TELECOMMUNICATIONS & INFOTECHNOLOGY FORUM

HONG KONG'S BROADCASTING AND NEW MEDIA SERVICES

October 13, 1998

Hong Kong Convention and Exhibition Centre

SUMMARY PAPER

PROGRAMME

2.00 pm **The Future of Broadcasting Regulation in Hong Kong**

Speakers:
Mrs Rita Lau, Deputy Secretary for Information Technology & Broadcasting
Stephen Ng Tin-hoi, Managing Director, Wharf Cable TV
Raymond Wong, Assistant Managing Director, TVB
Discussant: Dr Paul Lee Siu-nam, Chinese University of Hong Kong
By invitation, Mr Kenneth Kwok, Acting Chief Executive, ATV

3.30 pm Coffee break

4.00 pm **Hong Kong's Broadcasting Future as a Hub and the New Media Services**

Speakers:
S.K.Fung, President, Cable & Satellite Broadcasters Association of Asia (CASBAA)
Allen Ma Kam-sing, Chief Executive Officer, IMS Ltd
Gary Davey, Chief Executive Officer, Star TV
Jim Meyers, Vice President, Hughes Electronics DirecTV International

5.30 pm **Cocktails**

Executive Summary

1. Underlying the *1998 Review of Television Policy: A Consultation Paper,* which was introduced by Mrs Rita Lau, Deputy Secretary, ITBB, is the issue of convergence. At the technical level digital TV will enormously increase channel capacity on both terrestrial and satellite direct-to-home TV systems, and across cable TV and telecommunications networks. This, in turn, redefines the scope of the market. At the local level channel capacity increases, new entry is facilitated and new media services, such as interactive TV, Web TV, VOD become available. At the international level foreign broadcasters gain much greater access to local and regional markets. For these reasons one 'core objective of the Government is to ensure that Hong Kong people have access to a wide variety of broadcasting services through the creation of an environment in which diversity and freedom of expression can thrive. ' (Mrs Lau). This represents a major departure in Hong Kong's approach to licensing new broadcast services.
2. One free-to-air advertising-driven broadcaster in Hong Kong, TVB, has consistently dominated the market, holding around 80 per cent market share. Naturally TVB put this down to their business acumen, and this extends to a regional expansion through their Galaxy satellite TV feeds into cable systems in Taiwan as well as marketing their programming widely to overseas Chinese communities. Their free-to-air rival, ATV, and Wharf Cable TV see it differently, claiming anti-competitive practices by TVB, including tie-in contracts with artists and the predatory purchasing of programmes which are then stockpiled. The Broadcasting Authority (BA) is currently restricted in what it can do to regulate TVB because none of these accusations has been turned into an official complaint. The point was made in discussion, by the Consumer Council, that this suggested new guidelines and ways to regulate the industry were necessary if the BA was to become an effective competition body in the new era.
3. Wharf stressed that simply licensing more networks would not in itself reduce TVB's dominance as 'history has shown that the additional licencees are merely taking market share away from the weaker of the two domestic free licencees.' Instead what was required was 'breaking up the dominant position of the one broadcaster' by attacking vertical integration which allows TVB to control upstream production and programme sourcing. The 'outside benefits include the promotion of independent production of programmes in Hong Kong…' TVB countered that cross-ownership restrictions should not disadvantage local broadcasters in competition with powerful foreign broadcasters. IMS, in session two, made the same plea, 'as a result of multimedia convergence and breaking down of terrestrial boundaries, the control of cross-media ownership and foreign ownership is being questioned by the industry players.' The *TV Review* continues the notion of 'disqualified persons' (DP) who are persons or companies who may not hold more than 15 per cent voting control without Chief executive in Council approval, although these are quite loose restrictions which seem designed to give government lots of flexibility.
4. ATV argued that the protection of copyright was a serious problem that forced many local artists and producers overseas to seek opportunities, and stressed the importance

of promoting local training and talent in the technical aspects of television engineering and production. This point echoed in the second session by CASBAA who pointed out that Singapore won praise by providing post-production facilities which was far more important to most broadcasters based there than the right to uplink directly to satellites because not many broadcasters actually used more than one or two transponders. The Academy of Performing Arts pointed out that the APA was providing such training in Hong Kong and suggested a local content requirement could help the industry. In the second session, IMS suggested that government money to help the local film industry may not be the answer, and given Hong Kong's small size, 'we should really expand the audience base to complement the government's objective. For example, how can we create content that has a much larger addressable market, expanding beyond the Hong Kong market… look at the way education will play a key role in helping cities like Hong Kong to regain a competitive edge, we believe that to produce content to support the education mission is very important.'

5. The importance of strengthening the quality and quantity of local programming was also seen as a way of meeting the demands of viewers who, according to the BA's own surveys, were 'satisfied, but not very satisfied' with TV in Hong Kong. The point that was strongly made by several participants was that a multiplication of channels does not necessarily imply programme diversity and more genuine choice for viewers, and notably absent in the *TV Review* was any serious consideration of future role of public service broadcasting. The government has an agreement with Wharf that up to three channels would be available, but so far government has made no proposals. (Wharf pointed out that because of this they were still technically not in total compliance with their performance bond conditions and were therefore required to keep money in the bank.)
6. TVB believe 'that there should be no Government-imposed discrimination or inequality based on distinctions between local and non-local or distinctions between or among television delivery systems, resulting in unequal constraints on licensee's freedom to diversity within the television industry.' TVB would like to see an end to advertising restrictions applied specifically to free-to-air broadcasting, and especially the freedom to advertise in Cantonese during English-language broadcasting. Wharf questioned whether UHF spectrum was really exhausted and whether new entry into free-to-air broadcasting was still possible. Mrs Lau's response was that advertising-driven programming could be delivered by means other than UHF and that there would be no restrictions on the number of licenses, which would be technology-neutral.
7. A final question in the first session raised the issue of technological standards, especially in relation to inter-operability of TV set-top boxes and the means by which the viewer accesses particular programmes. 'Are we going to have free market and competition with content or hardware? The former is certainly the way to go.' The issue of standards was raised again in the second session. IMS made the point that Hong Kong was too small to develop its own standards, and these should rather be developed in cooperation with mainland China.

8. CASBAA argued that Hong Kong's role as a broadcasting hub depends upon three things: (a) Hong Kong as a market in its own right, and the openness advocated in the *TV Review* will help, but one important improvement that was necessary for the broadcasters was a credible and standard industry method of auditing advertising revenues and viewership figures; (b) Hong Kong as a gateway to 'Greater China' because the Hong Kong market itself is small, and Hong Kong as a gateway to mainland China remains a bit of a myth and more needs to be done to promote the links; (c) Hong Kong as a centre of talent and production facilities, and here Hong Kong is a little behind Singapore. There should be a level of proactiveness somewhere between Singapore's state bureaucracy approach and Hong Kong's positive non-intervention. Hughes DirecTV echoed the point that 'Hong Kong has to assert its relationship with China to be able to leverage that relationship compared to something that Singapore does not have.' Hughes also saw the Chief Executive's commitment of HK$5 billion to IT investment as a move in the right direction.
9. IMS raised their concern that at the local level the *TV Review's* proposal to allow a new category of 'other licensable services' to permit minority community group broadcast services of up to 15 per cent of Hong Kong's population (around 285,000 households) could seriously compete with new media services such as iTV and cable TV, and proposed the limit be reduced to 5 per cent.
10. Star TV made it clear that debate about digital TV and standards was almost beside the point because digital TV was already happening and *de fact* standards (digital satellite operators use DVB/MPEC) were emerging. Satellite broadcast capacity was plentiful and new media applications, such as Internet access, were also happening right now. The crucial issue was access, and that meant SMATV in Hong Kong, and Star welcomed the *TV Review*'s focus in this area.
11. Star TV considered the issue of network access would not have a simple solution. Because TV was a lean-back technology and a computer was a lean-forward technology, and they were found in different rooms in the house, it was unlikely that one network access device would end-up embracing all the others. Star was similarly skeptical that one set-top box with complete inter-operability would serve all networks, even though this was feasibly from an engineering perspective. 'Multicript is a single box with multiple slots for multiple cards so that operators can have different cards for different services. It is a wonderful theory which the engineers have yet to prove can be made to work.' The matter is further complicated by 'conditional access systems' of operators trying to protect their investments and databases.

RITA LAU
DEPUTY SECRETARY FOR INFORMATION TECHNOLOGY AND BROADCASTING

(Full text of speech follows)

The Future of Broadcasting Regulation in Hong Kong

It gives me great pleasure to have the opportunity to speak and to share with you our vision on the future of broadcasting regulation in Hong Kong. It is indeed timely that this TIF meeting is devoted to the TV Policy Review. This Review is of great importance to all of us as we position Hong Kong for the challenges that lie ahead.

The policy proposals put forth in the Consultation Paper have generated a lot of public debate on the regulation of television broadcasting including a motion debate by the Legislative Council. While many views and comments have been sent directly to us, we have also been following closely the articles appearing in print media. I have held 9 individual discussion sessions with licensees and other interested organizations. And the latest count of the submissions we had received is 43 with some isolated late submissions still coming in.

We are committed to presenting our policy recommendations to the Chief Executive in Council before the end of the year. Time is tight but necessarily given the time required for the legislative process and if we do not want to see the implementation of the proposals unduly delayed. For this Review, we have conducted altogether three rounds of consultation, two specifically with the industry. We have also given it due publicity to ensure that the issues receive public attention and generate the debate they deserve. Now is the critical and crucial part. We need to consider thoroughly and carefully the views received before making a final recommendation on the way forward.

The issue which has attracted most attention is competition in the television industry. There are comments that despite the increased choice of viewers over the number of television channels in the past years, there has been no effective competition in the market place because one local station still dominates 75-80% of market share, both in terms of viewership and advertising revenue. This, in effect, it is argued, has put the station in a dominant or monopoly position. It is suggested that the Government must act to address the situation. This is certainly an important issue which deserves a closer look.

First of all, let’s ask whether there is competition in the television market. The answer is without doubt yes. In the free-to-air TV market, we have two long-competing terrestrial TV stations offering four channels and in addition another four free satellite channels available to half a million households. In the pay TV market, even though Wharf Cable is the sole pay TV operator in Hong Kong at the moment, the Video-on-Demand programme service of Hong Kong Telecom VOD Limited, which launched its service in March 1998, is gradually rolling-out its service and is providing some 300 hours of programmes on average a month on subscription basis. One TV channel may well be dominating the TV ratings in Hong Kong, but is it not a matter of choice of viewers rather than a lack of competition?

One core objective of the Government is to ensure that Hong Kong people have access to a wide variety of broadcasting services through the creation of an environment in which diversity and freedom of expression can thrive. We seek to achieve this goal by expanding choice and diversity while ensuring that broadcasting materials do not offend public standards of taste and decency. Practically speaking, we cannot mandate that choice and diversity will expand. We can only create favourable conditions for the market to meet the demand for services. That means continuing to remove artificial restrictions on the number and type of services.

To promote vigorous competition, it is important to level the playing field so that no one player enjoys an advantage over others either by design or by default. In the consultation paper, we have proposed a technology and transmission neutral regulatory regime for all television programme services. We have proposed four categories of TV programme services, namely, domestic free, domestic pay, non-domestic and other licensable services which should be subject to a four-tier regulatory system reflecting the nature and the pervasiveness of the services. Except where it is necessary to impose specific safeguards for a particular category of licence, e.g. parental locking systems for domestic pay and other licensable services and residency restrictions for domestic free services, our aim is to create a conducive environment for the broadcasting industry to flourish and freely compete under a fair, transparent, predictable and proportionate framework of law and regulation for all players as far as practicable.

To address possible conflict of interest and to help prevent the build-up of monopoly and concentration of the media, the Television Ordinance already has provisions restricting cross-media ownership. Certain categories of persons and companies, including those who exercise control on, or are associates of, these persons/companies are identified as “disqualified persons” (DP) and they may not hold office or be a beneficial owner of more than 15% of voting control in a DP without the prior approval of the Chief Executive in Council. We have proposed that these cross-media ownership restrictions, subject to a couple of amendments, should continue to apply to domestic free and domestic pay television programme service licensees. On top of the statutory provisions, further safeguards are built into the terms and conditions of each broadcasting licences. For example, the licence of Galaxy Satellite Broadcasting Limited includes conditions requiring it to operate at arm’s length with its indirect parent company TVB. There are also provisions prohibiting cross-subsidy of the two companies and requiring that all transactions between the two companies should be of full commercial value and that all services and products should be offered on a non-discriminatory basis to all parties alike.

Competition is not an end in itself. There is no assumption that a particular type or a particular situation which reduces competition is wrong in itself. And I do not believe that we should penalize success. What makes it unacceptable is when a company tries to maintain or attempt to create a monopoly through practices that either unreasonably exclude others from entering the market or significantly impair their ability to compete. This can be done through unilateral action or through a group of companies working together to monopolize a market. To promote free competition, we have included in all broadcasting licences a free competition clause which, subject to a few provisos, prohibits a licensee from entering into any agreement or arrangement which will, or is calculated to, restrict, impede or restrain competition in relation to the establishment, provision or operation of any telecommunications or broadcasting service. We have proposed to enshrine this clause in the "Broadcasting Bill" to give it statutory status and to expand the scope of the provision. We will expect more feedback from the industry and the public during the passage of the Bill.

When we first introduced the free competition clause to the licences, we listened to the views of the licensees and added in provisos to the clause which the industry considered to be industry practices, for example, the broadcasting of any programme material acquired or produced by or for the licensee and broadcast by it and using or exploiting the artistic talent or ability of a person are excluded from the ambit of the clause. The Government negotiated hard to include them but in the event we accepted the industry's appeal against their inclusion in good faith. In the current consultation, we have received submissions from licensees alleging that the dominant television broadcaster has engaged in unethical practices aimed at restricting competition. Unfortunately, these allegations have not been tested against the licence condition as no complaint has been lodged with the Broadcasting Authority for a ruling. The existing provision, like other pro-competition legislation in advanced countries, are worded in general terms and it is for the regulatory authority to determine its application in specific cases. The Broadcasting Authority (BA), being the regulator of the broadcasting licensees, is already empowered to investigate into complaint and make a judgement on any allegations of anti-competitive practice. But the BA has not received a single complaint. I can only quote a few allegations which, I must stress, have not been substantiated thorough investigations and consideration by the relevant authority. The allegations we have received include that the dominant television licensee :

(a) has used contractual and/or other forms of coercion to monopolize talent;
(b) has denied major advertisers to competitors.;
(c) has resorted to predatory pricing of advertising;
(d) has refused to sell airtime to competitors;
(e) has controlled bottleneck facilities such as the frequencies used for electronic news-gathering; and

(f) has acquired programmes or programme packages in excess of transmission needs and denying them to the audience.

As you can see, some of the above allegations call into question the application of exclusive contracts. This looks like an industry norm but it has also been suggested to us that in other countries, exclusive contracts apply only to news anchor and other artistes or presenters whose exposure on a specific channel is on a frequent and regular basis. Singers who appear in the programmes of a licensee say, only once in three months, should not, therefore, be subject to exclusive contracts.

One of the licensees has suggested that a maximum number, say 30% of the singers in the Hong Kong market, should be set aside for exclusive engagement. The suggestion runs against the principles of our free society and rights of an individual, I dare say that it will be impracticable.

Another issue closely related to competition in the television market which received significant attention of the public is whether the free TV market should be opened up for competition. In the consultation paper we did not specifically address this issue but our overall position is quite clear, i.e. our policy objective is to create an environment conducive to the development of the broadcasting industry; therefore, in so far as market demands exist and the advance of technologies allows, no artificial limits should be set for the number of players in the field. Government's role should be to ensure that there is free and fair competition and that all players will have the freedom to make business decisions and respond to market forces.

We have proposed a regulatory and licensing framework for television programme services which is technology and transmission neutral. We did not set a quota of licences for each category of licence except that in the case of other licensable services we have proposed that the aggregate target audience for any company should not exceed 15% of the total number of households in Hong Kong without the approval of the Chief Executive in Council. It really will be up to an applicant to propose a feasible transmission method to deliver the proposed programme service. Free-to-air TV is not limited to terrestrial broadcasting and, as I mentioned earlier, satellite broadcasting, particularly Direct-to-Home service, is perfectly capable of providing a free TV service.

A technology and transmission neutral television service-licensing regime should open up new opportunities for prospective investors. An incumbent licensee has in fact suggested that free television can be transmitted over the hybrid cable/MMDS network it uses to provide subscription TV and it has offered to open up two of its pay TV channels for free viewing. Others have suggested that the existing frequencies for English channels should be up for sharing to achieve maximum use and to release spare capacity for a new channel. Once television programme service is divorced from its transmission mode, there seems to be multifarious business opportunities. It will be up to an investor to justify that its proposed service will bring benefits to viewers and the community as a whole and the Government would be happy to consider the merits of any such application.

On this issue I would like to add that the cross-media ownership rules require a domestic free licensee to apply to the Chief Executive in Council for approval if it is to acquire or hold more than 15% of voting control in a domestic pay licensee, and vice versa. The main purposes of this restriction are to help promoting plurality and preventing monopoly. In a convergent environment, there may be grounds for relaxing this restriction and the Government would consider the arguments carefully.

Another much talked-about issue during the consultation, which is also related to competition in the overall television industry, is whether the domestic free TV licensees should be required to reserve a portion of their air time for local independent productions which are not associated with the licensees. This suggestion, in fact, has more to do with breaking up vertical integration and promotion of an independent TV production industry. It is argued that even though this may compromise the editorial freedom of a licensee but it will well serve the overall interest of the industry and help promoting Hong Kong as a multi-media centre.

I have highlighted some of the mainstream opinions we have received during the consultation. Let me assure you, we have an open mind and have not come to conclusions one way or the other. These are indeed important issues which we need to consider carefully and we would very much like to hear your views about them.

STEPHEN NG
MANAGING DIRECTOR
WHARF CABLE TV

(transcription of speech follows)

Generally, commenting on the paper as a whole Wharf Cable supports the broad direction to promote competition in the broadcasting industry. The four-tier regulatory regime is a positive step. But we need to be more technology-neutral and there needs to be more clear-cut arrangements. The move to more hands-off and a more flexible regulatory approach is also welcome. However, our biggest concern is that unless and until the current situation where one dominant operator dominates the industry, no number of additional licences will allow the industry to thrive as a whole. Let me ask a practical question; 30 years ago there was one broadcaster in Hong Kong which had close to 100% market share; 20 years ago there was the same broadcaster in Hong Kong that had about 80% market share; 7 years ago a fourth television operator entered the market as the third competitor at the same time, to offer satellite television and 2 years later (that is 5 years ago) the fourth current operator, namely Wharf Cable, entered the market. Still, as of today, the same broadcaster that had close to 100% market share 30 years ago, about 80% market share 20 years ago, today still has 80% market share. Is it in the interest of the industry to see that continue? So that 30 years later there ought to be only one operator with 80% market share and 100 operators sharing the other 20%. It is not likely to be a healthy way for the industry to develop.

What we are suggesting is not to penalize business success, per se. That broadcaster with a dominant position achieved its present position through a number of successful factors. But like every dominant operator in any other industry or anywhere else in the world, behind the dominant operator there are at least one or more important success factors. It may be regulatory (e.g., somebody being able to negotiate a very good monopoly); it may be product related; it may be distribution related; it may be speed-to-market. Of course it takes a successful strategy to get to number one and to get to a dominant position.

Perhaps the most successful company in the past decade in the world is Microsoft. It got there because it had, and still has, a very successful business strategy and there are other reasons why it was so successful. The question though is whether or not having achieved its success Microsoft is closing the doors for other people who want to come behind it to become also successful; maybe not quite as successful as Microsoft but at least other people are given a fair chance to succeed as well. And Microsoft is only one example; there are others such as AT&T, IBM in the US. Each case is different but in each case they achieved success in their own right and yet US regulators and legislators have to ask whether other competitors have been given a fair chance to succeed in those industries as well. And that is the question we would ask the regulators in Hong Kong. Some of the complaints that we have included in our submission to the Government Mrs Lau already referred to earlier. Some of them are well-known complaints; most of them are undocumented because they are undocumentable for one reason or another. That does not, however, change the fact that those are genuine complaints. What we are proposing the Hong Kong Government do, among other things, is to break up the upstream, vertical integration that exists in the broadcasting industry at the moment.

Many of you in the audience would probably know this better than I do, because this happened in the US about 20 years ago. In the late 1970s to early 1980s the US government decided that the three networks television stations in the US (ABC, CBS and NBC) were too dominant. At that time they were broadcasting principally programmes that they made themselves. At that time cable television was only a start-up in the US. What the US Government decided to do was to require the networks in the US to separate themselves from the programme production. Initially for a period of 10 years. Possibly as a result of that – it may also possibly be pure coincidence – since that time the television industry in the US has expanded many times over. Instead of three networks there are at least 5 networks in the US now. There are many, many cable networks (they use the term "network" a little bit differently in the US than we do commonly in Hong Kong) but there are many, many cable channels in the US. The dominance of the three then-network companies has been significantly reduced to the stage where the three of them together probably today come out at approximately 50% of the viewership in the US, with everybody else sharing the other 50%. That may be coincidence, but that is a good example of what may happen to Hong Kong if we were to follow that as an example of what we could consider doing. Not exactly the same necessarily but it would be a good example for us to learn from.

Whether or not we can take one step to do all of the above; that question can be very easily answered. The answer is no. What we are therefore proposing is to do it in progressive steps. At the same time as, hopefully, breaking up the dominant position of the one broadcaster that has dominated the industry for 30 years, the outside benefits include the promotion of independent production of programmes in Hong Kong in turn encouraging more plurality, more diversification and further development of the industry.

We have also suggested that maybe the domestic free market should be opened up as well. Whether or not there is sufficient UHF spectrum for a third domestic free operator to operate with is a question which, at least as far as the industry is concerned, is unanswered. We have heard statements to the effect that the UHF spectrum is full. It may well be full but I think the industry ought to be given a chance to verify that. And if, indeed, the VHF spectrum is full are there not other means of delivering domestic free television in to the home. If there are means to deliver more pay television into the home, the same means must, we believe, be available to deliver domestic free television as well.

If we look at what Hong Kong has done in the last 30 years, I suppose, it started with one domestic free television which was wireless. It then licensed a second domestic free operator. In spite of that the market share between those two operators continued to be 4:1, 3:1 or 5:1. That continued for a long time. Then we changed. We licensed a satellite operator to come in and participate in the competition. We then licensed a pay television operator to come in and provide additional competition. Clearly it hasn't been effective in creating a more balanced competitive environment. If there is a more balanced, competitive environment I think it would be reasonable for everyone to assume that new competition will emerge; they will innovate; they will compete and they will thrive. And the industry will be a much more prosperous one as a whole. If, on the other hand, we rely on the same measure that we have been using in the past 30 years – simply awarding more and more licences – history so far has shown that the additional licencees are merely taking market share away from the weaker of the two domestic free licencees. I am not sure whether simply awarding more licences, particularly if they fall into the domestic pay, non-domestic and the other licensable services areas. Whether by doing so we will indeed be able to rebalance the competitive environment in the interest of the Hong Kong public.

So that is a nutshell of the Wharf Cable view of the state of the industry. I know this may not agree with the view of the Government but as I said at the outset we speak our mind in our interest and in the interest of the industry.

RAYMOND WONG
ASSISTANT MANAGING DIRECTOR
TVB

(full text of speech follows)

The 1998 Review of Television Policy offers a historic opportunity to create the visionary policy and forward-looking regulatory environment needed to establish Hong Kong as a frontrunner in the regional and international television industry. We hope that the new policy also will go a long way to ensuring that the people of Hong Kong will have the best possible television services that experience, advancing broadcasting technology and enlightened Government leadership can provide.

We would like to state clearly our support for a genuinely deregulated, technology-neutral, technology-convergent television environment that will enhance competition, stimulate choice and lower cost to consumers.

Monopoly and competition

It might well be apropos, at the outset of this presentation, to confront directly and lay to rest the charge that any single terrestrial television station is a monopoly and therefore exercises unfair control over Hong Kong's television industry.

Where monopoly exists, there is only one supplier of a product or service. This single supplier is able to prevent competitors from entering the market and is thus not subject to any sort of competitive pressure and may dictate prices, which the consumer has no choice but to pay.

None of these conditions describe the local television industry. There have been at least two – and for a brief three-year period in the mid-'70s, three – terrestrial stations since 1973.

And for the last eight years, the industry has also seen the introduction of satellite and cable broadcasting. Thus, competition has in fact intensified, not lessened.

It is granted that one station has been undeniably successful in the market place. Success, however, is not synonymous to monopoly; not when all competitors have been and are free to bid for the resources needed to respond to the needs of the market. In this freely competitive market environment, through 30 years of experience and hard work, one station has so far done a better job than its competitors in understanding and meeting the needs and interests of Hong Kong's television viewers.

Accordingly, in the absence of any anti-competitive behaviour by the station in question, its success in all fairness is therefore nothing more than the expression of the workings of a free market – the very environment the Government wishes to promote and which always works in the best interests of consumers.

Should the Government decide to "punish success" by arbitrarily suppressing the top-performing station in the market place – in effect, to shield the other players from natural competitive forces – the general quality level of programming from all suppliers would surely be reduced, and market incentives to improve program quality removed.

In drafting regulations to ban anti-competitive activities – which, by the way, should apply to the business community as a whole and not just to specific industries – the Government's challenge will be to draw the fine line between appropriate and effective anti-competition legislation on the one hand, and unfair rules which might inadvertently restrict a service provider in upgrading and expanding existing services or in creating desirable new services, or penalize them simply for doing a better job than their competitors.

It is also important to bear in mind that any such anti-competition legislation should be written in terms of general principles which should then be subsequently interpreted on a case-by-case basis in a court of law, and not adjudicated by the executive branch of the Government.

Out-sourcing of Program Production

Contrary to what is asserted in the Consultation Paper, no terrestrial station has ever pursued a policy to "monopolize television production in Hong Kong." In fact, as much as 35 to 40 percent or even more of current terrestrial program lineups is non-in-house productions. It's simply good business practice for all broadcasters to be on a constant lookout for appropriate outside programming that meets their stations' quality standards and market needs.

Accordingly, far from seeing as a threat the development and growth of new program producers, we welcome and support additional, outside sources of the kind of quality programming we need. We believe, with the conversion to digital, our in-house requirement for such out-sourcing – as well as that of the broader television industry – will only increase in the coming years.

However, we strongly believe that the broadcasters themselves must be left free to determine, based on actual needs and standards, what programming out-sourcing should be acquired. If arbitrary quotas are established, incentives to improve program quality will disappear and viewers will lose out. The program market must be driven by quality, not by quotas.

Opening up of telecommunication and broadcasting networks
We fully support the proposed opening up of Hong Kong's telecommunication and broadcasting networks, and the establishing of a well-defined, rigorous set of rules to limit properly defined cross-media ownership and otherwise ensure fair competition among all players.

However, we do not agree that participants presently perceived or arbitrarily defined as "dominant" or "pervasive" should be subjected to greater diversification restrictions than others.

For such labels imply a static industry environment. In reality, with the advent of digital, satellite, cable, direct-to-home (DTH), video-on-demand (VOD) and the Internet, the entire industry is in a flux and is being restructured based on market forces and the unfolding dynamics of these new and powerful technologies.

In this rapidly transforming and unpredictable environment, we believe the only proper course for Government regulations is to ensure a level playing field.

The Pay Television Market
We agree with the Government's proposal to open up the pay television market, remove any limit on the number of pay TV licences and consider each application on its merits.

We consider some sort of pay TV service a natural and necessary part of a free terrestrial station's future development. We believe such pay TV service would thoroughly meet the proposed licensing criteria, including offering broadly appealing programming while broadening consumer choices.

Given the very extensive transmission capacity for new pay services which will be available to program service providers in the future – via digital cable, DTH satellite and fixed telecommunication networks – we do not believe a terrestrial station's operating such a service would in any way restrict the entry – or limit the freedom to compete – of other pay services or otherwise exert any sort of anti-competitive influence in the market place.

It should be emphasized that competition in the television industry is now worldwide. The dominant players in this international competition – Time Warner, Disney, Sony, Viacom, News Corp., TCI and others – are all multinational, broadly diversified multimedia organizations typically with interests not only in terrestrial television, but also in cable, film, satellite and other program distribution media. These companies are also often involved in the print media as well.

These media giants are aggressively expanding their markets all over the world including Hong Kong. They are competitors that local Hong Kong broadcasters must face. Should the Government implement regulations that throw open the local market to these very strong foreign competitors, while at the same time hamstringing local broadcasters by preventing them from developing increased competitive strengths through comparable, appropriate diversification, Hong Kong's television industry will be relegated to a minor role in the worldwide television market place.

If the Government truly aspires to make Hong Kong a leader in the regional and international television industry, it must understand this global nature of the competition and not raise regulatory obstacles to the necessary diversification and growth of local broadcasters.

Accordingly, in terms of diversification within the television media and within approved limitations on foreign ownership, we believe that there should be no Government – imposed discrimination or inequality, based on distinctions between local and non-local, or distinctions between or among television delivery systems, resulting in unequal constraints on licensees' freedom to diversify within the television industry.

Instead, all television licensees, whether domestic or foreign, using whatever program delivery system, should be given equal freedom to invest or diversify within the broadly defined television industry.

Content Control

We agree that it is fair and appropriate to set forth "broadcasters' obligations" as part of the conditions for a license. However, we firmly believe these obligations should be in the form of general guidelines reflecting community standards, allowing broadcasters greater flexibility than previously, and should not be accompanied, as in the past, by intrusive, burdensome regulatory minutia intended to control paternalistically and micro-manage the operations of broadcasters.

While we accept the Government's position on the need to maintain the English-language services, we believe it is only fair to note that these services had not been created in response to market demand, and have not continued in existence as a profitable response to such a demand.

In fact, they have been consistently unprofitable and must be subsidized by drawing resources from the Chinese-language services. Under these circumstances, we believe it is incumbent upon the Government to moderate existing constraints on the operation of these channels in such ways as to enable the broadcasters to improve financial performance without reducing the quality of the English-language channel. In this regard we would like the Government to take a fresh look at, among other things, restrictions on non-designated language programming and advertising.

If the Government's objective in imposing non-designated language restrictions was – and is – to ensure the continued availability in Hong Kong of high-quality English-language news and entertainment programming, then we believe positive consideration should be given to our proposed relaxation on commercial messages in non-designated language.

Rather than leading to an erosion of our English-language services, freeing us from language restrictions in commercials, we believe, will actually help to ensure the continued, long-term availability of high-quality English-language programming by making the service more financially viable.

On the other hand, if the service sinks further into catastrophic losses, it can only be seen to be increasingly in jeopardy and likely to deteriorate in quality.

Effects of Unequal Advertising Time Restrictions

The proposed discriminatory application of advertising time restrictions constitutes a form of government intervention that would have the effect of influencing relative revenue flows of the various types of licensees and would lead to a distorted competitive environment favouring one type of licencee over another.

It is impossible to anticipate the many market distortions and imbalances the proposed policy would cause, or the attendant hurtful effects on the disadvantaged licensees. This undesirable situation will be further aggravated as program delivery technologies continue to progress and converge, and program service providers increase in number.

Burdening the terrestrial broadcasters with tight advertising time restrictions but freeing other licensees from all such restrictions gives these other licensees an unfair competitive edge in terms of price. With non Government-imposed limits on their number of channels and completely free from advertising time restrictions, these other licensees will have a huge supply of airtime, and will easily be able to undercut and out-compete "free" television on a price basis.

While it is certainly the legitimate role of the Government to determine whether advertising time restrictions should be imposed, we believe that once a decision has been made – either for or against restrictions – the rules should be applied equally. Advertising time restrictions, if any, should be applied without discrimination to all categories of licensees. Only such an equitable policy will work to the long-term interests of the television market and all who are served by it.

We believe the most positive and productive direction of Government policy in the area of advertising time restrictions should be towards deregulation for all licensees.

Fees and Charges

Among the many positive proposals made in the Government's Consultation Paper, the one that would discontinue the royalty scheme is, we believe, of particular importance and is clearly a correct and timely proposal.

This removal of royalty payments, together with deregulation, serve to ensure the highest-quality and best selection of programming for Hong Kong television audiences in the coming years.

The abolition of royalties is well supported by a number of conclusive arguments, including:

- Exclusive market franchises no longer exist
- Devaluation of radio spectrum due to diverse delivery systems
- Poor health of Hong Kong's terrestrial television market
- Commitment to excellence in broadcasting and programming

As for license fees, we agree it is fair to restore license fees to full-cost recovery levels immediately upon abolition of the royalty scheme.

Digital Terrestrial Television

We fully support the Government's proposal to facilitate the development of digital terrestrial television (DTV) in Hong Kong. We agree that its introduction should be market-led with the industry driving it for commercial reasons.

We also agree that before any decision can be made on which of the three competing transmission standards is best for Hong Kong, comprehensive trials of all systems should be undertaken by the broadcasters, in conjunction with the Office of Telecommunication Authority.

Discussant: Dr Paul Lee Siu-nam, Chinese University of Hong Kong

The speakers dealt with three major issues:

- Whether or not we are satisfied with television programming today. Satisfied in two senses: quality and choice
- Whether the television market is now being dominated. And if it is dominated what is the reason. Is it due to the anti-competitive behaviour of the dominant player or due to no active competition
- Cross-media ownership: it seems this issue is not a big one as cable would like to move into terrestrial and earlier we heard that terrestrial would like to move into cable. That should not be a big issue unless it affects the programme diversity. Whenever we have cross-media ownership we would pay attention to the effect on the diversity. Not only in programme content but only in opinion diversity. So far as cross-media ownership will not affect programme or opinion diversity there should be more room to manoeuvre.

Television programming: let us ask ourselves whether we think today that television programming is good. Some research done by the Broadcasting Authority found that in general people are satisfied, although not very. However, even if they are satisfied, does it mean that we do not need to introduce competition. Of course not. People want more programme choice. Regarding choice, a distinction should be made between local and foreign productions. Right now Hong Kong has a lot of foreign productions. The majority of Hong Kong prefer local to foreign productions, so when talking about competition we should pay attention to that level, rather than foreign programmes. Right now in the television market there isn't much competition in local production.

The television market is dominated but not a monopoly. If we want to examine more closely the issues in the television market we should ask the question whether dominance is due to anti-competitive behaviour of the dominant player or due to the weakness of other players. It is probably the latter rather than the former.

I would also like to mention two other things with regard to the policy review:

1. Why doesn't the authority consider opening up the advertiser support market?
2. There is no mention in the television review paper about public broadcasting. This is very important with the advent of more and more channels in commercial operations.

During the discussion period the following points were raised:

By Invitation, Mr Kenneth Kwok, ATV: I wouldn't want to dwell on the issue of dominance because Stephen has put it out quite succinctly but just coming back to Dr Lee's comment on the viewers' choice. Let me just give you one very vivid example. ATV, a few years, started up with a programme called Hong Kong Today. We tried to be more innovative and provide viewers with a bit more choice. What happened to this choice? TVB immediately came out with another programme in exactly the format, exactly the same style, doing exactly the same things and broadcast at exactly the same time. Now if we were to start any other programmes would we be able to prevent our competitors from doing the same thing and eliminating this choice for viewers?

Coming back to other issues, I think basically we must agree with the other broadcasters that the Government has done a very detailed job and this is actually one of the first time the Government has really taken into account a lot of the comments from the industry. They have actually worked very hard to try to produce a very comprehensive review on the broadcasting industry. Of course, it is very ambitious. I think sometimes one could say that it is perhaps a little bit too ambitious and it may be a long way before we can try to accommodate all the issues being brought. Nonetheless we must compliment the Government on doing that.

By really looking at the industry as a whole rather than separately, rather than looking at each type of broadcasting, is a big step forward. The viewer doesn't care whether their television is being delivered from terrestrial, wireless, through a cable, fibre optics or through a satellite. Provided the quality is good, to the viewer it's exactly the same.

We did a study a couple of years ago and McKinsey informed us that Hong Kong regulations terrestrial broadcasting is in fact the tightest throughout the world.

Hong Kong right now is still a leader in this part of the world in broadcasting, particularly television broadcasting. We are not going to hold this position for long if the Government and broadcasters and the industry do not do something positive. Because right now other countries in this part of the world are putting a lot of resources in this area. We should not let the effort fade away and must continue to ensure that Hong Kong remains the centre. One or two very small things which we can indicate that the government is not doing enough about:
It is only in this paper that the government has started to remove some of the burden on the broadcasting industry, such as royalties, which broadcasters have been fighting for years.
There has never been really a concerted effort from the government to try to build up any training process for the broadcasting industry, particularly in the area of technicians and producers etc.
Right now the export of Hong Kong programming is not being actively helped by the Government to try to ensure that we have proper protection over copyright. Like the film industry, it looks like a lot of the film producers and actors, talents, directors, have got to look overseas to try to find the proper means to continue to develop their talent. We at ATV would like to urge the government to ensure that these things are not ignored.

Participant: It is clear from the remarks that have been made that competition is a key issue and that broadcasters around the world spend a lot of time talking about competition policy. I can say that those people around the world who work in competition policy spend a lot of time talking about broadcasting. The thing which has emerged is the importance of competition issues. The long-held view of the Consumer Council is that Hong Kong needs a comprehensive competition law and a comprehensive competition authority because it has been said the law should be applied evenly and equally across different sectors. Particularly in areas such as broadcasting where so many links that matter are with organizations that are not basically not broadcasting organizations. For example, sports bodies. In the time frame we are talking about I don't think we will see a change in the Government's policy. Government's policy is specific solutions for specific problems. I think we have to accept that there will not be a single competition authority. I think what we see today is a need for a number of competition authorities. I think the basic rules that are under license, which are that companies cannot do things that restrict, prevent or inhibit competition, are right. But then you have a number of judgements that need to be made; establishing whether a company has a dominant position (not just a question of market share, but the ability of a company to move its price normally by 5%

without looking at what its competitors will do by way of reaction or the effect on its customers). This is a fairly difficult technical judgement. And then considering what the effects of different actions are. It seems to me that for the future if there are to be a series of competition authorities then they must be designed as such. I don't think you can take an existing body such as the Broadcasting Authority and then add on a little bit which looks at competition. You have to say, right, the Broadcasting Authority is a competition body therefore we will need to consider how it will function as such. I think as a competition authority it needs to do a number of things. It needs to issue clear guidelines because one of the great things that industry always says is "give us certainty, give us guidelines, let us know what we can and cannot do". I also think the Authority will need an investigative power. The nature of these things is that you can't actually wait for a formal complaint to come. Much of the information you get tends to be gossip (for want of a better word), but informed gossip. It's gossip by people who know what they're talking about. The first question one asks is: Is this simply being given to me by one firm wishing to distract another? Is it an anti-competitive tactic in itself. But if there is merit in it then the Authority has to investigate it on the basis of the information it has, not as a formal process which has to wait for a formal complaint.

There also has to be a transparency in the way a decision is reached; and confidence in the process. The industry has to know who will actually take the decision. It may be that it's civil servants who are working on preparing the decision but somebody, some public accountable person or persons, must be the people who actually take the decision and publish the reasons why so that there is the possibility of challenge and the possibility of subsequent discussion and debate as to whether the authority has it right.

Participant: Hong Kong Academy of Performing Arts: we do actually already have a school of television in Hong Kong training producers, directors and camera people etc. They are all looking for work. Public broadcasting and independent production are two things that don't come across very clearly in the paper.

Actually if you look throughout the world you will see that these two are inextricably bound up with each other. Because one of the reasons, for instance, Wharf Cable was criticized for only showing foreign product is because it has no means, really, of producing local product. The big television companies have enough revenue, capital base, equipment base to produce programming. But if there is no mechanism of providing some money for independent production (whether it comes from license fees) it doesn't matter how level the playing field is. What is addressed (and is very important for our future students) is the notion of independent production. Nowhere in the world now, particularly not in Hong Kong with a relatively small base, are there enough permanent jobs left for people to say I've got a job for life in television. But we are already training people to take initiative, come up with ideas, scripts, programme projects, to offer to whether it's Wharf Cable or other companies. But to allow them to do that I believe there must be legislated quota for every television station to take locally produced product made by local people if we are to ensure that the actual employment base and production base in Hong Kong goes forward in the way it has gone forward in other countries where that ruling has been made, particularly in the UK. The quota system in European countries actually allows more talent to be exploited and local programming made which then later the big multinationals buy up. The multinationals buy up catalogues of people who have had subsidized films made.

Participant: I'd like to follow on the point of public service broadcasting which Dr Lee raised. A few years ago there was a discussion about the three channels that Wharf Cable had to provide to the government. It was suggested then the three government channels could be used for some kind of public service broadcasting. But the government decided not to use the channels. It seems to me that it was the first move for the government to give up the chance of promoting a multi-channel environment in public service broadcasting. We have come to a second phase; we have got this consultation paper. The emphasis is very much on the industrial side; competition. But there is no mention at all of public service broadcasting. It seems that the Government assumes that RTHK is giving a very good public service broadcasting job and it will continue. But is there any thinking that the new channels of transmission that could be brought in with all these proposals, could be used for furthering public service in broadcasting?

Partcipant: commented that he was probably the only "viewer" in the room. If I were in the industry I would be talking the kind of language which I've heard which I think tends to be a bit woolly in places and restrictive in others. When I heard about the review of the viewers in Hong Kong, I suppose if you did a review of fish in an aquarium and said are you satisfied with your feed, they'd probably all say yes. You could then offer to transfer them to another aquarium and when you get there you'll find the same feed. So the fish remain totally ignorant of the fact that there's a big ocean out there with a lot more riches in it. That is an analogy of our present TV industry in Hong Kong.

I would echo the last speaker but also read the prologue 1.1 in the Government's document. "The Government's long-standing policy on television broadcasting has to be to widen viewers' choice of quality programming to ensure that television programmes meet diverse needs of society….." It then goes on in the rest of the consultation never to say anything again about how one might achieve that. One can only assume that there is a total confusion between choice of channel and choice of programmes.

We talk about technological neutrality. What you're saying is when ATV/TVB started they sold their television sets with a different standard and when cable started they sold their television sets with a different standard. We were technologically specific rather than standard. Are we going to have free market and competition with content or hardware? The former is certainly the way to go.

Rita Lau: I have listened very carefully to the views expressed and I don't propose to respond in great detail or at length but suffice for me to say that there are areas needing clarification and perhaps the last one first about public service broadcasting. I would like to clarify that indeed the Wharf Cable does require it to provide to Government free of charge up to three channels. We haven't decided on the use of them but we will have this opportunity because Wharf Cable's license is up for mid-term review next year so I can assure you that this very subject, this very obligation which has been accepted by Wharf Cable will be examined in that context.

The second question about why we have not included a specific proposal in the consultation paper about opening up "advertising-driven" TV market. Well, in my early opening remarks I have responded and I would like to underline again our very core principal and that is to say that we have no intention on setting a moratorium on the number of licenses on the free TV market per se. Partly due to the fact that indeed we have identified no more UHF frequencies for broadcast of a nature which is terrestrial. But, as I pointed out earlier, there is no reason why free or advertising driven TV service cannot be made available to Hong Kong viewers through other transmission means and indeed we welcome suggestions. And indeed we have suggestions that perhaps others can also offer advertising driven service and we will consider it. And perhaps thirdly I do not propose again to pass personal judgement but quality of programme is a very subjective subject and of course we like to hear views from different sectors, from different people but I do not propose to pass any judgement on what is quality programming. Ultimately it is the decision of the viewers. It is the choice of the viewers and performing the role of a policy maker and regulator in fact I personally am very conscious of the fact that we should not overstep our functions. That insofar as imposing standards for programmes are concerned we confine ourselves to the basics, to what the community stands or what they accept, as our basic regulatory principal, rather than dictating or mandating choice and deciding what genre of programme should be provided to balance. I keep hearing people talking about "balancing" or "redressing the imbalance". What is lacking? We have to ask the consumers, the viewers. I hear passionate appeal about the need for promoting independent local production industry and we do mean to look at this issue again and I think it will be a very worthwhile subject. I am having another roundtable discussion with all the licensees in the next few days and I am sure I will have a great opportunity to discuss with them how we may take that proposal forward. I hope something fruitful and productive will come out of it.

Stephen Ng: I have several factual comments and then general observation. First factual comment; I confirm Wharf Cable has a licence obligation to transmit three government channels as and when required by government. I know it only too well because it is part of our performance bond. It is one of our licence milestones. We have met all other milestones but the fact that government has not requested us to provide three channels for government use is one milestone that we are technically judged not yet to have fulfilled and we continue to pay the bank a fee for the performance bond; something that is entirely out of our control.

Secondly, I would like to make a factual correction. In absolute terms Wharf Cable produces the most number of hours of programmes in Hong Kong and probably more than TVB and ATV combined. Wharf Cable produces over 10,000 hours of local programmes ourselves, every year. Wharf Cable was also very active in promoting local independent production, especially in its early days of business when we had annual turnovers of less than HK$200m, compared to TVB's HK$2.5bn – 3bn. But, with that kind of revenue base we alone cannot stimulate an independent production industry to thrive. The money has to come from the entire industry and not just from the smallest of the three players. We would, indeed, be interested in contributing to the development of this local independent production industry but, again, the important thing is for the industry as a whole to support it.

My general observation is simple: we spent some time talking about whether a company's dominant or not; whether a company's engaged in anti-competitive behaviour or not. We can spend five more years debating that. The practicality is that there is one operator, the same operator for 30 years, with the same market share. Do we want to see the same in the next 30 years? The introduction of new licencees in the form of satellite and cable TV in the last 7 years has done nothing to change that. I have been running Wharf Cable since its inception. I take full responsibility if we are criticized for not knowing the TV business. The satellite broadcaster is owned and run by one of the best-known media personalities in the world and I don't think he has made much change to the imbalance in the viewership habits of Hong Kong. I'm not unprofessional and I don' t think he as well. So unless we want to address that problem, unless we recognize there is a problem, whether we define it as dominance, not dominance, competitive, not competitive, that's only definition. The truth is there is an imbalance.

Raymond Wong: If I may plagiarize from the Director of Broadcasting when she was interviewed at the release of the Consultation Paper: many does mean more and more does not mean better. Think about this before we all jump on the bandwagon because programming is a creative process. The viewer always has the final choice.

SESSION II

S.K. FUNG
PRESIDENT
CABLE AND SATELLITE BROADCASTERS ASSOCIATION OF ASIA (CASBAA)

What are some of the factors that are important in attracting media companies to set up in Hong Kong? I would say that among many, many things that cause people to come to Hong Kong, the first and foremost decision to locate is to look at the attractiveness of that place as a market. I think that revenue and profit and loss is still at the forefront of any decisionmaker's mind. I'd say that the attractiveness of Hong Kong as a market must play a very strong role in determining Hong Kong's success as a media hub for Asia. In terms of the attractiveness, if you want to translate it into practical terms, you would have to think of revenues and expenses. That is what makes up a market place. I would say that in terms of revenue for our TV broadcast there are primarily two major sources. One is subscription and the other advertising. I think that in these two dimensions Hong Kong has already attractiveness that it offers to media companies compared to many other places in Asia, especially compared to Singapore. Hong Kong is a bigger market compared to Singapore both in terms of households, TV homes as well as in terms of advertising. However, I think that Hong Kong still has some distance to go, in terms of revenue opportunities for media companies, to increase its attractiveness as a place for people to come. And along the lines of subscription revenue, I think we heard earlier that up to this point and probably for another year or so until some time in 1999 when the current legislation is changed, subscription revenue is really the monopoly of Wharf Cable. So you can say that subscription revenue from Hong Kong up to this moment is not an entirely freely competitive market. But I think that the new policies it recommends in the consultation paper will have some impact on subscription revenue as an opportunity for media companies for Hong Kong because it aims to increase flexibility as well as increase the level of competition in the pay TV market. So in that sense if you look at this particular factor and the attractiveness of Hong Kong as a market and in terms of the subscription revenue I would say that the new proposed policies probably are moving Hong Kong in the right direction by increasing its attractiveness as a revenue source.

In terms of advertising revenue I would say that again, both in terms of local advertising (meaning Hong Kong advertising; made in Hong Kong and aimed at Hong Kong audiences) and regional advertising which is advertising aimed at more than just the Hong Kong market, in terms of both local and regional Hong Kong is an important centre in Asia. I would say that probably Hong Kong has more local advertising in absolute dollars per television as well as regional dollars for advertising than Singapore. So, again, on the longest measure I would say that Hong Kong by nature of its environment is an attractive place for media companies to come. Here again, I think that if you look what still needs to be done to make Hong Kong more attractive, I believe that there are still things that need to be done, including efforts that probably will require the cooperation of industry and government. One of these areas in the advertising revenue front is the availability of data and of viewership measurement. Ultimately any advertiser would want to know after he spends the money, what he gets. And in television advertising its primarily viewers. You want viewers of a certain size, shape and demographics. And if you don't provide that kind of data, ultimately you are just selling hot air, wishes as opposed to selling real viewers with a certain characteristic. So in order to increase the attractiveness of Hong Kong as a marketplace for media companies to come and base operations, government and industry here have to do something to increase the attractiveness of Hong Kong as an advertising market. I think that right now in terms of viewership measurement Hong Kong is still lacking in complete openness in measurement of all television media. Right now the measurement system in Hong Kong for years is limited to measuring terrestrial broadcasters, the two Chinese channels; Jade and Home channel. So not only do they not measure the other channels and report on the viewership of them, they don't even make the data available beyond ATV and TVB. In a sense this is closed and proprietary data. To improve Hong Kong's position as an international media hub I believe something should be done that requires industry and government to increase the availability of viewership data. I hope it doesn't take the form of computing systems where ATV and TVB use one system and the other channels invent another system of viewership measurement. This would mean two currencies competing with each other. It is much better for the industry and for Hong Kong to have one common currency, one measurement system that everybody subscribes to and that has credibility. This is another area for government and industry to look at.

The second major factor that determines the attractiveness of a place, city or country as a media hub is that access to and influence on surrounding markets. The first one is the market itself: how attractive is Hong Kong as a market. The second factor: is Hong Kong a gateway to surrounding markets. Star TV would not be here if it were just Hong Kong that they can earn revenue from or get viewers. I think that the access to other markets in the surrounding countries is important, certainly including Greater China because there is cultural and language commonality between Hong Kong and China and Taiwan, and some other parts of Southeast Asia. To be able to provide access to these markets and the fact that Hong Kong is still an influence on these markets by being an opinion leader, by being a "fashion" leader, I think enhances Hong Kong's position as a media hub.

But there is still much to be done. This is an area that Government and industry can do more to increase and enhance further. I think that the access to China through Hong Kong is still very much a myth. I believe that this is an area where government can perhaps facilitate, and can help articulate more concretely. How can Hong Kong be an operating base for a business that provides facilitation or gateway into the Greater China and surrounding markets. If this is something that companies have to do on their own then there is little difference being based in Singapore or Korea or Thailand. Does Hong Kong offer true uniqueness? Some advantage for setting up shop here in terms of access and influence on surrounding markets? I believe this is something the government and industry have to work together to articulate more. Make it real as opposed to theory and a promise in the future.

The third area that is important to media companies when they look at where to set up shop, is human resources and creative talent. Now you've heard already in the session before how creative talent is important in our industry. That is because ultimately people don't watch channels, they watch programmes. And in programming the creative talent is very important. I think that along this dimension of human resource and creative talent for TV and broadcasting I believe Hong Kong probably tops all of Asia. I believe that there probably are, relative to Hong Kong's size, more creative talent than in Singapore or other parts of Asia. But again, I think that along this dimension when you measure policy initiatives and policy effectiveness, one has to ask the question: has government done enough to help create, train and promote these resources and talent?

The next factor are other infrastructures besides human resource and these include production facilities, post-production facilities, payback, uplink and downlink etc. Now these are things that are necessary. The hardware facilities that are necessary for media companies to set up operations in Hong Kong – besides hiring people to produce the programmes and run the business. I would say that in this area Hong Kong probably lacks a little bit behind Singapore. That is because the Hong Kong government seems to have put a lot of policy emphasis and attention on making uplinking and downlinking licenses available by fine-tuning the requirements of foreign ownership and other conditions. Now I work for an international media company besides CASBAA. CASBAA is a voluntary job. While I work for this other media company we looked at uplink and downlink requirements because we supply two channels to the rest of Asia. But uplinking and downlinking ourselves is probably the last thing on the agenda, simply because as one channel operator it is not worth our while to invest in an earth station. An earth station that shoots up the signal to the sky costs US$10m-20m. And for us, with two channels, to place the signal on four or five satellites do we build five earth stations? No. If you look at all the major players in the industry, except for Star TV that uplinks 17 or so channels out of Hong Kong, most of us operate one or two channels. CNN doesn't uplink itself. So getting an uplink/downlink license is not of great importance to most players. That seems to be where the government policy attention has been focussed in the past. Singapore seems to have taken the trouble to talk to us, the operators, to find out what we need. We do not need an uplink/downlink license, we need play back facilities, play back tapes, postproduction facilities.   We need an uplink and downlink service provider. Sometimes we don't like dealing with Hongkong Telecom or telecommunications monopolies; because they are monopolies and because their main business in telephony, not broadcasting. So I think that Singapore recognizes this by studying and talking to operators and they set up several facilities in Singapore to provide the infrastructure for production, post-production, playback, uplink and downlink. So that those of us that don't want to build an earth station or our own can go and sign a contract for service. We have an alternative to a telecom monopoly.

The next area of government policy is regulations. These are obviously factors that affect a business decision as to whether to locate in Hong Kong or elsewhere. I would say that the important thing in government policies and regulations is stability and transparency. The other is bureaucratic attitude and assistance. I believe that in the case of Singapore the government through its various units, whether it is the EDB, the SBA or other bodies that are really part of the government, works hard and proactively to seek out potentially interested parties and to talk to them and court them. Hong Kong has a policy of positive non-intervention which means that we have a positive attitude but we don't intervene. We let the marketplace work on its own.   Which is basically saying the government creates an environment and that's it. I think there is probably quite a bit of room between so-called positive non-intervention and proactive, aggressive stands to help would-be media companies what is available in Hong Kong.   I believe this difference in attitude and in providing assistance probably will be important in making Hong Kong a more attractive place as a media hub.

Finally I think that we should not forget that Hong Kong as a place to live is also an important factor in determining whether this is going to be a successful media hub or not. Because ultimately when companies look at where to locate their businesses, after assessing the business and market opportunities, then they assess the policies, regulations, stability and predictability. Hong Kong as attractive place or not to live is also very important.

ALLEN MA
CHIEF EXECUTIVE OFFICER
IMS LTD

I would like to approach the subject matter in three different ways covering multimedia and the convergence issues in telecommunications and entertainment; convergence of different platforms and transmission, content and more importantly IT. Second, I would like to cover the regulatory review announced last month and thirdly the important emergence of digital TV and how we should migrate to a digital TV standard which I believe will be the biggest single event in the broadcasting history of Hong Kong.

Firstly before I go into the multimedia and convergence, I would just like to correct a comment just made by SK Fung about the monopoly. SK mentioned the word monopoly twice; firstly about cable TV having a monopoly on the subscription revenue. Let me correct that as it is not true. Cable TV does not have a monopoly on subscription TV revenue. There are two companies that can charge subscription TV revenue today; one is Wharf Cable and the other is Hongkong Telecom IMS. The second reference to monopoly was with regard to Hongkong Telecom. Actually there is no remaining monopoly today. As we know all the monopolistic legacies have now been removed. In just a few months time all the different players in the telecommunications, media, entertainment industry are free to compete and free to cooperate.

I just touched on the pay TV subscription fee. As you recall, many years ago we had only got three TV channels. Then we got Star TV and four to five years ago we got cable TV. And earlier this year Hongkong Telecom IMS picked up the VOD license and became the world’s first commercial iTV operator operating on the broadband network that Hongkong Telecom has been investing in. We believe that with the advancement of technology the TV signals can now be transmitted through satellite, cable network as well as the ATM network. In addition to the simple broadcasting service a certain degree of interactivity and on-demand services have now become possible on our ITV platform. These two unique features have been used by Hongkong Telecom IMS as a unique selling point of our ITV services.

On our ITV platform I believe those of you who subscribe can now watch movies, listen to radio programmes, go shopping and banking and can enjoy surfing the net at super-high speed (1.5MB / second – about 30 times faster than conventional internet connection). More importantly ITV allows interactivity which means that content providers can now create very different forms of content to make use of this uniqueness. I personally believe that in addition to movies, home banking, shopping type of services that we have delivered there are many different ways of using this medium. It is open to the industry players to find different ways of using it to deliver new revenue. In summary, the TV set is no longer a traditional TV.

With so many platforms available and the convergence towards multimedia, the market is going to get very, very competitive. That is why I want to remove the word "monopoly". There is really no monopoly in the Hong Kong market. I also believe that no single players that have the power to dominate the market, whether it's a traditional player like TVB and ATV or cable TV, or a traditional telecom player like Hongkong Telecom, will be able to dominate the market. The consumers will have many more choices. The physical distance can be breached by invisible links. The terrestrial boundaries are actually being broken down and the idea of a global village is becoming a reality.

I think all of us in this room share the vision that the future of the media industry is promising on the proviso that if you are able to meet the challenges ahead and take a positive attitude and with some government assistance, the industry will grow very fast. Re the government the question is really whether it can provide the best environment to encourage more investment by the industry players with minimal regulations. I emphasize the word minimal. I don't think to ask government to regulate and to get itself involved in our industry is a clever suggestion. Also as a result of the multimedia convergence and breaking down of the terrestrial boundaries, the control cross-media ownership and foreign ownership is being questioned by the industry players. Personally I don't think there is any more need to control these two kinds of ownership. Recently the SAR government decision to centralize all the IT, telecommunications and broadcast-related regulatory bodies under the ITBB is, in fact, a very positive move to pave the way for Hong Kong to advance into the next millenium.

In the 1998 review of television policy just released, it's again an initiative of the SAR government to help develop the media industry in Hong Kong.   The review itself covers the infrastructure, the services, the regulatory and the licensing environment. I am sure earlier on Rita must have provided you with a comprehensive summary and I do not intend to repeat it. In short, it advocates to open up the TV market and also recognize the convergence of all the things I have just talked about.   Both of these two directions are welcomed by Hongkong Telecom as we believe an open market is always the best, not only for the industry but also for the consumer.

Now as far as the infrastructure is concerned, let me make a statement here on behalf of Hongkong Telecom. We are prepared to open up our own network for the transmission of broadband services, including television. We believe the same principal should also apply to other fixed network operators and cable TV operators. And in terms of building access there are currently a lot of difficulties encountered by operators. We believe that such barriers should be removed as soon as possible.

In terms of services it is always our position that the TV market – whether free TV or pay TV or VOD – should be opened up completely. Again, this is really to the benefit of the consumer and all the industry players.

Regulatory – in order to cope with the rapidly changing and developing technology the services should be categorized according to a technology and transmission regime to avoid frequent amendment of the regulations. In the past, particularly in telecommunications, all the industry players have suffered a lot because of the need to amend the telecommunications ordinance frequently and unfortunately all the amendments have never caught up with changes in technology. So I don't think we should repeat the same error. Our views have been reflected in the TV policy review.

Yet there are a number of issues in the document that deserve a more in-depth discussion. I would like to focus on one particular item in the proposal and this is to do with the item called other licensable TV programme services. The proposal in the review is that it will set up a new category. This category is defined as a kind of TV service to cover very small scale (a kind of niche) for localized TV applications and content provision, with very targetted, very specific viewer groups. The maximum type of audience as stated in the proposal is not to exceed 5,000 households per estate or 20,000 people living in the same producer group. It is meant to serve the small producer group like hotels or foreign nationals – minority communities. The TV policy review also proposes that any company providing such a TV service may not own services covering more than 15% of total households in Hong Kong which is equivalent to 285, 000 households. The proposal also states that should they wish to serve more than 15% they will need the approval of the Chief Executive and council.

Now when we first took a look at this we thought the condition would invite more competition but if you dig deeper into the proposal actually our conclusion is that it might just result in the opposite. If you look at the case of pay TV it demonstrates clearly the unfairness of this proposal. For instance, Wharf Cable TV, after operating for more than 5 years has a total customer base of 400,000 households. For us Hongkong Telecom, our ITV service has acquired about 100,000 applications since its launch 6 months ago. So the two pay TV services we have seen so far in five years, together we have only managed to acquire about a half-million customers. Compare this to the 285,000 stipulated in the proposal. To be very short that is not right. There are also stringent service levels specified in the license conditions for both Wharf Cable and Hongkong Telecom's VOD. Now with all these requirements we have to put a lot of performance bonds, service standards, a lot of specification about how we are going to build our network services and to serve our customers. Now this proposal will allow the so-called other licensable TV programme service license-holders to cherry-pick certain regions for service and the maximum number is equal to about half of the total existing customer base of both Wharf Cable and Hongkong Telecom IMS. That is statistically very interesting. According to our research, about 75% of the housing estates in Hong Kong have a population of less than 5,000 household so you can just relate the 75% to the power of cherry-picking by this special class of licence. So the holders of this new license can in fact serve almost any of the housing estates in Hong Kong and our concern is that it may encourage estate developers and management offices to provide their own TV programme services and in reality monopolize the access to buildings by, for example, funnelling their proprietary estate services into a kind of TV programme service. This will pose unfair competition for both the VOD service and the cable TV licensees.

We therefore propose that there should be further conditions added to this category of programme service licensees and we have already submitted our proposal to Rita's department. Our proposal is that there should be new conditions added to it. The objective is not to rule out competition but to encourage it and to facilitate fair and open market competition. The additional conditions should also help us safeguard consumers by ensuring proper accessibility to the various services and against any potential manipulation and abuses. The goal is to achieve a truly free market for all the players to protect consumer interest.

We have two recommendations. The first is to reduce the 15% limit to 5% of the total household. Mind you 5% of total households is already 100,000 households. We have also suggested that we should reduce the maximum size of the closed-user group from 5,000 to 2,000 households. We have also suggested that conditions should be added to ensure that anti-competitive safeguards and to make sure there will be no exclusivity deal in any new service bundling under this special category of TV programme licenses.

I want to move into the last topic of my discussion – digital TV. The TV policy review suggests to launch digital TV in maybe two or three years time and we, of course, welcome this suggestion and support both the technical trial inventory and the licensing and launch of the services. The objective has recently been reiterated by the Chief Executive in his policy address. There is a technical issue we need to resolve. This is to do with standards. We all know very well that around the world we have many different standards being adopted. The question is which standard should be adopted by Hong Kong? Our view is that Hong Kong is just too small to develop its own standard. Unfortunately today we haven't heard or seen any proposal from China. Being so close to the China market we believe Hong Kong should really look at what China will do in terms of choosing a standard for our digital TV launch.

We said that we haven't really got a standard in Hong Kong for terrestrial TV broadcasting in digital form, but if you look at the ITV platform that we launched about 7 months ago we are already delivering digital broadcasting and digital TV screens through the broadband network. To support the digital TV launch one item we should not overlook is to do with content. SK covered this slightly earlier on. This is really a big industry for Hong Kong. Unfortunately we haven't seen a lot of addresses being delivered by both industry players, the government or potential players in this market. I would like to spend a few minutes addressing this particular marketplace.

I think we all know that Hong Kong has an appetite for new things and Hong Kong has indeed been an ideal place for the Asia market. A lot of new products from Japan are tested in Hong Kong. Unfortunately if nothing is done to support the local content providers, we are afraid that the Hong Kong market may easily be destroyed by foreign players. The Chief Executive is determined to support local film production. We have seen a HK$100m proposal to support the local creativity and use of technology in the local film industry. However, the amount itself is quite trivial compared to the investment by overseas players and even compared to investment by a few local players, this amount is not going to dent the competition with overseas players. But any bigger amount of investment or assistance from the government is not going to help a lot. I believe the formula is really to look at the audience base. I think we should really expand the audience base to complement the government's objective. For example, how can we create content that has a much larger addressable market, expanding beyond the Hong Kong market. I am talking about markets, countries, cities that share a similar culture as Hong Kong where we can share production and cost of content. More importantly look at the way education will play a key role in helping cities like Hong Kong to regain a competitive edge, we believe that to produce content to support the education mission is very important.

I mentioned China which is a ready market for us to tap in to but there are still a number of issues to be resolved. Language is a minor one but the more important is to do with standards. We have already recommended to the government that the Hong Kong SAR government should start to lobby the China mainland government about the choice of standards and to facilitate the trial and eventual launch of a commercial digital TV broadcasting service. It is about time to start this process. To wait any longer is going to delay eventual launch of digital TV service in Hong Kong.

I mentioned fair and open competition which is a must for the development of the media industry in Hong Kong. The government's role is to ensure that there is a suitable environment for this kind of open competition. Also, if there are guidelines required to set the various kinds of standards for the industry to follow, it is better to set the them as soon as possible. The recent release of the consultation paper is a good beginning and I would encourage all the industry players to give their feedback and support to the government to set the framework and after that is there my proposal is that the government should leave us alone and we invest into areas in which we have our core competencies. Innovation is the key to put Hong Kong back to a high-economic growth curve and also need to invest.

The ultimate goal for our industry together is very simple; we want to serve the people of Hong Kong better and to bring benefits to Hong Kong. In other words on a day to day basis to enjoy a much better, high-level of entertainment and multimedia services. At the same time Hong Kong can benefit from the emergence of this multimedia business.

In summary, I think that the future of the media industry has an implication of more than just the industry itself and therefore it deserves the attention of the whole community. We need to encourage people from different walks of life to give us more feedback. A fair an open market principal is reflected in most of the parts of the television policy review except that more conditions are recommended for the category of “other licensable TV programme services” to safeguard fair competition among the different categories of TV services. In order to develop digital TV in Hong Kong we need to make sure we are going to give it the commitment and investment and use our innovative power to push for its launch and to develop a number of other associated industries to support the emergence of digital TV around the world. I think the Hong Kong economy is going to benefit greatly and of course liaison with the government should start now.

GARY DAVEY
CHIEF EXECUTIVE OFFICER
STAR TV

I think the first point I’d like to make is that whilst Hong Kong is very happily our home, it is not sadly a market and, even more sadly, never has been. I think a lot of people misunderstand that. Although we were fortunate to be granted an uplink license by the Hong Kong government, that gave us the right or ability to actually do very little in Hong Kong for Hong Kong. We’ve been doing a very great deal in Hong Kong for other parts of the region, however. We now employ in Hong Kong approximately 1,000 people. Nine hundred and twenty, I believe, are local Cantonese. We are now a net exporter of talent. I think the best anecdote is that there is now a 25 year old Cantonese woman who is in charge of digital operations at the world’s most successful satellite broadcast company, BskyB in London who carries the business card that says Digital Engineer. She was brought up and trained at Star TV in Hong Kong. She is a symbol of what is going on in our industry.

The Star TV facility in Hong Kong is state-of-the-art. The company uplinks to 5 different satellites, in total around 60 channels being uplinked to the various satellites. All of them in digital. Some of them now are also in analog but the vast majority are digital.

We have an investment in 26 channels: entertainment; movies; sports; news; and music. Operating 8 different languages. The vast majority in local languages. We had a deliberate strategy to localize our business very early in the process. We are proud to say that the bulk of our investment at Star TV has gone in to creating local content in each of the markets we serve. We are often asked why we haven't invested in Cantonese programming today. The reason is simple. Hong Kong, sadly, to date is not a market for us. We hope and now genuinely believe that that is about to change thanks to the broadcast policy review and we are going to maintain quite a lot of pressure on government to make sure that what we are able to provide to people of Hong Kong – which we know the people of Hong Kong want and need – is not stopped by silly regulation. Because the technology, the market demand and the ability to do it has been there for a very long time.

We have been offering state-of-the-art digital satellite TV systems in Bangladesh and Pakistan for two years. We have been unable to do it in Hong Kong which is something this community ought to be ashamed of . But in any event the future is clearly digital and when I hear about people talking about forming a committee to talk about this it's a bit like forming a committee to talk about the internal combustion engine. It is here, it's done, it's over. We are now digital. This is no longer a question of Is it going to happen. It's happened a long time ago.

Star TV's digital model is very similar to the model the company developed a long time ago in analog at BskyB. In 1988 we designed a system where we transmitted multiple television channels to a satellite, to a satellite dish, to a set-top box and by having the consumer talk to us over the traditional telephony we can then capture data about that customer, arrange billing and then enable the television set by transmitting enablement data to the set-top box which switches it on or off. All of that done without any incremental infrastructure; no digging up of roads or building new plant. There is also no use of public resources. The satellite frequencies are not public property they are privately owned commercial property that Star TV rents. It is commercially available and plentiful. To put that into perspective today there is enough Ku band capacity literally hitting this room right now to deliver 1,000 television channels.

What we are able to do with digital is really to blow away the old myth of the digital superhighway. The cable industry always used to love talking about a digital superhighway because they tried to convince everybody you needed a big path in to the home, a big path back out. You do need a big path in to the home, in fact you need a huge path in to the home but you only need a tiny trickle out. What the consumer needs to send back to us in order to tell us what he wants is just a few bits but we need to send back literally billions and billions of gigabits of data. And that is why the virtually unlimited capacity of satellites to us is a no-brainer solution to this telecommunications issue.

And the next step is very simple. People ask how satellites work with the internet. Well, in some respects they don't; in some respects they solve the big problem with the internet that we can deliver over satellite several hundred times faster than a traditional telephone line. But people will still use traditional telephone lines to use the internet just the way they do today. But by using satellites to augment it means we can take it many, many steps further. All of that is possible today. In fact we are doing exactly that today.

Navigation systems: the digital set-top boxes have lots of intelligence in them which allow us to present all of the multiple choice in a very manageable way. People sometimes get frightened by 200 channels of television. Nobody actually sits down and reads through a list of 200 channels. It doesn't work that way. The skill in our business is to manage and package that content in a manageable and understandable way and that's where navigation systems come in.

These systems enable us to have real-time services in addition to television with various categories of data. We see this as really an augmentation of our core business which is broadcast. This is added value.

To make these services available in Hong Kong we need to push through the regulatory changes that we have already been discussing. We are not looking for any special favours at all. We simply want an open, free market and let market forces decide. And secondly, one very important thing for Hong Kong is we must address the bottleneck of SMATV systems in this community. If we don't do that we are not going to be able to get multiple services into people's homes. And that, thankfully, has actually been very, very directly addressed in the policy review and we are very pleased to see that happen.

So that is a very broad overview of the kind of systems that we are developing and operating in a lot of territories already. We talk a lot about convergence. I've got fairly old-fashioned views about it. The pc will continue to evolve and start doing things that look like television. The television set will start to get smarter. But I think there are two things here: one is that the two devices will continue to live in different parts of the household; secondly, computing is a lean-forward technology and television is a lean-back technology. Technologies will be pulled into the home by television, not pushed by providers. The consumer won't support that.

JIM MEYERS
HUGHES DIRECTV

Being that we're not a service here in Hong Kong let me explain a little bit about DirecTV. This is the largest digital pay TV service. We have over 4.6m subscribers with our name on it and if count our Spanish service we are actually over 5m subscribers. In the US we have just reached 4m subscribers last month in less than four years. We have been growing at about 1m a year for the last four years. The service in the US is about 185 channels of video; 55 of those channels are video on demand. We are in 15 countries in Latin America with about 450,000 subs and in Japan, where we started earlier this year, we are approaching about 200,000 and are growing to about 130 channels next month. We have also started interactive services in Japan with enhanced video, sports-on-demand and soon we should be having gambling as well as home shopping on demand.

The new bill in Hong Kong really allows what we would call convergence of plain old telephone service, data and television. Is this enough though to make Hong Kong the centre of telecom and broadcasting in the region? The Chief Executive announced last week a HK$5bn promotion in the IT industries so that Hong Kong would become the centre for multimedia based information services and entertainment services. This is a step in the right direction. It still looks like a reaction to what Singapore has been very proactive with, with their approaches to investing in multimedia and in a telecommunications hub as well as investing in education and having an educated workforce.

Also the telecom laws eliminating the five-year monopoly of Wharf is an important step towards competition in Hong Kong. But again, what does this do for a regional sense? Hong Kong is a good market but the access to other markets is key. Star TV would not be here if Hong Kong was the only market. Hong Kong has to assert its relationship with China to be able to leverage that relationship compared to something that Singapore does not have. This is going to be crucial for Hong Kong's success to be a multimedia hub in the region. The choice of DTH in competing in Hong Kong's pay TV arena is an important one, because DTH is really a regional choice, a regional solution and can grow into other areas in the region. The opening up of the regional solution as Star TV has shown can further the opportunities for locally produced content as well as international content.

To conclude, Hong Kong must leverage this relationship with China really to be able to compete with Singapore and even Taiwan in the near future.

During the discussion period the following points were raised:

Participant: I would like to address the Direct To Home TV issue. When it was first introduced it was seen as the first ever occasion on which the cable companies in the States actually agreed on anything and that was to oppose digital TV to the home. Presumably because they saw it as a threat. I wonder how you now see the relationship between satellite, digital TV distribution as against terrestrial. I think one of the issues that always astonishes me is the amount of spectrum we use on terrestrial just to fill in bad spots which would make such a difference to mobile telephony to the whole world, if only it wasn't used for fill-ins. I wonder how you see today the way digital satellite TV has developed and the relationship with terrestrial.

Jim Meyers: The US is a much different market than most around the world. The FCC really promotes that DTH competes with cable. In many other markets such as the UK where BskyB is, it actually is a complimentary service per se. DTH is actually delivering much of the programming to many of the cable services, as we are seeing also in Japan. In the States though we are starting to cooperation with cable systems. DirecTV is now augmenting small cable services by adding however many channels they want from the DirecTV service. So the small service will provide local and localish channels (things from around the city or the state) and the national cable channels, pay per view will be provided by DirecTv. Again, the consumer doesn't care as long as they have one box, one controller.

Gary Davey: I think DirecTV, to be honest, caught the American cable industry by surprise. I think the American cable industry did not take DirecTV at all seriously in the beginning. And I think it's a credit to DirecTV that they have now got themselves established; they are not going to go away. They sit very comfortably alongside cable TV systems. But they've also been a stimulus to dramatically improve the cable industry's customer service, marketing.

Re spectrum, if you look at what is going on in technology now, to use all of this bandwidth to do things we can do on a tiny fraction of that bandwidth and free the existing bandwidth up for other functions, it's crazy not to do that aggressively. As long as ten years ago I remember being in London with BskyB and was shocked when I found that the ITC of all people had published an internal report suggesting that all the terrestrial broadcasters should be forced to go digital satellite in order to free up all the terrestrial frequencies. And I think that's inevitable. I wouldn't dare try to put a timeframe on it but if you look at the natural transition towards efficient use of resources it is a direction we really have to follow.

Participant: Section 10 of the consultation document talks about giving 4 KU manned channels (???) each of which would have between four and six channels on them. They seem to imply that these will be going out to tender in some way which means there could be up to four different satellite television suppliers.   But Star TV implied that it would get all four.

Gary Davey: At last count there were about 130 high powered KU band transponders commercially available if not immediately, then certainly by the end of next year, in the market.

Participant: Can you then explain the difference between that and section 10 in the consultation paper?

Gary Davey: the difference is that the four transponders being discussed in that document are in what's called the BSS frequency range. This is a particular part of the spectrum that is managed differently from the rest. It is given significant separation between the satellites in the orbital slot, which means it is very, very well protected and far less inclined to interference and problems with adjacent satellites. All that means is that it is a safer place to be. It doesn't mean that the other frequencies don't work.

Participant: could you now extend that because this means that the ones you're now talking about and the ones in the paper, if there could be four different operators and yourselves operating in these other channels, this means that if everybody's using a different conditional access standard or a different form of modulation it could mean a lot of set-top boxes. There doesn't seem to be any requirement in this that even the 4 KU band operators should use the same conditional access.

Gary Davey: we have not gone into this in detail yet but we are assuming that it is envisaged that the four transponders will be licensed to a single operator. You're right that the danger of separating them out to individual users is potentially a mess as it would require four different uplinks, four different companies, four different infrastructures, potentially four different boxes. I am sure that that is not what's envisaged. It's not spelled out but I'm sure they will be calling for bids from one operator.

Jim Meyers: if you end up with four different services, you will end up with four services that fail.

Gary Davey: conditional access standards is a contradiction in terms.

Participant: not if you can have one set-top box with a different card. It's still a macro standard for which you use your own card.

Gary Davey: Multicript is a single box with multiple slots for multiple cards so that operators can have different cards for different services. It is a wonderful theory which the engineers have yet to prove can be made to work.

Participant: I am aware there is a standard in Europe called DBB which provides a unified standard for DTH, terrestrial, microwave and cable. The point about standards is not about how many boxes you have in your home but rather the capability of providing future services, including home banking etc. This would facilitate a unified digital service to our homes. This is crucial. I think that technology neutrality is important. But the PCS licensing was technically neutral but most of the operators opted for the standard one or the prevailing standard because of commercial reasons. I think we should have a technology-neutral policy but let the operator choose a commercially viable standard. I think a unified standard is clever and useful one. Is Star TV's standard propietary.

Gary Davey: no. The whole industry in digital satellite broadcasting is operating to the DVB/MPEC standards. It must do otherwise the technology will not evolve. If we all went off in different standards we'd have the entire population of the universe trying to rewrite software. We are all working to those standards. I think what's confusing a little bit is there is still a debate going on in various countries about the standard for digital terrestrial which is yet to be resolved. And there are conflicting interests debating that now. It really doesn't matter because every community will adopt a standard and all of the operators in that community will naturally move to that standard. Where it gets complicated is in areas like conditional access systems. Because conditional access systems by their very nature, are proprietary. They are trying to protect the database and the actual revenue stream that we have invested to procure.

Participant: responded that Gary is absolutely right. The point I was trying to make is that Hong Kong being so small and being just next to China, can we operate our own terrestrial standard for digital TV with no reference to what China's going to do? I personally believe that in at least the southern part of China there is a strong case to have a standard digital terrestrial-broadcasting standard so that we can enjoy the programmes coming from China and vice versa. At the moment TVB and ATV benefit a lot from the cross-border broadcasting and advertising revenue.

Jim Meyers: at the moment the mess in Europe has nothing to do with the DVB standard because that is the standard in Europe; it really comes down to the proprietary conditional access in getting Multicript to work.