

**A Guide to the
Consultation Process of the
Communications Authority in Relation to Television Programme Service
Licences**

Introduction

1. This guide sets out the approach to consultation adopted by the Communications Authority (CA) in performing its statutory duties in relation to television programme service licences granted under the Broadcasting Ordinance (Cap.562).

Role and Functions of the CA

2. The CA is an independent statutory regulatory body established under the Communications Authority Ordinance (Cap.616). One of its roles is to regulate licensed television and radio broadcasters in Hong Kong through provisions in the Broadcasting Ordinance (Cap.562), the Telecommunications Ordinance (Cap.106), the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391) and the Communications Authority Ordinance. The CA has the following functions:–

- (a) to make recommendations to the Chief Executive in Council on applications for and renewal of domestic free and domestic pay television programme service licences and sound broadcasting licences;
- (b) to grant and renew non-domestic television programme service licences and other licensable television programme service licences;
- (c) to prepare and revise codes of practices setting standards for television and radio broadcasts;
- (d) to administer the relevant provisions in the Broadcasting Ordinance, the Telecommunications Ordinance, the Broadcasting (Miscellaneous Provisions) Ordinance and the Communications Authority Ordinance as well as those in the broadcast licences and the codes of practice issued by the CA; and
- (e) to deal with complaints about broadcasts and impose sanctions on the

broadcasters, if necessary.

Why Should the CA Consult

3. The CA is responsible for a wide range of issues affecting the public and the broadcasting industry, from programming standards on the television and radio broadcasts to licence application and renewal. As a result, the CA needs to take account of the views of those who have an interest or concern in the outcome of the CA's decision.

4. The CA is committed to adopting an open and participatory approach supported by evidence in its decision-making process. Consultation is an important instrument for the CA in achieving this. It allows those who may be affected by or concerned about a particular issue to provide feedback to facilitate the CA to make an informed decision, thereby increasing the transparency of CA's decision-making process and ensuring the CA's decision will have due regard to the views of the community and the industry.

5. Furthermore, the CA is obliged under the law to carry out consultation¹ in relation to the following specific matters:

- (a) in approving a code of practice or any revision (or proposed revision) of the code, the CA shall consult bodies representative of licensees (section 3(8) of Broadcasting Ordinance);
- (b) in approving guidelines for licensees, the CA shall consult bodies representative of licensees (section 4(3) of Broadcasting Ordinance);
- (c) in an application for a grant of a licence to provide a domestic free television programme service, a domestic pay television programme service, a non-domestic television programme service or an other licensable television programme service, the CA shall consider representations from members of the public (section 9(3) of Broadcasting Ordinance);
- (d) in an application for extension and renewal of a domestic free television programme service licence or a domestic pay television programme service licence, the CA shall conduct a public hearing (section 11(4) of Broadcasting Ordinance);

¹ The CA is not required by law to conduct consultation on the following subject matters:

- (a) the application for a sound broadcasting licence
- (b) the renewal of a sound broadcasting licence; and
- (c) the extension and renewal of a non-domestic or other licensable television programme service licence.

- (e) in a suspension of a domestic free television programme service licence or a domestic pay television programme service licence, the CA shall conduct a public hearing (section 31(3)(c) of Broadcasting Ordinance); and
- (f) in an inquiry concerning the revocation of a licence on specified grounds, the CA shall conduct a public hearing (section 32(2) of Broadcasting Ordinance).

6. The CA is aware that there are cases where quick decisions are required for the business operation of the licensees. To address such concerns, the CA adopts procedures which make every effort to balance the need for greater transparency and maintaining efficiency in the decision-making process. In deciding whether or not to proceed to consultation, and if so the form and scale of consultation, the CA will consider, among other things, the statutory requirements under which the CA is obliged to conduct consultation, the significance of the issue to those affected and whether consultation is the most cost-effective way of gathering the necessary information. The CA will also give due regard to any views the licensee(s) concerned may have on the form and duration of consultation before proceeding with the consultation exercise.

How will the CA Consult

7. The CA will employ various forms of consultation process depending on the nature, scope and urgency of the subject matter. The process, which may take a combination of approaches, includes formal consultation documents, territory-wide surveys, focus group discussions with members of the 18 District Television and Radio Consultative Groups (TRC)², comments sought from relevant authorities/professions/ interest groups, consultation with stakeholders of the broadcasting industry, etc.

8. The following is a quick guide to help you understand the CA's consultation process.

Licence Application

9. When an application is submitted to the CA for a television programme service licence (except a licence for other licensable television programme service (Type B) provided to hotel rooms), a notice will be published on the CA website

² There are about 550 members of the public on the TRC. They were recruited from the 18 geographical districts with membership profile matching the profile of the census population compiled by the Census and Statistics Department. Members are invited to participate in focus group meetings for in-depth discussion related to broadcasting-related matters.

(<http://www.coms-auth.hk>) and in one English and one Chinese language daily newspaper in Hong Kong. In addition, the notice in relation to the application for television programme service licence will be gazetted as required by the law. The notice will state the name of the applicant and the type of licence sought by the applicant, together with the information set out in the specified form (OFCA SF0011 (12)), which is available at the CA website. Interested members of the public may make representations on the application to the CA by a date specified in the notice, being a date not more than 21 days after the notice is published. The CA will consider any representations received by the date.

Licence Extension/Renewal

10. For domestic free and domestic pay television programme service licences, the CA will collect public opinions on licence extension/renewal through public hearings and opinion surveys. Prior to the public hearing, the CA may publish a consultation document on the CA website to provide background information (e.g. complaints records, new service proposals) and highlight issues of concern (e.g. areas of improvement) to help people respond in an informed way. Focus group discussions with TRC members may be arranged in addition to public hearings and opinion surveys to obtain more in-depth views.

11. For non-domestic television programme service and other licensable television programme service (Type A and Type B) licences, the CA will collect public opinions on licence extension/renewal through the publication of the details of the application for extension/renewal on the CA website.

Codes of Practice

12. Before approving the codes of practice or any revision of the codes, the CA will, where possible, conduct public consultation through territory-wide surveys and formal consultation documents in circumstances that involve a revamp of or substantial change to the regulatory approach.

13. For amendments to the codes of practices that have limited impact on the community, public views will normally be gauged through focus group discussion with TRC members and the licensees concerned. For issues that may affect a particular sector or group, in addition to the above, interested parties such as professional bodies will be consulted.

14. If the issue involved is technical in nature, for example, approval of technical standards, consequential amendments to the codes to reflect the statutory provisions, consultation with the licensees concerned and/or the relevant

enforcement agencies will be sufficient.

Other Regulatory Matters

15. For regulatory matters other than those specified in paragraphs 9 to 14 above, the CA may consider embarking on a consultation exercise after weighing critically the pros and cons to ensure that genuine value-added feedback can be obtained.

16. The form and duration of a consultation will depend on the complexity of the issue concerned and who is affected or has an interest or concern. For issues that have a wider impact on the public, the CA will, where possible, publish a consultation document to seek views and comments from members of the public and/or relevant organizations. The CA may make use of its website and/or Announcements in the Public Interest to promulgate its intention to consult, make consultation documents available to the public and gather feedback. The duration of the consultation will be determined taking into account, among others, the time within which the CA is required to make a decision.

17. For issues that have relatively limited impact on the community or that may only affect the broadcasting industry, community views will be gauged through focus group discussion with TRC members, meeting with the licensees concerned and/or briefings with interested parties such as professional bodies.

Communications Authority

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