

立法會參考資料摘要

《電訊條例》
(第 106 章)

批發提供數碼聲音廣播服務的 聲音廣播牌照

引言

在本年三月二十二日的會議上，行政會議**建議**和行政長官**指令**：

- (a) 通過**附件 A**所載的聲音廣播牌照(某些條款只適用於個別持牌機構)，並按照《電訊條例》(條例)第13C條把牌照批給香港數碼廣播有限公司(香港數碼)、新城廣播有限公司(新城電台)和鳳凰優悅廣播有限公司(鳳凰優悅)，以提供數碼聲音廣播服務；
- (b) 批准香港數碼交還提供調幅(AM)廣播服務的現有牌照的申請；以及
- (c) 制訂**附件 B**所載的《2011年防止賄賂條例(修訂附表1)令》，把鳳凰優悅和香港數碼(取代雄濤廣播有限公司)¹加入《防止賄賂條例》(第201章)附表1。

理據

2. 二零一零年十一月五日，政府宣布行政長官會同行政會議決定：

¹ 香港數碼在二零一零年十二月八日以書面通知廣播事務管理局，雄濤廣播有限公司已更名為香港數碼廣播有限公司，並確認雄濤廣播有限公司為申請提供數碼聲音廣播服務的聲音廣播牌照而提交的所有文件，均適用於香港數碼。

- (a) 按廣播事務管理局(廣管局)根據條例第13C(1)條作出的建議，原則上批准香港數碼、新城電台和鳳凰優悅提出的聲音廣播牌照申請，以提供數碼聲音廣播服務，有效期為12年；
- (b) 待將來批出牌照後，盡用一條頻帶III數碼頻道的容量，以編配頻譜予各準數碼聲音廣播服務營辦商提供13條節目頻道（新城電台和鳳凰優悅各三條，香港數碼七條），及預留頻譜予香港電台（港台），以提供五條節目頻道；
- (c) 待香港數碼的數碼聲音廣播服務牌照批出時，決定是否批准香港數碼交還提供AM廣播服務的現有牌照及豁免相關的履約保證金和牌照費的申請；以及
- (d) 擬備向香港數碼、新城電台和鳳凰優悅批發的牌照，並呈交行政長官會同行政會議批准。

我們已就上述行政長官會同行政會議的決定採取跟進行動。

聲音廣播牌照

3. 批發給香港數碼、新城電台和鳳凰優悅的牌照，載於附件A。牌照已獲廣管局通過和建議採納。當局亦已就牌照草擬本徵詢三名申請人的意見，所有申請人均滿意牌照所載的條款。牌照所載的條款，與現有模擬廣播牌照相若，但牌照同時載有與數碼聲音廣播服務及個別申請人有關的具體條文。當中的主要條件如下：

(a) 第3項條件

除非廣管局另外批准，否則持牌機構須在發牌日期當天起計18個月內正式啓播。預播聲音廣播服務並不可當作正式廣播。

(b) 第6項條件

牌照的有效期為行政長官會同行政會議批准和批發牌照當天起計12年。牌照須在批發日期起計六年後接受中期檢討。

(c) 第8項條件

每個持牌機構須免費為公眾提供聲音廣播服務和附帶視像服務²。

(d) 第11項條件

持牌機構須由提供聲音廣播服務(包括任何預播服務)當天開始，全數繳付周年牌費。周年牌費的金額，按收回政府或為政府就有關牌照作出的合理成本和費用(包括但不限於管理牌照的行政成本和費用)計算，並且每年按政府消費開支指數調整。如果持牌機構在二零一一年內啓播，首年服務所須繳付的牌照費為港幣3,729,794元(香港數碼)或港幣2,873,126元(新城電台及鳳凰優悅)。

(e) 第18項條件

持牌機構須在牌照申請書所述的節目頻道提供24小時聲音廣播服務。香港數碼須提供合共七條廣播頻道，包括在正式啓播時推出一條「有聲台」頻道、一條少數族裔頻道和兩條純音樂頻道，以及在正式啓播後12個月內推出一條新聞財經頻道、一條悠閒生活頻道和一條社區頻道。新城電台須在正式啓播時推出至少一條廣播頻道，播放財經新聞及資訊；至於第二條頻道(音樂及娛樂頻道)和第三條頻道(生活品味頻道)，則須分別在正式啓播後12個月內和24個月內推出。鳳凰優悅須在正式啓播時推出至少一條廣播頻

² 在牌照中，「附帶視像服務」指持牌機構在數碼頻道提供的附帶服務，傳送下列數碼影像，供其聲音廣播服務的聽眾觀看：

- (i) 電子節目指南；
- (ii) 廣告材料；以及
- (iii) 與持牌機構設立和維持的聲音廣播服務有關的其他資訊。

道，播放時事和社會事務、經濟財經、歷史文化類節目，並須在正式啓播後6個月內和12個月內，分別推出第二條頻道(粵港兩地資訊交流的頻道)和第三條頻道(普通話學習及音樂頻道)。

持牌機構亦須在其數碼聲音廣播頻道，每星期播放不少於50小時的非粵語節目(語言規定)。

廣管局可因應持牌機構提出的申請，批准有別於本條件所訂的其他安排。

(f) 第25項條件

除非廣管局另行批准或決定，否則持牌機構不可—

(i) 在一條數碼聲音廣播頻道內，每周播放多於50%(即一條24小時頻道中的84小時)的任何同步廣播調頻(FM)節目；以及

(ii) 在一條數碼聲音廣播頻道內，每周播放多於50%(即一條24小時頻道中的84小時)首次在數碼聲音廣播頻道以數碼方式傳送及播放的FM節目。

(g) 第26項條件

持牌機構在提供附帶視像服務時，須進行監察，確保完全符合廣管局將會發出的業務守則。持牌機構提供的附帶視像服務，不得包含更新速度高於每秒一張的移動圖像，但如移動圖像只包含文字，則不在此限。

(h) 第27項條件

持牌機構須確保本身由其董事、主要人員及獲其正式授權的人士管理，而不會出現由其他人士管理的情況。本條件參照現行的本地免費電視節目服務牌照而增訂。

(i) 第28至29項條件

持牌機構須按照規定播放政府宣傳聲帶和廣管局的宣傳資料。這些規定同時適用於現有的聲音廣播持牌機構。

(j) 第31項條件

與現有聲音廣播牌照持牌機構一樣，數碼聲音廣播持牌機構每天播放的聲音廣告材料，不得超過當天總聲音播放時數的12%。

此外，數碼聲音廣播牌照持牌機構在任何一天顯示於附帶視像服務的影像廣告材料，不得超過這些服務總時數的30%。

這些規定按每條頻道計算。

(k) 第32項條件

持牌機構須實行牌照申請書所載的六年投資計劃，並須每年報告前一年度的實際資本及節目開支。如實際投資額有別於六年投資計劃，持牌機構須向廣管局解釋。

(l) 第34項條件

如持牌機構不獲續牌或其牌照被撤銷或已交回，行政長官會同行政會議可指示財政司司長法團按公開市場價值收購持牌機構的任何土地、裝置、廠房和設備。

(m) 第40項條件

持牌機構須受就其牌照申請提交的所有陳述及申述約束。

(n) 第43項條件

每家持牌機構須在牌照批出後一個月內繳交200萬元履約保證金，以保證在牌照批出後18個月內正式提供

數碼聲音廣播服務(除非獲廣管局批准或另定日期，則不在此限)。

(o) 第44項條件

持牌機構獲發牌照後，可在推出上文(e)項詳述的正式數碼聲音廣播服務前，以音樂廣播、同步廣播現有的AM/FM模擬服務或廣播部分正式服務的形式，提供預播服務。預播服務廣播的材料(包括節目及附帶視像服務和廣告材料)，受廣管局發出的相關業務守則規管。語言規定、同步廣播FM節目和首次在數碼聲音廣播頻道播放FM節目的限制，以及播放政府宣傳聲帶和廣管局宣傳資料的規定，均不適用於預播服務。

(p) 附表1

本附表載列持牌機構繳交履約保證金的指定形式。

(q) 附表2

持牌機構須受本附表的附件所載的傳送計劃約束。每家持牌機構須與該條作數碼聲音廣播的數碼頻道的使用者(包括港台)合作建立和營運傳輸網絡，並分攤有關成本。如營辦機構未能達成協議，電訊管理局局長(電訊局長)可介入並就此事作出決定，而持牌機構須應電訊局長要求向電訊局長繳付決定或為作出決定而引致的任何費用或開支。此外，持牌機構使用共用的傳輸網絡時，須符合電訊管理局(電訊局)規定的技術規格，並採取電訊局長要求的特定措施(包括但不限於有關係統配置、容量、冗餘量和備用設備的規格和措施)。

除非廣管局另有指示或經廣管局批准，否則持牌機構須分別使用不低於每秒32千比特和每秒48千比特的傳輸容量，播放非音樂及音樂節目。

香港數碼交還AM廣播牌照和豁免履約保證金及牌照費的申請

4. 行政長官會同行政會議在二零零八年十一月十一日向香港數碼批發為期12年的聲音廣播牌照，以提供AM廣播服務。根據香港數碼所持AM廣播牌照的發牌條件第44.1條，該公司須在獲發牌照後24個月內設立和維持AM廣播服務(承諾目標)。為確保達到承諾目標，香港數碼已提交一項妥為簽發的履約保證，保證金額為200萬元，以政府為受益人。如香港數碼未能達到承諾目標，政府可全數沒收該筆保證金。香港數碼在其開始提供AM廣播服務或獲發牌照兩周年後(以較早的日期為準)，須繳付牌照費。

5. 香港數碼已表明，如獲發數碼聲音廣播牌照，便會交還AM廣播牌照，專注提供數碼聲音廣播服務。行政長官會同行政會議已批准香港數碼的申請，准許該公司交還AM廣播牌照。財政司司長亦已按《公共財政條例》(第2章)第38(1)(a)條所賦予的權力，就香港數碼的AM廣播牌照下該公司及其保證人需繳付的履約保證金和該公司需繳付的牌照費，豁免政府向其作出申索。

《2011年防止賄賂條例(修訂附表1)令》

6. 數碼聲音廣播持牌機構應與現有模擬聲音廣播持牌機構一樣，列入《防止賄賂條例》附表1所載的「公共機構」名單，其僱員會被視為《防止賄賂條例》所界定的「公職人員」。新城電台和雄濤廣播已列入《防止賄賂條例》內。由於雄濤廣播已更名為香港數碼，因此有需要更改《防止賄賂條例》附表1所載的名稱。至於鳳凰優悅，則須加入該附表內。《防止賄賂條例》第35條規定，行政長官會同行政會議可藉憲報刊登的命令修訂該附表。該命令會於本年四月一日在憲報刊登，全文載於附件B。

推廣數碼聲音廣播服務

7. 我們已成立數碼聲音廣播督導委員會(成員來自影視及娛樂事務管理處、電訊局、港台及持牌機構)，負責監督數碼聲音廣播服務的推行及發展，包括監察網絡的覆蓋及鋪設、數碼聲音廣播服務的普及率(數碼聲音廣播接收器的銷售情況)，以及制訂數碼聲音廣播的宣傳和推廣策略等。持牌機構

正商議推出多項措施推廣其新服務，包括舉行啓播儀式、舉辦業界論壇、刊登及播放廣告、製作宣傳單張／小冊子向市民派發、參加相關展覽等。我們現正與相關的決策局／部門協調，讓數碼聲音廣播服務能夠順利在香港推出。我們亦會製作一套政府宣傳短片及聲帶，在電視台和電台播放，並會設立關於數碼聲音廣播服務的專題網站。

有關建議的影響

8. 增加三家聲音廣播持牌機構對經濟、財政、公務員、可持續發展和環境會有影響，詳情載於**附件C**。建議符合《基本法》，包括有關人權的條文。建議對生產力沒有影響。

公眾諮詢

9. 二零一零年七月九日，廣管局在其網站和報章刊登公告，列出上述三間機構申請的詳細資料，並邀請公眾在同年七月三十日或之前，就這些申請發表意見。廣管局在制訂建議時，已適當地考慮收集所得的意見。

宣傳

10. 我們會舉行記者招待會，向傳媒簡介情況，並會發出新聞稿。我們會安排發言人回答傳媒及公眾的查詢。

查詢

11. 如有查詢，請與商務及經濟發展局首席助理秘書長（通訊及科技）A 廖廣翔先生聯絡（電話：2189 2236）。

商務及經濟發展局
通訊及科技科
二零一一年三月二十四日

[只有英文版本]

No. 1 of THREE ORIGINALS

Sound Broadcasting Licence
(granted by the Chief Executive In Council on 22 March 2011)

Telecommunications Ordinance (Chapter 106)

**[Digital Broadcasting Corporation Hong Kong Limited (DBC) /
Metro Broadcast Corporation Limited (Metro) /
Phoenix U Radio Limited (Phoenix U)]**

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**SCHEDULE 1 : FORM OF PERFORMANCE
BOND**

**SCHEDULE 2 :
TRANSMISSION PLAN AND TECHNICAL
REQUIREMENTS**

1. **Grant of licence**

In exercise of the powers conferred by sections 13C and 13D of the Telecommunications Ordinance (Cap. 106) and all the powers enabling him in that behalf, the Chief Executive in Council hereby grants a licence to establish and maintain a broadcasting service to [*Digital Broadcasting Corporation Hong Kong Limited / Metro Broadcast Corporation Limited / Phoenix U Radio Limited] (“the Licensee”), a company formed and registered in Hong Kong under the Companies Ordinance (Cap. 32), whose registered office is situated at [*Unit 306, L3, Cyberport 3, 100 Cyberport Road, Pokfulam, Hong Kong (for DBC) / 22nd Floor, Hutchison House, 10 Harcourt Road, Hong Kong (for Metro) / No. 2-6 Dai King Street, Tai Po Industrial Estate, Tai Po, N.T., Hong Kong (for Phoenix U)] (this “Licence”).

2. **Interpretation**

2.1 Save where the contrary intention appears expressly or by necessary implication in this Licence, the following words and expressions shall have the meanings as follows:-

“Ancillary Visual Service”

means an ancillary service to be provided by the Licensee to transmit the following visual images in digital form on the Multiplex for viewing by the audience of its Sound Broadcasting Service –

- (i) Electronic Programme Guide;
- (ii) advertising material; and
- (iii) other information in relation to the Sound Broadcasting Service established and maintained by the Licensee.

“associate”

bears the meaning given in Schedule 1 to the Broadcasting Ordinance (Cap. 562).

“auditor”

means a professional accountant registered and holding a practising certificate under the Professional Accountants Ordinance (Cap. 50) who is neither an employee of the Licensee or its associate nor a person who is required to devote the whole or substantially the whole of his practice to the affairs of the Licensee or its associate.

“clock-hour”

means a period of 60 minutes beginning on any hour.

“Code of Practice”

bears the meaning given in section 2 (in relation to sound broadcasting) of the Broadcasting Authority Ordinance (Cap. 391).

“day”

means a period of 24 hours beginning at 12:00 midnight.

“director”

includes any person occupying in relation to a company the position of a director (by whatever name called) and any person in accordance with whose directions or instructions (not being advice given in an independent professional capacity) the directors of that company are accustomed to act.

“Electronic Programme Guide”

means a continuously updated menu showing scheduling information of current and upcoming programmes on each of the sound broadcasting service channels provided on the Multiplex, whether operated by the Licensee, RTHK or any other broadcaster.

“FM programme”

means a programme transmitted by telecommunications using any spectrum within the 88 – 108 MHz frequency band in the frequency modulation mode allocated for Sound Broadcasting Services in Hong Kong.

“FM broadcasting service”

means any broadcasting service transmitted by telecommunications using any spectrum within the 88 – 108 MHz frequency band in the frequency modulation mode allocated for Sound Broadcasting Services in Hong Kong.

“Grant Date”

means 22 March 2011.

[The following definition of “Licensee’s Proposal” is applicable to DBC only.]

“Licensee’s Proposal”

means the proposals submitted to the Broadcasting Authority and the Government by or on behalf of the Licensee in its application for this

Licence, including but not limited to its application dated 30 April 2010, the letters dated 3 June 2010, 31 July 2010, 9 August 2010, 27 August 2010, 6 October 2010, 21 January 2011, 25 February 2011, 28 February 2011 and e-mails dated 10 August 2010 and 8 December 2010 and the Six-year Investment Plan.

[The following definition of “Licensee’s Proposal” is applicable to Metro only.]

“Licensee’s Proposal”

means the proposals submitted to the Broadcasting Authority and the Government by or on behalf of the Licensee in its application for this Licence, including but not limited to its application dated 30 April 2010, the letters dated 3 June 2010, 2 August 2010, 2 September 2010, 12 October 2010, 21 January 2011 and 25 February 2011 and the Six-year Investment Plan.

[The following definition of “Licensee’s Proposal” is applicable to Phoenix U Radio only.]

“Licensee’s Proposal”

means the proposals submitted to the Broadcasting Authority and the Government by or on behalf of the Licensee in its application for this Licence, including but not limited to its application dated 29 April 2010, the letters dated 3 June 2010, 2 August 2010, 17 September 2010, 24 September 2010, 6 October 2010, 13 October 2010, 30 December 2010, 21 January 2011, 2 February 2011 and 25 February 2011 and e-mails dated 18 August 2010, 31 August 2010, 7 September 2010, 10 September 2010 and 13 September 2010 and the Six-year Investment Plan.

“Multiplex”

means the multiplex specified in the Annex to Schedule 2.

“Period of Validity”

means a continuous period of 12 years commencing on and including the Grant Date.

“principal officer”

means, in relation to a corporation, –

- (a) a person employed or engaged by the corporation who, by himself or with one or more other persons, is responsible under the immediate authority of the directors of the corporation for the conduct of the business of the corporation; or

(b) a person so employed or engaged who, under the immediate authority of a director of the corporation or a person to whom paragraph (a) applies, performs managerial functions in respect of the corporation.

“RTHK”

means Radio Television Hong Kong, including its assignee and successor.

“Services”

means the services that the Licensee is authorised and required to establish and maintain under Condition 3.1.

“Service Commencement Date”

means the date specified by the Licensee in the written notice submitted to the Broadcasting Authority pursuant to Condition 44.2 as the date on which it will commence the provision of a Sound Broadcasting Service pursuant to Condition 18.1(a).

“Six-year Investment Plan”

means all statements and representations made to the Broadcasting Authority and the Government by or on behalf of the Licensee in its application for this Licence, in relation to the Licensee’s financial plan of capital investment and programming investment for the first six years from the Grant Date for establishing and maintaining the Services, which is contained in the Licensee’s letters dated 21 January 2011 and 25 February 2011 to the Broadcasting Authority.

“Soft Launch Date”

means the date specified by the Licensee in the written notice submitted to the Broadcasting Authority pursuant to Condition 44.6 as the date on which it will commence the provision of a Sound Broadcasting Service pursuant to Condition 44.3.

“Sound Broadcasting Service”

means the provision of a service for transmitting sound (otherwise than as part of a television broadcast) for general reception by means of radio waves.

“sound broadcasting service channel”

means an audio programme channel encoded in digital format and provided under this Licence in accordance with Condition 13 of Schedule 2 to this Licence.

“subsidiary company”

bears the meaning given in section 2 of the Companies Ordinance.

“television programme service licensees”

means holders of any licences within the meaning given in section 2 of the Broadcasting Ordinance or any deemed licences within the meaning given in Schedule 8 of the Broadcasting Ordinance.

“Technical Specifications”

means any technical standard and requirement as may be directed or approved by the Chief Executive in Council or the Telecommunications Authority pursuant to this Licence or any law or Ordinance, including but not limited to any subsequent changes to be made to the details of the Transmission Plan specified in Schedule 2.

“week”

means a continuous period of 7 days beginning on a Monday.

- 2.2 Save where the contrary intention appears expressly or by necessary implication in this Licence, words and expressions used in this Licence shall bear the same meaning, if any, as in the Telecommunications Ordinance and in the Interpretation and General Clauses Ordinance (Cap. 1) and in the event of any conflict or inconsistency between their meanings, the meaning in the Telecommunications Ordinance shall prevail over that in the Interpretation and General Clauses Ordinance.
- 2.3 The interpretation of this Licence shall not be varied, limited or extended by any indexes or headings annexed to or contained in this Licence.
- 2.4 All references herein to an Ordinance, subsidiary legislation, regulation, direction, Code of Practice, this Licence, any other licence or document, or any provision thereof include that from time to time in force and that enacted or made (as the case may be) in place or substitution in whole or in part of that Ordinance, subsidiary legislation, regulation, direction or Code of Practice, this Licence, that other licence or document, or the provision thereof.
- 2.5 Subject to any express terms or conditions herein, where this Licence requires any act, conduct, matter, issue or thing of the Licensee to be

approved, the approval shall not be validly given unless given in writing under the hand of or on behalf of the person giving it.

- 2.6 This Licence shall include the Schedules and other attachments hereto which shall form and be read as an integral part of this Licence.
- 2.7 In this Licence, save where the contrary intention appears expressly or by necessary implication, words and expressions:-
- (a) which import one gender include the other genders;
 - (b) which import the singular include the plural and vice versa; and
 - (c) extend to their grammatical variations and cognate expressions where those words and expressions are defined herein or by reference to any other definition.
- 2.8 If at any time any terms or conditions of this Licence are or become illegal, invalid or unenforceable in any respect, the legality, validity or enforceability of the remaining provisions shall not in any way be affected or impaired.
- 2.9 In this Licence, all references to a Condition means a condition of this Licence.

3. Authorisation

- 3.1 This Licence authorises and requires the Licensee to establish and maintain the following services at all times during the Period of Validity:-
- (a) a Sound Broadcasting Service and an Ancillary Visual Service in accordance with this Licence and any law and Ordinance; and
 - (b) such associated telecommunication installation and services incidental to the provision of a Sound Broadcasting Service and an Ancillary Visual Service under this Licence, each as may be authorised or directed by the Telecommunications Authority.
- 3.2 Unless otherwise expressly authorised or required under this Licence, no telecommunications service or means of telecommunications of any kind regulated by the Telecommunications Ordinance shall be provided,

established or maintained by or on behalf of the Licensee in relation to the Multiplex.

- 3.3 Unless the Broadcasting Authority otherwise approves or determines, the Service Commencement Date shall be a date falling within 18 months after the Grant Date.

4. Licence granted subject to

This Licence is granted subject to:-

- (a) the provisions from time to time in force of the Telecommunications Ordinance, the Broadcasting Authority Ordinance and any Ordinance enacted in place or substitution in whole or in part thereof, and all subsidiary legislation, regulations, directions and Codes of Practice made thereunder; and
- (b) the terms and conditions set out in this Licence, and as any of them may be amended from time to time.

5. Indemnity

The Licensee shall indemnify the Broadcasting Authority, the Telecommunications Authority and the Government against any losses, claims, charges, expenses, actions or demands which the Broadcasting Authority, the Telecommunications Authority or the Government may incur or which may be made against any of them, as the case may be, as a result of or in relation to any breach or alleged breach of or failure or alleged failure to observe or perform any term or condition subject to which this Licence is granted.

6. Period and Review

- 6.1 Subject to the terms and conditions of this Licence and any law or Ordinance, this Licence shall be valid for the Period of Validity.
- 6.2 This Licence shall be subject to review by the Chief Executive in Council after 22 March 2017.

6.3 For the purposes of or in connection with the review referred to in Condition 6.2, account may be taken of, but not limited to the following matters:

- (a) the Licensee's compliance with all relevant statutory requirements, licence conditions and Codes of Practice;
- (b) the prevailing broadcasting policy;
- (c) technological developments such as progress in the further development of digital, Internet and multimedia technologies; and
- (d) the public interest.

6.4 The Broadcasting Authority may conduct any public hearing as it thinks fit for the purposes of or in connection with any review referred to in Condition 6.2.

7. **Notice of intent**

The Licensee shall indicate in writing its interest (if any) in applying for a further licence to establish and maintain a Sound Broadcasting Service and an Ancillary Visual Service not less than 24 months (or such shorter period as may be determined by the Broadcasting Authority) before this Licence may otherwise expire.

8. **Principles of broadcasting**

8.1 The Licensee shall accept that the radio frequency spectrum assigned, or to be assigned from time to time, as the case may be, to the Licensee, is not the property of the Licensee but of the community and being a natural and limited asset the Licensee shall make proper use of it in the best interests of the whole community and the Licensee shall accept that regulation of that use of the radio frequency spectrum is one of the purposes of this Licence and is necessary and justified because radio programmes go freely into homes and may be readily understood by children and adults.

8.2 The Licensee shall:-

- (a) entertain, inform and educate;

- (b) ensure that its programming is balanced in content and provides an adequate and comprehensive service which is responsive to the diverse needs and aspirations of the community;
- (c) apply up-to-date technology to perfect the sounds that it broadcasts; and
- (d) provide the Sound Broadcasting Service and Ancillary Visual Service to the general public free of charge.

8.3 The Licensee shall comply with all Technical Specifications to the satisfaction of the Telecommunications Authority during the Period of Validity.

9. Reservation

- 9.1 There is hereby reserved the power to impose during the Period of Validity of this Licence such further terms and conditions as the Chief Executive in Council may in the public interest specify from time to time and for that purpose the Chief Executive in Council may revoke, vary, limit or extend the terms and conditions of this Licence.
- 9.2 For the purposes of Condition 9.1, the Chief Executive in Council shall afford the Licensee a period of at least 14 days but not exceeding one month from the date of a notice in writing to the Licensee to the effect that the Chief Executive in Council is considering an amendment and the nature thereof, in order for the Licensee to make representations in writing to the Chief Executive in Council as to why the proposed amendment should not be made or should be modified or qualified, and the nature thereof.
- 9.3 In the period referred to in Condition 9.2 and thereafter, the Chief Executive in Council may consult with and receive written recommendations from such persons as he sees fit and the Licensee shall be afforded a period of at least 7 days but not exceeding 14 days to make representations in writing to the Chief Executive in Council on those recommendations.

10. The relevant authority

Subject to the express terms and provisions of the Telecommunications Ordinance, the Broadcasting Authority Ordinance and this Licence, the Chief Executive in Council, the Chief Executive, the Broadcasting Authority or the Telecommunications Authority shall in its absolute discretion determine, approve, disapprove, hold an opinion or decide any matter, issue or thing which it is requested, permitted or required to determine, approve, disapprove, hold an opinion regarding or decide under this Licence.

11. Licence fee

11.1 Subject to the right of the Chief Executive in Council to revise by notice in writing to the Licensee at any time the amount of licence fee on the basis of recovery of the reasonable costs and expenses incurred by or on behalf of the Government in relation to this Licence, including but not limited to administrative costs and expenses in administering this Licence, the Licensee shall pay to the Government a licence fee for the first year beginning with the Soft Launch Date or the Service Commencement Date, whichever is earlier, and such date shall be referred to as the “Due Date” in this Condition, and for each subsequent year beginning on the anniversary of the Due Date specified as follows:-

- (a) First Year - X
- (b) Second Year - $X \times (1 + \text{GCED for the Second Year})$
- (c) Third Year - $X \times (1 + \text{GCED for the Second Year}) \times (1 + \text{GCED for the Third Year})$

and so on for the subsequent years, where $X = [\text{HK}\$3,729,794 \text{ (for DBC), HK}\$2,873,126 \text{ (for Metro and Phoenix U)}]$ if the Due Date falls within 2011, or $[\text{HK}\$3,729,794 \text{ (for DBC), HK}\$2,873,126 \text{ (for Metro and Phoenix U)}] \times (1 + \text{GCED for 2012})$ if the Due Date falls within 2012, or $[\text{HK}\$3,729,794 \text{ (for DBC), HK}\$2,873,126 \text{ (for Metro and Phoenix U)}] \times (1 + \text{GCED for 2012}) \times (1 + \text{GCED for 2013})$ if the Due Date falls within 2013.

If on an anniversary of the Due Date, the remaining term of this Licence is less than a year, the licence fee payable in respect of that portion of the Period of Validity shall be payable on a pro rata basis.

11.2 For the purposes of Condition 11.1,

- (a) if a notice for revision of the amount of licence fee is issued under Condition 11.1, the first payment payable following the date on which the notice is issued shall, for the purpose of determining the amount of licence fee payable thereafter pursuant to the Condition, be regarded as payment for the First Year referred to therein, and payment for each subsequent year shall be made accordingly until another notice is issued pursuant to Condition 11.1. For the avoidance of doubt, this Condition shall apply to each notice issued pursuant to Condition 11.1;
- (b) GCED for any year means the forecast movement of the Government Consumption Expenditure Deflator for the year of publication of “Economic Prospects” published by the Government or of any similar Government publications containing the forecast movement of the Government Consumption Expenditure Deflator. For the avoidance of doubt, the formula for calculating GCED for any year of publication (Year N) is as follows:-

“GCED” for Year N =

$$\frac{\text{Forecast Government Consumption Expenditure for Year N}}{\text{Preliminary Estimates for Year (N-1)}} - 1$$

(1+Forecast Growth Rate of Government Consumption Expenditure in Real Terms for Year N)

- 11.3 The first payment of the licence fee under this Licence shall be made within 14 days of the Due Date, and thereafter payments of the licence fee shall be made on an annual basis during the Period of Validity within 14 days of a demand in writing by the Government made on or after the anniversary of the Due Date.
- 11.4 In the event of a revocation, surrender or suspension of this Licence, no licence fees or other fees or charges paid or payable by the Licensee before the revocation, surrender or suspension shall be refunded to or cease to be payable by the Licensee, as the case may be.

12. Non-assignment

- 12.1 The Licensee shall not, without the approval of the Chief Executive in Council, assign, share, franchise or grant any permission to any person for the use of, in whole or in part, any rights, powers and privileges granted hereunder or purport to do the same.

- 12.2 The Licensee shall not delegate any of its duties or responsibilities granted hereunder other than those commonly carried out by independent professional advisers or auditors.

13. Revocation

- 13.1 Where the Chief Executive in Council considers that there may be cause for revoking this Licence, he may direct the Broadcasting Authority to conduct an inquiry and submit recommendations concerning the revocation of this Licence, and, after having considered such recommendations and such other information, matter and advice as he may see fit, may revoke this Licence.
- 13.2 Revocation of this Licence under Condition 13.1 shall take effect subject to the notice required to be given under Condition 13.5.
- 13.3 Notwithstanding Conditions 13.1 and 13.2, the Chief Executive in Council may at any time revoke this Licence:-
- (a) for failure by the Licensee to pay, within one month after payment thereof has been demanded, any financial penalty imposed on him under the Broadcasting Authority Ordinance;
 - (b) if having regard to such of the following as is or are appropriate in the particular case, namely, the number of times this Licence has been suspended, the number and amount of financial penalties imposed on the Licensee under the Broadcasting Authority Ordinance since the grant of this Licence; the number of occasions on which, since such grant, the requirements of the Telecommunications Ordinance have, in relation to the Licensee, been contravened; any failure by the Licensee, whether by act or omission, to comply with a term or condition attached to this Licence; or any such failure to comply with any direction or order applicable to the Licensee and given or made by the Broadcasting Authority either under the Broadcasting Authority Ordinance or under a provision of a Code of Practice, he is satisfied that this Licence should be revoked;

- (c) if the Licensee:-
 - (i) goes into compulsory liquidation or into voluntary liquidation other than for the purpose of amalgamation or reconstruction; or
 - (ii) makes any assignment to, or voluntary arrangement with, its creditors; or
- (d) if the Licensee fails to submit or maintain a performance bond in accordance with Condition 43.

Such revocation shall take effect forthwith or on such day as the Chief Executive in Council specifies.

- 13.4 In determining whether to revoke this Licence, the Chief Executive in Council may have regard to the matters to which the Broadcasting Authority had regard under Condition 14.2.
- 13.5 Where it is decided to revoke this Licence pursuant to Condition 13.1, the Chief Executive in Council shall cause notice in writing of the decision to be given to the Licensee, and the decision shall come into effect on the day specified therein which shall be a day not earlier than the 60th day after the date of the notice.
- 13.6 Where it is necessary for the due compliance with this Condition, the Chief Executive in Council may extend the term of this Licence.

14. Suspension of Licence

- 14.1 Subject to the provisions of this Condition 14, the Broadcasting Authority may suspend this Licence for such period, being a period not exceeding 30 days, as specified in the suspension.
- 14.2 This Licence shall only be suspended under this Condition 14, if having regard to such of the following as is or are appropriate in the particular case, namely, the number and amount of financial penalties imposed on the Licensee under the Broadcasting Authority Ordinance since the grant of this Licence; the number of occasions on which, since such grant, the requirements of the Telecommunications Ordinance have, in relation to the Licensee, been contravened; any failure by the Licensee, whether by act or omission, to comply with a term or condition attached to this

Licence; or any such failure to comply with any direction or order applicable to the Licensee and given or made by the Broadcasting Authority either under the Broadcasting Authority Ordinance or under a provision of a Code of Practice, the Broadcasting Authority is satisfied that this Licence should be suspended.

- 14.3 The Broadcasting Authority shall not suspend this Licence unless and until it has given to the Licensee notice in writing stating that that Authority has under consideration the suspension of this Licence and the grounds upon which such suspension is being considered and the Broadcasting Authority has considered any representation or objection made to it as regards the proposed suspension.
- 14.4 The notice referred to in Condition 14.3 shall, in addition to stating the matters required by that Condition, state that representations and objections as regards the proposed suspension may be made to the Broadcasting Authority (either orally or in writing or both) during such period (being a period of not less than 28 days beginning on the date of receipt by the Licensee of the notice) as shall be specified in the notice.
- 14.5 Where this Licence is suspended under this Condition 14, the suspension shall not come into force before:-
- (a) in case an appeal is not taken under section 26 of the Broadcasting Authority Ordinance, the expiration of the period during which such an appeal may be taken; or
 - (b) in case such an appeal is taken, the appeal is either withdrawn or determined.

15. Station identification

- 15.1 The Licensee shall, when broadcasting any programmes, including any test or experimental transmissions, transmit a station identification signal as frequently as practicable.
- 15.2 Without prejudice to Condition 15.1, the Licensee shall transmit its station identification signal at least once during each clock-hour of the transmission of its broadcast programmes, unless to do so would cause unreasonable interruption of its broadcast programmes.

- 15.3 The Licensee shall give the Broadcasting Authority not less than 14 days' notice in writing of any proposed change to its station identification signal and shall comply with any direction of that Authority in relation to the signal.
- 15.4 For the purposes of this Licence, "station identification signal" means any aural transmission exclusively for the purpose of identifying the broadcasting service as that of the Licensee and, without prejudice to the generality of the foregoing, not for the promotion of the Licensee's station or programme services.

16. Intellectual property rights

The Licensee shall not do any act or permit any act to be done which is an infringement of any intellectual property right or any other rights (including but not limited to moral rights) of any other person which may exist in any published programme or other printed or recorded matter or which is or may be protected under the provision of any enactment for the time being in force or under any other law enforceable in Hong Kong.

17. Language of books and accounts

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

18. Number of sound broadcasting service channels, language and hours of service

[The following Condition 18.1 is applicable to DBC only:]

- 18.1 The Licensee shall --
- (a) from the Service Commencement Date, broadcast each day seven 24-hour sound broadcasting service channels, comprising one 24-hour Talk Radio channel, one 24-hour Ethnic Minorities channel, two 24-hour Music channels and three other 24-hour sound broadcasting service channels which may be News & Market Update channel, Leisure Life channel, Community channel or Music channel; and

- (b) within 12 months from the Service Commencement Date and at all times thereafter, broadcast seven 24-hour sound broadcasting service channels, comprising one 24-hour Talk Radio channel, one 24-hour Ethnic Minorities channel, one 24-hour News & Market Update channel, one 24-hour Leisure Life channel, one 24-hour Community channel and two 24-hour Music channels, each day,

in accordance with this Licence and using a specific range of transmission frequencies and capacity thereof as directed or approved by the Telecommunications Authority from time to time.

[The following Condition 18.1 is applicable to Metro only:]

18.1 The Licensee shall –

- (a) from the Service Commencement Date, broadcast not fewer than one 24-hour sound broadcasting service channel, including one 24-hour sound broadcasting service channel on financial news and information, each day;
- (b) within 12 months from the Service Commencement Date, broadcast not fewer than two 24-hour sound broadcasting service channels, including one 24-hour sound broadcasting service channel on financial news and information and one 24-hour sound broadcasting service channel on music and entertainment, each day; and
- (c) within 24 months from the Service Commencement Date and at all times thereafter, broadcast three 24-hour sound broadcasting service channels, including one 24-hour sound broadcasting service channel on financial news and information, one 24-hour sound broadcasting service channel on music and entertainment and one 24-hour sound broadcasting service channel on lifestyle each day,

in accordance with this Licence and using a specific range of transmission frequencies and capacity thereof as directed or approved by the Telecommunications Authority from time to time.

[The following Condition 18.1 is applicable to Phoenix U only:]

18.1 The Licensee shall –

- (a) from the Service Commencement Date, broadcast not fewer than one 24-hour sound broadcasting service channel, including one 24-hour sound broadcasting service channel on current and social affairs, economic and financial issues and historical and cultural programmes, each day;
- (b) within 6 months from the Service Commencement Date, broadcast not fewer than two 24-hour sound broadcasting service channels, including one 24-hour sound broadcasting service channel on current and social affairs, economic and financial issues and historical and cultural programmes and one 24-hour sound broadcasting service channel on information exchange between Hong Kong and Guangdong, each day; and
- (c) within 12 months from the Service Commencement Date and at all times thereafter, broadcast three 24-hour sound broadcasting service channels, including one 24-hour sound broadcasting service channel on current and social affairs, economic and financial issues and historical and cultural programmes, one 24-hour sound broadcasting service channel on information exchange between Hong Kong and Guangdong and one 24-hour sound broadcasting service channel on Putonghua learning and music each day,

in accordance with this Licence and using a specific range of transmission frequencies and capacity thereof as directed or approved by the Telecommunications Authority from time to time.

- 18.2 The Licensee shall immediately notify the Broadcasting Authority when a sound broadcasting service channel commences service.
- 18.3 The Licensee shall broadcast on its sound broadcasting service channels not fewer than a total of 50 hours of non-Cantonese audio programmes each week.
- 18.4 Upon application in writing by the Licensee, the Broadcasting Authority may approve arrangements different from those in Conditions 18.1 and 18.3.

19. Residential requirement of directors

- 19.1 The Chairman and the managing director (and any person occupying these positions by whatever name called) and the majority of the directors who take an active part in the control of the Licensee shall, unless otherwise approved by the Broadcasting Authority, each be ordinarily resident in Hong Kong and have been so ordinarily resident for one continuous period of at least seven years.
- 19.2 The control and management of the Licensee shall be bona fide exercised within Hong Kong.

20. Licensee to formulate general guidelines

The Licensee shall formulate written guidelines for all staff and agents concerned with the contents included in its Sound Broadcasting Service and Ancillary Visual Service, including but not limited to all programmes and advertising, stating the Licensee's principles regarding its responsibilities to the public, with particular reference to its obligations under the relevant Codes of Practice, and the Licensee shall make these staff and agents aware, and refresh their memory at regular intervals, of the guidelines and Codes of Practice.

21. Discipline and training

The Licensee shall ensure good discipline and training among its staff as regards adherence to the relevant Codes of Practice.

22. Comments and complaints

- 22.1 The Licensee shall receive and consider all comments and complaints made by or on behalf of any person who believes himself to have been treated unjustly or unfairly in any programme, material or item included in its Sound Broadcasting Service or in any Ancillary Visual Service provided by the Licensee, or who comments or complains in substance or in form with respect to the whole or part of the content, production, transmission coverage, technical requirements or time of broadcasting of such programme, material or item or the Services, or any matter relating thereto, or with respect to the management of the Licensee.

- 22.2 The Licensee shall implement a procedure for dealing with comments and complaints as required from time to time by the Broadcasting Authority.
- 22.3 The Licensee shall keep a complete, accurate and up-to-date record in writing of all comments and complaints received, and submit it to the Broadcasting Authority on a regular basis and on demand. The record shall be retained by the Licensee for not less than 2 years.
- 22.4 The Licensee shall keep a record, in writing or in a retrievable and perceivable form, of audio programmes broadcast showing the date and time of broadcasting and shall retain the written scripts (if any) and recordings of all broadcasts, each for such a period as specified by the Broadcasting Authority and shall submit them to the Broadcasting Authority in a visible and legible manner for examination on demand.
- 22.5 The Licensee shall keep a record, in writing or in a retrievable and perceivable form, of the Ancillary Visual Service showing the date and time of transmission or display, or both if the respective date and time of transmission and display are different, and shall retain the written scripts (if any) and recordings of all the programmes, material and items transmitted or displayed, each for such a period as specified by the Broadcasting Authority and shall submit them to the Broadcasting Authority in a visible and legible manner for examination on demand.

23. News programmes

In transmitting any news programmes or reports, the Licensee shall ensure that international and local affairs are treated impartially and transmitted accurately.

24. Weather-related information

- 24.1 Subject to Condition 24.2, the Licensee may transmit any weather programme or announcement produced from sources which are, in the opinion of the Broadcasting Authority, official or authentic.
- 24.2 The Licensee shall, if it is directed to do so by the Broadcasting Authority, transmit any weather programme or announcement supplied to it by the Government in place of or in addition to any other such programme or announcement produced by the Licensee or any other person.

25. Simulcast and FM programmes

- 25.1 Unless the Broadcasting Authority otherwise approves or determines, for each sound broadcasting service channel broadcast under this Licence, the Licensee shall ensure that the aggregate time in any week for simulcasting any FM broadcasting service shall not exceed 50 percent of the total broadcast time of that week (i.e. not more than 84 hours for a 24-hour sound broadcasting service channel).
- 25.2 Unless the Broadcasting Authority otherwise approves or determines, for each sound broadcasting service channel broadcast under this Licence, the Licensee shall ensure that the aggregate time in any week for broadcasting any FM programme transmitted in the digital form for the first time on any sound broadcasting channel shall not exceed 50 percent of the total broadcast time of that week (i.e. not more than 84 hours for a 24-hour sound broadcasting service channel).

26. Ancillary Visual Service

- 26.1 Unless the Broadcasting Authority otherwise approves or determines, the Licensee shall coordinate with all other licensees using the Multiplex and RTHK, and, include in its Ancillary Visual Service an Electronic Programme Guide within 18 months after the Grant Date.
- 26.2 The Licensee, in providing an Ancillary Visual Service, shall monitor and ensure strict compliance with the Codes of Practice.
- 26.3 The Licensee shall not provide any Ancillary Visual Service which consists of moving images at a refresh rate faster than one picture per second, unless the moving images consist of text only.

27. Management of the Licensee

The Licensee shall ensure that the management of the Licensee shall not be performed by persons other than the directors and principal officers of the Licensee and persons duly authorised by the Licensee.

28. Announcement in the public interest

The Licensee shall broadcast on each of its sound broadcasting service channels for periods not exceeding in total one minute in each clock-hour such announcements in the public interest as the Broadcasting Authority may determine.

29. Publicity material of the Broadcasting Authority

29.1 The Licensee shall broadcast on each of its sound broadcasting service channels such publicity material as the Broadcasting Authority may direct in order to promote knowledge and understanding of the activities and functions of that Authority.

29.2 The publicity material referred to in Condition 29.1 may be directed to be broadcast twice daily for not more than one minute on each of its sound broadcasting service channels between the hours of 6:00 p.m. and 11:00 p.m. subject to a maximum limit of 5 minutes in aggregate each week on each of its sound broadcasting service channels.

30. Advertising

The Licensee shall monitor and ensure strict compliance with the relevant Codes of Practice issued by the Broadcasting Authority.

31. Restriction on advertising

31.1 For each sound broadcasting service channel broadcast under this Licence, the Licensee shall ensure that the aggregate audio advertising time on any day shall not exceed 12 percent of the total broadcast time of that day.

31.2 For each sound broadcasting service channel broadcast under this Licence, the Licensee shall ensure that the aggregate time for displaying visual advertising material on any day shall not exceed 30 percent of the total time for which an Ancillary Visual Service is provided on that day.

32. Programme development and capital investment

- 32.1 Unless otherwise approved by the Broadcasting Authority, the Licensee shall implement the Licensee's Proposal.
- 32.2 Unless otherwise approved by the Broadcasting Authority, the Licensee shall make such acquisitions and investments as are necessary in order to:-
- (a) perform all the Licensee's obligations under this Licence, including but not limited to complying with the Six-year Investment Plan; and
 - (b) comply with the provisions from time to time in force of the Telecommunications Ordinance, the Broadcasting Authority Ordinance and all subsidiary legislation, regulations, directions and Codes of Practice made thereunder.
- 32.3 Within three months from each anniversary of the Grant Date, the Licensee shall submit to the Broadcasting Authority a management report of the Licensee certifying the capital investment and programming investment incurred by the Licensee in providing the Services for the year preceding the anniversary date. The management report shall give a true and fair view of the capital investment and programming investment so incurred by the Licensee, and shall be approved by the directors of the Licensee and signed on behalf of the board by chairman of the meeting at which the management report was approved or by the secretary of the Licensee. The Licensee shall explain to Broadcasting Authority if the actual annual expenditure deviates from the Six-year Investment Plan.

33. Notices or directions given to the Licensee

- 33.1 Where any consent, notice, direction, authorisation or approval of or from any person is required under this Licence for the doing of any matter or thing by or on behalf of the Licensee, or a notice or notification is required to be given by or on behalf of the Licensee to any person, that consent, notice, direction, authorisation, approval or notification is valid only if given in writing and signed by a person with authority to do so and, subject to Condition 33.2, given before the doing of the said matter or thing in question.

- 33.2 The person referred to in Condition 33.1 may generally or specifically in relation to a particular matter or thing referred to in Condition 33.1 by notice in writing to the Licensee waive the requirement for its or his (as the case may be) consent, notice, direction, authorisation or approval to be given before the doing of the matter or thing in question, provided that no such waiver shall estop that person from withdrawing the waiver, with prospective effect, in whole or in part, or from requiring that the consent, notice, direction, authorisation or approval (as the case may be), be required timeously in relation to other matters or things.
- 33.3 Without any limitation whatsoever on the rights and powers conferred by Part VI (Powers) of the Interpretation and General Clauses Ordinance, where a person other than the Licensee gives any consent, notice, direction, authorisation or approval under this Licence to the Licensee, the same may be:-
- (a) withdrawn, modified or replaced from time to time by that person as if the withdrawal, modification or replacement were the giving of a consent, notice, direction, approval or authorisation under this Licence and the Licensee shall comply therewith;
 - (b) given once or from time to time; and
 - (c) made subject to such conditions as that person may impose.
- 33.4 All references in this Licence to the doing of any matter or thing by a person other than the Licensee include the delegate of such person, or other agent of that person, who is authorised in that regard by or under any law or Ordinance.
- 33.5 Any communication in writing moving from a person to the Licensee under this Licence may be validly served or given either by delivering it to an officer or employee of the Licensee at the registered office of the Licensee or its last known place of business in Hong Kong or by forwarding it by registered post to its registered office or last known place of business in Hong Kong.

34. Purchase of lands, buildings, etc.

- 34.1 Where:-

- (a) notice of non-renewal of this Licence is given under section 13E of the Telecommunications Ordinance; or
- (b) this Licence is or has been, or is to be, revoked or surrendered;

the Chief Executive in Council may, subject to Condition 34.2(a), not later than 3 years from the date of expiry, revocation or surrender of the Licence, direct The Financial Secretary Incorporated to acquire by purchase any lands (which for the purposes of this Condition 34 shall include any licence or option over land), installations, plant and equipment in or over which the Licensee has a right, title or interest and used by the Licensee for the purposes of this Licence within 6 years prior to the date of expiry, revocation or surrender of the Licence.

34.2 Where a direction of the Chief Executive in Council has been given pursuant to Condition 34.1, The Financial Secretary Incorporated shall within the following period specify the land, installations, plant and equipment to be acquired-

- (a) not less than 4 months and not more than 8 months after the giving of notice of non-renewal of this Licence under section 13E of the Telecommunications Ordinance; or
- (b) where this Licence is or has been, or is to be, revoked or surrendered, within 12 months after the giving of the direction under Condition 34.1.

provided that the specification may be made by The Financial Secretary Incorporated more than once and from time to time during the relevant period.

34.3 The consideration to be paid to the Licensee for the right, title or interest in or over the said land, installations, plant and equipment shall be a sum equal to the open market value thereof at the date of non-renewal, revocation or surrender (as the case may be) of this Licence as between a willing buyer and a willing seller but without regard to:-

- (a) loss of profit;
- (b) goodwill;
- (c) the right of pre-emption;

- (d) the cost of raising capital; and
 - (e) all the property being placed on the market at one and the same time.
- 34.4 In the event of the price offered by The Financial Secretary Incorporated being refused, the price shall be determined by arbitration in accordance with the Arbitration Ordinance (Cap. 341) and for the purpose of giving effect to the foregoing, The Financial Secretary Incorporated and the Licensee shall be regarded as having concluded an arbitration agreement (within the meaning of that Ordinance) whose provisions shall be taken to include a provision that the aforesaid price shall, in the absence of agreement, be determined by a single arbitrator.
- 34.5 Where land or any interest in land is acquired under this Condition 34 on the direction of the Chief Executive in Council, The Financial Secretary Incorporated shall, within 1 month after the acquisition, register in the Land Registry by memorial a declaration that it has been so purchased.
- 34.6 All property acquired under this Condition 34 on the direction of the Chief Executive in Council shall, as the case may be, vest in The Financial Secretary Incorporated:-
- (a) upon the expiry of this Licence after notice of a decision not to renew;
 - (b) where this Licence is revoked or surrendered, when the revocation or surrender (as the case may be) takes effect or when a price is offered by The Financial Secretary Incorporated, whichever is the later, and thereupon all rights in such property on the part of the Licensee shall cease and determine.
- 34.7 Nothing in this Condition 34 shall confer on the Licensee any right to require The Financial Secretary Incorporated to acquire any part of its lands, installations, plant or equipment.
- 34.8 The Licensee shall notify the Broadcasting Authority:-
- (a) of all land in respect of which the Licensee has right, title or interest (as the case may be) as at the Grant Date, within 14 days thereafter and within 14 days after the date of each binding agreement entered into by or on behalf of the Licensee to acquire such right, title or interest;

- (b) of all land and interests in land which it uses or ceases to use for the purposes of this Licence within 14 days after the commencement of the use or cessation to use; and
- (c) of all land and interests in land which the Licensee has ceased to have a right, title or interest (as the case may be) within 14 days after the date the Licensee ceased to have such right, title or interest.

35. Licensee to submit audited accounts

- 35.1 The Licensee shall submit to the Broadcasting Authority, not later than 6 months after the end of its accounting year, audited accounts prepared in such manner and containing such details as may be approved and required by the Broadcasting Authority. The audited accounts to be submitted for an accounting year shall include, without limitation, a reconciliation statement as at the end of the accounting year on the management report submitted by the Licensee under Condition 32.3 during the accounting year and other financial information contained in the audited accounts.
- 35.2 Where a company is a subsidiary company of the Licensee, the Licensee shall, not later than 6 months after the end of an accounting year of the company, submit, or cause to be submitted, to the Broadcasting Authority a copy of the company's audited accounts for that year.

36. Licensee to submit returns

- 36.1 The Licensee shall submit to the Broadcasting Authority not later than the end of the month of April each year a return in a form specified by it showing the name of each director, whether he is ordinarily resident in Hong Kong and has been so ordinarily resident for a continuous period of at least seven years, together with such supporting details and evidence as the Broadcasting Authority may reasonably require.
- 36.2 Without prejudice to Condition 36.1, the Licensee shall submit to the Broadcasting Authority in a form specified by it a return showing:-
 - (a) particulars of every change of or addition to the persons who are directors;

- (b) whether following the change or addition, each of the directors is ordinarily resident in Hong Kong and has been so for a continuous period of at least seven years; and
- (c) such details and evidence in support of the foregoing as the Broadcasting Authority may reasonably require.

36.3 Unless otherwise approved by the Broadcasting Authority, the return referred to in Condition 36.2 shall be submitted to the Broadcasting Authority not later than 14 days after the change or addition.

36.4 The Licensee shall submit to the Broadcasting Authority on demand such other information as it may reasonably require for the purposes of exercising its functions under the Broadcasting Authority Ordinance.

37. Non-compliance due to acts of God

37.1 Subject to Condition 37.2, the Licensee shall be exonerated from observing or performing the terms and conditions of this Licence if and so long as the failure to observe or perform those terms and conditions shall be directly attributable to any act of God, any riot, civil commotion or disturbance, the restraint of any ruler, any strike, combination of workmen or lockout, any fire, explosion, typhoon, storm, flooding, landslide, subsidence of ground or other catastrophe, any war, blockade or embargo, any breakdown of plant, machinery or equipment not due to the negligence or want of reasonable maintenance on the part of the Licensee, its servants or agents, any commandeering or requisitioning of the Licensee's installations, equipment or facilities or any other interference or circumstance wholly beyond the control of the Licensee.

37.2 The Licensee shall, with all due diligence and speed, repair, rebuild, restore, reinstate and take all such actions as may be required to repair, rebuild, restore and reinstate in all respects the Services in accordance with the terms and conditions of this Licence and resume observing and performing those terms and conditions.

38. Liability of Licensee for contraventions

The Licensee shall be liable for the contravention of:-

- (a) any provision of the Telecommunications Ordinance, the Broadcasting Authority Ordinance, any other Ordinance, subsidiary legislation, regulation, direction, Code of Practice or any provision thereof; and
- (b) subject to Condition 37, any term or condition of this Licence,

where the contravention is due to any act or omission of any director, officer, staff or agent of the Licensee acting for or on behalf of the Licensee.

39. Saving of rights granted

- 39.1 Notwithstanding anything contained in this Licence, the Licensee shall not in any way whatsoever abrogate or interfere with any of the telecommunications services or off-air broadcasts authorised under the Telecommunications Ordinance or Broadcasting Ordinance.
- 39.2 Nothing in this Licence shall prejudice or affect the right of the Government to establish, extend, maintain, operate or provide any telecommunications, broadcasting or communications services or systems, or to receive, distribute or broadcast any matter or to enter into any agreements or grant any licences for the establishment, extension, maintenance, operation or provision of any such services or systems.

40. Statements made on application binding on the Licensee

Unless otherwise approved by the Broadcasting Authority, the Licensee shall comply at all times with the statements (including statements of intention) and representations made by or on its behalf in its application for the grant of this Licence submitted by it except in so far as such statements and representations are no longer applicable due to amendment of the laws of Hong Kong relating to the establishment, maintenance, operation and provision of broadcasting services.

41. Free competition

- 41.1 The Licensee shall not,

- (a) enter into any agreement or arrangement with, or offer any inducement (whether financial or otherwise) to, any person; or
- (b) enforce by way of legal proceedings, arbitration, forfeiture of liquidated damages, adjustment or rebate of charges or otherwise, any term or condition; or
- (c) solicit or permit another to do, or refrain from doing, anything; or
- (d) otherwise engage in conduct,

which has the effect or purpose of restricting, impeding or restraining competition in relation to the establishment, maintenance, operation or provision of any service or network for telecommunications in Hong Kong, or broadcasting in Hong Kong of any television programme service licensee or sound broadcasting licensee.

41.2 The Licensee shall not be regarded to have contravened Condition 41.1 if it satisfies the Broadcasting Authority that any aforesaid restriction, impediment or restraint is one that is and remains fair and reasonable in reference to the interests of the public in Hong Kong including without limitation the preservation of the freedom from restriction, impediment or restraint of competition protected by that Condition and having regard to the interests of licensees referred to therein and of the Licensee.

41.3 Condition 41.1 shall not apply in respect of any aforesaid restriction, impediment or restraint on:-

- (a) broadcasting any programme material acquired or produced by or for the Licensee and broadcast by it under this Licence;
- (b) any person from:-
 - (i) disclosing or using any proprietary right vested in the Licensee or other person (including without limitation the disclosure of any information in respect of which there is such a proprietary right);
 - (ii) using or exploiting his artistic talent or ability;
- (c) any employee or former employee of the Licensee who has or had access to information in which the Licensee has a proprietary right from engaging in any business, or being employed by any person,

in competition with the Licensee during the period of his employment and for a reasonable period not exceeding 6 months from the date of termination of his employment,

provided that the said restriction, impediment or restraint is not void or unenforceable under any law or Ordinance or would not be void or unenforceable if the proper law governing the restriction, impediment or restraint were that of Hong Kong.

41.4 For the purposes of this Condition 41, without prejudice to the other rights, power and duties of the Broadcasting Authority, that Authority may consult with and seek the views of any person.

42. Publication of Licence

42.1 The Licensee shall make available for inspection by members of the public, free of charge, a true copy of this Licence (other than the Licensee's Proposal) at:-

- (a) its registered office or principal place of business; and
- (b) the head office of the Television and Entertainment Licensing Authority.

42.2 The Government may at its own discretion make the terms and conditions of this Licence (other than any commercial confidential information expressly designated as such) publicly available in any manner it thinks fit.

43. Performance bond

43.1 Not later than one month from the Grant Date, the Licensee shall submit to the Broadcasting Authority a duly issued performance bond in favour of the Government in the sum of HK\$2 million ("the Bonded Sum") in the form and on the terms specified in Schedule 1, to secure the compliance by the Licensee with the condition that the Licensee shall establish and maintain a broadcasting service as authorised and required in Condition 18.1(a) of this Licence within 18 months after the Grant Date.

- 43.2 If after submission of the duly issued performance bond under Condition 43.1, the Licensee wishes to replace that performance bond with one issued by a different bank, the Licensee shall submit full written details of the proposed replacement bank and replacement performance bond to the Secretary for Commerce and Economic Development on behalf of the Government for approval not less than 14 days before the date the change becomes effective.
- 43.3 Notwithstanding any other conditions of this Licence (including but not limited to the terms and conditions of the performance bond):
- (a) if the Licensee fails to provide or maintain a performance bond in accordance with the foregoing provisions of this Condition, this Licence may be revoked notwithstanding that the Licensee may have embarked on its preparation and performance; and no licence fees or other fees and charges paid or payable by the Licensee before cessation in accordance with this Condition shall be refunded, or cease to be payable, as the case may be;
 - (b) all rights, powers and remedies of and claims by the Government under the performance bond lodged by the Licensee pursuant to this Condition, including any replacement thereof, shall be without prejudice to the other rights, powers and remedies of and claims by the Government and to the rights, powers and remedies of and claims by the Chief Executive in Council, the Chief Executive, the Broadcasting Authority, the Telecommunications Authority and, without limitation, any other person under any laws or Ordinance; and
 - (c) any replacement performance bond referred to in Condition 43.2 shall be in the form and on the terms of the performance bond appearing in Schedule 1 save for:
 - (i) the change in particulars of the replacement bank; and
 - (ii) the omission therefrom of any Milestone and Deadline for Compliance in respect of which liability has ceased by reason of either the payment in full of all calls on the performance bond prior to the date the said change of bank becomes effective or the issue of any certificate of completion by the Government in respect of the said Milestone and Deadline for Compliance.

- 43.4 The Licensee shall ensure that the Surety referred to in the performance bond, including any replacement performance bond, shall be and remain irrevocably and unconditionally bound to the Government and liable for payment of the Bonded Sum Payable.
- 43.5 Once the Broadcasting Authority is satisfied that the Licensee has complied with its obligations in respect of the Milestone and Deadline for Compliance set out in the performance bond submitted to the Government, the Secretary for Commerce and Economic Development on behalf of the Government shall, as soon as practicable thereafter but no more than 30 days and in response to a request in writing to that effect from the Licensee, issue in respect thereof a certificate of completion to the Licensee and to the Surety referred to in the performance bond under this Licence or replacement bank referred to in Condition 43.2.

44. Commencement of service and soft launch

- 44.1 Unless the Broadcasting Authority otherwise approves or determines, the Licensee shall within 18 months after the Grant Date establish and maintain a Sound Broadcasting Service as authorized and required in Condition 18.1(a).
- 44.2 The Licensee shall, as soon as practicable and in any event not fewer than 30 days in advance, notify the Broadcasting Authority in writing of the date on which the Licensee will commence to provide the Sound Broadcasting Service as authorized and required in Condition 18.1(a).

[The following Condition 44.3 is applicable to Metro and Phoenix U only:]

- 44.3 Prior to the date on which Condition 18.1(a) is complied with, the Licensee may provide –
- (a) a Sound Broadcasting Service on a daily basis comprising no more than three sound broadcasting service channels; and
 - (b) an Ancillary Visual Service.

[The following Condition 44.3 is applicable to DBC only:]

- 44.3 Prior to the date on which Condition 18.1(a) is complied with, the Licensee may provide –
- (a) a Sound Broadcasting Service on a daily basis comprising no more than seven sound broadcasting service channels; and
 - (b) an Ancillary Visual Service.
- 44.4 Save for Conditions 18.3, 24.2, 25, 28 and 29, the terms and conditions set out in this Licence shall apply to the Licensee during the period in which the Services are provided by the Licensee pursuant to Condition 44.3.
- 44.5 Unless the Broadcasting Authority otherwise approves or determines, the Licensee shall ensure that Services provided pursuant to Condition 44.3 shall remain available on a daily basis from the Soft Launch Date until the date on which Condition 18.1(a) is complied with.
- 44.6 The Licensee shall as soon as practicable notify the Broadcasting Authority in writing of the date on which the Licensee will commence to provide the Services as authorized and required in Condition 44.3.

45. Other requirements

- 45.1 For the avoidance of doubt, the Licensee shall apply for such other licences, permissions, approvals, agreements or grants as may be required under any law or Ordinance if any such licence, permission, approval, agreement or grant is or becomes necessary for or in connection with the establishment and maintenance of the broadcasting service as authorized and required under this Licence.

SCHEDULE 1**FORM OF PERFORMANCE BOND**

BY THIS BOND dated the [] day of [month] and [year]
We, [*Digital Broadcasting Corporation Hong Kong Limited / Metro Broadcast Corporation Limited / Phoenix U Radio Limited], whose registered office is at [*Unit 306, L3, Cyberport 3, 100 Cyberport Road, Pokfulam, Hong Kong (for DBC) / 22nd Floor, Hutchison House, 10 Harcourt Road, Hong Kong (for Metro) / No. 2-6 Dai King Street, Tai Po Industrial Estate, Tai Po, N.T., Hong Kong (for Phoenix U)] ("the Licensee") and [], whose registered office is at [] ("the Surety") are irrevocably and unconditionally bound to the Government (together with his successors and assigns) up to the sum of HK\$2,000,000.00 (Hong Kong Dollars Two Million Only) subject to the terms and conditions of this Bond and with the Milestone set out in the Annex hereto ("the Annex") for payment of which sum the Licensee and the Surety bind themselves their successors and assigns jointly and severally in accordance with the provisions of this Bond

WHEREAS

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

NOW THE TERMS AND CONDITIONS of this Bond are:

1. Where applicable, words and expressions used in this Bond shall have the meaning assigned to them in the Licence.
2. If, in respect of any Milestone set out in the Annex, the Licensee fails to achieve that Milestone by the Deadline for Compliance set out opposite to that Milestone in the Annex, the Surety shall upon demand made by the Government in writing and without proof or conditions satisfy and discharge the relevant amount of bonded sum (as set out in the Annex) ("the Bonded Sum") provided that the aggregate liability of the Surety under this Bond in respect of that failure shall not exceed the Bonded Sum set out opposite to that Milestone in the Annex.

3. The liability of the Surety under this Bond shall not be affected or discharged in any way by (and the Surety hereby waives any requirement to give notice in respect of):
 - (a) any suspension of the Licence, variation to or amendment of the Licence (including but not limited to extensions of time for performance) or any concession or waiver by the Broadcasting Authority in respect of the Licensee's obligations under the Licence. Without prejudice to the foregoing and purely on a 'for information basis', the Surety will be notified of any such suspension, variation, amendment, concession or waiver;
 - (b) the cancellation or revocation of the Licence as a result of default by the Licensee under the Licence;
 - (c) any forbearance or waiver of any right or remedy the Broadcasting Authority, the Government of the Hong Kong Special Administrative Region, the Chief Executive in Council or the Chief Executive may have against the Licensee;
 - (d) any act or omission of the Licensee pursuant to any other arrangement with the Broadcasting Authority, the Government of the Hong Kong Special Administrative Region, the Chief Executive in Council or the Chief Executive, or with the Surety; and
 - (e) subject to clause 4 below, the issue of any certificate of completion by the Secretary for Commerce and Economic Development in respect of any Milestone set out in the Annex.

4. The liability of the Surety under this Bond shall cease on whichever of the following events first occurs:
 - (a) payment by the Surety of the Bonded Sum in full to the Government; or
 - (b) issue of a certificate of completion by the Secretary for Commerce and Economic Development in respect of all the Milestones set out in the Annex.

5. The Government shall be entitled to assign the benefit of this Bond at any time without the consent of the Surety or the Licensee being required. Without prejudice to the foregoing and purely on a 'for information basis', the Surety will be notified by the Broadcasting Authority within a reasonable period after any such assignment.
6. All documents arising out of or in connection with this Bond shall be served:
 - (a) upon the Government, at 2/F Murray Building, Garden Road, Hong Kong marked for the attention Assistant Secretary for Commerce and Economic Development (Communications and Technology) A1;
 - (b) upon the Broadcasting Authority, at 39/F, Revenue Tower, Gloucester Road, Wanchai, Hong Kong marked for the attention Assistant Commissioner for Television and Entertainment Licensing (Broadcasting);
 - (c) upon the Surety, at [] Hong Kong. (Note 1) for the attention – [] Department.
7. The Government, the Broadcasting Authority and the Surety may change their respective nominated addresses for service of documents to another address in Hong Kong but only by 7 days' prior written notice to each other. All demands and notices must be in writing.
8. This Bond shall be governed by and construed according to the laws for the time being in force in the Hong Kong Special Administrative Region. The Licensee and the Surety agree to submit to the non-exclusive jurisdiction of the courts of the Hong Kong Special Administrative Region.

Annex to Schedule 1

<i>Milestone</i>	<i>Deadline for Compliance</i>	<i>Bonded Sum Payable</i>
Establishing and maintaining a broadcasting service as authorised and required in Condition 18.1(a) of this Licence	Unless the Broadcasting Authority otherwise approves or determines, 18 months after the Grant Date	HK\$ 2.0 Million

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

SCHEDULE 2**Transmission Plan and technical requirements**

<u>CONDITION</u>	<u>HEADING</u>
1	Telecommunications network for digital audio broadcasting
2	Broadcasting coverage requirement
3	Transmission plan
4	Radio signals
5	Combined transmitting equipment
6	Interference with other services
7	Compliance with international conventions
8	Common facilities
9	Station power supplies
10	Standby equipment
11	Sufficient spare parts
12	Test equipment
13	Minimum capacity for provision of audio programmes
14	Network location

1. **Telecommunications network for digital audio broadcasting**
- 1.1 Unless otherwise directed or approved by the Telecommunications Authority, the Licensee shall use the Multiplex on a non-exclusive basis for providing the Services.
- 1.2 The Licensee shall comply with such Technical Specifications and take such measures as may be required by the Telecommunications Authority (including but not limited to specifications and measures regarding system configuration, capacity, redundancy and provision of standby equipment) in relation to the use of the Multiplex and the establishment, operation and maintenance of all means of telecommunications for the provision of the Services.
- 1.3 Unless otherwise directed or approved by the Telecommunications Authority, the Licensee shall, in establishing, operating, maintaining, or sharing the use of any means of telecommunications for the provision of the Services, coordinate and cooperate with RTHK and other licensees and all other persons authorised and required under a sound broadcasting licence or otherwise to use the Multiplex. All costs involved in the establishment, operation and maintenance of any means of telecommunications to be used jointly with any person, licensee or RTHK shall be shared on an equitable and reasonable basis between the Licensee and that person.
- 1.4 Where the Licensee is unable to agree within a reasonable time with any person, licensee or RTHK on the establishment, operation, maintenance or sharing of the use of any means of telecommunications pursuant to Condition 1.3, the Telecommunications Authority may upon request or on its own initiative intervene and determine the matter.
- 1.5 A determination referred to in Condition 1.4 may require the Licensee to use (whether on a sharing basis or otherwise) either the telecommunications network operated or to be operated by RTHK or any existing telecommunications network or telecommunications network to be established with any others, and may include terms and conditions providing for sharing of the relevant reasonable costs attributable to the establishment, operation, maintenance, provision or use of the telecommunications network.
- 1.6 The Licensee shall pay to the Telecommunications Authority, as the Telecommunications Authority may require, any costs, expenses or financial liabilities incurred by the Telecommunications Authority,

including without limitation, staff costs and expenses in respect of such a determination or the determination process.

- 1.7 In this Schedule, “telecommunications network” includes transmitting antenna systems, transmitters, ensemble multiplexers, microwave links, relay stations and transmitting facilities for carrying of broadcasting signals for the provision of the Services.

2. Broadcasting coverage requirement

- 2.1 The Licensee shall broadcast to those parts of Hong Kong as specified by the Broadcasting Authority and establish such additional relay stations within such period of time as directed from time to time by the Broadcasting Authority.

- 2.2 For the purpose of Condition 2.1 of this Schedule, “broadcast” means broadcasting in such a manner as to enable the Licensee’s transmissions to be received to the satisfaction of the Broadcasting Authority.

- 2.3 The field strength produced by the transmission of each sound broadcasting service channel or the Services operated by the Licensee shall be such that equal facility for the reception of the Services operated by any licensees (including the Licensee) in a given area is available to any audience using a suitable receiver and aerial. All transmitters and relay stations used or hired by the Licensee, whether exclusively or jointly with any others, shall be required to maintain minimum field strengths specified by the Telecommunications Authority within the areas to be served.

3. Transmission plan

- 3.1 Unless otherwise directed or approved by the Broadcasting Authority or the Telecommunications Authority, the Licensee shall be required to transmit its service in accordance with the Transmission Plan specified in the Annex to this Schedule.

- 3.2 Without prejudice to any powers, rights, duties or remedies that the Broadcasting Authority or the Telecommunications Authority may have pursuant to this Licence or otherwise, the Transmission Plan referred to in Condition 3.1 of this Schedule may be amended in whole or in part from time to time by the Telecommunications Authority.

- 3.3 The Licensee shall not activate any additional transmitter or associated equipment established after the Soft Launch Date or modify any telecommunications network without the approval of the Telecommunications Authority and shall observe such conditions as may be imposed by the Telecommunications Authority regarding the testing and operation of the said equipment.

4. Radio signals

The transmission system used or hired by the Licensee, whether exclusively or jointly with any others, shall transmit radio signals in accordance with the characteristics specified in the relevant Codes of Practice.

5. Combined transmitting equipment

- 5.1 If required by the Telecommunications Authority, the Licensee shall use, in co-operation with any other licensee or person (including RTHK) designated by the Telecommunications Authority, combined transmitting antenna systems for all transmitter and relay stations from the Soft Launch Date or at a later date specified by the Telecommunications Authority and thereafter shall continue the use without interruption throughout the Period of Validity of this Licence.
- 5.2 Each of the combined transmitting antenna systems referred to in Condition 5.1 of this Schedule shall comply with Technical Specifications provided by the Telecommunications Authority.
- 5.3 All costs involved in providing any combined transmitting antenna system shall be shared on an equitable and reasonable basis between the Licensee and such other licensee or person (including RTHK), in such manner as may be determined or approved by the Telecommunications Authority.

6. Interference with other services

- 6.1 The Licensee shall use all of its apparatus and equipment in such a manner as not to cause interference with any authorised or permitted

telecommunications, broadcasting or communications services or apparatus operating in or outside Hong Kong.

- 6.2 In order to avoid or remedy any such interference, the Licensee shall comply with all instructions given to it by the Telecommunications Authority in respect of the operation and use of its apparatus and equipment. Pending the implementation by the Licensee to the satisfaction of the Telecommunications Authority of any measures to avoid or remedy any such interference instructed by the Telecommunications Authority, the Telecommunications Authority may, if he reasonably considers that such interference is likely to cause injury (including death), loss or damage, order the cessation of the Licensee's transmissions for such a period as the Telecommunications Authority considers necessary.
- 6.3 Without prejudice to the generality of Conditions 6.1 and 6.2 of this Schedule, the Licensee shall coordinate with such other licensee or person (including RTHK) as may be specified by the Telecommunications Authority, for any provision, installation and maintenance of additional facilities at any digital broadcasting transmitting stations to avoid interference with any existing telecommunications or broadcasting service to the satisfaction of the Telecommunications Authority.
- 6.4 The Licensee shall share the cost on an equitable and reasonable basis as may be determined or approved by the Telecommunications Authority for the provision, installation and maintenance of the additional facilities in Condition 6.3 of this Schedule.
- 6.5 The Licensee shall liaise in good faith with all the existing sound broadcasting or telecommunications service operators for timely implementation of all engineering work and to avoid any service interruption to the existing telecommunications or broadcasting services. The Licensee shall not commence or implement any engineering work unless it has satisfied the Broadcasting Authority or the Telecommunications Authority, as the case may be, that such work shall not cause any service interruption to the existing telecommunications or broadcasting services.

7. Compliance with international conventions

The Licensee shall to the extent required by the Telecommunications Authority perform and observe the requirements of all international telecommunications conventions and agreements relevant to broadcasting or telecommunications which may from time to time be acceded to by or applied to Hong Kong.

8. Common facilities

8.1 The Licensee shall allow other licensees and persons (including RTHK) to use jointly with it such common facilities of or at a transmitter or relay station as specified by the Telecommunications Authority.

8.2 The common facilities referred to in Condition 8.1 of this Schedule shall include the transmitting antenna system, tower, building, standby generator and other site amenities as specified by the Telecommunications Authority.

8.3 The Telecommunications Authority may appoint the Licensee, or another licensee or person to maintain the common facilities referred to in Condition 8.1 of this Schedule, and the person so appointed shall ensure that no licensee (including the Licensee) or other person shall have any operational advantages over any other licensee or person.

8.4 All costs involved in the provision and maintenance of the common facilities referred to in Condition 8.1 of this Schedule shall be shared on an equitable and reasonable basis between the Licensee and the other licensee or person (including RTHK), in such manner as may be determined or approved by the Telecommunications Authority.

9. Station power supplies

9.1 The Licensee shall provide a standby power supply at each transmitter and relay station that is used by the Licensee for the provision of the Services to ensure compliance of each transmitter and relay station with Condition 9.2 of this Schedule.

9.2 The standby power supply referred to in Condition 9.1 of this Schedule shall be able to restart proper function of each relevant transmitter or relay station, such that uninterrupted transmission of the Services is

resumed within one minute after disconnection of the public electricity supply to such transmitter or relay station and such uninterrupted transmission of the Services is maintained for at least 48 hours thereafter.

10. Standby equipment

The Licensee shall provide and maintain standby transmitters with automatic changeover devices at each transmitter and relay station.

11. Sufficient spare parts

The Licensee shall maintain sufficient spare parts in Hong Kong to ensure that interruption of transmission due to equipment fault shall be avoided or minimised as far as reasonably possible.

12. Test equipment

The Licensee shall maintain and provide such test equipment and operating staff and other assistance as may be required by the Telecommunications Authority for the purpose of the Telecommunications Authority performing his functions under this Licence in order to ensure the Licensee's compliance with the terms and conditions of this Licence.

13. Minimum capacity for provision of audio programmes

13.1 Unless the Broadcasting Authority otherwise directs or approves, the Licensee shall use –

- (a) a capacity of no less than 32 kilobits per second for transmission of non-music programmes; and
- (b) a capacity of no less than 48 kilobits per second for transmission of music programmes.

13.2 For the purpose of Condition 13.1 of this Schedule, the minimum capacity shall apply to each sound broadcasting service channel that is required to be operated by the Licensee under this Licence.

14. Network location

The Licensee shall obtain the consent in writing of the Director of Lands before commencing any installation work for any network under, in, over or upon any unleased Government land.

Annex to Schedule 2

Transmission plan

Unless the Telecommunications Authority otherwise directs, the Multiplex referred to in this Licence shall have the following specifications:

- (i) Transmission frequency: 220.352 MHz
- (ii) Bandwidth: 1.536 MHz
(i.e. 219.584 to 221.120MHz inclusive)
- (iii) Class of emission: G7W
- (iv) Antenna polarisation: Vertical
- (v) Transmission signal format: Compliant with EN 300 401 v1.4.1 (2006-06) – Radio Broadcasting Systems; Digital Audio Broadcasting to mobile, portable and fixed receivers

No. of sound broadcasting service channels on the Multiplex to be operated by the Licensee:

[7 (for DBC)
3 (for Phoenix U Radio)
3 (for Metro Radio)]

Capacity of the Multiplex allocated to the Licensee out of a total of 1,152 kbps per multiplex:

[448kbps (for DBC)
192kbps (for Phoenix U Radio)
192kbps (for Metro Radio)]

Particulars of transmitting stations and transmitting power:

Locations of transmitting stations	Effective Radiated Power	In-Service Date
Mount Gough	3000W	Within 18 months after the Grant Date
Cloudy Hill	500W	Within 36 months after the Grant Date
Castle Peak	700W	
Golden Hill	100W	
Lamma Island	500W	
Beacon Hill	1800W	
Kowloon Hill	1000W	

Granted on 22 March 2011

Clerk to the Executive Council
COUNCIL CHAMBER

Accepted by:.....

Signature:.....

Capacity:.....

Date:.....

(#1108293v2)

《2011年防止賄賂條例(修訂附表1)令》

(由行政長官會同行政會議根據《防止賄賂條例》(第201章)第35條作出)

1. 生效日期

本命令自2011年5月27日起實施。

行政會議秘書

2. 修訂《防止賄賂條例》

《防止賄賂條例》(第201章)現予修訂，修訂方式列於第3條。

行政會議廳

2011年 月 日

3. 修訂附表1(公共機構)

(1) 附表1，第112項 —

廢除

“雄濤廣播有限公司。”

代以

“香港數碼廣播有限公司。”

(2) 在附表1的末處 —

加入

“115. 鳳凰優悅廣播有限公司。”

註釋

“雄濤廣播有限公司”在《防止賄賂條例》(第 201 章)附表 1 中獲指明為公共機構。本命令修訂該附表，以該公司的新名稱“香港數碼廣播有限公司”取代其舊名稱。本命令亦修訂該附表，以指明“鳳凰優悅廣播有限公司”為該條例所指的公共機構。

對經濟的影響

新的持牌機構會為聲音廣播市場帶來競爭以及推動行業的發展。相關的投資活動的增加，有助廣播業發展新的技術和培育更多人才。由於有更多高水平節目可供選擇，而且服務質素會提升，社會會因而獲益。

對財政和公務員的影響

2. 每家新持牌機構每年須繳付牌照費，金額按營辦的頻道數目釐定。牌照的有效期為 12 年。在這段期間，影視及娛樂事務管理處(影視處)的廣播事務管理科或會重組，轉移至日後成立的通訊事務管理局辦公室(通訊辦)轄下。通訊辦會在《通訊事務管理局條例草案》通過後成立。該條例草案現正由立法會審議，目的是成立通訊事務管理局(通訊局)，一併掌管現時廣播事務管理局與電訊管理局的職能。通訊局成立後，會檢討其職權範圍內各項費用。

3. 數碼聲音廣播傳送設施的資本投資估計約 4,000 至 5,000 萬元。三家數碼聲音廣播持牌機構與港台(港台會與三家持牌機構共用同一條數碼頻道來提供數碼聲音廣播服務)已同意以公平合理的費用共用同一套數碼聲音廣播傳送設施。港台作為山頂發射站的管理者，也會管理和保養數碼聲音廣播傳送的設施，相關費用(包括技術提升所需費用)由三家持牌機構與港台分擔。三家持牌機構會與港台就上述安排訂立協議。港台會從其現有撥款為此項目提供所需的額外資源。

4. 管理新牌照和處理相關投訴所增加的工作量，會由電訊管理局和影視處以現有資源承擔。

對可持續發展的影響

5. 有關建議可促進競爭，增加聽眾的節目選擇，有利香港廣播業發展。建議符合可持續發展的原則，藉着增強競爭力及推動市場經濟的發展，從而滿足市民大眾的需求。

對環境的影響

6. 持牌機構會於現有 FM 山頂發射站安裝新的數碼聲音廣播網絡發射設備。如需要在這些山頂發射站進行土木工程，也只屬小規模工程，而且只會在現有 FM 基礎設施的用地範圍內進行。儘管如此，這些工程也可能對環境造成影響(例如產生建築廢物)，持牌機構須遵從相關法例的規定，包括《環境影響評估條例》(第 499 章)的規定。