect, as if the withdrawal, modification or replacement were the giving of a determination, consent, notice, direction, authorisation or approval and the Licensee shall comply therewith;
- (b) given once or from time to time; and
- (c) made subject to such conditions as the relevant Authority may impose.

9.4 All references in this Licence to the doing of any matter or thing by a relevant Authority include any delegates thereof, or other agents, authorised in that regard by or under any law or Ordinance.

9.5 Unless otherwise provided by any law or Ordinance, any determination, consent, notice, direction, authorisation or approval moving from the relevant Authority to the Licensee shall be deemed validly served or given if:

- (a) it complies with the manner prescribed in section 40 of the Broadcasting Ordinance;
- (b) it is dispatched by facsimile transmission to the designated number of the Licensee; or
- (c) it is delivered by hand to the registered office or principal place of business of the Licensee.

**Licensee to
comply with
statements**

- 10.1 Subject to Condition 10.2, the Licensee shall comply at all material times with the Licensee's Proposal, including but not limited to statements and representations regarding the legal and beneficial interest in the voting control and shares in the Licensee. In the event that any part of the Licensee's Proposal is inconsistent with the conditions of this Licence, any law or Ordinance, the conditions of this Licence, the law and Ordinance shall prevail and the Licensee's Proposal shall be construed accordingly.
- 10.2 The Communications Authority may generally or specifically in relation to a particular statement or representation referred to in Condition 10.1 by notice to the Licensee waive the requirement for the Licensee to comply with the said statement or representation and the proviso referred to in Condition 9.2 shall apply thereto mutatis mutandis.
- 10.3 The Licensee represents and warrants that the Licensee has the right to make use of the information and technology described as available to it in the Licensee's Proposal.
- 10.4 Without prejudice to any statutory and other regulatory requirements regarding the legal and beneficial interest in the voting control and shares in the Licensee and without affecting the generality of Condition 10.1, the Licensee shall inform the Communications Authority about any change and series of changes:
- (a) involving 10% or more of the voting shares in the Licensee; and
 - (b) involving 1% or more of the voting shares in the Licensee of any person who holds 10% or more of the voting shares in the Licensee

within 14 days after:

- (i) the change or series of changes, as the case may be, takes place; or;
- (ii) the Licensee becomes aware of the change or series of changes,

whichever is earlier.

Waiver

11.1 Subject to any law or Ordinance and Condition 11.2, the Communications Authority may by notice to the Licensee waive the requirement for the Licensee to observe or perform any of the conditions of this Licence for such period as the Communications Authority sees fit if and so long as the Licensee satisfies the Communications Authority that the failure to observe or perform those conditions is caused by an unforeseen event which:

- (a) renders it impossible for the Licensee to observe or perform the conditions;
- (b) is not caused or contributed to by the Licensee, or any officer, employee or associate of the Licensee or any other person acting for or on behalf of the Licensee; and
- (c) in respect of which the Licensee has taken all actions as may be required, with due diligence and speed, to observe or perform the conditions of this Licence.

11.2 The Communications Authority may, if it considers that the event referred to in Condition 11.1 has ceased to render it impossible for the Licensee to observe or perform the conditions of this Licence, direct by notice that the waiver given under Condition 11.1 shall cease to have any effect from the date specified in the notice notwithstanding that the period specified in the notice given under Condition 11.1 has not expired, and the Licensee shall (and without prejudice to the Licensee's obligations under this Licence), as soon as practicable and with due diligence and speed, take all actions as may be required to observe or perform the conditions of this Licence.

Liability of Licensee for contraventions

12. The Licensee shall ensure that the officers, employees and associates of the Licensee, and any other person acting for or on behalf of the Licensee, shall not act or permit any contravention of:

- (a) any provision of the Broadcasting Ordinance, the Telecommunications Ordinance, the Communications Authority Ordinance or the Broadcasting (Miscellaneous Provisions) Ordinance;
- (b) any provision of any Code of Practice; or
- (c) any condition of this Licence,

and shall not be relieved from any liability notwithstanding that the contravention is due to the act or omission of the officers, employees or associates of the Licensee or any other person acting for or on behalf of the Licensee.

Indemnity

13. The Licensee shall indemnify and keep indemnified the Chief Executive, the Government, the Executive Council, the Communications Authority and the Secretary for Commerce and Economic Development against any and all losses, claims, charges, expenses, actions and demands whatsoever which he or it may incur or be subject to, as the case may be, as a result of or in relation to:
- (a) any breach or alleged breach of or failure or alleged failure to observe or perform any condition of this Licence by or on behalf of the Licensee; or
 - (b) any act or omission by or on behalf of the Licensee in the actual or purported operation or performance of the Service or the conditions of this Licence.

Licence fee

- 14.1 The Licensee shall pay to the Communications Authority every year during the period of validity such licence fee in advance as may be prescribed from time to time by regulation made under section 42 of the Broadcasting Ordinance and in accordance with section 13 of Schedule 4 to the Broadcasting Ordinance.
- 14.2 The Licensee shall pay such other fees and charges as may be prescribed from time to time by regulation made under section 42 of the Broadcasting Ordinance and in accordance with section 13 of Schedule 4 to the Broadcasting Ordinance.

- 14.3 In the event of a revocation, surrender or suspension of this Licence, no licence fees or other fees and charges paid or payable by the Licensee before the said revocation, surrender or suspension shall be repaid or cease to be payable, as the case may be.

Investment

- 15.1 Subject to Condition 15.2 and without affecting the generality of Condition 10.1, the Licensee shall implement the Investment Plan and comply at all material times with the statements (including statements of intention) and representations made by or on its behalf in or with reference to the Investment Plan. In the event that any part of the Investment Plan is inconsistent with the conditions of this Licence, any law or Ordinance, the conditions of this Licence, the law and Ordinance shall prevail and the Investment Plan shall be construed accordingly.
- 15.2 The Communications Authority may generally or specifically in relation to a particular statement or representation referred to in Condition 15.1 by notice to the Licensee waive the requirement for the Licensee to comply with the said statement or representation and the proviso referred to in Condition 9.2 shall apply thereto mutatis mutandis.
- 15.3 The Licensee shall submit for approval by the Communications Authority further information and updated Investment Plan, as may be directed by the Communications Authority from time to time, in relation to the provision of new television programme service channels.

- 15.4 Within 3 months from the last day of each accounting year of the Licensee, the Licensee shall submit to the Communications Authority a management report of the Licensee certifying the capital expenditure and operating expenditure (including programming cost) incurred by the Licensee in providing the Service for the preceding accounting year. The management report shall give a true and fair view of the capital expenditure and operating expenditure (including programming cost) so incurred by the Licensee, and shall be approved by the directors of the Licensee and signed on behalf of the board by the chairman of the meeting at which the management report was approved or by the secretary of the Licensee. The Licensee shall explain to the satisfaction of the Communications Authority if the actual annual expenditure deviates from the Investment Plan.
- 15.5 Unless the Communications Authority otherwise approves or determines, the minimum capital and programming expenditure to be incurred by the Licensee in providing the Service shall be as follows:
- (a) not less than HK\$168 million within 18 months from the Commencement Date;
 - (b) not less than HK\$336 million within 30 months from the Commencement Date; and
 - (c) not less than HK\$504 million within 42 months from the Commencement Date.
- 15.6 Without prejudice to any power that the Communications Authority may have, the Licensee shall, as soon as practicable within 2 months from the expiry of each of the periods specified in Conditions 15.5(a), 15.5(b) and 15.5(c), submit a certificate by an auditor certifying that the respective requirements set out in Condition 15.5 have been complied with.

Submission of reports

- 16.1 The Licensee shall submit reports to the Communications Authority on or before 31 March each year on the extent to which the programming commitments in the Licensee's Proposal have been complied with in the previous calendar year ending on 31 December.
- 16.2 The Communications Authority may in its discretion make the reports referred to in Condition 16.1 publicly available in any manner as it thinks fit, in whole or in part.

The provision of a domestic free television programme service

- 17.1 The Licensee shall:
- (a) entertain, inform and educate; and
 - (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.
- 17.2
- (a) The Licensee shall at all material times provide the Service in such manner as to enable the Service to be received throughout Hong Kong to the satisfaction of the Communications Authority.
 - (b) The Communications Authority may, by notice to the Licensee, exempt the Licensee from complying with Condition 17.2(a) in relation to any parts of Hong Kong specified in the notice and during any period specified in the notice, and the proviso referred to in Condition 9.2 shall apply thereto mutatis mutandis.

17.3 The Licensee shall at all material times provide all television programme service channels in accordance with the First Schedule to this Licence.

17.4.1 Unless the Communications Authority otherwise approves under Condition 17.4.2, the Licensee shall:

- (a) within 12 months from the Commencement Date and at all times thereafter, broadcast its Service on one 24-hour integrated Chinese channel each day; and
- (b) within 24 months from the Commencement Date and at all times thereafter, broadcast its Service on the designated integrated channels each day, comprising one 24-hour integrated Chinese channel and one 24-hour integrated English channel,

in accordance with this Licence.

17.4.2 Upon application in writing by the Licensee, the Communications Authority may approve arrangements different from those in Condition 17.4.1. Without the prior written approval of the Communications Authority obtained in accordance with this Condition 17.4.2, the Licensee shall not deviate from any of the arrangements set out in Condition 17.4.1.

17.5.1 Unless the Communications Authority otherwise approves or determines, the Licensee shall attain and maintain the following:

- (a) making its Service available for reception by not less than 1.75 million Premises within Network Reach and not less than 1.75 million Premises Ready for Service within 6 months from the Commencement Date; and
- (b) making its Service available for reception by not less than 2.15 million Premises within Network Reach and not less than 2.15 million Premises Ready for Service within 12 months from the Commencement Date.

17.5.2 The Licensee shall, within 45 days from the expiry of each of the periods specified in Conditions 17.5.1(a) and 17.5.1(b), or such other periods as may otherwise be approved or determined by the Communications Authority, submit to the Communications Authority a certificate by an auditor on the exact number and addresses of Premises within Network Reach and Premises Ready for Service attained and maintained by the Licensee as at the end of the relevant period.

17.5.3 The Licensee shall, within 45 days of each anniversary of the Commencement Date, submit to the Communications Authority a certificate by an auditor on the exact number and addresses of Premises within Network Reach and Premises Ready for Service attained and maintained by the Licensee as at each anniversary of the Commencement Date, unless the same has already been submitted for the relevant period as required under Condition 17.5.2.

- 17.5.4 The Licensee shall, on a half-yearly basis from the Commencement Date, publish the exact number and addresses of the Premises Ready for Service. The Licensee shall publish such information, free of charge, in any reasonable form and manner as the Communications Authority thinks fit.
- 17.6 The Licensee shall ensure that each television programme service channel shall have a television programme service channel identification which, in the opinion of the Communications Authority, is not confusingly similar to any existing channel identification of any television programme service licensed or deemed to be licensed under the Broadcasting Ordinance or of any sound broadcasting licensees licensed under the Telecommunications Ordinance.
- 17.7 The Licensee shall provide the Service to the public in a fair and non-discriminatory manner. The Licensee shall not unduly prefer or discriminate against any person in relation to the provision or reception of the Service, or the supply or use of any ancillary facilities or equipment necessary for the provision or reception of the Service.
- 17.8 The Licensee shall apply up-to-date technology to perfect the sounds and images that it broadcasts.

**Comments,
requests and
complaints**

- 18.1 The Licensee shall receive and consider any comment or complaint from or on behalf of any person who believes himself to have been treated unjustly or unfairly in any material on the Service, or who comments or complains about the whole or part, in substance or in form, of the content, production, service coverage, provision or reception of the Service, technical aspects, or time of viewing of the Service, including without limitation, the quality of the sounds and images that it provides, the service afforded to the complainant, or customer service. The Licensee shall also receive and consider any request from or on behalf of any person for the provision of signal connections for reception of the Service, or any fault report or complaint from or on behalf of any person in relation to such signal connections.
- 18.2 The Licensee shall implement a procedure for dealing with comments, requests and complaints from the public as may be required from time to time by the Communications Authority.
- 18.3 The Licensee shall keep a complete record, in a form and manner approved by the Communications Authority, of comments, requests and complaints received by it and submit the same to the Communications Authority on a regular basis and on demand. The record shall be retained by the Licensee for not less than 2 years.
- 18.4 The Licensee shall comply with directions as may be given by the Communications Authority to publish, in relation to the Service and within such period as may be specified by the Communications Authority in that direction, a summary of any comment, request or complaint referred to in Condition 18.1. The form and content of such summary shall be subject to approval by the Communications Authority.

18.5 The Licensee shall supply recordings of good quality of all material on the television programme service that it provided during such period, and in such form, as the Communications Authority may direct and require for examination.

Television programmes, publicity material and announcements in the public interest

19.1 The Licensee shall include in its Service such:

- (a) publicity material in order to promote knowledge and understanding of the activities and functions of the Communications Authority; and
- (b) television programmes and other material in the public interest including but not limited to weather programmes and weather forecasts provided by the Government,

as the Communications Authority may provide or direct and at such time, within such period, on such channel, within or outside such television programmes and in such language or dialect as the Communications Authority may direct.

19.2 The publicity material referred to in Condition 19.1(a) may be directed to be broadcast twice daily for a total of not more than one minute on each or any of the Licensee's television programme 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 on each channel. This publicity material shall not be treated as counting towards the one minute total in Condition 19.3.

19.3 Notwithstanding Condition 19.1, the Licensee shall broadcast on each or any of the Licensee's television programme service channels such announcements as the Communications Authority shall require to be broadcast provided that such announcements shall not exceed one minute in total in any clock hour on each channel.

19.4 For the avoidance of doubt, the Licensee shall not, in the performance of its obligations under Condition 19, be:

- (a) responsible for the content of the material included in the Service; and
- (b) entitled to charge the Communications Authority or the Government.

**Intellectual
property rights**

20. The Licensee shall not do, or permit, any act or conduct in relation to the Service which is an infringement of any intellectual property right, including but not limited to any copyright.

Books and accounts to be in English or Chinese

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

Licensee to formulate general guidelines for employees and agents

- 22.1 The Licensee shall formulate written guidelines for all its officers, employees and agents concerned with the content of the Service stating the Licensee's principles regarding its responsibilities to the public, with particular reference to its obligations under the Codes of Practice on programme and advertising standards.
- 22.2 The Licensee shall ensure that all its officers, employees and agents are aware, and shall refresh their memory at reasonably regular intervals, of the guidelines referred to in Condition 22.1 and the Codes of Practice.
- 22.3 For the avoidance of doubt, nothing in Condition 22 shall relieve the Licensee from any obligation or liability to comply with the Codes of Practice.

Discipline and training

23. The Licensee shall ensure good discipline and training among its staff, officers, consultants and contractors, including script-writers, as regards adherence to the Codes of Practice on programme, advertising and technical standards.

Codes of Practice

24. The Licensee shall monitor and ensure strict compliance with the Codes of Practice, and technical standards and directions issued by the Communications Authority.

Interference with other services

- 25.1 The Licensee shall not use or operate any apparatus or equipment or permit or cause the same to be used or operated in any manner which causes interference with any authorised broadcasting or telecommunications services or apparatus operating in or outside Hong Kong.
- 25.2 In case of any such interference, the Licensee shall comply with all instructions given to it by the Communications Authority in respect of the use and operation of the apparatus and equipment.

Information to be provided

- 26.1 The Licensee shall provide the relevant Authority within the period specified such information as the relevant Authority may properly require.

26.2 Without prejudice to the power of the Communications Authority under Condition 26.1, the Licensee shall submit to the Communications Authority not later than 30 April in each year or upon request by the Communications Authority a certified true copy of the latest annual audited accounts of the Licensee prepared by an auditor. 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 15.4 during the accounting year and other financial information contained in the audited accounts.

Provision of testing facilities and Service for regulatory purposes

27.1 Without prejudice to section 38 of the Broadcasting Ordinance, the Communications Authority may, for the purpose of exercising its functions under this Licence, require the Licensee to demonstrate to it that in establishing, providing or operating any means of telecommunications, telecommunications installation, telecommunications line or telecommunications service, if any, or any equipment, in relation to the Service, the Licensee is not in breach of any law, Ordinance, codes of practice, directions or conditions of this Licence.

27.2 For the purpose of Condition 27.1, the Licensee shall provide adequate testing instruments and operating staff.

27.3 The relevant Authority may give notice to the Licensee requesting the Licensee to provide within 21 days thereof the Service to the person making the request in order that that person may monitor and regulate the Service, and the Licensee shall comply with the request.

27.4 Where the Service is made available to the relevant Authority under Condition 27.3, no restriction on the lawful use or application that the relevant Authority may have in relation to the material provided on the Service shall be imposed on the relevant Authority or the Government.

**Standby
equipment and
spare parts**

28. The Licensee shall provide and maintain adequate standby equipment (including but not limited to spare parts) and staff to ensure that any interruption to the Service under this Licence is avoided or minimised, and that necessary repairs or replacements are made or provided promptly.

**Use of
frequency
channels in in-
building coaxial
cable
distribution
systems**

29.1 The Licensee shall seek approval from the Communications Authority for the allocation of frequency channels in any in-building coaxial cable distribution system (“IBCCDS”) and shall comply with technical standards and directions issued by the Communications Authority.

- 29.2 Unless otherwise directed or approved by the Communications Authority, the number of frequency channels that the Licensee may apply for use in any IBCCDS pursuant to Condition 29.1 shall not exceed [*] (*Note: the number of IBCCDS channels allocated to the Licensee is subject to the approval of the CA*). The number of frequency channels that the Licensee may use in any IBCCDS for the Service shall be subject to the approval of the Communications Authority required under Condition 29.1, the limit stipulated in this Condition 29.2, the availability of vacant channels in any IBCCDS, and the choice of the building residents concerned.

Transmission of Service

30. Save where the contrary intention appears expressly or by necessary implication in this Licence, including the requirement by the Secretary for Commerce and Economic Development to provide the Service in digital form in the entirety under Condition 2.1(b), the Licensee shall employ the means of transmission and the transmission arrangements for the Service as stated in the Licensee's Proposal. The Licensee shall apply to the Communications Authority for approval for any substantial change in the means of transmission or transmission arrangements.

Management of Licensee

31. 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.

Performance bond

- 32.1 Not later than 1 month from the Commencement Date, the Licensee shall submit to the Communications Authority a duly issued performance bond in favour of the Government in the sum of HK\$20 million (“Bonded Sum”) in the form and amount specified in a notice in writing of the Chief Executive in Council given pursuant to section 2(3) of the Broadcasting Ordinance, which form is reproduced in the Second Schedule to this Licence, to secure the compliance by the Licensee with certain conditions set out in this Licence and referred to as “Milestones” and “Deadlines for Compliance” in the Annex to the Second Schedule.
- 32.2 If after submission of the duly issued performance bond under Condition 32.1, the Licensee wishes to replace that performance bond with one issued by a different bank, the Licensee shall submit full written details of the proposed replacement bank and replacement performance bond to the Secretary for Commerce and Economic Development on behalf of the Government for approval not less than 14 days before the date the change becomes effective.
- 32.3 Notwithstanding any other conditions of this Licence (including but not limited to the terms and conditions of the performance bond):
- (a) if the Licensee fails to provide or maintain a performance bond in accordance with any provisions in this Condition 32 or the performance bond, or fails to provide to the Communications Authority a certificate by an auditor in accordance with Condition 32.5, this Licence may be revoked notwithstanding that the Licensee may have embarked on its preparation and performance; and no

licence fees or other fees and charges paid or payable by the Licensee before cessation in accordance with this Condition shall be refunded or cease to be payable, as the case may be;

- (b) all rights, powers and remedies of and claims by the Government under the performance bond lodged by the Licensee pursuant to this Condition 32, including any replacement thereof, shall be without prejudice to the other rights, powers and remedies of and claims by the Government and to the rights, powers and remedies of and claims by the Chief Executive in Council, the Chief Executive, the Communications Authority and, without limitation, any other person under any laws or Ordinance; and
- (c) any replacement performance bond referred to in Condition 32.2 shall be in the form of the performance bond appearing in the Second Schedule save for:
 - (i) the change in particulars of the replacement bank; and
 - (ii) the omission therefrom of any Milestones and Deadlines for Compliance in respect of which liability has ceased by reason of either the payment in full of all calls on the performance bond prior to the date the said change of bank becomes effective or the issue of any certificate of completion by the Government in respect of the said Milestones and Deadlines for Compliance.

32.4

The Licensee shall ensure that the Surety referred to in the performance bond, including any replacement performance bond, shall be and remain irrevocably and

unconditionally bound to the Government and liable for payment of the Bonded Sum and each of the Bonded Sums Payable.

- 32.5 Without prejudice to any power that the Communications Authority may have, the Licensee shall, within 2 months upon completion of each or all of (as the case may be) the Milestones, submit to the Communications Authority a certificate by an auditor to evidence and certify completion of each or all of (as the case may be) the Milestones by the relevant Deadline(s) for Compliance. Once the Communications Authority is satisfied that the Licensee has complied with its obligations in respect of any or all of (as the case may be) the Milestones and Deadline(s) for Compliance set out in the performance bond issued in favour of the Government, the Secretary for Commerce and Economic Development on behalf of the Government shall, as soon as practicable thereafter but no more than 30 days and in response to a request in writing to that effect from the Licensee, issue in respect thereof a certificate of completion to the Licensee and to the Surety referred to in the performance bond or the replacement bank that has been approved by the Secretary for Commerce and Economic Development on behalf of the Government in accordance with Condition 32.2 (where applicable).

Other requirements

33. 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 provision of the Service.

Granted on [*] (*Note: date to be provided later*)

Clerk to the Executive Council

COUNCIL CHAMBER

Accepted by :

Signature :

Capacity :

Date :

FIRST SCHEDULE

THIS SCHEDULE GOVERNS THE DESIGNATED INTEGRATED CHANNELS OF THE LICENSEE'S SERVICE. IT SHALL FORM AND BE READ AS AN INTEGRAL PART OF THIS LICENCE.

General Provisions

1. Save where the contrary intention appears expressly or by necessary implication in this Schedule, the programme types described in this Schedule shall bear the same meaning, if any, as in the Code of Practice on programme standards and any directions issued by the Communications Authority from time to time, and in the event of any conflict or inconsistency between their meanings, the meaning in the Code of Practice on programme standards shall prevail.

Language of Broadcast

- 2.1 The Licensee shall provide its Service on the designated integrated channels in accordance with Condition 17.4.1 of the Licence.
- 2.2 The Licensee may, with the prior approval in writing of the Communications Authority and subject to such conditions as may be imposed by it, provide the whole or any part of its Service on the designated integrated channels in any other language(s) or dialect(s).
- 2.3 The Licensee may, with the prior approval in writing of the Communications Authority and subject to such conditions as may be imposed by it, provide the whole or part of its Service on the designated integrated channels using one or more accompanying sound channels in one or more language(s) or dialect(s).

Subtitling

- 3.1 The Licensee shall provide subtitling for its Service, as may be directed in writing by the Communications Authority from time to time after consultation with the Licensee.
- 3.2 The Licensee may, with the prior approval in writing of the Communications Authority and subject to such conditions as may be imposed by it, deviate from the requirements in Condition 3.1 of this Schedule.

News Programmes

- 4.1 The Licensee shall provide on each of the designated integrated channels a minimum of two comprehensive news bulletins, each of not less than 15 minutes duration, each evening between the hours of 6:00 p.m. and 12:00 midnight.
- 4.2 Upon application in writing by the Licensee, the Communications Authority may approve alternative arrangements for broadcasting news bulletins referred to in Condition 4.1 of this Schedule.

Documentary Programmes

- 5.1 The Licensee shall provide a minimum of 60 minutes of documentary programmes each week on each of the designated integrated channels between the hours of 6:00 p.m. and 12:00 midnight, of which not less than 30 minutes on the integrated Chinese channel are to be wholly of Hong Kong origin.
- 5.2 For the purposes of this Schedule, “wholly of Hong Kong origin” means programmes:
- (a) produced
 - (i) in substance and in form in Hong Kong; or
 - (ii) by the Licensee, by any employee of the Licensee, by

any company which is a subsidiary of the Licensee within the meaning of section 2(1) of the Broadcasting Ordinance (“Licensee’s Subsidiary”), or by any employee of the Licensee’s Subsidiary, or by any other independent production company engaged by the Licensee in or outside Hong Kong; and

- (b) the Communications Authority is satisfied that it is produced primarily for the Hong Kong market.

5.3 For the purposes of Condition 5.1 of this Schedule, programmes other than travelogues and such other subjects as the Communications Authority may determine, may be “documentary” if they are factual and consist wholly or substantially of real events.

5.4 Upon application in writing by the Licensee, the Communications Authority may approve alternative arrangements for broadcasting documentary programmes referred to in Condition 5.1 of this Schedule.

Current Affairs Programmes

6.1 The Licensee shall provide a minimum of 60 minutes of current affairs programmes each week on each of the designated integrated channels between the hours of 6:00 p.m. and 12:00 midnight, of which not less than 30 minutes on each of the designated integrated channels are to be wholly of Hong Kong origin.

6.2 Upon application in writing by the Licensee, the Communications Authority may approve alternative arrangements for broadcasting current affairs programmes referred to in Condition 6.1 of this Schedule.

Children’s

Programmes

- 7.1 Subject to the requirements regarding family viewing hours stipulated in the Code of Practice on programme standards and to any directions issued by the Communications Authority, the Licensee shall provide:
- (a) two blocks of programmes intended and suitable for children of different age groups in Hong Kong up to and including the age of 15 years (“children’s programmes”) of a minimum period of:
 - (i) 30 minutes daily on each of the designated integrated channels between the hours of 4:00 p.m. and 7:00 p.m., of which not less than 30 minutes on the integrated Chinese channel are to be wholly of Hong Kong origin; and
 - (ii) 30 minutes daily on each of the designated integrated channels between the hours of 9:00 a.m. and 7:00 p.m.; and
 - (b) a minimum of 2 hours of children’s programmes with educational values targeting teenagers each week on the integrated English channel between the hours of 5:00 p.m. and 7:00 p.m., which shall count towards the block of children’s programmes referred to in Condition 7.1(a)(i) above. Notwithstanding any other provisions in this Licence, English subtitles shall be provided for programmes provided pursuant to this Condition within 6 months from the date of service launch of the integrated English channel and at all times thereafter.
- 7.2 Upon application in writing by the Licensee, the Communications Authority may by a direction waive or modify the requirements specified in Condition 7.1 of this Schedule in accordance with the terms of the

direction.

- 7.3 Without prejudice to the requirements in Condition 12.2 of this Schedule, the Licensee shall repeat the provision of any or all of the children's programmes referred to in Condition 7.1(a) of this Schedule at such time as may be directed by the Communications Authority from time to time.
- 7.4 Apart from the repetitions referred to in Condition 7.3 of this Schedule, children's programmes shall not be repeated more frequently than as may be specified in the Code of Practice or directed by the Communications Authority from time to time.
- 7.5 The Licensee shall inform the Communications Authority in writing of the programme types and transmission schedules for children's programmes 1 week in advance of broadcasting. The Communications Authority may waive the requirement of notification.

Programmes for Young Persons

- 8.1 Subject to the requirements regarding family viewing hours stipulated in the Code of Practice on programme standards and to any directions issued by the Communications Authority, the Licensee shall provide a minimum of 30 minutes of programmes for young persons each week on the integrated Chinese channel between the hours of 8:00 a.m. and 12:00 midnight, which are intended and suitable for the education and proper development of young people in Hong Kong aged 16 years to 24 years (inclusive).
- 8.2 Upon application in writing by the Licensee, the Communications Authority may approve alternative arrangements for broadcasting programmes for young persons referred to in Condition 8.1 of this Schedule.

Programmes for

Senior Citizens

- 9.1 Subject to the requirements regarding family viewing hours stipulated in the Code of Practice on programme standards and to any directions issued by the Communications Authority, the Licensee shall provide a minimum of 60 minutes of programmes for senior citizens each week on the integrated Chinese channel between the hours of 8:00 a.m. and 12:00 midnight, which are intended and suitable for the particular requirements of senior citizens in Hong Kong over the age of 60 years in relation (but not necessarily limited) to their well-being.
- 9.2 Upon application in writing by the Licensee, the Communications Authority may approve alternative arrangements for broadcasting programmes for senior citizens referred to in Condition 9.1 of this Schedule.

Arts and Culture Programmes

- 10.1 The Licensee shall provide a minimum of 60 minutes of arts and culture programmes each week on the integrated Chinese channel between the hours of 8:00 a.m. and 12:00 midnight, which are intended and suitable for promoting the development and appreciation of the literary, performing and visual arts or other topics or activities of cultural value, of which not less than 15 minutes are to be wholly of Hong Kong origin.
- 10.2 Upon application in writing by the Licensee, the Communications Authority may approve alternative arrangements for broadcasting arts and culture programmes referred to in Condition 10.1 of this Schedule.

Annual Reports

- 11.1 The Licensee shall submit reports to the Communications Authority on or before 31 March each year on the extent to which the programmes provided in the previous

calendar year ending on 31 December pursuant to Conditions 7, 8, 9 and 10 of this Schedule have been able to achieve the respective objectives as set out in the aforesaid Conditions, provided that the Licensee shall not be required to submit any such reports for the year [*] (*Note: this is to exclude the year the licence is granted*).

- 11.2 The Communications Authority may in its discretion make the reports referred to in Condition 11.1 of this Schedule publicly available in any manner as it thinks fit, in whole or in part.

Obligations of Licensee

- 12.1 Unless otherwise expressly stated in this Licence or directed by the Communications Authority upon application in writing by the Licensee, the obligations and requirements imposed upon the Licensee to provide certain programmes at certain times and for certain periods pursuant to Conditions 4, 5, 6, 7, 8, 9 and 10 of this Schedule shall not be discharged or satisfied to the extent the programmes so provided comprise or include television programmes, publicity material or announcements produced, commissioned or supplied by the Government or the Communications Authority.

- 12.2 Unless otherwise directed by the Communications Authority upon application in writing by the Licensee, the obligations and requirements imposed upon the Licensee to provide certain programmes at certain times and for certain periods pursuant to Conditions 5, 6, 7, 8, 9 and 10 of this Schedule shall be fulfilled only by first-run programmes.

12.3 For the purposes of this Schedule, “first-run programme” means a programme that has not previously been broadcast or provided in substantially the same form and content on any of the television programme service channel(s) of the Service.

Programmes for Schools

13.1 Pursuant to section 19 of the Broadcasting Ordinance, the Licensee shall include in the Service such programmes for schools supplied by the Government as may be required by the Communications Authority.

13.2 The programmes required under Condition 13.1 of this Schedule:

- (a) shall not exceed 4 hours each day unless the Communications Authority otherwise requires by serving upon the Licensee a notice in writing of not less than 30 days; and
- (b) may be provided as part of the Service on the integrated English channel unless the Communications Authority otherwise requires by serving upon the Licensee a notice in writing of not less than 30 days.

SECOND SCHEDULE

(Section 2(3) of the Broadcasting Ordinance and Condition 32 of the Licence)

FORM OF PERFORMANCE BOND

THIS SCHEDULE TOGETHER WITH ITS ANNEX SHALL FORM AND BE READ AS AN INTEGRAL PART OF THE LICENCE GRANTED TO THE LICENSEE TO PROVIDE A DOMESTIC FREE TELEVISION PROGRAMME SERVICE IN HONG KONG.

BY THIS BOND dated the [] day of [month] and [year] (“this Bond”)

We, Fantastic Television Limited, whose registered office is at [*address of Licensee] (“Licensee”), and [*details to be provided by the Licensee], holder of a valid banking licence issued under the Banking Ordinance (Cap.155), whose [*registered office/principal place of business] is at [*address] (“Surety”) are irrevocably and unconditionally bound to the Government of the Hong Kong Special Administrative Region (together with his successors and assigns, “Government”) up to the sum of HK\$20 million (“Bonded Sum”) subject to the terms and conditions of this Bond and in accordance with the Milestones set out in the Annex hereto (“Annex”) for payment of which sum the Licensee and the Surety bind themselves, their successors and assigns, jointly and severally, in accordance with the provisions of this Bond.

WHEREAS

Pursuant to the terms of the Licence, the Licensee agreed to obtain a surety to be bound unto the Government for the due performance of the Licence by the Licensee.

NOW THE TERMS AND CONDITIONS of this Bond are:

1. Where applicable, words and expressions used in this Bond shall have the meaning assigned to them in the Licence.

2. If, in respect of any Milestone set out in the Annex, the Licensee fails to achieve that Milestone by the Deadline for Compliance set out opposite to that Milestone in the Annex, the Surety shall upon demand made by the Government in writing and without proof or conditions satisfy and discharge the relevant amount of the Bonded Sum Payable set out opposite to that Milestone in the Annex provided that the aggregate liability of the Surety under this Bond in respect of that failure shall not exceed the Bonded Sum Payable set out opposite to the Milestone in the Annex.
3. The liability of the Surety under this Bond shall not be affected or discharged in any way by (and the Surety hereby waives any requirement to give notice in respect of):
 - (a) any suspension of the Licence, variation to or amendment of the Licence (including but without limitation to extensions of time for performance) or any concession or waiver by the Communications Authority in respect of the Licensee's obligations under the Licence. Without prejudice to the foregoing and purely on a 'for information basis', the Surety will be notified of any such suspension, variation, amendment, concession or waiver;
 - (b) the cancellation or revocation of the Licence;
 - (c) any forbearance or waiver of any right or remedy that the Government, the Chief Executive in Council, the Chief Executive, the Communications Authority or, without limitation, any other person, may have against the Licensee;
 - (d) any act or omission of the Licensee pursuant to any other arrangement with any of the persons referred to in clause 3(c) above or with the Surety; and
 - (e) subject to clause 4 below, the issue of any certificate of completion by the Secretary for Commerce and Economic Development in respect of any Milestone set out in the Annex.
4. The liability of the Surety under this Bond shall cease on whichever of the following events first occurs:
 - (a) payment by the Surety of the Bonded Sum in full to the Government; or
 - (b) issue of a certificate of completion by the Secretary for Commerce and Economic Development in respect of all of the Milestones set out in the Annex.
- 5.1 This Bond shall remain valid from the date of this Bond until the liability of the Surety under this Bond ceases pursuant to clause 4 above.
- 5.2 In the event that the Licensee wishes to replace this Bond with one issued by a different bank, and the Licensee fails to provide to the satisfaction of the Secretary for Commerce and Economic Development on behalf of the Government a replacement performance bond in the form appearing in the Second Schedule to the Licence by not

later than 14 days prior to the proposed date on which the replacement bond becomes effective, the Government shall be entitled, without limitation to any rights it may have under the Licence or any law or Ordinance, to call this Bond up to a maximum amount of the Bonded Sums Payable in respect of the Milestones which have not been performed by submitting its claim in writing at the Surety's counters prior to the proposed date on which the replacement bond becomes effective, and the Surety shall forthwith pay the amount thereof to the Government.

- 5.3 For the avoidance of doubt, the Milestones and Deadlines for Compliance with the Milestones are treated as not having been performed, unless and until a certificate of completion has been issued by the Secretary for Commerce and Economic Development in respect of the respective Milestones and Deadlines for Compliance.
6. The Government shall be entitled to assign the benefit of this Bond at any time without the consent of the Surety or the Licensee being required. Without prejudice to the foregoing and purely on a 'for information basis', the Surety will be notified by the Communications Authority within a reasonable period after any such assignment.
7. All documents arising out of or in connection with this Bond shall be served:
 - (a) upon the Government at: Commerce and Economic Development Bureau, 22/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong and marked for the attention of "Secretary for Commerce and Economic Development"
 - (b) upon the Communications Authority at: 20th floor, Wu Chung House, 213 Queen's Road East, Wanchai, Hong Kong and marked for the attention of "Assistant Director (Broadcasting)"
 - (c) upon the Surety at: *[Note 1]*
8. The Government, the Communications Authority and the Surety may change their respective nominated addresses for service of documents to another address in Hong Kong but only by 7 days' prior written notice to each other. All demands and notices must be in writing.
9. This Bond shall be governed by and construed according to the laws for the time being in force in the Hong Kong Special Administrative Region. The Licensee and the Surety agree to submit to the non-exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region.

IN WITNESS whereof this Bond has been executed as a deed on the date first above written.

Authorised Signatory:

Signature No.:

Notes : [for preparation of but not inclusion in the engrossment of this performance bond]

- 1. The address for service shall be in Hong Kong.**
- 2. For use where the Licensee or the Surety, whether a firm or limited company, executes through an attorney.**
- 3. The Licensee as well as the Surety must execute the bond.**

Annex to the Second Schedule

<u>Milestones</u>	<u>Deadlines for Compliance</u>	<u>Bonded Sums Payable</u>
<u>Required roll-out of the Service (Condition 17.4.1 of the Licence)</u>		
1(a) The Licensee shall broadcast its Service on one 24-hour integrated Chinese channel each day.	Unless the Communications Authority otherwise approves or determines, within 12 months from the Commencement Date	HK\$3.34 million
1(b) The Licensee shall broadcast its Service on the designated integrated channels each day, comprising one 24-hour integrated Chinese channel and one 24-hour integrated English channel.	Unless the Communications Authority otherwise approves or determines, within 24 months from the Commencement Date	HK\$3.33 million
<u>Required Premises within Network Reach and Premises Ready for Service (Condition 17.5.1 of the Licence)</u>		
2(a) The Service shall be made available for reception by not less than 1.75 million Premises within Network Reach and not less than 1.75 million Premises Ready for Service.	Unless the Communications Authority otherwise approves or determines, within 6 months from the Commencement Date	HK\$3.34 million
2(b) The Service shall be made available for reception by not less than 2.15 million Premises within Network Reach and not less than 2.15 million Premises Ready for Service.	Unless the Communications Authority otherwise approves or determines, within 12 months from the Commencement Date	HK\$3.33 million
<u>Required capital and programming expenditure (Condition 15.5 of the Licence)</u>		
3(a) The Licensee shall incur not less than HK\$168 million as the capital and programming expenditure for providing the Service.	Unless the Communications Authority otherwise approves or determines, within 18 months from the Commencement Date	HK\$2.22 million
3(b) The Licensee shall incur not	Unless the Communications	HK\$2.22 million

	<u>Milestones</u>	<u>Deadlines for Compliance</u>	<u>Bonded Sums Payable</u>
	less than HK\$336 million as the cumulative capital and programming expenditure for providing the Service.	Authority otherwise approves or determines, within 30 months from the Commencement Date	
3(c)	The Licensee shall incur not less than HK\$504 million as the cumulative capital and programming expenditure for providing the Service.	Unless the Communications Authority otherwise approves or determines, within 42 months from the Commencement Date	HK\$2.22 million

This Annex shall be read in conjunction with the terms and conditions of the Licence.

第 號公告

《廣播條例》（第 562 章）

現依據《廣播條例》附表 4 第 4 (1) (a) 條公布，行政長官會同行政會議已作出決定，於 2016 年 5 月 31 日向奇妙電視有限公司批給本地免費電視節目服務牌照，而該牌照的有效期為 12 年，由 2016 年 5 月 31 日起至 2028 年 5 月 30 日止（包括首尾兩日）。行政長官會同行政會議現亦依據《廣播條例》附表 4 第 4 (1) (b) 條命令，該牌照須在 2022 年 5 月 31 日後的有效期內予以覆核。

行政會議廳
2016 年[*]月[*]日

行政會議秘書黃潔怡

《2016 年防止賄賂條例(修訂附表 1)令》

註釋

(由行政長官會同行政會議根據《防止賄賂條例》(第 201 章)第 35 條作出)

本命令修訂《防止賄賂條例》(第 201 章)附表 1，指明“(奇妙電視有限公司)”為該條例所指的公共機構。

1. 生效日期

本命令自 2016 年 7 月 16 日起實施。

2. 修訂《防止賄賂條例》

《防止賄賂條例》(第 201 章)現予修訂，修訂方式列於第 3 條。

3. 修訂附表 1(公共機構)

附表 1 —

加入

“131. (奇妙電視有限公司)。”。

行政會議秘書

行政會議廳

2016 年 月 日
