



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

來函檔號 YOUR REF :
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By Fax (2351 2791)

9 April 2019

Mr Tony YIP
Principal Assistant Secretary for Commerce &
Economic Development (Communications & Creative
Industries) (Special Duties)
21/F, West Wing
Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Mr YIP,

Broadcasting and Telecommunications Legislation (Amendment) Bill 2019

We are scrutinizing the captioned Bill with a view to advising Members and should be grateful if you could provide the following information:

Transitional arrangements

The proposed new Schedule 10 to the Broadcasting Ordinance (Cap. 562) ("new Schedule 10") provides, among other things, for the transitional arrangements for certain applications submitted before the day on which the Broadcasting and Telecommunications Legislation (Amendment) Ordinance 2019 ("2019 Amendment Ordinance") comes into operation and have not been determined immediately before that day ("pending applications"). Under sections 5 and 6 of the new Schedule 10, the regime under the 2019 Amendment Ordinance ("new regime") would be applicable to a pending application for a domestic free or pay television programme service licence (collectively known as "domestic TV licences") and to the pending applications for the extension or renewal of these licences if certain conditions are satisfied. It is noted that, insofar as pending applications are concerned, there are

examples¹ where a Bill seeks to provide (or legislation has provided) that the Ordinance immediately before the relevant Amendment Ordinance comes into operation ("old regime") continues to be applicable to such applications. In the light of above, would the Administration please:

- (a) explain the reason for providing that the new regime would be applicable to the above pending applications although such application are submitted while the old regime is in force; and
- (b) provide the considerations that the Chief Executive in Council may take into account in deciding whether to rely on the Communications Authority's ("CA") recommendation on a pending application or to request CA to reconsider and submit fresh recommendations in respect of such application under sections 5(2) and 6(2) of the new Schedule 10.

As sections 4 to 6 of the proposed new Schedule 4 to the Telecommunications Ordinance (Cap. 106) also seek to provide for similar transitional arrangements in respect of a licence to establish and maintain a broadcasting service (i.e. a service for transmitting sound (otherwise than as part of a television broadcast) for general reception by means of radio waves), please also provide the information relating to such transitional arrangements under the proposed new Schedule 4 with reference to the information sought under the above paragraph.

As the first Bills Committee meeting is scheduled on 16 April 2019, please let us have your reply in both Chinese and English by **12 April 2019**.

Yours sincerely,



(Evelyn LEE)
Assistant Legal Adviser

c.c. Department of Justice
(Attn: Mr Vincent WAI, Government Counsel (Fax: 3918 4613))
Legal Adviser
Senior Assistant Legal Adviser 3

¹ See the proposed new Schedule 7 to the Trade Mark Ordinance (Cap. 559) under the Trade Marks (Amendment) Bill 2019; the proposed new Part 8 to the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) under the Hotel and Guesthouse Accommodation (Amendment) Bill 2018 and section 4 of Schedule 11 to the Companies Ordinance (Cap. 622).