

A submission by the International Federation of the Phonographic Industry (Hong Kong Group) Limited to the Information Technology and Broadcasting Bureau on Digital Terrestrial Broadcasting in Hong Kong

The International Federation of the Phonographic Industry (Hong Kong Group) Limited is a National Group of the IFPI and represents the Hong Kong recording industry, with 54 record company members. We the IFPI Hong Kong Group would like to submit our views in respect of the above subject matter on behalf of our members and the Recording Industry as set out in this document for your consideration.

A. Background

1. The HKSAR Government under the policy to open up the Telecommunication and Broadcasting Market, have already undergone the process of revamping the old TV Ordinance into the Broadcasting Ordinance (“BO”) which was passed and came into operation during year of 2000. However, the sound broadcasting licensees are still subject to the Telecommunication Ordinance.
2. BO has removed ‘Programme Supplier’ such as record companies from ‘disqualified’ persons for the purpose of co-ownership of TV Broadcasting Licence and the programme suppliers. In order to ensure fair and effective competition in the provision of broadcasting services, the Anti-Competition measures have also been introduced into the BO.
3. The Recording Industry as part of the entertainment industry DOES NOT rely on the broadcasting industry as the source of its income. The very products of the Recording Industry being used as music contents in broadcasts have always been in much demand by the viewers and audience. Conversely, the Recording Industry relies on the broadcasting industry as an effective venue for promoting their artistes and products. This kind of “Symbiotic Relationship” has been mutually beneficial and served best to the respective interest of both industries.
4. IFPI HKG holds the view that when BO’s Anti-Competition provisions do not extend to cover programme suppliers, the impact of broadcasters’ anti-competitive behaviour on the Recording Industry is insufficiently addressed. IFPI HKG takes interest in policy and legislative developments in broadcasting

that will be of concern to its members.

5. On December 1, 2000, a Consultation Paper on DIGITAL TERRESTRIAL BROADCASTING IN HONG KONG was introduced by the Information Technology and Broadcasting Bureau of the Government of Hong Kong Special Administrative Region. The main objectives are :
 - (i) to widen the choice of quality programing
 - (ii) to promote the continued technological development of the broadcasting industry and
 - (iii) to enhance Hong Kong's position as a pre-eminent regional broadcasting hub.

6. Upon careful perusal of the said Consultation Paper, IFPI Hong Kong Group would like to express our views and comments as follows :-

B. Technological Aspects of Digital TV

1. Introduce digital broadcasting, which, among other things, includes :-
 - a. Introduce ways to implement Digital Audio Broadcasting (DA), Digital Terrestrial Broadcasting (DTT).
 - b. Suggested Standards for DTT: DVB-T (European), Sound Encoding:AC-3.
 - c. Adopt both Single Frequency Network (SFN) and Multiple-Frequency Network (MFN).
 - d. Mandate current free to air licensees to simulcast their analogue programme on DTT.
 - e. Ultimately, analogue TV broadcast will be switched off based on the factors such as market penetration (50%), price of hardware (TV, Set-top box) etc.
 - f. Separate current TV licence into three licences: 1) Multiplex operator that provide technical service; 2) Television programme service provider; 3) Additional service provider, and
 - g. Introduction of Electronic Programme Guide Service.

Our Comments and Concern

1. Multiplex Licence

1.1 We support the proposed multiple licence approach. The separation of Multiplex licensee in DDT opens up opportunities for better fair play as the provision of technical service is now theoretically left with persons other than the broadcaster. We believe that this scheme provides the opportunity for programme suppliers such as members of the Recording Industry to take a stake in broadcasting business and thus achieve the goal of open market which the BO and Digital Broadcast intended. Under this scheme, record companies may concentrate on making use of the convergence in delivering the best programme without caring for the burden of investing and maintaining a digital network.

1.2 In order to achieve the intended open and level playing field, it is important that no one company may have control over the majority number of Multiplex Licences. Given only 3 Single Frequency Network (SFN) frequencies are currently available with 3 more Multiple Frequency Network (MFN) frequencies to be available (which are subject to technical and cost limitation as described in the Consultation Paper), the open and fair allocation of the 3 SFN licences is a must in order to achieve the main objectives as set out in the Consultation Paper.

1.3 We support the licensing of the SFN licence before the availability of additional frequency spectrum on the switching off of the analogue television service be restricted to one per each group of companies.

1.4 We also support that it is imperative that adequate anti-competition laws be introduced to monitor Multiplex licensees.

2. Audio Coding

2.1 AC-3 coding may be included as one of the preferred choice of sound encoding systems as there may always be other forms of compression/ de-compression which excel AC-3. Presently, the Recording Industry is working on Secure Digital Music Initiative (SDMI) which paves the way

for proper digital transfusion of music content. It is highly desirable that in order to be flexible enough to allow room for future technological development, the choice of audio codec in digital broadcast should include AC-3 and other algorithms that may fit a certain band width description.

3. Electronic Programme Guide Service

- 3.1 While the Recording Industry in principle supports Electronic Programme Guide Service, we object any publication of details that encourage selective recording. Such details include song title details, precise airing time and/or identifier codes that digital music carries. Such codes may include the International Standards Recording Code (ISRC) or similar identifiers. From experience overseas, it is known that such publication facilitates advanced digital recording device for automated unattended selective recording. This affects the very interest of the Recording Industry as making easy the taping of un-released title during the promotional cycle of new songs, as well as personal favourites would preclude sales. The continuation of the record business depends on promoting new songs (sound recordings as well as music video) in broadcasting media to create a demand before record sales could be launched. The availability of Electronic Programme Guide to facilitate digital taping aggravates the operating environment and viability of record business, especially in view of proliferation of mass infringing file exchange in the Internet.

C. Technological Aspects of Digital Audio Broadcast

1. Testing of Digital Broadcast indicate favourable result.
2. It is recommend to be inline with TV Broadcast, that ownership restriction be relaxed by, among other things, removing programme supplier such as record company as ‘disqualified’ person with the same anti-competition measures to audio broadcast.
3. Recommend to change the definition of Sound Broadcasting to one that Provision of a service (otherwise than as part of a television programme service) that includes sound programmes for transmission by telecommunications that are readily accessible to, or made available to, the general public in Hong Kong and does not include sound

programmes transmitted by satellite.

4. Internet remains un-regulated under the present proposal.
5. It is proposed that any invitation for application of DA broadcasting services should only be made when the market situation materialized and ready for such services. There is no definite timetable for the introduction of DA broadcasting services under the Consultation Paper.
6. Propose to review current rules governing cross-media ownership three years after the launch of DTT whether to relax further.

Our Comments and Concern

7. Radio Broadcasting is still by far the most important media in promoting new songs. There is no other industry that had such a closed relationship between the Recording Industry and the radio broadcasters. The current anti-competition measures are insufficient in dealing with anti-competitive moves by a radio broadcaster who may also own a record company. To avoid unfairness to the Recording Industry players, we need to explore and examine the current anti-competition measures as imposed on the TV broadcasters in order to ensure that there is a fair ground for subsistence of an independent recording industry. In our view, the much more tightly and tougher safeguard measures should be introduced to avoid any abuse of any dominant broadcaster.
8. The radio licence is effectively changed from sound broadcasting to one including sound programme. This convergence needs further consideration and studies in strengthening the anti-competition measures as record companies are exposed. In particular, the measures shall have the purpose or effect of preventing, distorting or substantially restricting competition in this market.
9. The quality of sound will be much better than the current transmission technology, how to stop illegal recording or duplication of musical works or sound recordings would be the next issue needed to be examined carefully.

10. No invitation for any application be made without sufficient enquiries be made or opportunity be given to all the interested groups to make representations to the Broadcasting Authority in relation to the anti-competitive measures.

D. The Policy

1. The mandate to simulcast should not, in any way, affect the copyright industry's exclusive rights under the Hong Kong Copyright Ordinance.
2. No change of technological advance in transmission of TV or audio programming shall in any way affect the avowed policy objective, namely, it is imperative to ensure fair and effective competition in the provisions of broadcasting services.

We thank the Information Technology and Broadcasting Bureau in considering our views.

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