

**Policy Decisions arising from the  
1998 Review of Television Policy**

<b>Subject</b>	<b>Original Proposals</b>	<b>Policy Decisions</b>
<b>Network sharing</b>	<p>1. To allow Fixed Telecommunication Network Services (FTNS) licensees to carry and, subject to appropriate licensing, provide television programme services, including pay television and video-on-demand (VOD) services.</p> <p>2. To require Hong Kong Cable Television Limited (HKCTV, formerly known as Wharf Cable Limited) to open up its broadband network for use by other television and telecommunications service providers subject to the payment of a cost-based interconnection charge to be approved by the Telecommunications Authority (TA).</p> <p>3. To allow cable television networks to deliver</p>	<p>No change.</p> <p>No change. The right to interconnect will be confined to licensees under the Telecommunication Ordinance and the television transmission network operators. HKCTV may charge a fair interconnection fee as determined by the TA in the event that a commercial agreement between HKCTV and the operator requesting interconnection cannot be reached. The TA will develop a set of principles and technical arrangements on such interconnection in consultation with the industry and publish guidelines for reference by the industry.</p> <p>No change. Applications for an FTNS licence by the cable</p>

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	<p>telecommunications services in addition to television services.</p>	<p>television licensee will be subject to the government policy at the time, specifically, whether the moratorium on local FTNS licences would be extended.</p>
<p>4.</p>	<p>To allow satellite TV uplink and downlink licensees to offer their transmission facilities for providing uplinking services immediately following the expiry of Hong Kong Telecom International Limited (HKTI)'s exclusivity to provide facility-based satellite uplinking service on 1 January 2000.</p>	<p>No change. (This will be subject to the outcome of the review on fixed telecommunications, specifically on how the external facilities market should be opened up from January 2000.)</p>
<p>5.</p>	<p>To require HKCTV to hand back non-essential Microwave Multipoint Distribution System (MMDS) frequencies within a stipulated time-frame.</p>	<p>No change. The Government will discuss with HKCTV, as part of the mid-term review of its licence, the time-frame for rolling out the hybrid fibre coaxial cable network to replace the MMDS frequencies due for return under the licence.</p>
<p>6.</p>	<p>To develop the application of digital terrestrial television (DTT), thereby reducing existing spectrum constraints on terrestrial television broadcasting and broadening the scope of services to include High Definition Television (HDTV), multimedia and telecommunication services.</p>	<p>No change. A steering committee on the technical trials of DTT will be established. ATV and TVB will be invited to join the Committee.</p>

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	7. To put in place appropriate pro-competition safeguards against and between dominant network/transmission facilities owners and/or service providers.	No change. See also paragraph 32 on competition safeguards.
	8 In the longer term, to mandate interconnection between telecommunications and broadcasting networks in a digital multimedia environment.	No change.
	9. To review the terms and conditions for the use of a site reserved at Chung Hom Kok for the development of a teleport to facilitate investments in satellite stations for external telecommunications and uplinking of broadcasting signals.	No change.
<b>In-building distribution systems</b>	10. To promote efficient use of the frequency spectrum by giving priority in the allocation of the frequency spectrum of the in-building wiring to services using digital and other advanced technologies.	No change.
	11. To encourage cable, satellite and terrestrial broadcasters to apply digital technology in their transmission, especially in the introduction of new services.	No change.
	12. To amend section 36A of the Telecommunication Ordinance with a view to strengthening the	No change.

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	<p>TA's power in determining interconnection within buildings.</p> <p>13. To require the mandatory provision of access facilities in new buildings.</p> <p>(Additional policy measure to address the limited capacity of the in-building distribution system.)</p>	<p>No change.</p> <p>The Government will formulate an optimal frequency layout plan and draw up technical specifications on the standards of distribution for consultation and agreement with the industry.</p>
<b>Pay television market</b>	<p>14. To lift the moratorium on pay television and VOD programme service licences and open the market for free competition.</p> <p>15. To remove existing restrictions and allow satellite broadcasters and Satellite Master Antenna Television (SMATV) operators to carry pay television services.</p> <p>16. To continue to allow television receive-only (TVRO) to receive any satellite television programmes without restriction. However, foreign television services should not be allowed to market their pay services or sell/rent/install their decoders and reception equipment in Hong</p>	<p>No change.</p> <p>No change. Necessary amendments to the relevant regulations under the Telecommunication Ordinance to effect the changes to the SMATV licences will be proposed.</p> <p>No change.</p>

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	<p>Kong for their television services if they do not possess a television service licence issued in Hong Kong.</p>	
<b>Direct-to-home satellite television services</b>	<p>17. To prepare for the licensing of Direct-to-Home (DTH) satellite service using the 4 high power Broadcasting Satellite Service (BSS) channels allocated for domestic free and/or pay television services in digital format in and uplinked from Hong Kong with a view to inviting applications in 1999.</p>	<p>In addition to the 4 designated BSS channels, the use of other frequency channels to deliver DTH services can also be considered.</p>
<b>Regulatory issues</b>	<p>18. To revamp and rationalise the existing regulatory approach for licensing television broadcasting services by replacing it with a technology and transmission neutral regime with four categories of licences as set out in paragraph 11.2 of the consultation paper :</p> <p>(a) Domestic free television programme services</p> <p>(b) Domestic pay television programme services</p> <p>(c) Non-domestic television programme services</p>	<p>No change.</p> <p>No change.</p> <p>No change.</p> <p>Subject to licence approval and BA's determination, services can include pay services which are receivable in but not primarily targeted at Hong</p>

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		<p>Kong. Whether a programme service primarily targets Hong Kong would be subject to the determination of the BA in accordance with the range of factors currently set out in satellite television uplink and downlink licences.</p>
	<p>(d) Other licensable television programme services. We have proposed that the target audience for such a licence should not exceed 5,000 households and that the aggregate target number of households served by any one company should not exceed 15% of the total number of households in Hong Kong without Chief Executive in Council (CE in C)'s approval.</p>	<p>The cap on the aggregate number of target households a licensee and those exercising control of it and their associates may pass without having to seek CE in C's approval to be reduced from 15% to 10% of the total number of households in Hong Kong (i.e. from about 285,000 to 190,000 households).</p>
<p>19. To invite the Broadcasting Authority (BA) to review the existing codes of practice with a view to issuing a set of generic codes on programme and advertising standards and specify which parts of the codes are applicable to all or a certain category of licensees. The TA should be responsible for issuing technical standards in respect of the four categories of licensees proposed in paragraph 18 above.</p>		<p>No change.</p>
<p>20. To subject the four categories of</p>		<p>No change except as stated</p>

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services proposed in paragraph 19 above to a 4-tier regulatory system commensurate with the degree of pervasiveness and the nature of the services. Restrictions on ownership, investment by licensees, content and advertising control etc. are to be relaxed or simplified in accordance with the proposals set out in paras. 11.7 to 11.31 of the consultation paper.

below.

Restrictions on Voting Control by Non-Residents

We have proposed that the restrictions on non-residents to exercise control on domestic free licensees should be retained but subject to two options:

(a) to retain the present restrictions but the incremental percentages requiring approval of the BA may be relaxed; or

The present restrictions will be maintained for domestic free licensees. However, the incremental steps requiring approval will be relaxed from 2%, 4%, 6%, 8% and 10% to 2%, 6% and 10%.

(b) to cap the aggregate ownership of non-residents at 49%.

Not adopted because of legal and enforcement difficulties.

“Disqualified persons”

We have proposed that the dominant FTNS licensee and those exercising control of it and

No change. In addition, the same requirement will be extended to apply to the

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their associates would require CE in C's approval to exercise control in the subscription television licensee which is dominant in the pay TV market.

dominant FTNS licensee for exercising control in a domestic free TV licensee.

We have proposed that "a company which supplies material for broadcasting by a licensee" should be removed from the list of disqualified persons.

This category of disqualified persons will be retained in respect of the dominant television programme service licensee.

Investment by licensees

We have proposed that the existing restrictions on investment (including that a licensee may only invest in broadcasting-related business subject to the BA's prior approval) should be removed for all TV programme service licensees.

Investment by a domestic free or a domestic pay licensee in a disqualified person (including a newspaper) will continue to be restricted in that prior approval of the CE in C has to be sought if the licensee acquires or holds the beneficial ownership or voting control of more than 15% of the voting shares of that disqualified person.

Advertising Time Restrictions

We have proposed that advertising time restrictions should be removed for all categories of licensees except domestic free TV licensees. For domestic free licensees, they should not broadcast more than 10 minutes of advertising per hour during the period from 6 p.m. to midnight and at other

For domestic free TV programme services, the peak viewing hours will be redefined as the period from 5:00 p.m. to 11:00 p.m.



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times the total advertising time should not exceed 18% of total broadcast time of those periods. All advertisements (including infomercials) should be clearly identified as such and the existing categories of advertising magazines and classified advertisements should be abolished.

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| 21. To require parental locking systems for all domestic pay and other licensable television services.  | No change. |
| 22. Transactional and data services offered to pay television subscribers as a package or stand-alone services should continue to be regulated under licences issued by the TA under the Telecommunication Ordinance (Cap. 106).  | No change. |
| 23. Any new multimedia service (including Internet) originated in Hong Kong, which offers TV-type programmes, on a commercial basis and competes with television programme services operating in Hong Kong should require a television programme service licence. 'Web TV' should continue to be regulated as Internet service until it is caught by the foregoing description. | No change. |

<b>Subject</b>	<b>Original Proposals</b>	<b>Policy Decisions</b>
<b>Royalties and licence fees</b>	24. To abolish the charging of subscription royalties for domestic pay television services.	No change.
	25. To abolish the charging of advertising royalties for all television programme services.	No change.
	26. To abolish the charging of advertising royalties for all radio services.	No change.
	27. To maintain the current policy of recovering full cost from licence fees for all television programme and radio services and to regularly review and introduce cost-efficiency measures where appropriate to licence administration. As a quid pro quo for the abolition of royalties, the phase-in arrangement for full cost recovery for licence fees should cease and the full licence fees should be payable immediately upon legislative and licence amendments where appropriate.	No change.
<b>Digital Terrestrial Television</b>	28. To establish a Joint Government-Industry steering committee to steer and co-ordinate the conduct of technical trials on digital terrestrial television (DTT) and	No change.

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HDTV with a view to determining a DTT standard to be adopted in 2000.

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| <p>29. To commence in 2 years, on satisfactory completion of the DTT trials, simulcast of analogue and digital terrestrial television; subject to the circumstance at the time, to review in 5 years following commencement of simulcast or when the penetration of digital terrestrial television reaches 50% of all television households, whichever is the earlier, whether and when a switch-off date should be set for analogue broadcast.</p> | <p>No change.</p> |
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| <p><b>Legislation</b></p> | <p>30. To consolidate all provisions relating to broadcasting under the existing Television Ordinance (Cap. 52), Telecommunication Ordinance (Cap. 106) and Broadcasting Authority Ordinance (Cap. 391) and embrace them under an omnibus 'Broadcasting Bill'. The 'Broadcasting Bill' should be technology-neutral legislation appropriate to the technology-convergent environment.</p> | <p>No change.</p> |
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| <p>31. To provide, in the omnibus 'Broadcasting Bill' and through amendments to the Telecommunication Ordinance, a</p> | <p>No change.</p> |
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framework that enables the separate regulation and licensing of transmission facilities and service provision.

32. To enhance the safeguards on competition by incorporating provisions prohibiting anti-competition practices in the proposed “Broadcasting Bill”.

No change.

(Additional competition safeguards against abuse of position by a dominant licensee to be provided in the Broadcasting Bill.)

A dominant licensee would be taken to have abused its position if it has engaged in conduct which has the purpose of preventing or substantially restricting competition. Conduct which is capable of constituting an abuse of a dominant position would include predatory pricing, price discrimination, tying arrangements and discrimination in the supply of services to competitors. The BA would be empowered to enforce the competition provisions.

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**Regulatory bodies**

33. To empower the BA to license non-domestic television programme services and other licensable television services proposed in paragraphs 18(c) & (d).

No change.

34. The BA should continue to be responsible for the issuance and

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review of codes of practice on programme and advertising standards for television programme services, and monitoring television service providers' compliance with the codes and licence conditions on an 'act-on-complaint' basis.

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| <p>35. The TA should be the licensing authority for all transmission facility service providers (except those licensed under the Outer Space Ordinance) under the separate licensing framework proposed in paragraph 31 above and responsible for monitoring the technical performances of the licensees.</p> | <p>No change.</p> |
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Information Technology and Broadcasting Bureau  
The Government of the Hong Kong Special Administrative Region

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