

## ***Audiovisual Services (18) - General FAQs and FAQs in relation to CEPA and its Supplements (up to 2006 Liberalization Measures)***

### **Television**

#### **1. How will the programme production professionals in the broadcasting industry benefit from CEPA?**

In the past, only few imported television productions and co-productions approved by the State Administration of Radio, Film and Television (SARFT) could be broadcast by the Mainland television stations during prime time (i.e. between 7 pm and 10 pm). Also, the number of episodes of a television co-production was capped at 30.

CEPA II and III relaxed some restrictions on scrutiny and broadcasting for the Mainland-Hong Kong TV co-productions. Under CEPA II, approved Mainland-Hong Kong co-produced television programmes may be broadcast and distributed in the same way as Mainland domestically-produced television programmes and will therefore be subject to fewer broadcasting restrictions. Under CEPA III, there will be no difference in the maximum number of episodes between Mainland-Hong Kong co-produced television programmes and Mainland domestically produced television programmes. At present, there is no cap on the maximum number of episodes for Mainland domestically produced television programmes.

In addition, according to the further liberalization measures under CEPA in 2006, SARFT will delegate to the provincial radio and television administration the authority of examining the finished tapes of Mainland television dramas produced by the production organizations under the provinces, autonomous regions or municipalities and participated by artistes or production crew from Hong Kong with effect from 1 January 2007. This measure would somewhat simplify the administrative procedures for Mainland production organizations, and provide more opportunities for Hong Kong artistes and production crew to participate in the production of Mainland television dramas. We are conferring with SARFT on details of the measure.

#### **2. Are approved Mainland-Hong Kong co-produced television**

**programmes subject to any restrictions in terms of the quantity and the time of broadcast in the Mainland?**

Approved Mainland-Hong Kong co-produced television programmes may now be broadcast and distributed in the same way as Mainland domestically-produced television programmes, and they are not subject to any restrictions in terms of the quantity and the time of broadcast in the Mainland. Individual Mainland television stations have the discretion as to the broadcast of these co-produced television programmes based on the market demand and conditions.

**3. To qualify as Mainland-Hong Kong co-produced television programmes, is there any restriction on the percentage of principal creative personnel?**

The requirements for television programmes to be qualified as Mainland-Hong Kong co-produced television programmes remain unchanged. One-third of the principal creative personnel (i.e. screenwriters, producers, directors, cinematographers and leading actors and actresses) should come from the Mainland.

**4. Which is the authority to approve television programmes co-produced by Hong Kong and the Mainland?**

The SARFT is the approving authority.

**5. How will the cable television operator in Hong Kong benefit from CEPA?**

Currently, all the design and engineering works of cable television networks in the Mainland must be carried out by licensed Mainland operators. Under CEPA II, approved Hong Kong cable operators may now provide professional technical services related to the operation of cable television networks in Guangdong Province on a pilot basis.

**Film**

**6. How will CEPA benefit Hong Kong cinema operators?**

Under CEPA II, a Hong Kong company is permitted to establish a wholly-owned company to construct or renovate one cinema theatre for film screening business. The required minimum capital is RMB ¥10,000,000.

CEPA III has relaxed the restriction. Under CEPA III, a Hong Kong company is permitted to establish a wholly-owned company to construct or renovate more than one cinema theatre for film screening business at more than one location. The required minimum capital remains RMB ¥10,000,000.

- 7. Is a company which is wholly-owned by a Hong Kong Service Supplier (HKSS) and established in the Mainland with the approval of relevant Mainland authorities (i.e. SARFT and the Ministry of Commerce) permitted to distribute Hong Kong films in the Mainland?**

Companies established in the Mainland which are wholly-owned by Hong Kong companies, are permitted, on a pilot basis, to distribute Mainland motion pictures (including Hong Kong-Mainland co-produced films), but not Hong Kong films.

- 8. Film distribution service is an area of the business of my company. Can my company establish a wholly self-owned company in the Mainland to distribute films?**

Under CEPA II, upon approval of relevant Mainland authorities (i.e. SARFT and the Ministry of Commerce), Hong Kong companies engaged in film distribution service (not necessarily as its principal business) are permitted, on a pilot basis, to establish a wholly-owned company in the Mainland to distribute Mainland motion pictures, including Hong Kong-Mainland co-produced films.

- 9. Can a Hong Kong company establish a joint-venture film distribution company in the Mainland?**

Hong Kong companies are permitted to establish wholly-owned companies in the Mainland to distribute films. They can also choose to set up joint-venture companies, with majority ownership, in the Mainland to distribute films with the approval of relevant Mainland authorities (i.e. SARFT and the Ministry of Commerce).

- 10. Does the exemption from quota restriction for HK films mean that HK film companies will be able to enter the Mainland market on a ‘profit-sharing’ basis?**

The import of HK films into the Mainland will be exempted from quota restriction. Whether or not Hong Kong films can be distributed on a profit sharing basis is a commercial agreement between the HK film company and the Mainland distributor.

- 11. In relation to the “Chinese language motion pictures produced in Hong Kong”, how is the definition of “major film personnel category” derived? What is the aim?**

The “major film personnel category” includes the major positions of film personnel involved in the production of a film. The list of positions was arrived at after consulting the Hong Kong film industry. We believe this provision would benefit the Hong Kong industry in general and Hong Kong film workers in particular.

- 12. What is the rationale for introducing the provision on the ownership of the copyright of a film in the definition of “Chinese language motion pictures produced in Hong Kong”?**

By introducing the provision on the ownership of the copyright of a film in the definition of “Chinese language motion pictures produced in Hong Kong”, CEPA ensures that Hong Kong film companies will benefit and foreign investment will be attracted in the production of Hong Kong films.

CEPA III reduces the percentage of ownership by the Hong Kong film company concerned from more than 75% to more than 50%.

- 13. In relation to the Chinese language motion pictures produced in Hong Kong, it is required under CEPA III that the production company in Hong Kong shall own more than 50% of the copyright of the motion pictures concerned. Please explain in what way the requirement can be fulfilled.**

“More than 50% of the copyright of the motion pictures concerned” means that the production company in Hong Kong, as the leading producer, must contribute more than 50% of the budget invested in the film concerned.

- 14. What is the benefit of the provision that allows the distribution of Hong Kong-Mainland co-produced films in the Mainland which are dubbed in languages of other Chinese ethnicities or dialects based on the standard of Putonghua?**

China is a large country. In addition to Putonghua, people in different parts of the Mainland use languages of other Chinese ethnicities or dialects in their daily business. If jointly produced films are permitted to be dubbed in such languages and dialects for distribution in the Mainland, this would allow a greater penetration of these films in the Mainland market.

- 15. CEPA III allows the Cantonese version of Hong Kong films and Hong Kong-Mainland co-produced films to be distributed and screened in Guangdong with the approval of the relevant Mainland authority. What are the benefits for the Hong Kong film industry?**

Prior to CEPA III, a filmmaker has to dub his films originally produced in Cantonese in Putonghua for the purpose of censorship by the relevant Mainland authority. Under CEPA III, a filmmaker no longer needs to prepare a Putonghua version of films for the purpose of censorship by the relevant Mainland authority if they are originally produced in Cantonese. This saves filmmakers costs and time. The screening of films of Cantonese version also preserves the original flavour of such films and offers the audience one more choice.

- 16. In relation to the Chinese language motion pictures produced in Hong Kong, it is required that the production companies concerned shall be “set up or established in accordance with the relevant laws of the Hong Kong Special Administrative Region”. Please explain the meaning of “set up or established in accordance with the relevant laws of the Hong Kong Special Administrative Region”.**

The requirement of “production companies set up or established in accordance with the relevant laws of the Hong Kong Special Administrative Region” will be met if the production companies fall within the definition of “Hong Kong Service Supplier” in Annex 5 of CEPA.

- 17. Do I need to apply for a Certificate of Hong Kong Service Supplier (HKSS) for each individual Chinese language motion**

**picture produced in Hong Kong?**

Yes, each application covers one Chinese language motion picture only. In preparing the application form for a Certificate of HKSS, the applicant should fill in both its name and the title(s) of the Chinese language motion picture of which it intends to apply for preferential treatment under CEPA. If the applicant is granted the Certificate of HKSS, both its name and the title(s) of the Chinese language motion picture will be printed in full on the Certificate.

If the applicant has already obtained from the TID a valid Certificate of HKSS covering a Chinese language motion picture, its application for the subsequent Chinese language motion pictures can be streamlined by being exempted from certain general supporting documents. For details, please visit Trade and Industry Department's internet homepage at <http://www.tid.gov.hk> and refer to the updated version of Notice to Service Supplier issued by the TID or contact the Hong Kong Service Supplier Certification Section of the TID.

**18. A motion picture may have different titles for different markets. How should I fill in the application form for a Certificate of HKSS?**

To enjoy the preferential treatment under CEPA, the title of the motion picture appears on the application form for a Certificate of HKSS should be identical to the title to be used by the applicant for distribution in the Mainland. The relevant supporting documents (i.e. copies of the Certificate of Royalty/Certificate of Copyright Ownership and the contract showing the budget share) should also show the same title.

If the motion picture concerned has more than one title and the applicant intends to display these multiple titles in its Certificate of HKSS, the applicant may provide all titles in its application form, including the one to be used for distribution in the Mainland, in the format “(title A)”, also known as “(title B)”, “(title C)...”. The applicant should ensure that all titles submitted in the application form are covered in the relevant supporting documents.