

# **The 1998 Review of Television Policy**

## **A Consultation Paper**

**Information Technology and Broadcasting Bureau**

**The Government of the Hong Kong Special Administrative Region**

*3 September 1998*

# Table of Contents

	<u>Page No.</u>
<b>I. PROLOGUE</b>	<b>1</b>
<b>II. SUMMARY OF PROPOSALS</b>	<b>4</b>
Network Sharing	4
In-Building Distribution Systems	5
Pay Television Market	6
Regulatory Issues	7
Royalties and Licence Fees	8
Digital Terrestrial Television	9
Legislation	9
Regulatory Bodies	10
<b>III. THE PRESENT BROADCASTING LANDSCAPE</b>	<b>11</b>
<b>IV. ROLE OF GOVERNMENT IN THE AGE OF CONVERGENCE</b>	<b>13</b>
<b>V. KEY POLICY OBJECTIVES</b>	<b>14</b>
<b>VI. BREAKING UP OF VERTICAL INTEGRATION</b>	<b>15</b>
<b>VII. OPENING UP OF TELECOMMUNICATIONS AND BROADCASTING NETWORKS</b>	<b>17</b>
<b>VIII. RELIEVING CONGESTION IN IN-BUILDING DISTRIBUTION SYSTEMS</b>	<b>20</b>
<b>IX. THE PAY TELEVISION MARKET</b>	<b>22</b>

	<u>Page No.</u>
<b>X. DIRECT-TO-HOME SATELLITE TELEVISION SERVICES</b>	<b>25</b>
<b>XI. REGULATION AND LICENSING OF TELEVISION PROGRAMME SERVICES</b>	<b>28</b>
Domestic free television programme services	28
Domestic pay television programme services	29
Non-domestic television programme services	29
Other licensable television programme services	29
Transactional and data services	30
Internet TV	30
Generic Codes of Practice	31
Four-tier regulatory system	31
Ownership and corporate control	32
Restrictions on Non-Residents	32
Corporate Status	35
“Disqualified Persons”	35
Investment Restrictions	36
Content Control	37
Positive Programme Requirements	37
Language of Broadcast	38
Programme and Advertising Standards	38
Advertising Time Restrictions	39
Restrictions on VOD Programme Services	41
<b>XII. FEES AND CHARGES</b>	<b>42</b>
Royalties	42
Licence Fees	43
<b>XIII. DIGITAL TERRESTRIAL TELEVISION</b>	<b>44</b>
<b>XIV. LEGISLATION</b>	<b>46</b>

	<u>Page No.</u>
<b>XV. REGULATORY BODIES</b>	<b>48</b>
<b>XVI. IMPLEMENTATION</b>	<b>49</b>
Annex A	Frequency Allocation for In-Building Coaxial Cable Systems
Annex B	Policy Proposals on Ownership, Investment and Content and Advertising Control

## **I. PROLOGUE**

1.1 The Government's long-standing policy on television broadcasting has been to widen viewers' choice of quality programming, to ensure television programmes meet the diverse needs of society and do not offend public taste and decency, and to enhance Hong Kong's position as a pre-eminent regional broadcasting hub. The regulatory regime for television is set out in the Television Ordinance (Cap. 52), the Telecommunication Ordinance (Cap. 106) and the Broadcasting Authority Ordinance (Cap. 391). The Ordinances have been constantly reviewed and amended in the past years to enable new services to be introduced and to keep pace with fast developing technologies. In the past ten years, the number of television channels available in Hong Kong has increased ten-fold (from 4 to over 40) following the introduction of satellite television in 1991 and subscription television in 1993. With the introduction of the world's first commercial video-on-demand (VOD) programme service in 1998, viewers now have an added choice of some 300 hours of interactive multimedia programmes every month. Although small in size, Hong Kong is a regional leader in international satellite broadcasting. Asia's first ever regional satellite broadcasting service, STAR TV, was launched in Hong Kong in 1991 and blazed the trail for others to follow.

1.2 Advanced technology, together with the excellent supporting information infrastructure invested by the private sector, the availability of a critical mass of talents in the related fields of programme productions, film-making and publishing and, not least the pro-competition policy of the Government, are the main drivers behind the development of television services in Hong Kong. To keep Hong Kong in the forefront of technological development in the Information Age ahead, a comprehensive review of the television environment in 1998 was announced by the Chief Executive in his Policy Address last year to:

- (a) take stock of the current developments in local television broadcasting and to examine how new technologies impact on existing policies;
- (b) review the existing regulatory regime in the light of technological developments and changing market demands; and

- (c) identify ways to further advance Government's broadcasting policy objectives of broadening programme choice, encouraging innovation and promoting Hong Kong as a regional broadcasting hub.

The present review will also embrace the pay television market review promised by the Government in 1996.

1.3 For the present review the Government has conducted two rounds of consultation. In response to the first invitation, the industry contributed their views on the scope of the review in the second and third quarters of 1997. Taking into account all views received, the Government issued a consultation paper (which can be downloaded from the ITBB website at <http://www.info.gov.hk/itbb/consult/index.htm>) in February 1998 setting out the issues to be covered and the timetable of the review. Altogether 17 submissions were received by the end of April 1998. The respondents unanimously supported that the television market should be deregulated to enhance competition as this will stimulate capital investment, improve consumer choice and lower prices. They also urged the Government to abolish obsolete controls over broadcasters, remove undue financial burdens and further facilitate the introduction of innovative services using new technologies. As regards the regulatory framework, most respondents believed that the two existing legislative frameworks for telecommunications and broadcasting services should merge, and in their place new, technology-neutral legislation should be enacted to cater for the possibilities in store in a technology-convergent environment. These views have been taken into account in drawing up the policy proposals put forward in this Consultation Paper.

1.4 The Government would welcome comments on this Consultation Paper and the proposals made therein as a way forward. Comments should be sent to the Information Technology and Broadcasting Bureau before 3 October 1998 via:

*Post* Information Technology and Broadcasting Bureau  
1/F-2/F, Murray Building,  
Garden Road  
Hong Kong

*Fax* (852) 2511 1458 (Open)  
(852) 2827 0119 (Confidential Registry)

*E-mail* slui@itbb.gcn.gov.hk

1.5 The Government reserves the right to make public all, or parts, of any submissions made in response to this Consultation Paper. Any material claimed to be commercially confidential would need to be clearly marked: the Government would take such marking into account in making its decision on whether to release the material or not.

## II. SUMMARY OF PROPOSALS

2 The key proposals in this paper are summarised below :

<b>Subject</b>	<b>Proposals</b>
<b>Network sharing</b>	<p>2.1 To allow Fixed Telecommunication Network Services (FTNS) licensees to convey and provide television programme services, including pay television and video-on-demand (VOD) services (para. 7.1(a)).</p> <p>2.2 To require Wharf Cable Limited (Wharf Cable) to open up its broadband network for use by other television and telecommunications service providers subject to the payment of a cost-based interconnection charge to be approved by the Telecommunications Authority (TA) (para. 7.1(b)).</p> <p>2.3 To allow cable television networks to deliver telecommunications services in addition to television services (para. 7.1(c)).</p> <p>2.4 To allow satellite TV uplink and downlink licensees to offer their transmission facilities for providing uplinking services immediately following the expiry of Hong Kong Telecom International Limited (HKTI)'s exclusivity to provide facility-based satellite uplinking service on 1 January 2000 (para. 7.1(d)).</p> <p>2.5 To require Wharf Cable to hand back non-essential Microwave Multipoint Distribution System (MMDS) frequencies within a stipulated time-frame (para. 7.1(e)).</p>

<b>Subject</b>	<b>Proposals</b>
	<p>2.6 To develop the application of digital terrestrial television (DTT), thereby reducing existing spectrum constraints on terrestrial television broadcasting and broadening the scope of services to include High Definition Television (HDTV), multimedia and telecommunication services (para. 7.1(f)).</p> <p>2.7 To put in place appropriate pro-competition safeguards against and between dominant network/transmission facilities owners and/or service providers (para. 7.4).</p> <p>2.8 In the longer term, to mandate interconnection between telecommunications and broadcasting networks in a digital multimedia environment (para. 7.1(g)).</p> <p>2.9 To review the terms and conditions for the use of a site reserved at Chung Hum Kok for the development of a teleport to facilitate investments in satellite stations for external telecommunications and uplinking of broadcasting signals (para. 7.3).</p>
<b>In-building distribution systems</b>	<p>2.10 To promote efficient use of the frequency spectrum by giving priority in the allocation of the frequency spectrum of the in-building wiring to services using digital and other advanced technologies (para. 8.2(a))</p> <p>2.11 To encourage cable, satellite and terrestrial broadcasters to apply digital technology in their transmission, especially in the introduction of new services (para. 8.2(b)).</p>

<b>Subject</b>	<b>Proposals</b>
	<p>2.12 To amend section 36A of the Telecommunication Ordinance with a view to strengthening the TA's power in determining interconnection within buildings (para. 8.2(c)).</p>
	<p>2.13 To require the mandatory provision of access facilities in new buildings (para. 8.2(d)).</p>
<b>Pay television market</b>	<p>2.14 To lift the moratorium on pay television and VOD programme service licences and open the market for free competition (para. 9.5(a)).</p> <p>2.15 To remove existing restrictions and allow satellite broadcasters and Satellite Master Antenna Television (SMATV) operators to carry pay television services (paras. 9.5(b) &amp; (c)).</p> <p>2.16 To continue to allow television receive-only (TVRO) to receive any satellite television programmes without restriction. However, foreign television services should not be allowed to market their pay services or sell/rent/install their decoders and reception equipment in Hong Kong for their television services if they do not possess a television service licence issued in Hong Kong (para. 9.5(d)).</p> <p>2.17 To prepare for the licensing of Direct-to-Home (DTH) service using the 4 high power Broadcasting Satellite Service (BSS) channels allocated for domestic free and/or pay television services in digital format in and uplinked from Hong Kong with a view to inviting applications in 1999 (paras. 10.1-10.4).</p>

<b>Subject</b>	<b>Proposals</b>	
<b>Regulatory issues</b>	2.18	<p>To revamp and rationalise the existing regulatory approach for licensing television broadcasting services by replacing it with a technology and transmission neutral regime with four categories of licences :</p> <ul style="list-style-type: none"> <li>(a) Domestic free television programme services</li> <li>(b) Domestic pay television programme services</li> <li>(c) Non-domestic television programme services</li> <li>(d) Other licensable television programme services (para. 11.2).</li> </ul>
	2.19	<p>To invite the Broadcasting Authority (BA) to review the existing codes of practice with a view to issuing a set of generic codes on programme and advertising standards and specify which parts of the codes are applicable to all or a certain category of licensees. The TA should be responsible for issuing technical standards in respect of the four categories of licensees proposed in para. 2.18 above (para. 11.6).</p>
	2.20	<p>To subject the four categories of services proposed in para. 2.18 above to a 4-tier regulatory system commensurate with the degree of pervasiveness and the nature of the services. Restrictions on ownership, investment by licensees, content and advertising control etc. are to be relaxed or simplified accordingly (paras. 11.7-11.31).</p>
	2.21	<p>To require parental locking systems for all domestic pay and other licensable television services (paras. 11.2(b) &amp; (d)).</p>
	2.22	<p>Transactional and data services offered to pay television subscribers as a package or stand-alone services should continue to be regulated under</p>

<b>Subject</b>	<b>Proposals</b>
	<p>licences issued by the TA under the Telecommunication Ordinance (Cap. 106) (para. 11.3).</p> <p>2.23 Any new multimedia service (including Internet) originated in Hong Kong, which offers TV-type programmes, on a commercial basis and competes with television programme services operating in Hong Kong should require a television programme service licence. ‘Web TV’ should continue to be regulated as Internet service until it is caught by the foregoing description (para. 11.5).</p>
<b>Royalties and licence fees</b>	<p>2.24 To abolish the charging of subscription royalties for domestic pay television services (para. 12.2).</p> <p>2.25 To abolish the charging of advertising royalties for all television programme services (para. 12.2).</p> <p>2.26 To abolish the charging of advertising royalties for all radio services (para. 12.3).</p> <p>2.27 To maintain the current policy of recovering full cost from licence fees for all television programme and radio services and to regularly review and introduce cost-efficiency measures where appropriate to licence administration. As a quid pro quo for the abolition of royalties, the phase-in arrangement for full cost recovery for licence fees should cease and the full licence fees should be payable immediately upon legislative and licence amendments where appropriate (paras. 12.5 &amp; 12.6).</p>
<b>Digital Terrestrial Television</b>	<p>2.28 To establish a Joint Government-Industry steering committee to steer and co-ordinate the conduct of technical trials on digital terrestrial television (DTT) and HDTV with a view to determining a</p>

<b>Subject</b>	<b>Proposals</b>
	<p>DTT standard to be adopted in 2000 (para. 13.3(a) &amp; (b)).</p> <p>2.29 To commence in 2 years, on satisfactory completion of the DTT trials, simulcast of analogue and digital terrestrial television; subject to the circumstance at the time, to review in 5 years following commencement of simulcast or when the penetration of digital terrestrial television reaches 50% of all television households, whichever is the earlier, whether and when a switch-off date should be set for analogue broadcast (para. 13.3(c)).</p>
<b>Legislation</b>	<p>2.30 To consolidate all provisions relating to broadcasting under the existing Television Ordinance (Cap. 52), Telecommunication Ordinance (Cap. 106) and Broadcasting Authority Ordinance (Cap. 391) and embrace them under an omnibus 'Broadcasting Bill'. The 'Broadcasting Bill' should be technology-neutral legislation appropriate to the technology-convergent environment (paras. 14.1 &amp; 14.2).</p> <p>2.31 To provide, in the omnibus 'Broadcasting Bill' and through amendments to the Telecommunication Ordinance, a framework that enables the separate regulation and licensing of transmission facilities and service provision (para. 11.1 &amp; 14.1).</p> <p>2.32 To enhance the safeguards on competition by incorporating provisions prohibiting anti-competition practices in the proposed "Broadcasting Bill" (para. 14.3).</p>
<b>Regulatory bodies</b>	<p>2.33 To empower the BA to license non-domestic television programme services and other licensable television services proposed in para.</p>

<b>Subject</b>	<b>Proposals</b>
	2.18(c) & (d) (para. 15.1(a)).
2.34	The BA should continue to be responsible for the issuance and review of codes of practice on programme and advertising standards for television programme services, and monitoring television service providers' compliance with the codes and licence conditions on an 'act-on-complaint' basis (para. 15.1(b)).
2.35	The TA should be the licensing authority for all transmission facility service providers (except those licensed under the Outer Space Ordinance) under the separate licensing framework proposed in para. 2.31 above and responsible for monitoring the technical performances of the licensees (para. 15.1(c)).

### **III. THE PRESENT BROADCASTING LANDSCAPE**

3.1 At present, Hong Kong has two terrestrial television broadcasters, Television Broadcasts Limited (TVB) and Asia Television Limited (ATV), both of which have almost 100% local household penetration (currently at 1.9 million households or over 6 million people). Among these households, 28% (550,000) have access to satellite programming (mainly STAR TV operated under the Satellite Television Uplink and Downlink Licence of Hutchvision Hong Kong Limited (Hutchvision)) through about 1,600 Satellite Master Antenna Television (SMATV) systems. The other Satellite Television Uplink and Downlink Licensee, Galaxy Satellite Broadcasting Limited (Galaxy), has just launched its service in August 1998. Galaxy's service currently targets overseas Chinese and is not receivable in Hong Kong. A total of more than 10 other regional satellite broadcasters are uplinking from Hong Kong using the facilities of the Hong Kong Telecom International Limited (HKTI). The only cable television licensee in Hong Kong, Wharf Cable Limited (Wharf Cable) has made nearly 1.6 million homes service ready, of which 0.4 million approximately subscribe to it (about 21% of the total television households). About one-third of its subscribers receive their signals through Hybrid-Fibre-Coaxial (HFC) cable delivery, and the remainder through Microwave Multipoint Distribution System (MMDS).

3.2 There is currently one VOD programme service licensee in Hong Kong, namely, Hong Kong Telecom VOD Limited (HKTVOVOD). The Chief Executive in Council decided in principle to grant a second licence to Hongkong Digital Television Limited (HKDTV) (formerly Star Interactive Television Limited) in February 1998. Negotiations on the terms and conditions of the licence are still in progress. As at 8 July 1998, HKTVOVOD's service was available to 3,852 residential buildings (about 883,000 households) and the number of its subscribers stood at about 50,000.

3.3 The following table summarises the services of the existing television licensees in Hong Kong:

## *Television Licensees in Hong Kong*

Licensees	Service launching date	No. of households passed (in millions)	% of households passed <sup>(Note 1)</sup>	No. of TV households (in millions)	% of TV households
<b>Terrestrial wireless TV</b>					
TVB	1967	1.9	99	1.9 <sup>(Note 2)</sup>	99
ATV	1973	1.9	99	1.9 <sup>(Note 2)</sup>	99
<b>Subscription TV</b>					
Wharf Cable	1993	1.6	79	0.4	21
<b>Satellite TV</b>					
Hutchvision (STAR TV)	1991	N.A.	N.A.	0.5 <sup>(Note 3)</sup>	27
Galaxy	1998	N.A.	N.A.	N.A.	N.A.
<b>Interactive multimedia service</b>					
HKT VOD	1998	0.9	45	0.05	2.6

(Note 1) Number of domestic households in Hong Kong (excluding outlying islands and marine population) : 1<sup>st</sup> quarter of 1998: 1,957,600 (Source: Census & Statistics Department)

(Note 2) Source : AC Nielsen 1997 Establishment Survey

(Note 3) Based on the number of homes accessible to STAR TV's programmes via SMATV systems at 31.5.98 (Source: Office of the Telecommunications Authority)

#### **IV.           ROLE OF GOVERNMENT IN THE AGE OF CONVERGENCE**

4.1           Communications technology has developed in leaps and bounds in the past few years. A significant development on the technological front is that the broadcasting, telecommunications and information technology industries are converging towards each other's markets at both the technical and service levels. Technically it is now feasible to transmit all forms of media through different transmission channels i.e. twisted pair copper wires, coaxial cable, optical fibre and radio spectrum. The distinctions between telecommunications, broadcasting and computer networks are becoming artificial and unnecessary. The Information Technology and Broadcasting Bureau was established on 9 April 1998 to make it possible for one single policy bureau to steer, co-ordinate and develop policies for these fast-developing industries. The Government's role is to provide an environment conducive to the flourishing of the communications and information industries, and in the process attract investment, speed up technology transfer, encourage innovation and ultimately bring the widest possible choice of quality services to the community.

4.2.           This review is being conducted in parallel with the 1998 Review on Fixed Telecommunications so that common or related issues can be considered at the same time.

## **V. KEY POLICY OBJECTIVES**

5.1 Strategically, the key policy objectives need to be realigned and focused on the following:

- (a) to encourage and promote expansion, penetration and common use of the broadcasting and telecommunications networks and cross fertilisation of the markets;
- (b) to create a fair, flexible, pro-competition and technology-neutral regulatory environment that would encourage and stimulate investment, technology transfer, diversification and innovation;
- (c) to maximise consumer benefits in choice, service quality, affordability and accessibility;
- (d) to facilitate the overall development of information technology and bring Hong Kong to the forefront of the Information Age; and
- (e) to promote Hong Kong as a pre-eminent regional broadcasting, information technology and telecommunications hub.

## **VI. BREAKING UP OF VERTICAL INTEGRATION**

6.1 In the past, telecommunications and broadcasting networks required huge investments and the markets were mostly vertically integrated. It was not too long ago when telephone companies owned every segment of its service, telephone exchanges, telephone line network, down to the very telephone in the user's home. Technological advances have opened up opportunities for a variety of non-telephone services to be delivered via the telecommunications networks (e.g. Internet and VOD services) provided by companies whose principal businesses are not necessarily confined to telephony. The breaking up of vertical integration in the telecommunications market has brought about competition and with it new services, wider choice and cheaper prices.

6.2 At present, the broadcasting markets are still segregated according to the modes of transmission i.e. terrestrial television, cable television and satellite television. The structure of each market is also vertically integrated - the terrestrial television stations in Hong Kong virtually monopolise the television productions in Hong Kong and they own and operate transmission facilities for their own use. An independent television production industry which supports a multi-channel environment in the television advanced countries is absent in Hong Kong. If the present situation where production, programming and transmission are vertically integrated in one single entity were to continue, the development and growth of the convergent industries would be impeded to the detriment of the programme producers, programme providers, facility service investors, artistes and viewers. This is particularly so in a digital and convergent environment where transmission capacity is not confined to broadcasting but may be provided by telecommunications and other multimedia services.

6.3 In cable television, the market is dominated by one single cable company. At present, the valuable hybrid fibre-coaxial (HFC) cable network is used predominantly to carry the programmes of that cable company; and cable telephony only to a very small and limited extent. This is an under-utilisation of the potential of the network.

6.4 In the case of satellite broadcasting, currently the satellite

broadcasting licensees are not allowed to offer their uplinking services to third parties because of the restrictions and exclusivity in the HKTl Licence, and this has put an artificial limit on the capacity of their facilities. Members of the satellite broadcasting industry have expressed strong views that this limitation should be lifted. The Framework Agreement reached between the Government and the Hong Kong Telecom group of companies on 20 January 1998 provides that the exclusivity of external facility-based telecommunications services will come to an end on 1 January 2000. The FTNS licensees will be able to provide uplink and downlink facilities for use by others from 1 January 2000. In the concurrent 1998 Review on Fixed Telecommunications, the Government proposes to permit the existing and new satellite broadcasting licensees to offer their uplinking facilities for use by others for broadcasting and other external telecommunications services on a commercial basis. If additional facility-based service licences are made available in future, such licences should also be allowed to provide satellite uplink and downlink services.

6.5 The breaking up of vertical integration in the telecommunications and broadcasting sectors allows greater flexibility for operators, enhances growth of the industry and removes artificial market entry barriers. It is a prerequisite to the development of a vibrant communications market which will take Hong Kong into the Information Age. In 1997, in recognition of the global trend to dismantle vertical integration and merge the telecommunications and broadcasting markets, the Government took an important step to allow VOD services to be carried by FTNS licensees. To ensure fair competition, safeguards have been built into the licences of the dominant players. Paragraphs 7.1 and 7.2 below further explore the possible measures to break up vertical integration and open up telecommunications and broadcasting networks.

## **VII. OPENING UP OF TELECOMMUNICATIONS AND BROADCASTING NETWORKS**

7.1 On 1 July 1995, the local telecommunications market was liberalised with the licensing of three new entrants as FTNS operators in competition with the former monopoly operator, the Hong Kong Telephone Company Limited (HKTC). By the end of May 1998, the four FTNS operators had rolled out over 300,000 kilometres of optical fibre in the territory, while Wharf Cable's hybrid fibre-coaxial (HFC) network had passed over 600,000 households. This extensive infrastructure of broadband networks should be interconnected to maximise their potential and to ensure public access to the widest possible range of telecommunications and broadcasting services. To promote the optimal use of the existing infrastructures and to cater for a multiplicity of new services enabled by technological development, we propose that:

- (a) all FTNS licensees should be allowed to convey and provide television programme services, including pay television and VOD services. This would enable diversification and cross fertilisation of markets, which are conducive to the growth of the telecommunications and broadcasting industries;
- (b) Wharf Cable's broadband network should be opened up for use by other television and telecommunications service providers subject to cost-based interconnection charges approved by the TA. This would help realise the potential of one of the most extensive broadband networks in Hong Kong, and would enable new pay television service providers to roll out services quickly using an existing network;
- (c) cable television networks should be allowed to deliver telecommunications services in addition to television services. This will allow the cable operator(s) to diversify its businesses and optimise the potential of its cable network;
- (d) Satellite Television Uplink and Downlink Licensees should be allowed to offer their transmission facility services following the expiry of HKTI's exclusivity in external facility-based services on 1 January 2000. We expect competition in this sector to bring down the costs for potential international

broadcasters and provide increased choice of external facility-based services in the market place. This will reinforce Hong Kong's competitive edge as a regional and international broadcasting hub;

- (e) Wharf Cable should be required to surrender the MMDS frequencies in the 2 GHz band and the 12 GHz band to Government to remove interference to satellite services and for allocation to other users as appropriate. Applications to retain some MMDS frequencies to serve remote areas not accessible by cable will be favourably considered;
- (f) digital technology should be fully exploited to enhance the capacity and capability of the networks. In this connection, the development of digital terrestrial television (DTT) should be made a priority with a view to reducing existing spectrum constraints on terrestrial television broadcasting and broadening the scope of services to include High Definition Television (HDTV), multimedia and telecommunication services; and
- (g) in the longer term, in addition to the digitisation of broadcasting, cable/radio and mobile/fixed networks should be seamlessly interconnected to build up "total digital networks" with appropriate technical standards to be stipulated to ensure interoperability. This will enable those who use communications services to receive multimedia services of high-capacity, high-speed transmission of graphics and data at any time, anywhere, with anyone over a terminal built to common world standards, and without being subject to the limitations of any specific network infrastructure.

7.2 We intend that the interconnection arrangements proposed in paragraph 7.1(b) above will be such as to provide Wharf Cable with sufficient revenue to cover all relevant costs of carriage of any new television services on its network, including the appropriate cost of capital reflecting the risk involved in investing in the HFC cable network, such costs to be assessed on a forward-looking basis. This should provide Wharf Cable with the commercial incentive to continue to invest in expanding and upgrading its network on the one hand and should ensure that new television

service providers will fairly compensate Wharf Cable for the use they make of the latter's network. The TA will determine fair charges for interconnection between Wharf Cable and the new television service providers to ensure that investment in and operation of the cable network will be encouraged while at the same time television service providers (or their customers) will not be overcharged.

7.3 To facilitate investments in satellite stations for external telecommunications and uplinking of broadcasting signals from Hong Kong, the Government has reserved a piece of land at Chung Hom Kok for the development of a teleport. The TA and the Director of Lands will review the terms and conditions for the use of the land and devise means to facilitate interested telecommunications network operators and television broadcasters to uplink signals from Hong Kong using facilities to be set up on that piece of land.

7.4 With the opening up of the telecommunications/broadcasting networks, the general fair trading rules should apply to all while more stringent rules should apply to the dominant operators. It will be necessary to put in place more stringent restrictions on anti-competitive practices against and between dominant network/transmission facilities owners and/or service providers. For example, a dominant FTNS licensee should not be allowed to exercise control (i.e. holding 15% or more of the voting control etc.) in the sole or dominant subscription television licensee and vice versa.

## VIII. RELIEVING CONGESTION IN IN-BUILDING DISTRIBUTION SYSTEMS

8.1 While the above measures are necessary means to improve interconnectivity, interoperability and network sharing for the long-term development of the communications sectors in Hong Kong, the last drop cable in residential buildings remains a bottle-neck for the time being. At present, the last drop coaxial cable entering each of the residential premises in multi-storey buildings has a capacity to carry altogether 81 television channels (41 in the VHF band (54-470 MHz) and 40 in the UHF band (470-790 MHz)). These channels are now shared by terrestrial, subscription and satellite television and the available spectrum is congested if a premise is connected to the fibre channels of Wharf Cable (a chart showing spectrum utilisation of the in-building coaxial cable is at Annex A). The capacity of the drop cable will be further reduced if it is used as a gateway for other telecommunications and multimedia services. There is no immediate solution to the in-building bottle-neck problem as the installation of a second drop cable in existing buildings will be extremely difficult if not impossible. Upgrading the bandwidth of the existing drop cable in such residential premises will also be expensive and inconvenient, and is not without technical complications.

8.2 However, digitisation of signals made possible by technological advances can significantly increase the capacity of the existing drop cable. Digital compression means that one single analogue television channel can be used to deliver up to 8 digital television channels and the present capacity for broadcasting of the drop coaxial cable can be increased eight-fold immediately (to 648 channels). Digitisation of the current transmissions, particularly those of Wharf Cable, would therefore release many more channels for television services and help relieve the in-building interconnection bottle-necks and increase the capacity of in-building distribution systems for new and existing television and other multimedia services. Since digital transmission expands capacity, enhances interactivity, enables High Definition Television (HDTV) and opens up new possibilities for value-added services, it would be in the commercial interest of existing television operators to migrate to digital broadcasting in order to maintain their competitiveness in the digital world. In line with the Government's objective to encourage the application of advanced technology and to ensure that the community has adequate access facilities for new

telecommunications and broadcasting services, we propose to:

- (a) promote efficient use of the frequency spectrum by giving priority in the allocation of the frequency spectrum of the in-building wiring to services using digital and other advanced technologies;
- (b) encourage cable, satellite and terrestrial broadcasters to apply digital technology in their transmission, especially in the introduction of new services;
- (c) amend section 36A of the Telecommunication Ordinance with a view to strengthening the TA's power in determining interconnection within buildings and imposing more stringent punitive measures against parties who fail to comply with TA's directions; and
- (d) require the mandatory provision of access facilities in new buildings.

8.3 *Comments are welcome on each of the proposed measures above and/or others to open up and integrate the telecommunications and broadcasting network infrastructure for services and joint use of networks and to achieve seamless interconnection.*

## **IX. THE PAY TELEVISION MARKET**

9.1 Wharf Cable was granted an exclusive right to operate subscription television for the first three years of its licence period in recognition of its substantial capital investment in the infrastructure. The exclusivity expired on 1 June 1996. Having assessed the television operating environment at the time, the Government made an administrative decision in March 1996 not to grant any additional pay television licences until after a review in 1998. The decision was taken having regard to the consideration at the time that the pay television market could not accommodate many new licensees, and complete deregulation would probably result in severe competition, forcing out those licensees who would not sustain a viable operation. This could damage business confidence in Hong Kong at a sensitive time and was contrary to the Government's commitment to provide a healthy and fair operating environment for all broadcasters at that time. Nonetheless, the Government did not think it would be in Hong Kong's interests to attempt to suppress the commercial exploitation of VOD technology which would allow more choice to customers and help to develop the information infrastructure in Hong Kong. Having balanced the various policy objectives, the Government decided to support and facilitate the introduction of VOD service in Hong Kong and issue two VOD licences initially. It also decided that whether the pay television and VOD markets should be opened up should be reviewed in 1998.

9.2 It is now five years since Wharf Cable launched its service. Wharf Cable is now consolidating its subscriber base at 400,000. Wharf Cable has fully enjoyed the 'first-mover advantage' in return for its substantial investment in the project and the Government considers that there is no justifiable ground to further extend the existing moratorium in the pay television market.

9.3 With regard to the VOD market, HKT VOD was granted a licence in February this year. Litigation between two of the applicants has frustrated the Government's original plan to issue two VOD licences at the same time and resulted in the delay of the formal award of the second VOD licence to HKDTV. It is now six months since HKT VOD launched its service and its subscriber base is still small (around 50,000 in July 1998);

and HKDTV has yet to be granted the licence.

9.4 On the other hand, the Government recognises that television entertainment and information are moving towards increased interactivity and multimedia services. When the Government invited applications for the VOD programme services in 1997, there were four applications in total which showed that the private sector saw the potential business opportunities offered by VOD. If the private sector is willing to invest in or experiment with an innovative service, the Government should facilitate it by adopting a non-interventionist and market-led approach, in line with its fundamental economic philosophy to encourage and nurture free entrepreneurial spirit in the commercial sector. In the case of VOD, the technology involved offers virtually unlimited capability for carrying programme and other multimedia services. Under this circumstance, there is little justification for the Government to impose any artificial limit on the number of licences to be issued for such a service.

9.5 Having regard to the foregoing, we propose that the current administrative measure to limit competition in the pay television and VOD market should come to an end, and that we should facilitate new entry into the pay television and VOD markets in order to stimulate industry growth and increase viewers' choice. Specifically, we propose to adopt the following policy measures to remove existing market entry barriers :

- (a) lift the moratorium on pay television and VOD programme service licences, i.e. no limit should be set on the number of such licences. Each application should be considered on its merits and licensing criteria should include but not be limited to the following :
  - (i) adequacy of an applicant's resources to deliver the proposed service;
  - (ii) extent to which the proposed services appeal to a variety of tastes and interests;
  - (iii) extent to which proposed services will broaden consumers' choice;

- (iv) timetable to roll out the service; and
  - (v) extent to which state-of-the-art technology will be employed in delivering the service;
- (b) allow satellite broadcasters to offer pay television services in Hong Kong as it is the most efficient and quickest route for starting new subscription television services;
  - (c) allow SMATV operators to carry pay television services so as to optimise their service potential; and
  - (d) continue to allow TVROs to receive any satellite television programmes without restriction. However, foreign television services should not be allowed to market their pay services or sell/rent/install their decoders and reception equipment in Hong Kong for their subscription television services if they do not possess a television service licence issued in Hong Kong.

9.6 *The Government would welcome comments on the proposed liberalisation measures for the pay television market mentioned above.*

## **X. DIRECT-TO-HOME SATELLITE TELEVISION SERVICES**

10.1 In November 1997, the International Telecommunication Union allocated to Hong Kong 4 Ku-band channels for high power broadcasting satellite service (BSS), the reception of which could be via a very small dish (0.6m in diameter). The satellite orbital position for these 4 frequency channels would enable BSS, or what is commonly called direct-to-home (DTH) service, to be provided to a relatively small footprint covering Hong Kong and Guangdong. The Government considers that DTH service would bring benefits to Hong Kong viewers, not only in terms of widening choice but would supplement the television services in areas not yet served by cable system, and enable technology transfer associated with sophisticated satellite applications. If digital compression techniques are employed, the 4 channels can be multiplied six-fold to eight-fold, or less if high definition is required, and these channels could support multi-channel satellite pay television service or interactive multimedia service.

10.2 We intend to prepare for the licensing of the use of the 4 BSS channels with a view to inviting applications for the following licences in 1999 :

- (a) licences to be issued by the Chief Executive under the Outer Space Ordinance (Cap. 523) to enable a satellite to be launched to the suitable orbit;
- (b) licences to be issued by the Chief Executive in Council under the Telecommunication Ordinance to cover the use of the four BSS channels on board the satellite and for the telemetry, tracking, monitoring and control of the satellite. We propose that suitable fair trading conditions should be included in the licence to prevent discriminatory leasing of the BSS channels. In addition, appropriate licence conditions should be included to ensure that the BSS channels will only be leased to Hong Kong television programme service providers and/or uplinkers; and
- (c) suitable television programme service and/or telecommunications licences to uplinkers who may offer DTH

programmes and/or carry programmes for others.

10.3 We further propose that for licences mentioned in paragraph 10.2(b) above, each application should be considered on its merits and licensing criteria should include but not be limited to the following :

- (a) extent to which the proposal would promote the development of satellite/digital television broadcasting in Hong Kong;
- (b) speed of set-up and making service available;
- (c) ability to establish and maintain the service; and
- (d) plan to ensure fair and effective competition in the leasing of BSS channels to uplinkers and programme providers.

10.4 In licensing the service mentioned in paragraph 10.2(c) above, we consider that the following should be stipulated as basic requirements :

- (a) the application of digital compression to increase service capacity;
- (b) the inclusion of domestic pay and/or domestic free television service in the overall service to be provided in Hong Kong;
- (c) the uplinking of service from Hong Kong;
- (d) plan for assisting the acquisition of dishes/decoders by viewers;
- (e) arrangements for reception and ensuring acceptance of programmes outside Hong Kong; and
- (f) the part of the services which is receivable in Hong Kong to be subject to the regulatory control by the Hong Kong Special Administrative Region Government and the codes of practice issued by the Broadcasting Authority (BA).

10.5            *The Government would welcome comments on the proposed licensing approach for DTH service mentioned above.*

## **XI. REGULATION AND LICENSING OF TELEVISION PROGRAMME SERVICES**

11.1 The existing licensing and regulatory regime for television services is largely related to the means of transmission, e.g. terrestrial television, cable television and satellite television etc. While this regulatory approach has served us well in the past when the form of transmission determines the nature of broadcasting services, technological convergence means 'conveyance' and 'content' provision can be, and are, independent from each other. This has two significant implications. First, it breaks up the vertical integration regarding 'carriage' and 'content' provision. Transmission facilities can be freed up to carry other telecommunications and multimedia services, while content providers can approach any carrier to transmit their programmes. The effect is that multifarious services and innovative products can thrive and flourish to benefit the consumers. Second, since 'content' is divorced from 'carriage', there is no point to link television services to their modes of transmission as this creates artificial boundaries which no longer exist. The Government has, in fact, taken the first step to regulate separately 'content' and 'carriage' in the case of VOD programme services. The next step is to extend this mode of regulation to all television programme services with a view to creating a technology-neutral regulatory regime and providing the necessary certainty and predictability conducive to the growth of the television industry.

11.2 We propose that the existing order of regulation, licensing and control of television programme services should be revamped and regrouped into the following categories according to their characteristics and pervasiveness:

(a) *Domestic free television programme services*

They should cover free-to-air television programme services targeting the whole population in Hong Kong and are supported by local advertising revenue (e.g. ATV and TVB). They are the most pervasive and universally accessible and exert the greatest influence in society. They take up the largest slice of the local television advertising pie (worth more than HK\$3 billion in 1997/8). They are thus major mass media which the community would expect relatively more

Government regulation of the content. The licensing authority for these services should remain with the Chief Executive in Council.

(b) *Domestic pay television programme services*

These refer to all television programme services aimed at catching the greatest number of Hong Kong households and are supported either by subscription revenues or by both local advertising and subscription revenues (e.g. Wharf Cable and HKTVOOD). Compared to domestic free television programme services the penetration rate of which is close to 100%, they are less pervasive and influential. Given that subscription is voluntary and is by choice, protection of minors and public morality is more a responsibility of parents than the Government. To simplify and streamline content control, it is proposed that all such services should be provided with a parental locking system<sup>Note 4</sup> for control of programme access. The licensing authority for these services should remain with the Chief Executive in Council.

(c) *Non-domestic television programme services*

These are television programme services not relying on local advertising or subscription revenue and do not have Hong Kong audience as their sole targets, e.g. regional satellite broadcasters who provide services to many other places outside Hong Kong. At present, if these programmes do not primarily target Hong Kong, they are subject to a much lighter control than domestic free and pay television. This policy should continue. It is proposed that the power to issue this category of licences should be devolved to the BA.

(d) *Other licensable television programme services*

These are to cover small scale, niche or localised television programme services targeting specific viewer groups e.g. hotel guests, foreign nationals living or working in Hong Kong or

---

<sup>Note 4</sup> For example, one way a parental locking system works is by prohibiting access to certain channels and/or programmes unless the correct Personal Identity Number (PIN) is used. Parents/Guardians would be expected to act responsibly in “guarding” the PIN.

residents living in a locality and in terms of target audience not exceeding, say 5,000 households (or less than 20,000 people)/premises/set-top boxes to be rented or sold, etc. Like domestic pay services, parental locking device should be required for access to the services. Licences belonging to this category should be issued by the BA.

### ***Transactional and data services***

11.3 We consider that transactional and data services offered to pay television subscribers as a package or stand-alone services should not require a television programme service licence, and should continue to be regulated under licences issued by the TA under the Telecommunication Ordinance (Cap. 106). At present, such services are subject to the regulation of Public Non-Exclusive Telecommunications Services (PNETS) licences issued by the TA. The PNETS licences are non-exclusive and afford the licensees with sufficient flexibility to provide new services.

### ***Internet TV***

11.4 The number of Internet users is growing steadily in Hong Kong. As at 30 June 1998 it is estimated there were 800,000 Internet users in Hong Kong and the growth rate is about 30% per annum. The publication of indecent and obscene materials on the Internet is currently subject to the Control of Indecent and Obscene Articles Ordinance (COIAO) and the Internet Service Providers Association has issued a set of codes of practice to its members to control the transmission of objectionable materials on a self-regulatory basis. There are practical difficulties for governments anywhere to regulate the content on the Internet which is largely generated from sources outside the control of the service providers and often from places outside their territories and hence jurisdiction. The liability of network operators and service providers as regards illegal content passing through their networks or residing on their servers would be considered in a review scheduled for October 1998 which will assess the effectiveness of the existing self-regulatory approach regarding content on the Internet and whether the COIAO would need to be amended for enforcement purposes.

11.5 The transmission of real-time video is developing fast on the

Internet and we are closely monitoring its development. On grounds of equity, we propose that any new multimedia service originated in Hong Kong (including Internet) which offer television type programmes on a commercial basis and competes with television programme services operating in Hong Kong should require a television programme service licence. Web TV should be regarded as Internet service until it is caught by the foregoing description. Owing to the trans-national nature of the Internet, video programme services on the Internet should be tackled on an international level when they become commercially feasible and certainly Hong Kong will not be the only place in the world to recognise the need for international co-operation in this respect.

### ***Generic Codes of Practice***

11.6 In view of the varying degrees of impact on their targeted viewers and the proposal to mandate parental locking systems for all domestic pay television and other licensable services, we consider that the existing Codes of Practice on television programme and advertising standards should be rationalised to reflect the characteristics and regulatory policy for different categories of television programme service. We propose that the BA should be invited to review the existing Codes with a view to issuing a set of generic Codes of Practice on programme and advertising standards and specifying which parts of the Codes are applicable to all or a certain category of licensees in accordance with the broad principles on programme and advertising standards proposed under the four-tier regulatory system below. This will reduce the need to issue different sets of Codes for each type of service as is presently the case. It will also simplify the administration of the Codes and render the Codes more user-friendly. The TA should be responsible for issuing technical standards in respect of the different groups of licensees in paragraph 11.2.

### ***Four-tier regulatory system***

11.7 The four categories of services mentioned in paragraph 11.2 should be governed by a 4-tier regulatory system reflecting the characteristics, pervasiveness and influence of the services. Restrictions on ownership, investment by licensees, content and advertising control etc. should be relaxed or simplified to provide the industry with the necessary flexibility as proposed below.

## ***Ownership and corporate control***

### Restrictions on Non-Residents

11.8 Owing to the powerful influence of television, it is common for countries to restrict the ownership of television stations to ensure that the control of station is firmly rooted in the hands of their own citizens. Countries like USA, UK and Australia prohibit foreign nationals from holding certain types of broadcasting licences and/or restrict interests of foreign companies ranging from 20% to 35%. The restrictions we have in Hong Kong are unique in that we do not restrict ownership per se but we restrict persons and companies from exercising control on licensed broadcasters and these restrictions are based on residency requirements<sup>Note 5</sup> rather than nationality or citizenship. We limit or restrict the influence and control of non-residents through the following legislative provisions in the Television Ordinance:

- (a) by requiring the majority of the directors of a licensee company to be ordinarily resident in Hong Kong (i.e. who meet the residency requirements) (section 10(1)(b));
- (b) by requiring each of the principal officers of a licensee company, including the officer responsible for the selection of programmes, to be a person who satisfies the residency requirements (section 10(1)(e));
- (c) by limiting the percentage of voting shares a non-resident may acquire or hold and subjecting such acquisition or holding to the approval of the BA (sections 17E and 17F); and
- (d) by the option of scaling down the votes cast by non-residents on a poll (if any) at a general meeting of the licensee company to 49% in accordance with the formula stipulated in section 17D.

---

<sup>Note 5</sup> “Resident” means one who is for the time being ordinarily resident in Hong Kong and has been so resident for one continuous period of 7 years. In the case of a company, it means that the company is formed and registered in Hong Kong, the majority of directors participating actively in the direction of the company satisfy the residency requirements and that the control and management of the company is bona fide exercised in Hong Kong.

These provisions are applicable to commercial television, subscription television and VOD programme service licensees.

11.9 In line with the Government's objectives to remove and/or minimise entry barriers where appropriate, to facilitate technology transfer, cross-fertilisation and diversification of markets, and to promote free competition, we consider that there is a case for liberalising and simplifying the present restrictions on non-residents and, in their place, institute a regime whereby different television programme services should be subject to different degrees of control reflecting their pervasiveness and influence in the community.

11.10 In the case of domestic free and domestic pay television services, because of their extensive reach and potential influence and the fact that they will continue to serve as a major information source and mass entertainment in society, there is a need to ensure that such services will cater for the local interests and tastes. The present provision requiring the majority of directors to be local residents should be retained. However, the requirement that each principal officer has to satisfy the residency requirements can be relaxed and we propose that as in the case of directors, having a majority of principal officers being resident in Hong Kong should suffice. Furthermore, to cater for special and deserving cases, we propose that the BA should be given a new power to give exemption to these requirements.

11.11 As for non-domestic services and other licensable services, since they target mainly overseas or niche markets, we consider that any requirement imposed should be the minimum necessary. Accordingly, we believe that requiring them to have one director or principal officer resident in Hong Kong to serve as the contact person for regulatory purpose should be appropriate.

11.12 As regards the restrictions on the exercise of voting control by non-residents, we propose that only domestic free television licensees should continue to be restricted in order to ensure that the business remains firmly rooted in local hands. The present system under which the BA's approval is sought for every acquisition of 2% voting share and trigger

points at 4%, 6%, 8% and 10% by a non-resident can continue to be used. We have, however, received comments from the industry that the system is cumbersome and could be inadvertently overlooked. If a suitable replacement percentage system can be worked out and which makes it less onerous for licensees to comply, we will be pleased to give it consideration.

11.13 *The Government would welcome views on the above and specific suggestions on a suitable replacement system.*

11.14 Overseas countries which impose foreign ownership control on broadcasters sometimes adopt a cap on foreign interests. For example, in USA, not more than 20% of the capital stock of a broadcasting licensee may be “owned of record or voted by” foreign citizens or by any foreign company; in Australia, an individual foreign person is limited to 15% company interests (i.e. voting, shareholding, dividend or winding-up interests) and foreign persons in aggregate are limited to 20% company interests in a commercial television licensee. Compared to our method of imposing restrictions on voting control, a percentage on direct or indirect aggregate company interest is, according to the feedback we have from the industry, more readily understood. We are however unaware of any method worldwide which would enable a cap on aggregate voting control to operate concurrently with the unrestricted disposal and acquisition on a recognised stock exchange of shares in a listed company (such as TVB). It has been pointed out that this makes any cap on aggregate voting control of “company interests” impractical and a retrograde step in a modern, commercial market place. If we were able to pursue this, however we believe that we should set the cap at a maximum of 49% i.e. the same percentage set for scaling down the votes cast by non-residents as described in paragraph 11.8(d). A reserve power to be vested in the Chief Executive in Council to allow the cap to be exceeded in exceptional and deserving cases may also be considered.

11.15 *The Government would welcome views and comments on the issues discussed in paragraph 11.14 above. Suggestions on how the cap might be monitored and enforced would be helpful.*

## Corporate Status

11.16 The present policy of requiring all licensee companies to be incorporated in Hong Kong should remain in order to ensure that they are subject to the laws of Hong Kong. However, in line with the principle set out in paragraph 11.7 above, we propose that the provision prohibiting licensees from being a subsidiary company should apply only to domestic free television licensees. This is to ensure that they remain an independent entity with their management and control free from interference from other companies.

### "Disqualified persons"

11.17 Under sections 2, 10 and 11A(1) of the Television Ordinance, persons or companies engaged in or are associated with certain types of businesses are defined as "disqualified persons" (DP) and they are not allowed to beneficially own more than 15% of the voting shares of a commercial television, subscription television and a VOD programme service licensee or to hold office in these licensee companies without the approval of the Chief Executive in Council. This restriction is necessary to minimise conflict of interest, build-up of monopoly of the media and editorial uniformity. Hence any person or company who is or is associated with an advertising agent, a programme supplier, a broadcasting licensee, a company which transmits sound or television material within or without Hong Kong (including Internet Service Providers), the sole or dominant telephone company or a publisher of local newspapers is disqualified.

11.18 However, as in the case of non-residents, the restrictions imposed on "disqualified persons" should be reviewed in the light of increased cross-market developments in a service-convergent and technology-convergent environment. The legal provision, in its present form, covers too wide a scope and is becoming too onerous for both licensees and prospective licensees alike. In a diversified and multi-channel environment, restricting cross-control of television and programme providers should no longer be necessary. As new services come on stream and viewers' choice increases, the justification for barring programme suppliers to exercise control in a licensee in order to safeguard editorial or programme plurality is weakened. We therefore propose that programme suppliers should be removed from the list of "disqualified persons". This in effect would allow programme suppliers to acquire or hold more than 15% (in fact, up to 100%) of the equity in a television programme service

licensee and exercise control (including content) of the licensee, subject to the over-riding control on voting control/ownership (see paragraphs 11.8-11.14).

11.19 In line with our policy proposal to allow network sharing and to enable diversification and cross-fertilisation of the telecommunications and broadcasting markets, disqualifying companies which transmit “sound or television material, whether within or without Hong Kong” should cease and, subject to paragraph 7.4 above, such companies should be deleted from the disqualification list. While recognising the significance and the importance of minimising cross-media domination, any ambiguity over interpretation should be removed in order to provide a clear and certain regulatory environment for broadcasters. Terms like “hold office” and “associate” should be more narrowly defined to exclude persons or companies which should not be caught. As for “associates”, we believe some discretion is necessary to exclude those associates of disqualified persons whom we are satisfied that they do not act together in any relevant dealings. And in revising the list of disqualified persons, the opportunity should be taken to build in safeguards to the effect that a company may not own “other licensable services” serving more than 15% of the total number of households in Hong Kong without the Chief Executive in Council’s approval (normally under this circumstance, a full domestic pay television licence will be required).

### Investment restrictions

11.20 At present, commercial television, subscription television and VOD programme service licensees are required under section 17B of the Television Ordinance to seek the approval of the BA prior to holding or acquiring any interest in another company. Furthermore, the businesses of these companies have to be directly connected or associated with television broadcasting services or such ancillary telecommunications services as authorised by the TA under section 10(1)(a). The rationale for imposing such restrictions is to encourage these licensees to devote both their attention and resources to their primary services and businesses. In an increasingly competitive market, market forces will likely drive companies to explore new business opportunities and given the need to make timely decisions, the time taken and the procedures involved in obtaining the requisite approval have been viewed by the industry as hindering their

commercial decisions. We agree that there are merits in giving licensees greater flexibility in their daily operations and business. Accordingly, we propose that the investment restrictions should be removed to allow all licensees the freedom to make their investments. The cross-media ownership restrictions however will continue to apply in order to prevent the build-up of media monopoly.

### ***Content control***

#### **Positive programme requirements**

11.21 In this Information Age, television services, particularly those reaching the entire population of Hong Kong, have become essential services to the community. It is therefore not unreasonable to stipulate certain positive programme requirements, or what are commonly called the ‘broadcaster’s obligations’ as part of the licence conditions. However, these conditions should be reviewed from time to time to see if they remain appropriate taking into account the demand of society at the time.

11.22 The existing commercial television, subscription television and programme service licensees are required to broadcast a reasonable proportion of material which is wholly of Hong Kong origin. The BA may specify such proportions as it considers reasonable. Moreover, the commercial and subscription television licensees are required to carry government programmes/channels. All of the above requirements are imposed on grounds of public interest and we consider that they should continue to apply to the domestic free television and the incumbent domestic pay television/programme service licensees where appropriate.

## Language of broadcast

11.23       ATV and TVB are each required to broadcast two channels, one in Cantonese and one in English. But they can apply to the BA for approval to deviate from such requirements and each case is considered on its merits. The language requirements are considered necessary and justified as Cantonese is the most spoken dialect and English is one of the two official languages used in Hong Kong. The BA has previously reviewed the English language requirement and, in response to the appeal from ATV and TVB, decided in 1992 to modify the requirements so that ATV and TVB can have greater flexibility in terms of programming. The modified requirement allows ATV and TVB to broadcast outside prime time, i.e. 7 p.m. to 11:30 p.m., up to 20% of their daily broadcasts in languages/dialects other than English and Cantonese (these include programmes subtitled in English or Chinese). Applications for broadcast during prime time programming will still be considered on a case-by-case basis. 20% is considered an appropriate ceiling beyond which the channel will start to lose its language characteristics. In so much as English is a widely used international language and an official language we consider that it should continue to be promoted in Hong Kong. Accordingly we do not propose any changes to the present arrangements.

## Programme and Advertising Standards

11.24       In view of our proposal to provide for four general categories of television services, we propose to invite the BA to review the contents as well as the present practice of issuing different sets of Codes to different licensees. The BA can consider formulating a generic set of Codes differentiating common provisions which will apply to all and those which need only apply to a specific category of service. A number of principles and key factors can be established by the BA as a basis to determine the level and extent of content control and associated with this, the standards to be set. As with the policy and practice adopted by the BA, we expect the BA to actively engage all licensees in discussions on the drawing up of these Codes. In general, the BA has tended to impose less stringent standards on pay television services. If our proposal of making parental locking a mandatory requirement for pay television services is adopted, it is for the consideration of the BA whether the existing standards could be further relaxed.

## Advertising time restrictions

11.25 We have given thorough consideration to the requests of the commercial television licensees to relax advertising time restrictions and to allow ‘infomercials’ to be broadcast. At present, commercial and subscription television licensees are subject to a cap of 10 minutes of advertising in any clock hour (with an additional two minutes and any unused advertising time for station/programme promotions and one minute for announcements in the public interest). There are also duration limits on breaks within a programme and intervals between two programmes (3.5 minutes and 5 minutes respectively). Moreover, commercial television licensees are subject to a minimum programme segment duration requirement of 10 minutes. These restrictions are designed to minimise the bunching effect of advertising which might otherwise obtrude on viewing pleasure. However, the BA has the discretionary power to approve deviations from these rules for better viewing and presentation on a case-by-case basis.

11.26 Television licensees are currently also allowed to broadcast advertising magazines and classified advertisements in addition to the spot advertisements which are transmitted during programme breaks and intervals. In the case of commercial television licensees, however, the maximum number of advertising magazines is restricted to two in a week and the maximum duration for each advertising magazine is 15 minutes. Classified advertisements, on the other hand, may only be broadcast between 12 midnight and 4 p.m. everyday and are subject to such limits as imposed by the BA (currently 15 minutes per day).

11.27 Applying different restrictions to advertisements made in different formats worked well in the past as one was distinguishable from another. However, with the growing sophistication of television commercials and the new trend of combining “information” with “commercials”, traditional advertisements have taken on a new format. These long-form “infomercials” can be of programme length and if tastefully done, can be entertaining and informative at the same time. And because a programme-length commercial can easily be mistaken for an independently made programme, a new approach is needed for the regulation of this new breed.

11.28 While it will be wrong to stifle creativity in advertising, we need to ensure that viewers know that they are watching paid advertisements. Accordingly, it is necessary to maintain the present requirement that all advertisements should be clearly identified as such. Subject to this requirement, we believe that greater flexibility should be given to the licensees to package, schedule and design the format of advertisements. We therefore propose to relax the restrictions on advertising as follows:

- (a) during times outside the peak viewing hours, say, for instance, 6:00 p.m. to 12 midnight, domestic free television services should be allowed to freely package their advertisements subject to the total advertising time not exceeding 18% of the total broadcasting time during this period;
- (b) the existing categories of ‘classified advertisements’ and ‘advertising magazines’ should be abolished and that any such broadcasts should count towards the advertising time limits; and
- (c) the other categories of licensees i.e. domestic pay, non-domestic and other licensable television service licensees should be exempted from advertising time restrictions altogether as we believe that they will respond to market forces and viewers’ pressure to adjust their advertising levels accordingly.

11.29 *The Government would welcome comments on the proposed licensing framework for television/programme services and the four-tier regulatory approach set out above. For easy reference, the various proposals discussed in paragraphs 11.8 to 11.28 of this chapter are tabulated in Annex B. Views on the overall approach as well as implementation details will be welcome. The Government recognises that adjustments to the detailed recommendations may be necessary after consultation with the industry. Any additional suggestions on how the regulatory regime should be adjusted in the face of "convergence" would be appreciated.*

## Restrictions on VOD programme services

11.30 The existing VOD programme service licensees are prohibited from broadcasting live programmes. The restriction was felt to be necessary by the Bills Committee of the then Legislative Council when enacting the VOD programme service licensing framework in March 1996. The restriction was meant to distinguish the point-to-point on-demand nature of the VOD programme service from that of the point-to-multipoint broadcast service of pay television. With the convergence in technologies, it will no longer be appropriate to maintain such an artificial distinction. We propose therefore to lift this prohibition.

11.31 The VOD programme service licensees are also required to provide pause, rewind and fast forward control functions in their services to enhance the interactivity of their programmes for the convenience of viewers. The usefulness of such features is limited especially for short programmes. Also, the requirement is not practical for live programmes. Such a requirement not only directly increases the operational costs of the programme service licensees but also indirectly reduces their competitive edge. We believe that in a free and open market, the licensees should be allowed to make their own decisions as to whether they would provide pause, rewind and fast forward functions as a service enhancement, but the Government should cease to impose the requirements for such functions in the licences.

## **XII. FEES AND CHARGES**

### ***Royalties***

12.1 Under the existing policy, royalties are imposed on broadcasting licensees who are conferred with the right and privilege to use public resources which are limited in supply (e.g. radio spectrum) to generate income, or who operate in an environment with limited competition (e.g. Wharf Cable and the VOD licensees). At present, while free-to-air television licensees are required to pay advertising royalties, subscription and VOD programme service licensees have to pay, in addition, subscription royalties. The scales of payment are specified in the Television (Royalty and Licence Fees) Regulation issued under Cap. 52 and advertising royalties are capped at 9% of total advertising revenue while subscription royalties at 7.5% of total subscription revenue.

12.2 We accept that in an increasingly open and competitive market, charging of royalties is difficult to justify. We have received representations from the industry that royalties are an extra financial burden. They directly increase licensees' operational costs and indirectly affect their competitiveness. We agree that competition will increase as a result of the opening up of the television broadcasting market and will erode the privilege and exclusivity enjoyed by our licensees. Accordingly we propose to abolish the charging of advertising and subscription royalties for domestic free and domestic pay television licensees.

12.3 Although the present review covers only the television industry, the policy proposals put forth in this consultation paper will impact on the radio broadcasting industry. With multimedia marketing strategy emerging as the new trend, live radio programmes can now be heard on the Internet and some even watched on television. Radio and television services are competing for much the same local advertising market. The value of the privilege previously enjoyed by radio licensees will be further eroded by a de-regulated television market. For this and the other reasons discussed above, we propose that the charging of advertising royalties on radio licensees should also be abolished.

12.4 *While the abolition of royalties would be welcomed by the*

*industry, the Government has an important task to maintain an equitable charging regime and act in the best interest of the community as a whole. Views on the issue of royalties would be welcome.*

### ***Licence fees***

12.5 We have also reviewed the existing policy on licence fees and are of the view that the current policy of charging licensees full cost recovery licence fees should continue for television and radio broadcasting services. This policy is being applied across-the-board to all sectors in Government services and is part and parcel of the overall Government fiscal policy which helps maintain our low tax regime and stable economy. We will continue to identify measures to reduce costs and to enhance service efficiency.

12.6 When the Government first extended the full-cost recovery policy to the broadcasting sector in 1996, a special phasing-in arrangement was made as a concession to mitigate the steep increases in licence fees. As a quid pro quo for the abolition of the charging of royalties proposed in paragraphs 12.2 and 12.3 above, we propose to restore the licence fees to the full cost level immediately upon the abolition of the royalty scheme which will require legislative and licence amendments.

### **XIII. DIGITAL TERRESTRIAL TELEVISION**

13.1 Digital Terrestrial Television (DTT) is developing fast around the world. USA and UK are introducing digital television service in 1998 while Japan will launch the service in 1999 and Australia on 1 January 2001. USA has even set a target to terminate analogue television broadcasting in 2006. Three technical standards have emerged which are the American ATSC, European DVB-T and the Japanese ISDB-T.

13.2 The Government recognises that the application of digital technology in general and the development of DTT in particular would benefit not only the television industry but the community and consumers as well. For the industry, more channel capacity will be available for a whole range of new services. HDTV and interactive multimedia television are some of the innovative features of DTT and subscription terrestrial television will be one of many other commercial possibilities a programme service provider may explore with this new technology. For the community, spectrum will no longer be a significant constraint. Indeed, spectrum already allocated can be released for other use. As for the consumers, digital television will provide much improved sound and picture quality. The reception problems of “snowy picture” and “ghosting” experienced with the present analogue television transmission will be overcome.

13.3 The Government has a role to facilitate the development of DTT in Hong Kong and to promote the diversity of services ensuing from the application of this technology. However, we believe that the introduction of digital television has to be market-led with the industry driving it for commercial reasons. We are encouraged by the enthusiasm shown by the industry in wishing to test the technology and to develop digital services in Hong Kong. The successful introduction of DTT will depend very much on when the prices of DTT products will come down to a level attractive to consumers. We believe therefore that a step-by-step approach is prudent. We propose to invite interested parties to participate in the trial but careful assessment of market and technical conditions along the way is necessary before taking any major policy decisions on implementation. Our proposals are as follows:

- (a) to establish a joint Government-Industry steering committee to steer and co-ordinate the conduct of technical trials on DTT and HDTV;
- (b) to commence the trials of DTT and HDTV as soon as practicable with a view to determining a DTT standard to be adopted in 2000; and
- (c) to commence in 2 years, on satisfactory completion of the trials, simulcast of analogue and digital terrestrial television; subject to the circumstance at the time, to review in 5 years following commencement of simulcast or when the penetration of DTT/HDTV reaches 50% of all television households, whichever is the earlier, whether and when a switch-off date should be set for analogue broadcast.

13.4 *Government would welcome views on the proposed trial and the regulatory aspects of DTT.*

## **XIV. LEGISLATION**

14.1 To implement the proposals in this Consultation Paper and to take forward our proposal to separate the legal frameworks for the regulation and licensing of transmission facilities from service provision, it will be necessary to update the existing provisions in the Telecommunication Ordinance (Cap. 106) and enact a new and technology-neutral legislation appropriate to the technology-convergent environment. All relevant provisions governing television programme services and other broadcasting services under the existing Television Ordinance (Cap. 52), Telecommunication Ordinance (Cap. 106) and Broadcasting Authority Ordinance (Cap. 391) should be consolidated into an omnibus 'Broadcasting Bill'.

14.2 In the longer term, we will need to consider expanding the revamped Broadcasting Ordinance to encompass regulatory issues relating to telecommunications under the Telecommunication Ordinance (Cap. 106). This is necessary as in future, it would no longer be practical to delineate between “telecommunications” and “broadcasting”. Under a technology-neutral regulatory environment, the term “broadcasting” will no longer be appropriate as television programme services will not be confined to the point-to-multipoint transmission mode (the definition of "broadcasting" was expanded to include point-to-point transmission under the Television Ordinance in 1997). However, the terms “transmission”, “television programme services”, “domestic” and “pay services”, etc. would still need to be defined. We propose to undertake this further review of the regulatory regime after the omnibus “Broadcasting Ordinance” has been in force for some time, say, 3 to 5 years. The adequacy of the new ordinance could then be considered having regard to the broadcasting and telecommunications environment at the time.

14.3 At present, our broadcasting licences all contain a free competition clause which prohibits the licensees from entering into agreement or arrangement which will restrict, impede or restrain competition in telecommunications or broadcasting. The Government recognises the importance of having competitive safeguards in an open and deregulated market. To further the policy objective of ensuring a level playing field, we propose to include in the proposed omnibus broadcasting bill relevant

provisions to promote fair competition. The provisions should include specific safeguards governing conditional access in a digital broadcasting environment, service-bundling and control over the dominant licensees (which can be defined in terms of ratings and market share amongst others).

14.4        *The Government would welcome views on the proposal and the scope of the “Broadcasting Bill”. Even though the present review does not cover radio broadcasting, the Government would like to take this opportunity to invite the sound broadcasting licensees and interested parties to contribute their ideas on how sound broadcasting services should be integrated into a technology-neutral regulatory regime under the proposed Broadcasting Bill.*

## **XV. REGULATORY BODIES**

15.1 With regard to the two regulatory bodies, namely the BA and the TA, we do not see any pressing need to introduce radical changes to them as they are, and in the near future will continue to be, sufficiently backed to discharge the functions required of them. Nevertheless, we consider that the functions and powers of the BA and the TA should be aligned with the proposed policy as follows:

- (a) the BA should be empowered to license non-domestic TV programme services and other licensable TV services in paragraph 11.2;
- (b) the BA should continue to issue and review the codes on programme and advertising standards for television programme services, and to monitor the compliance of television service providers on an ‘act-on-complaint’ basis; and
- (c) the TA should be the licensing authority for all transmission facility service providers (except for those which are licensed under the Outer Space Ordinance) under the separate licensing framework proposed in this Review and responsible for monitoring the technical performances of the licensees.

## **XVI. IMPLEMENTATION**

16.1 Upon obtaining the approval of the Chief Executive in Council, drafting of the “Broadcasting Bill” should commence immediately in order that the Bill can be introduced into the Legislative Council in 1999. Early enactment of the legislative framework is essential for the implementation of the new regulatory policy. Any consequential amendments to Cap. 106 should be incorporated in the Telecommunication (Amendment) Bill as soon as practicable following approval of the proposals in this Review.

16.2 Licences currently held by commercial, subscription, programme service and satellite television uplink and downlink licensees should continue to be valid until they are amended to reflect the new policy. Amendments to Wharf Cable’s licence should tie in with the planned mid-term review scheduled for 1999. Amendments to the commercial television licences should tie in with the renewal of ATV and TVB’s licences in 2000.

16.3 Applications for new pay television and VOD programme service licences should be opened immediately following policy endorsement. Before the new legislation is enacted, licences, if granted, will be subject to and governed by existing legislation.

16.4 Subject to policy approval being given, the steering committee to study DTT/HDTV trials should start work immediately.

16.5 *Government would welcome views on the implementation proposals.*

----- \*\*\*\*\* -----

## **List of Annexes**

- |         |   |
|---------|---|
| Annex A | Frequency Allocation for In-Building Coaxial Cable Systems                    |
| Annex B | Policy proposals on ownership, investment and content and advertising control |

**Frequency Allocation  
for In-Building Coaxial Cable Systems**

**Homes Passed**

- Communal Aerial Broadcast Distribution (CABD) systems have been installed in most of high-rise buildings in Hong Kong. These systems are not required to be licensed.
- As at 31 May 1998, about 550,000 households were connected to about 1,600 Satellite Master Antenna Television (SMATV) systems.
- Wharf Cable has passed approximately 1.6 million households as at 31 May 1998.

**VHF Spectrum (54-470 MHz)**

- At present, cable television (CATV) service operates in the band of 54-470 MHz. Apart from channels that are prohibited by the Telecommunications Authority to be used (to avoid interference to essential services), there are 41 usable channels in the band of 54-470 MHz. At present, 40 channels are being used for CATV service (9 of which are subject to renewal by the TA) and half a channel is allocated for cable telephony service.
- The transmission plan of the CATV service is fixed (i.e. the same plan throughout the territory).

**UHF Spectrum (470-790 MHz)**

- The CATV systems and most of the SMATV/CABD systems are designed to operate up to 750 MHz (some up to 790 MHz).
- 3 channels (in the band of 766-790 MHz) have been allocated for CATV set-top converter output.

- Closed Circuit TV system usually occupies one channel in Ultra High Frequency (UHF) Band.
- One channel at least has to be reserved for video-on-demand (VOD) output.
- One channel has to be reserved for video cassette recorder (VCR) output.
- Terrestrial TV occupies 4 channels in the UHF Band. However, different terrestrial TV transposers use different groups of transmitting frequencies.
- Depending on the frequency group used for terrestrial TV at certain locations, SMATV operators will choose vacant channels in the band of 470-750 MHz to distribute the SMATV signals. Most SMATV systems distribute 5 satellite TV channels but some may distribute more than 20 channels. Therefore, the frequency plan in UHF band cannot be fixed.
- The numbers of channels in the bands of 470-750 MHz and 750-790 MHz are 35 and 5 respectively. At present, the number of vacant channels in the band of 470-750 MHz is normally about 8-23, depending mainly on the number of SMATV channels being received.

**Proposed regulation on ownership, investment by licensees and content and advertising control**

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
<b>Ownership control</b>					
<u>“Non-residents”<sup>Note 1</sup>”</u>					
Voting control by non-residents	<p><i>For commercial TV (i.e. ATV &amp; TVB), subscription TV and programme service licensees:</i></p> <p><i>Acquisitions of 2% or above voting control and increases from 2% to 4%, 4% to 6%, 6% to 8%, 8% to 10% and above 10% require prior</i></p>	<p><u>Option 1</u></p> <p>Incremental percentages to be relaxed. Retain present restriction which may only be applied to scale-down the weight attaching to votes cast on a poll (if any) at a</p>	No control.	No control.	No control.

<sup>Note 1</sup> “Resident” means one who is for the time being ordinarily resident in Hong Kong and has been so resident for one continuous period of 7 years. In the case of a company, it means that the company is formed and registered in Hong Kong, the majority of directors participating actively in the direction of the company satisfy the residency requirements and that the control and management of the company is bona fide exercised in Hong Kong.

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
	<p><i>approval of the BA. The voting control to be restricted to 49% at a poll at general meetings.</i></p> <p><i>For satellite TV uplink and downlink licensees:</i></p> <p><i>No control.</i></p>	<p>general meeting of shareholders.</p> <p><u>Option 2</u></p>			
		<p>Aggregate ownership by non-residents to be capped at 49% of direct and indirect company interests (i.e. voting, shareholding, dividend or winding-up interests) in a licensee including licensees whose shares should be capable of being freely traded on a recognised stock exchange.</p> <p>CE in Council may allow the limit to be exceeded.</p>			

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
Directors and principal officers	<p><i>For commercial TV, subscription TV and programme services:</i></p> <p><i>Majority of directors and all principal officers including the officer responsible for programme selection must be residents<sup>Note 1</sup> in Hong Kong.</i></p> <p><i>For satellite TV:</i></p> <p><i>One director or one principal officer must be a resident<sup>Note 1</sup> in Hong Kong.</i></p>	<p><u>Majority</u> of directors and <u>majority</u> of principal officers including the officer(s) responsible for programme selection must be residents<sup>Note 1</sup> in Hong Kong. The BA may grant exemptions.</p>	<p><u>Majority</u> of directors and <u>majority</u> of principal officers must be residents<sup>Note 1</sup> in Hong Kong. The BA may grant exemptions.</p>	<p>One director or one principal officer must be a resident<sup>Note 1</sup> in Hong Kong.</p>	<p>One director or one principal officer must be a resident<sup>Note 1</sup> in Hong Kong.</p>
<u>Corporate Status</u>					
Place of incorporation	<p><i>All licensees:</i></p> <p><i>Hong Kong</i></p>	Hong Kong	Hong Kong	Hong Kong	Hong Kong

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
Restriction on subsidiary company	<i>Commercial TV licensees cannot be a subsidiary</i>	Cannot be a subsidiary	No control.	No control.	No control.
<u>“Disqualified person”</u>					
(The following may be subject to control if they are to exercise control <sup>Note 2</sup> in a licensee.)	<i>(Satellite TV uplink and downlink licensees are not subject to any “Disqualified person” restrictions listed below.)</i>				
1. A licensee in the same category of licence	<i>Requires CE in Council’s approval.</i>	Requires CE in Council’s approval.	Requires CE in Council’s approval.	No control.	Any person/company owning licences which in aggregate serve more than 15% of the total number of households in Hong Kong will require CE in Council's approval.

<sup>Note 2</sup> “Exercise control” means to own directly or indirectly more than 15% of voting control of the company or to hold office in the company.

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
2. A licensee in a different category of licence	<i>Requires CE in Council's approval.</i>	Requires CE in Council's approval.	Requires CE in Council's approval except in the case of a non-domestic licensee.	No control.	No control.
3. A sound broadcasting licensee or a publisher of a newspaper published in Hong Kong	<i>Requires CE in Council's approval.</i>	Requires CE in Council's approval.	Requires CE in Council's approval.	No control.	No control.
4. An advertising agent	<i>Requires CE in Council's approval.</i>	Requires CE in Council's approval.	Requires CE in Council's approval.	No control.	No control.
5. The sole or dominant local telephone company including persons excising control or who are associates of the company	<i>Requires CE in Council's approval only in the case of the initial subscription television licensee.</i>	No control.	Requires CE in Council's approval for exercising control in the sole or dominant domestic pay TV licensee.	No control.	No control.

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
6. Persons disqualified for exercising control of the DPs listed in 1-4 above	<i>Requires CE in Council's approval.</i>	Requires CE in Council's approval.	Requires CE in Council's approval.	No control.	No control.
7. Persons disqualified by being 'associates' of the DPs in 1,2,3,4 & 6 above	<i>Requires CE in Council's approval.</i>	Requires CE in Council's approval.	Requires CE in Council's approval.	No control.	No control.
8. A company which supplies material for broadcasting by a licensee and any person exercising control of it or being an associate of it	<i>Requires CE in Council's approval.</i>	No control.	No control.	No control.	No control.

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
9. A company which transmits sound or television material, whether within or without Hong Kong, and any person exercising control of it or being an associate of it	<i>Requires CE in Council's approval.</i>	No control.	No control.	No control.	No control.
<b>Investment by licensees</b>	<i>All investments by licensees except satellite TV uplink and downlink licensees restricted to broadcasting business and require BA's approval (ss 10(1)(a) &amp; 17B of the Television Ordinance)</i>	No control.	No control.	No control.	No control.

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
<b>Content and language control</b>					
Positive programme requirements	<i>Commercial TV licensees are required to broadcast, in designated periods, a minimum of two 15-minute news bulletins and two hours of children’s programmes every day and, on a weekly basis, one hour of documentary programmes, two half-hour current affairs programmes, one half hour of programmes each for young persons and senior citizens and 30 minutes of arts and culture programming. Some of the programmes above, e.g. children’s programmes, current affairs programmes and documentary programmes are further subject to local content</i>	Continue to apply to ATV and TVB but should be subject to periodic reviews.	<ul style="list-style-type: none"> <li>The incumbent licensees to be continually bound by the terms and conditions of their existing licences unless they are otherwise amended.</li> <li>For new licensees, to provide for reserved powers for the Government to impose necessary requirements.</li> </ul>	No requirement.	No requirement.

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
	<p><i>requirements. The commercial TV licensees are also required to carry Government and school educational programmes.</i></p> <p><i>The initial subscription television and programme service licensees are also required to broadcast Government materials.</i></p>				
Local content	<p><i>All licensees except satellite TV uplink and downlink licensees are required to broadcast a reasonable proportion of material which is wholly of Hong Kong origin under the Television (Programmes) Regulations.</i></p>	Existing requirements continue to apply.	Existing requirements continue to apply to incumbent licensees.	No requirement.	No requirement.

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
Language	<i>The commercial TV licensees are each required to broadcast one channel in Cantonese and one channel in English. Starting October 1992, they have been given greater flexibility in regard of the English channels and have been allowed to broadcast during the period outside 7 p.m-11:30 p.m. up to 20% of their daily broadcasts in languages/dialects other than English and Cantonese.</i>	The two Cantonese channels of the incumbent licensees should continue.  The existing requirements for the two English channels of the incumbent licensees should continue.	No requirement.	No requirement.	No requirement.
Programme standards	<i>The BA has issued separate codes of practice on programme standards governing commercial TV, subscription TV and satellite uplink and downlink licensees.</i>	The standards for commercial TV should continue to apply and subject to periodic review. Programme scheduling and labelling and Family Viewing Policy should apply.	The existing standards for subscription TV could be relaxed as access to service will be controlled by parental locking device.	The existing standards for channels not primarily targeting Hong Kong in the programme code for satellite TV uplink and downlink licensees should	Standards should not be more stringent than domestic pay services.

	<i>Existing Regulation</i>	<b>Proposed Regulation</b>			
		<u>Domestic free</u>	<u>Domestic pay</u>	<u>Non-domestic</u>	<u>Other licensable services</u>
Advertising standards	<i>The BA has issued separate codes of practice on advertising standards governing commercial TV, subscription TV and satellite uplink and downlink licensees.</i>	The standards for commercial TV should continue to apply and subject to periodic reviews.	The existing standards for subscription TV could be relaxed as access to service will be controlled by parental locking device.	apply. Licensees required to comply with laws and standards of recipient countries and places.  The existing standards for channels not primarily targeting Hong Kong in the advertising code for satellite TV uplink and downlink licensees should apply. Licensees required to comply with laws and standards of recipient countries and places.	Standards should not be more stringent than domestic pay services.
Advertising time	<i>Commercial and subscription TV licensees are</i>	10 minutes per hour from 6pm to 12mn.	No limit.	No limit.	

	<b><i>Existing Regulation</i></b>	<b>Proposed Regulation</b>			
		<b><u>Domestic free</u></b>	<b><u>Domestic pay</u></b>	<b><u>Non-domestic</u></b>	<b><u>Other licensable services</u></b>
	<p><i>subject to a cap of 10 minutes of advertising in any clock hour. There are also duration limits on breaks within a programme and intervals between two programmes (3.5 minutes and 5 minutes respectively).</i></p> <p><i>Commercial and subscription TV licensees are also allowed to broadcast advertising magazines and classified advertisements in addition to the spot advertisements which are transmitted during programme breaks and intervals. For commercial TV, the maximum number of advertising magazines is restricted to two in a week and the maximum duration for each advertising magazine is 15 minutes;</i></p>	<p>At other times should not exceed 18% of total broadcast time in that period. All advertisements (including infomercials) should be clearly identified as such and the existing categories of advertising magazines and classified ads should be abolished.</p>			

	<b><i>Existing Regulation</i></b>	<b>Proposed Regulation</b>			
		<b><u>Domestic free</u></b>	<b><u>Domestic pay</u></b>	<b><u>Non-domestic</u></b>	<b><u>Other licensable services</u></b>
	<i>classified advertisements may only be broadcast between 12 midnight and 4 p.m. everyday and are subject to such limits as imposed by the BA (currently 15 minutes per day).</i>				