

**Guidance Note For Those Interested in
Applying For
Domestic Free Television Programme Service Licences
in Hong Kong**

Communications Authority

February 2021

Pursuant to section 4(2)(a) of the Broadcasting Ordinance (Cap. 562), this Guidance Note is issued by the Communications Authority as a guide for prospective applicants of a licence to provide a domestic free television programme service in Hong Kong.

This Guidance Note, which is expressly subject to the terms of the licences granted and the legislation in force from time to time, highlights the principal conditions and licensing criteria for a non-exclusive domestic free television programme service licence.

Save where the contrary intention appears expressly or by necessary implication in this Guidance Note, words and expressions used in this document shall bear the same meaning, if any, as in the Broadcasting 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 Broadcasting Ordinance shall prevail over that in the Interpretation and General Clauses Ordinance.

Contents

	<u>Paragraph(s)</u>
PART I: INTRODUCTION	
Broadcasting Ordinance.....	1.1 – 1.4
Broadcasting (Miscellaneous Provisions) Ordinance.....	1.5
PART II: REGULATORY FRAMEWORK.....	2.1
To Whom Licence May be Granted	
Incorporation in Hong Kong.....	2.2 – 2.3
Residency Requirement.....	2.4 – 2.5
Control and Management Bona Fide Exercised in Hong Kong.....	2.6
Fit and Proper Person Requirement.....	2.7
No Disqualified Persons Exercising Control.....	2.8 – 2.12
Restrictions on Voting Control Held by	
Unqualified Voting Controllers.....	2.13
Determination of Whether Television Programme Service	
Primarily Targets Hong Kong.....	2.14
PART III: CONDITIONS TO WHICH LICENSEES WILL BE SUBJECT.....	3.1 – 3.2
Variation of Licence.....	3.3
Term of the Licence.....	3.4
Publication of Licence.....	3.5
Compliance with Licensee’s Proposal.....	3.6
Provision of Service and Capital Expenditure.....	3.7
Performance Bond.....	3.8
Service Provision Requirements.....	3.9
General Requirements as to Television Programme Services.....	3.10
Code of Practice.....	3.11 – 3.15
Supplementary Provisions in the Broadcasting Ordinance.....	3.16
Television Programmes for Schools.....	3.17
Language of Broadcast.....	3.18
Positive Programme Requirements.....	3.19
Licence Fee.....	3.20
Competition Ordinance.....	3.21
Separate Accounting.....	3.22
Licensee to Submit Returns.....	3.23 – 3.24
Comments and Complaints.....	3.25

	<u>Paragraph(s)</u>
Publicity Material and Announcements in the Public Interest	3.26
Intellectual Property Rights	3.27
Compliance with Codes of Practice issued by the Communications Authority.....	3.28
Use of Frequency Channels in In-building Coaxial Cable Distribution Systems	3.29
Sanctions.....	3.30
Changes to Channel Line-up.....	3.31
PART IV: INFORMATION TO BE PROVIDED IN APPLICATIONS.....	4.1 – 4.4
Company Information.....	4.5 – 4.6
Financial Information	4.7
Programming Information	4.8
Technical Information.....	4.9
Other Information	4.10
PART V: CRITERIA FOR ASSESSMENT	5.1 – 5.2
PART VI: SUBMISSION OF APPLICATIONS.....	6.1 – 6.4

I INTRODUCTION

Broadcasting Ordinance (Cap. 562)

1.1 Under the Broadcasting Ordinance (Cap. 562) (BO), which came into effect on 7 July 2000, the Chief Executive in Council (CE in C) may, after considering recommendations made by the Communications Authority (CA), grant a licence to provide a domestic free television programme service subject to such conditions as he thinks fit specified in the licence.

Ss8(1), 9(2) &
10(1) of the
BO

1.2 Applicants may refer to the definitions of “broadcasting service”, “television programme service” and “domestic free television programme service” in section 2(1) of the BO.

S2(1) of the
BO

1.3 This Guidance Note does not bind the CE in C and/or the CA to consider any application or to grant any licence or to the terms and conditions of the licence to be granted. The CE in C and/or the CA will not be responsible for any claims, actions, proceedings, liabilities, losses, damages, demands, charges, costs or expenses which any applicant may become liable for or have incurred or sustained in connection with this Guidance Note. Certain requirements and restrictions described in this Guidance Note may be modified, for example, in the light of the proposals received or other relevant considerations. This Guidance Note shall not be relied upon to create any expectation that a licence will be granted to the applicant on the terms and conditions referred to in this Guidance Note or otherwise.

1.4 There is no pre-set ceiling on the number of licences to be issued.

Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391)

1.5 Under section 9(1) of the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391) (B(MP)O), the CA is responsible for, among others, carrying out the functions imposed on it under the BO, administering the provisions of licences and any other provisions of such licences that confer a function on it and securing proper standards of television and sound broadcasting with regard to both programme content (including advertisements) and technical performance of broadcasts. The statutory provisions on the consideration of complaints by the Broadcast Complaints Committee is laid down under section 11 of the B(MP)O.

Ss9(1) & 11 of
the B(MP)O

II REGULATORY FRAMEWORK

2.1 Domestic free television programme service is regulated by a combination of legislation (including any subsidiary legislation, regulations, directions, orders, determinations and Codes of Practice made thereunder) and the licence conditions. The relevant legislation includes the BO, the Communications Authority Ordinance (Cap. 616) and the B(MP)O. Certain key features of the legislation in relation to domestic free television programme service licences are set out below in general terms.

S23(2) of the BO

To Whom Licence May be Granted

Incorporation in Hong Kong

2.2 The CE in C may in accordance with the BO grant a licence to provide a domestic free television programme service on application made to him in the specified form by a company which is incorporated in Hong Kong under the Companies Ordinance (Cap. 622) or a former Companies Ordinance as defined in section 2(1) of the Companies Ordinance and satisfies the relevant requirements in section 8 of the BO.

Ss2(1) & 8(1) of the BO

2.3 The company shall be empowered under its articles of association to comply fully with the provisions of the BO and its licence conditions (whether actual or proposed).

S8(4)(c) of the BO

Residency Requirement

2.4 A domestic free television programme service licence shall not be granted to and held by a company unless the company complies with paragraph (b) of the definition of “ordinarily resident in Hong Kong” in section 2(1) of the BO.

Ss2(1) & 8(4)(a)(i) of the BO

2.5 Except with the prior approval in writing of the CA, the majority of the directors of the company and the majority of the principal officers of the company, including the principal officer of the company in charge of the selection, production or scheduling of television programmes, are individuals each of whom is for the time being ordinarily resident in Hong Kong and has been so resident for at least one continuous period of not less than seven years.

Ss2(1) & 8(4)(a)(iv) of the BO

Control and Management Bona Fide Exercised in Hong Kong

2.6 The majority of the directors required in paragraph 2.5 above shall actively participate in the direction of the company. A quorum of every

Ss2(1), 8(4)(a)(ii) &

meeting of the directors of the company shall have a majority of directors each of whom is an individual who is for the time being ordinarily resident in Hong Kong and has been so resident for at least one continuous period of not less than seven years. The company can be a subsidiary of another company.

References
(iii) of the BO

Fit and Proper Person Requirement

2.7 A licensee and any person exercising control of the licensee shall be and remain a fit and proper person. “Exercise control” is defined in section 2(1) of the BO. The factors that will be taken into consideration in determining whether a licensee or a person is fit and proper are set out in section 21 of the BO. An applicant is required to provide a statement on oath or a statutory declaration given by its company secretary or one of its directors or principal officers in the specified form (OFCA SF0008 (12)), which is available at the CA’s website at <http://www.coms-auth.hk>, that this requirement is met when applying for a licence. A licensee shall provide information in the specified form to the CA on a regular basis to enable the CA to establish and verify whether this requirement is being complied with.

Ss 2(1) & 21
of the BO

No Disqualified Persons Exercising Control

2.8 No disqualified person shall exercise control of a domestic free television programme service licensee and vice versa without the prior written approval of the CE in C. Hence, all disqualified persons exercising control of the applicant must be disclosed in the application. “Disqualified person” shall be construed in accordance with section 2(1) of the BO.

Ss2(1) &
8(4)(a)(v) of
& Parts 2 & 4
of Schedule 1
to the BO

2.9 Certain categories of companies and persons engaged in or are associated with certain types of business are disqualified persons. Under sections 4 and 5 of Schedule 1 to the BO, a “disqualified person” is –

S2(8)(a) of &
Parts 1, 2 & 4
of Schedule 1
to the BO

- (a) a domestic free television programme service licensee under the BO;
- (b) a domestic pay television programme service licensee under the BO;
- (c) a sound broadcasting licensee under Part 3A of the Telecommunications Ordinance (Cap. 106) (TO);
- (d) a person who exercises control of the licensee specified in (a) to (c); and
- (e) an associate of any categories of disqualified persons specified in (a) to (d).

- 2.10 A licensee shall not exercise control on a disqualified person unless the CE in C is satisfied that the public interest so requires and approves otherwise; and except in accordance with such conditions as are specified in the approval. References
S33, Part 4 of
Schedule 1 to
the BO
- 2.11 For the purposes of Schedule 1 to the BO, any reference to “exercise control” – S1(5), Part 1
of Schedule 1
to the BO
- (a) in relation to a corporation shall be construed in accordance with paragraph 2.12;
 - (b) in relation to a body other than a corporation, means the power of a person to ensure, by virtue of the rules regulating that or any other body, that the affairs of the first-mentioned body are conducted in accordance with the wishes of that person.
- 2.12 For the purposes of paragraph 2.11 above, a person exercises control of a corporation if – S1(6), Part 1
of Schedule 1
to the BO
- (a) he is a director or principal officer of the corporation;
 - (b) he is the beneficial owner of more than 15% of the voting shares in the corporation;
 - (c) he is a voting controller of more than 15% of the voting shares in the corporation; or
 - (d) he otherwise has the power, by virtue of any powers conferred by the memorandum or articles of association or other instrument regulating that corporation or any other corporation, to ensure that the affairs of the first-mentioned corporation are conducted in accordance with the wishes of that person.

Restrictions on Voting Control Held by Unqualified Voting Controllers

- 2.13 Voting controllers, who are not ordinarily resident in Hong Kong, are “unqualified voting controllers” in accordance with Part 1 of Schedule 1 to the BO, and shall not hold 5% or more but less than 10% of the total voting control of a domestic free television programme service licensee without the prior approval of the CA. The CA’s approval is required for any further increase to 10% or more but not more than 15%, or for holding of more than 15% in the aggregate of the total voting control of the licensee. There is no upper limit on the total voting control which may be held by unqualified voting controllers, but their votes cast on a poll at a general meeting of the licensee will be scaled down in accordance with the formula stipulated in section 19 of Schedule 1 to the BO. S2(8)(a) of
the BO &
Parts 1 & 3 of
Schedule 1 to
the BO

Determination of Whether Television Programme Service Primarily Targets Hong Kong

2.14 A licensee (including a person seeking to be a licensee) shall, before providing a television programme service, make an application in the specified form (OFCA SF0001 (12)) to the CA for a determination of whether or not the service would, if provided, primarily target Hong Kong. The specified form is available at the CA's website at <http://www.coms-auth.hk>.

S12(1) of the
BO

III CONDITIONS TO WHICH LICENSEES WILL BE SUBJECT

3.1 A domestic free television programme service licence will consist of general terms and conditions embodying the main regulatory framework adopted by the Government for the licensing of domestic free television programme services. The regulatory authority for domestic free television programme service licences is the CA. Some of the provisions governing domestic free television programme services are outlined in paragraphs 3.3 to 3.31 below.

3.2 The terms and conditions of the licence may be amended from time to time in light of any policy changes and other considerations which the Government considers relevant. Prospective licensees will be consulted in finalizing the actual licences. The CE in C may vary or impose additional terms and/or conditions for individual licences.

Variation of Licence

3.3 Whenever there is a need to amend the terms and conditions of a licence during the term of the licence, a licensee will be given reasonable time to make representations. Details of the CE in C's power to amend the licence are set out in the BO and will be incorporated in the licence.

Ss10(4), (5) & (6) of the BO

Term of the Licence

3.4 The term of a licence granted will be determined by the CE in C having considered the views expressed by an applicant and the recommendations of the CA based on the merits of each application. Applicants should propose a term of licence based on his needs. Normally, the CE in C would not approve a term of licence exceeding 12 years.

Publication of Licence

3.5 A licensee is required to make its licence publicly available. The Licensee's Proposal may be excluded in the Licensee's discretion.

Compliance with Licensee's Proposal

3.6 A licensee shall comply at all material times with the statements (including statements of intention) and representations made by or on its behalf in the Licensee's Proposal, unless otherwise approved by the CA.

Provision of Service and Capital Expenditure

3.7 A licensee is required to perform the rollout of the Service and capital expenditure in the first three years as committed in its application, which will form part of the licence.

Performance Bond

3.8 A licensee may be required to submit a duly issued performance bond in favour of the Government on the commencement date of the licence to secure the performance of the licence conditions in paragraph 3.7 above. “Performance bond” shall be construed in accordance with section 2(1) of the BO. Certain requirements in relation to the provision of a broadcasting service as stipulated in the licence, including but not limited to, the service commencement date, the service roll-out schedules and the capital expenditure will be set as milestones. The performance bond will be discharged once the relevant milestones referred to in the performance bond have been fulfilled to the satisfaction of the CA. Applicants should indicate the amount of bonded sums tied to milestones to be provided under the performance bond.

S2(1) of the
BO

Service Provision Requirements

3.9 A domestic free television programme service licensee shall, within such period as is specified in the licence or such other period as may be determined in writing by the CA, provide the service in such manner as to enable the service to be received throughout Hong Kong to the satisfaction of the CA. The CA may, by notice in writing to the licensee, exempt the licensee from complying with service provision requirements in relation to any parts in Hong Kong and during any period specified in the notice. The *Guideline on Exemption from Service Provision Requirements* issued by the CA is available at the CA’s website at <http://www.coms-auth.hk>.

S18 of the BO

General Requirements as to Television Programme Services

3.10 A licensee shall have regard to the general requirements as to television programme services stipulated in the BO, including the prohibition of “subliminal messages”.

S23 of the BO

Code of Practice

3.11 Codes of practice are issued by the CA to provide practical guidance for licensees in respect of any requirements under the BO imposed on

S3 of the BO

licensees or in respect of licence conditions. They are subject to periodic revision in light of representations by interested parties and other considerations.

3.12 Broadcasting materials are not subject to any previewing by the CA. A licensee will be expected to observe the codes of practice issued by the CA from time to time, the licence conditions and the relevant legislation, and to exercise self-regulation in accordance with them. A licensee will be responsible for all the contents it carries (excluding the material supplied by the Government) as part of its television programme service.

3.13 The programme, advertising and technical standards to be observed by a domestic free television programme service licensee are promulgated respectively in the *Generic Code of Practice on Television Programme Standards*, *Generic Code of Practice on Television Advertising Standards*, and *Generic Code of Practice on Television Technical Standards*, which are available at the CA's website at <http://www.coms-auth.hk>.

3.14 The programme standards applicable to a domestic free television programme service provide, among other things, that nothing unsuitable for children should be shown within the family viewing hours (i.e. between 4 p.m. – 8:30 p.m.), and at times when programmes are specifically targeting children, or under circumstances such that a large number of children might be expected to be watching television. Obscene material will not be permitted.

3.15 The advertising standards applicable to a domestic free television programme service govern, among other things, general advertising standards; factual and best-selling claims; unacceptable products or services; specific categories of advertisement; advertising and children; and programme sponsorship.

Supplementary Provisions in the BO

3.16 A domestic free television programme service licensee shall comply with the supplementary provisions, which include the minimum broadcasting hours per day, the requirement to carry television programmes supplied by the Government, the restrictions on advertising time during peak viewing hours (i.e. between 5 p.m. – 11 p.m.) and during times outside the period, the prohibition of any advertisement of a religious or political nature or concerned with industrial dispute, and the annual payment of licence fee and such other fees as may be prescribed.

S2(8)(a) of &
Schedule 4 to
the BO

Television Programmes for Schools

3.17 The CA is empowered under section 19 of the BO to require a licensee to include in its television programme service, without charge, any

S19 of the BO

educational television programme for schools supplied by the Government.

Language of Broadcast

3.18 A licensee is required to provide both Cantonese and English services, and any other language services as may be imposed by the CA from time to time.

Positive Programme Requirements

3.19 A licensee is required to broadcast, in designated periods, a minimum amount of positive programmes (which may include news programmes, children's programmes, current affairs programmes, documentary programmes, programmes for young persons and senior citizens, arts and culture programmes, educational programmes etc.) as may be directed by the CA from time to time.

Licence Fee

3.20 The calculation of licence fee is adhered to the full-cost recovery principle, under which the licensees should pay the licence fees in advance for the licensing year, comprising a fixed fee and a variable fee based on the total number of hours of television programme time provided in the preceding licensing year. Licensees must make up any shortfall of the variable fee or be refunded in case of surplus. Licensees shall pay licence fee based on the above formula for the first annual licence fee, on the day the licence comes into force; and for any subsequent annual licence fee, on each anniversary of the day the licence comes into force.

S3 of &
Schedule 1 to
the
Broadcasting
(Licence
Fees)
Regulation
(Cap. 562A)

Competition Ordinance

3.21 The Competition Ordinance (Cap. 619) (CO), a cross-sectoral competition law, fully commenced in December 2015. The CA is conferred concurrent jurisdiction with the Competition Commission to enforce the CO in respect of conduct of undertakings in the broadcasting and telecommunications sectors. The CO prohibits anti-competitive conduct through three competition rules. The first conduct rule prohibits anti-competitive agreements, concerted practices and decisions of associations of undertakings. The second conduct rule provides that an undertaking that has a substantial degree of market power must not abuse that power by engaging in anti-competitive conduct. The merger rule provides that an undertaking must not directly or indirectly carry out a merger that has, or is likely to have, the effect of substantially lessening competition in Hong Kong. At present, the merger rule only applies to cases

where one or more undertakings involved in the transaction directly or indirectly holds a carrier licence under the TO. For more details (including the relevant guidelines issued by the CA), please refer to the CA's website at <http://www.coms-auth.hk>.

Separate Accounting

3.22 A licensee who also holds a licence under the TO shall adopt separate accounting practices in compliance with the BO. S17 of the BO

Licensee to Submit Returns

3.23 A licensee shall submit to the CA annual returns on directors and principal officers and statutory declarations in respect of disqualified persons under sections 39(1) & (2) of the BO. Ss39(1) & (2) of the BO

3.24 Without prejudice to the above requirement, a licensee shall submit to the CA a return showing particulars of any change of its directors or principal officers within seven days beginning on the date the change takes place. S39(3) of the BO

Comments and Complaints

3.25 A licensee shall receive and consider any comment and complaint from the public about the television programme service it provides. A licensee shall keep a complete record of comments and complaints received by it for not less than two years and submit the same to the CA on a regular basis and on demand. A licensee shall also supply recordings of good quality of all material on the Service provided during such period, and in such forms as the CA may direct.

Publicity Material and Announcements in the Public Interest

3.26 A licensee shall include publicity material to promote knowledge and understanding of the activities and functions of the CA, and such material in the public interest provided by the Government as directed by the CA.

Intellectual Property Rights

3.27 A licensee shall not do, or permit, any act or conduct in relation to the Service which is an infringement of any intellectual property right,

including but not limited to any copyright.

Compliance with Codes of Practice issued by the Communications Authority

3.28 A licensee shall monitor and ensure strict compliance with the Codes of Practice, and technical standards and directions issued by the CA.

Use of Frequency Channels in In-building Coaxial Cable Distribution Systems

3.29 Unless otherwise approved by the CA, the maximum number of frequency channels that a licensee may use in any in-building coaxial cable distribution systems (IBCCDS) shall be as specified in the licence condition.

Sanctions

3.30 The CA is empowered under section 28 of the BO to require a licensee to pay financial penalties for failure to comply with any licence condition; any requirement, direction, order or determination under the BO which is applicable to it; or any provision in a Code of Practice which is applicable to it. The CA is empowered under section 30 of the BO to direct a licensee to include in its licensed service a correction or apology in a form approved by the CA. Under section 31 of the BO, the CA may suspend a licence in certain circumstances, and the licensee will be allowed an opportunity to appeal to the CE in C before the suspension comes into force. The CE in C is empowered under section 32 to revoke a licence under certain circumstances.

Ss28, 30, 31
& 32 of the
BO

Changes to Channel Line-up

3.31 Upon application by the licensee, the CA may approve arrangements different from the channel line-up as stipulated in the licence. Without the prior written approval of the CA, the licensee shall not deviate from any of the arrangements for the channel line-up.

IV INFORMATION TO BE PROVIDED IN APPLICATIONS

4.1 Applications must be made in writing, in the Chinese and/or English languages, and contain a duly completed and signed application form (OFCA SF0007 (12)), which is available at the CA's website at <http://www.coms-auth.hk>, providing where appropriate, information set out in paragraphs 4.5 to 4.10 below.

4.2 The CA may request an applicant to provide additional information by a specified deadline and all such subsequent submission, statements and representations so provided will form part of the Licensee's Proposal.

4.3 Applicants are advised to clearly mark any material claimed to be commercially confidential. Any information submitted in confidence to the CA will be treated in accordance with the BO.

S27 of the BO

4.4 When an application is submitted to the CA, a notice in the specified form (OFCA SF0011 (12)), which is available at the CA website, will be published on the CA website (<http://www.coms-auth.hk>) and in one English and one Chinese language daily newspaper in Hong Kong. In addition, a notice in relation to the application will be gazetted in accordance with the BO as soon as practicable. Applicants are required to submit a duly completed OFCA SF0011 (12) together with the application. Members of the public who are interested may make representations on the application to the CA by a date specified in the notice. The CA shall consider any representations received by the date.

S9(3) of the BO

Company Information

4.5 The following information and documents are required from the company applying for a licence –

- (a) detailed information on the corporate and shareholding structure including relationships with holding or related companies;
- (b) details of the shareholders of the applicant, the voting rights attaching to the shares in the applicant and any shareholders' agreement;
- (c) certified true copies of each of the company's Articles of Association, Certificate of Incorporation, Business Registration Certificate, and relevant returns filed with the Companies Registry;

- (d) the organisational/management structure and details of management (including, without limitation, the staffing levels required for the operation);
- (e) relevant experience in running similar operations or providing similar services;
- (f) details of what decisions are to be taken at the shareholders level, and what decisions are to be taken at the board of directors level of the licensee, with details of effective procedures for resolving disputes at both levels; and
- (g) a duly completed statutory declaration declaring that the applicant and all persons exercising control of the applicant are fit and proper; that the residency requirements referred to in paragraphs 2.4 and 2.5 are fulfilled; and that all the details of disqualified persons and unqualified voting controllers, if any, are disclosed in the declaration. The specified statutory declaration form (OFCA SF0008 (12)) is available at the CA's website at <http://www.coms-auth.hk>.

4.6 If there are any documents, instruments, contracts, trusts, arrangements or understandings (whether having legal or equitable effect or otherwise) relating to the items in paragraph 4.5 above, one set of certified true copies of the same should be provided.

Financial Information

4.7 The following financial information is required –

- (a) evidence of sound financial backing, including details of any shareholders' loans, undertakings or guarantees;
- (b) if the applicant is an established company (i.e. established and in operation for more than three years), the proposal should include certified true copies of audited profit and loss accounts and balance sheets and auditors' reports for the last three full years, together with the most recently published interim results;
- (c) if the applicant is a newly-formed company (i.e. established and in operation for three years or under), the proposal should include –
 - (i) the directors' certificate of the amount of issued and paid-up share capital;
 - (ii) bankers' confirmation of the amount of its deposits and/or available credit facilities; and

- (iii) copies of audited profit and loss accounts and balance sheets and auditors' reports for the years in operation, together with the most recently published interim results;
- (d) a business and capital investment plan, including details of proposed financing structure, credit facilities and financial arrangements;
- (e) projected profit and loss account including details of revenue, fixed and variable costs, balance sheet and budgeted cash flow statements, showing the amount of capital to be invested on an annual basis;
- (f) projected market share, where appropriate;
- (g) the level of the shareholders' support to satisfy the Government that the applicant is capable of bearing the financial risks of variations in the costs of establishing the operation/service and in the revenues from advertisers;
- (h) the amount of the banker's performance bond (tied to proposed milestones) to be lodged with the Government and the name of the issuing bank; and
- (i) any economic and market study conducted and the projected market share that the applicant will be able to acquire.

Programming Information

4.8 The following programming information, where applicable, is required –

For all applications –

- (a) details of the programmes to be provided, both by type and by number of channels and programme hours;
- (b) the minimum daily broadcasting hours;
- (c) details of any proposed internal monitoring system to ensure compliance with applicable law, licence conditions, Codes of Practice and directions or orders issued or made by the CA;
- (d) details of copyright agreements and other legal arrangements in respect of programme suppliers;
- (e) details of any installation and equipment charges; and

For applications for the provision of services on an on-demand basis –

- (f) the percentage of total viewers the system will be able to respond to regarding requests at any one time and the maximum response time to such requests.

Technical Information

4.9 The applicant should confirm whether it will operate its own transmission network or hire the network services of other carrier licensees and provide the relevant details. For applicants who would like to operate their own transmission networks, they should apply for a suitable licence under the TO to carry the service. The following technical information, where applicable, is required –

- (a) the technology to be employed, the likely choice of equipment, system design, proposed quality of service, how the ancillary equipment and facilities are planned to meet the proposed service, and other technological characteristics;
- (b) the planned geographical coverage of the network upon launch of service and the service roll-out plan, with timing if introduced in phases;
- (c) the planned location of the central headend system and studio facilities, and details of production equipment and facilities;
- (d) the planned equipment and facilities required to be installed at customer end in order to receive the service, including the interconnection arrangement if IBCCDS is used for distributing the services;
- (e) details of interface standard and design of technical equipment;
- (f) the access method by which viewers will request and receive a programme. If a set top box is used, details of the set top box design, connection method, equipment cost and any installation charge etc.;
- (g) if wireless transmission is used as part of the network for providing the service, the applicant should give an indication of the preferred frequency bands and the amount of frequency spectrum that will be used for the provision of the proposed service. The amount of spectrum that will be made available and the exact limits of the frequency bands will be decided after reviewing the proposals received and taking into account the demand for frequency spectrum for other services in Hong Kong and other factors as the CA considers relevant in the circumstances;
- (h) if IBCCDS is used for distributing the service in buildings, the applicant

should also give an indication of the ranges of frequencies required in any IBCCDS. The CA may consider allocating certain number of channels from the frequency plan, which is available at the website of the Office of the Communications Authority (OFCA) at <http://www.ofca.gov.hk>, in case the applicant wishes to deploy the IBCCDS. The applicant should indicate the number of channels which they will require, with full justifications and calculation given; and

- (i) any arrangements envisaged or entered into with network operators.

Other Information

4.10 Other information required includes the following –

- (a) details of any construction work required and an assessment of its impact on the public;
- (b) the period between the grant of the licence and commencement of service;
- (c) applicant's preferred period of validity of the licence;
- (d) any demonstration that the implementation of the proposal will offer significant benefits to Hong Kong, for example, employment, manufacturing and wider trading opportunities, introduction of innovation and improvements to local broadcasting industry and the promotion of Hong Kong as an international broadcasting hub;
- (e) an Executive Summary summarising in a concise manner the significant and salient points of the proposals; and
- (f) any other information not specified above which the applicants consider helpful to their applications.

V CRITERIA FOR ASSESSMENT

5.1 The factors for the assessment of the application by the CA include –

(a) **Financial soundness and commitment to investment**

The applicant must demonstrate commitment to invest sufficiently in the proposed project and must possess sufficient financial capability to invest to the level proposed. The proposals on performance bond will be evaluated on their effectiveness as a means to bind the applicant's commitments and obligations.

(b) **Proven managerial and technical expertise**

The applicant must possess proven managerial and technical expertise to operate a satisfactory service in Hong Kong. The knowledge of the applicant or the consortium partners about the local environment and their experience in the operation of a broadcasting service will be relevant factors for consideration.

(c) **The variety, quantity and quality of programmes**

The proposals will be evaluated on the appeal of the programming to viewers, the quantity and quality of proposed programmes and the extent to which they will broaden viewers' choice.

(d) **Technical soundness and a satisfactory quality of service**

The proposed services must be technically sound and is likely to give a satisfactory quality of service. Where IBCCDS spectrum is used, applicants must ensure compliance with the requirements in the *Statement on Frequency Layout Plan of In-Building Coaxial Cable Distribution Systems* issued on 15 July 1999 (the Statement). The Statement concludes, among others, that spare channels in the existing IBCCDS should be allocated by the CA to licensed service providers employing spectrum efficient technologies.

(e) **Service roll-out**

The speed of service roll-out will be a relevant factor for consideration.

(f) **Minimum inconvenience to members of the public**

The proposals which involve construction works will be assessed on their impact on members of the public.

(g) **Benefit to the local broadcasting industry, viewers/customers and the economy as a whole**

Any benefits the proposals will bring to the broadcasting industry and the community as a whole will be considered favourably. These benefits will include creation of new job opportunities, technology transfer and contributions to the local economy as a result of the investment. The installation fees and equipment cost to be charged to viewers, if applicable, must be set at levels which are affordable and accessible to the general public.

(h) **Quality control and compliance**

The applicant must propose an effective internal monitoring mechanism to ensure that the terms of the licence and the applicable laws are complied with.

5.2 The criteria set out in this Guidance Note may be amended from time to time depending on the circumstances. The final decision in awarding a licence shall rest with the CE in C. The CE in C will not be obliged to give any explanation as to why an application has not been approved.

VI SUBMISSION OF APPLICATIONS

6.1 A set of frequently asked questions about applications for a television programme service licence is available at the CA's website at <http://www.coms-auth.hk>. The application form for a licence and other related forms referred to in this document are available at the CA's website or for collection from the OFCA at the following address. Interested parties should submit five copies of their applications to –

The Communications Authority
 c/o Office of the Communications Authority
 20/F, Wu Chung House
 213 Queen's Road East
 Wan Chai
 Hong Kong

6.2 Applications will be accepted all year round.

6.3 Receipt of each application will be acknowledged individually.

6.4 Enquiries on this Guidance Note should be made to the OFCA at the address given in paragraph 6.1 above or sent to –

Facsimile : (852) 2507 2219 (General)
 (852) 2598 5509 (Confidential)

E-mail Address : webmaster@ofca.gov.hk

OR by phone to : (852) 2961 6593

OR

Secretary for Commerce and Economic Development at the following address –

Secretary for Commerce and Economic Development
 Commerce and Economic Development Bureau
 (Attn: Assistant Secretary (CCIB) A3)
 21/F, West Wing, Central Government Offices
 2, Tim Mei Avenue
 Tamar
 Hong Kong

Facsimile : (852) 2511 1458 (General)
 (852) 2827 0119 (Confidential)

E-mail Address : ccibenq@cedb.gov.hk

OR by phone to : (852) 3655 5562

Communications Authority
Issued in May 2002
Amended in March 2006
Further amended in July 2007
Further amended in April 2012
Further amended in November 2015
Further amended in February 2021