

**Submission by**  
**Metro Broadcast Corporation Limited**  
**On the**  
**Second Consultation on**  
**Development of Mobile Television Services**

Metro Broadcast Corporation Limited ('Metro Broadcast') welcomes the opportunity to put forward its views on the development of mobile television services in Hong Kong.

In the Second Consultation on the Development of Mobile Television Services, it is explicitly indicated that cross-media ownership restrictions would not be imposed on mobile TV operators given the nascent nature of the service and accordingly the relevant provisions of the Broadcasting Ordinance ('BO') (Cap. 562) could be amended. Whilst Metro Broadcast supports the proposal to lift the ban on cross-media ownership to facilitate participation in launching and development of mobile TV services, it is of the view that nonetheless it is essential to allow for fair competition amongst all interested parties to foster the growth of the new service.

Metro Broadcast would comment on some of the issues raised in the consultation paper as follows:

**Spectrum Allocation and Assignment**

Metro Broadcast's concerns over the introduction of mobile TV relate primarily to the

proposed spectrum allocation whereby the “pro-mobile TV” approach proposes utilisation of 50% of the transmission capacity to carry mobile TV content with the remaining capacity to be used for the provision of ancillary services such as Digital Audio Broadcasting (‘DAB’) and datacasting services. If DAB were to be provided on the mobile TV network as an ancillary service in accordance with the pro-mobile TV approach, it is unclear as to whether a sound broadcasting licensee which is interested in deploying digital radio service would be granted the right of use of the spectrum following the current licensing regime applicable to analogue broadcasting. While DAB is not yet officially available in Hong Kong, it is an advancement in audio broadcasting technology which is likely to replace analogue broadcasting in due course as in the case of digital terrestrial television (‘DTT’) service now taking over analogue terrestrial television service. Any uncertainty in licensing would have immense impact on the incumbent sound broadcasting licensees wishing to evolve into digital services.

In the event that sound broadcasting licensees are not granted the relevant spectrum and have to rely on the mobile TV network for provision of DAB service, a crucial issue of cooperation and mutual agreement between the mobile TV operators and sound broadcasting licensees on the utilisation of the necessary spectrum for deployment of service would arise. It is likely that a sound broadcasting licensee would have to engage in commercial and possibly arbitrary negotiations with a mobile TV operator for the usage of the spectrum, subjecting itself to the whim of the mobile TV operator and without assurance of access to the requisite spectrum for utilisation and at a price agreeable to the broadcasting licensee.

Accordingly, Metro Broadcast urges the Government to reserve a certain portion of

the transmission capacity on the Band III multiplexes for free access by those existing sound broadcasting licensees who are interested in the deployment of DAB service. In this regard, we refer to the precedent where both of the two existing “domestic free television programme service” licensees, namely, Asia Television Limited (‘ATV’) and Television Broadcasts Limited (‘TVB’), had been assigned the necessary spectrum without auctioning to provide DTT, we are of the view that incumbents in the sound broadcasting industry should be treated on the same footing as ATV and TVB.

Furthermore, it is essential for the Government to provide clarification on the licensing arrangements concerning the introduction of DAB in Hong Kong in view of the aforesaid issues arising out of DAB being an ancillary service to mobile TV.

In addition, we would like to point out that the release of 3 multiplexes for mobile TV service would mean control of all critical resources amounting to a total of 26 channels in the hands of merely 3 operators. In order to bring about healthy competition in the development of mobile TV as a nascent service, we believe that some mechanism should be in place to allow interested parties to participate and compete in the mobile TV business and its related services.

### **Licensing Arrangements – Mobile TV Contents**

Metro Broadcast is of the view that a self-regulating approach should be adopted for content regulation of mobile TV service. We believe that current legislation, including but not limited to the Control of Obscene and Indecent Articles Ordinance (Cap. 390) and the Prevention of Child Pornography (Cap. 579), complemented by an industry code of practice drawn up by mobile TV operators with a view of protecting

public morals and children should be sufficient measures for the protection of public interest.

### **Conclusion**

We appreciate the Government's consideration of our views in the evaluation of the introduction of mobile television and other digital broadcasting services in Hong Kong. Should the Government choose to make further enquiries, Metro Broadcast would appreciate the opportunity to submit its further views where appropriate.

METRO BROADCAST

28 April 2008