

PCCW MEDIA LIMITED

BROADCASTING ORDINANCE AMENDMENT BILL

MAY 2019

Overview

- PCCW Media Limited (“PCCW”) supports the review of the Broadcasting Ordinance (“BO”) and its objectives. PCCW considers that current proposals are appropriate and, in particular supports the lifting of the obsolete cross media ownership restrictions and the abolition of the non-subsidiary company requirements. The relaxation of these control and ownership provisions will expand financing and funding opportunities as well as allow for consolidation in the industry and the achievement of greater synergies.
- While PCCW fully supports the review and the proposals, PCCW notes the need for commercial television licensees to be able to continue to operate efficiently, adapt responsively and compete effectively with newer unregulated services.
- In its submission in response to the consultation exercise carried out by the Commerce and Economic Development Bureau (“CEDB” or “Government”), PCCW included some suggestions regarding the streamlining of regulatory reporting requirements and the relaxation of operational restrictions and content regulations.
- PCCW hopes that the current review, focused on control and ownership reforms, will be the beginning of a broader Government initiative to create a legislative and policy framework which fosters a balanced competitive environment in which commercial television licensees are able to compete fairly with newer unregulated media, in particular OTT and internet based television and content services. This would require a comprehensive review covering not just the BO, but also the licence terms, the Code of Practice and other relevant policies and legislation. PCCW has the following key areas of concern:
 - **Piracy:** Piracy is rampant and prejudices the long term viability of commercial television licensees. Copyright infringers are employing OTT technology to distribute infringing material. There is an urgent need for a comprehensive review of the policy and legislative framework (not just the BO) to ensure content rights are effectively protected against all forms of piracy

whether carried out online, digitally or via a decoder etc. Commercial television licensees must be able to take swift action against access to online sites and/or servers that are found to be infringing their copyright. Effective site blocking could play an important role. PCCW would encourage the Government to consider a suitable policy framework for implementing site blocking. Streamlined and efficient legal procedures are required to enable commercial television licensees to take rapid action in response to infringements. In addition, some legislative provisions need to be redrafted. Section 6 of the BO, for example, is not technology neutral. With the proliferation of OTT and other online transmission methods it has become ineffective as copyright infringers move away from unauthorized decoding to unauthorized re-transmission of commercial television licensees' content via OTT or other online transmission methods. Section 6 should be redrafted with technology neutral language. More effective enforcement procedures are needed. For example, the BO currently does not confer any authority on the Communications Authority ("CA") to combat infringement action which circumvents to BO.

- **Communications Authority Decision Appeal Process:** The current process for appealing decisions of the Communications Authority to the Chief Executive in Council ("CE in C") is extremely time consuming and cumbersome. PCCW suggests that an independent and impartial tribunal should be set up to handle the appeal process.

- **Other:** The complaints process and reporting requirements under the BO and the licence requirement to seek the CA's approval prior to any representational changes create a significant administrative burden on both the licensee and the regulator. PCCW suggests that the rational for these processes and requirements should be reviewed with a view to streamlining them and reducing any unnecessary regulatory burden.

PCCW Media Limited
7 May 2019
