

## **BROADCASTING ORDINANCE (Chapter 562)**

### **DIRECTION (Section 24(1))**

To: Asia Television Limited

Date: 23 August 2013

#### **Interpretation**

In this Direction, unless the context otherwise requires,

“ATV” means Asia Television Limited;

“Authority” means the Communications Authority (successor of the Broadcasting Authority);

“Final Report” means the Authority’s final report on the investigation into the control and management of ATV dated 23 August 2013;

“Licence” means the domestic free television programme service licence held by ATV;

“Licensee’s Proposal” means the same as defined in Condition 1.5.1 of the Licence;

“No-control Undertaking” means the letter of undertaking submitted to the Authority by Mr Wong Ching dated 19 October 2010;

“Ordinance” means the Broadcasting Ordinance (Cap.562)

#### **Background**

Condition 10.1 of the Licence provides that, unless the licensee’s compliance is waived by the Authority, ATV shall comply

with the Licensee's Proposal, including statements and representations regarding the control of ATV. Under section 21(1) of the Ordinance, a licensee and any person exercising control of the licensee shall be and remain a "fit and proper person".

2. Section 24(1) of the Ordinance empowers the Authority to issue directions in writing to a licensee requiring it to take such action specified in the notice as the Authority considers necessary in order for the licensee to comply with any requirement under, among others, a prescribed Ordinance or any licence condition applicable to it.

3 The Authority has completed the investigation into the role played by Mr Wong Ching in the control and management of ATV. Based on the evidence collected, the Authority finds that, amongst other matters –

- (a) Mr Wong Ching has unduly interfered with the day-to-day management and operations of ATV, and in so doing exercised *de facto* control, of ATV;
- (b) Mr James Shing, the Executive Director of ATV, allowed Mr Wong to unduly interfere with the management and operations of ATV and in so doing permitted Mr Wong to exercise *de facto* control of ATV, and that there is strong evidence suggesting that Mr James Shing misled the Authority in the investigation; and
- (c) ATV lacks effective corporate governance and this has allowed the irregularities identified in the investigation to occur.

4. A copy of the Final Report containing the findings and conclusion of the Authority has been issued to ATV. The Final Report will also be made public.

## Direction

5. The Authority, in exercise of its power under section 24(1) of the Ordinance, having been satisfied that –

Mr Wong Ching has breached the terms of the No-control Undertaking under which he undertook to the Authority that he would not be entitled to exercise *de facto* control over ATV;

ATV as a licensee is in breach of Condition 10.1 of the Licence for failing to comply with the Licensee's Proposal which incorporated the No-control Undertaking;

Mr James Shing, the Executive Director of ATV, is no longer a "fit and proper person" for the purpose of section 21 of the Ordinance; and

ATV should be required to take prompt and effective steps to improve its corporate governance standards to a level which is expected of a licensee,

hereby *directs* ATV to –

- (a) require Mr James Shing to cease acting as a person exercising control (including directorship) of ATV by 2 September 2013;
- (b) ensure that Mr Wong Ching will refrain from exercising *de facto* control of ATV;
- (c) take immediate rectification action to ensure that the management of ATV shall not be performed by any persons other than the directors and principal officers of ATV and persons duly authorised by ATV; and
- (d) submit to the Authority for its approval by 26 November 2013 a proposal setting out in detail the steps that ATV

should take to improve its corporate governance standards to a level which is expected of a licensee. Thereafter, ATV shall submit annual progress reports, the first to be submitted by 26 August 2014, setting out the progress that it has made to improve its corporate governance, until the Authority is satisfied that the proposed improvement measures have been fully and effectively implemented and ATV is operating according to appropriate standards of corporate governance.

6. This Direction will be published on the Authority's website: [www.coms-auth.hk](http://www.coms-auth.hk) in accordance with section 24(3) of the Ordinance.

(Miss Eliza Lee)  
for Communications Authority  
23 August 2013