

**Consultation Paper on
Reduction of Licence Fee for Fixed Carrier Licences
(Other Than Fixed Carrier (Restricted) Licences)
Which Permit the Provision of External Services Only**

17 April 2003

Introduction

Under section 7(2) of the Telecommunications Ordinance (Cap.106) (the “Ordinance”), the Secretary for Commerce, Industry and Technology (“the Secretary”) may by regulations prescribe the general conditions and fees payable for a carrier licence other than an exclusive licence. Before making a regulation under section 7(2) of the Ordinance, the Secretary is required under section 7(3) of the Ordinance to, by notice in the gazette, consult members of the public who are interested in the matter.

2. On 10 January 2001, after having followed the necessary consultation process, the Secretary made the Telecommunications (Carrier Licences) Regulation (the “CR”) (Cap.106V), which provides for, inter alia, the fees payable for fixed carrier licences other than the fixed carrier (restricted) licences (hereafter referred as “fixed carrier licences”). The CR has commenced operation from 1 April 2001.

3. The Secretary now proposes to reduce the annual fee payable for fixed carrier licences which permit external services only from HK\$1,000,000 to HK\$500,000. The Secretary intends to make an amendment regulation to achieve this reduction.

4. As mentioned in paragraph 1, the Secretary is required under section 7(3) of the Ordinance to consult members of the public who are interested before making the amendment regulation. This consultation aims to explain the Secretary’s proposal and seeks views from members of the public.

The Proposal

5. Under the CR, the existing licence fee payable on the issue and on the anniversary of the issue of a fixed carrier licence in each year while the licence remains in force is provided in Part 1 of Schedule 3 to the CR (see Annex A). On the anniversary of the issue of the licence, a fixed carrier licensee has to pay, inter alia, a fee of \$1,000,000 (see item 1 of Annex A).

6. The Government started to liberalise the market for operating external facilities using cables and satellites in early 2000. Since the commencement of CR in April 2001, the Telecommunications Authority issues fixed carrier licences to these operators. After the initial period of liberalisation, the administration of these licences which permit external services only has been substantially simplified. The Secretary therefore considers it appropriate to reduce the licence fee for fixed carrier licences which scope of service as set out in each individual licence is limited to external services. “External services” are defined in section 2 of the Telecommunications Ordinance as telecommunications service between (a) Hong Kong and one or more places outside Hong Kong; or (b) two or more places outside Hong Kong where the services are routed through Hong Kong.¹

7. The Secretary proposes to reduce the annual fixed fee for those fixed carrier licences which permit external services only from \$1 million to \$500,000 (see item 1 of Annex A). Other components of the licence fee for the fixed carrier licence shall remain unchanged.

Implementation

8. In accordance with section 7(3) of the Ordinance, the Secretary will consider the representations made by members of the public. After consideration of the comments received, the Secretary will proceed to amend the CR under section 7(2) of the Ordinance. The aim is to reduce the licence fee as soon as possible upon the amendment of the CR.

9. Some licensees who obtained their licences before the

¹ For the avoidance of doubt, any fixed telecommunications facilities or services connecting the customers in the Hong Kong SAR to the Point of Presence, and the supply of backhauls to other fixed carrier or FTNS licensees for external facilities fall within the scope of services of licensees with authorization to provide local fixed telecommunications network services.

commencement of CR are holding the fixed telecommunications network service (FTNS) licence issued under the Telecommunications Regulations. These licences are no longer issued, and will be gradually replaced by the fixed carrier licences upon expiration or when individual licensees choose to convert the licences. In order that these licensees who are permitted to operate external services only may benefit from the proposed reduction in licence fee, OFTA would advise and assist them in converting their licences to new fixed carrier licences either upon licence renewal or at any time as they see fit.

10. Under this proposal, there shall be no retrospective effect or transitional arrangements. If the licensee holds a fixed carrier licence, the new annual licence fee shall apply on the next anniversary of the issue of the licence. The licence fee which has been paid under the existing licence on the issue of the licence, on any previous anniversary of the issue or on any renewal shall not be refundable.

Invitation of Comments

11. The Secretary would welcome comments on the proposal set out in this consultation paper. All submissions should be made in writing and should reach the Commerce, Industry and Technology Bureau on or before 9 May 2003. The Secretary reserves the right to publish any views and comments and reveal the identity of each submission. Any part of the submission which is considered commercially confidential should be marked. The Secretary would take such markings into account in making his decision as to whether to disclose such information or not. Submissions should be sent to:

By post : Information Technology and Broadcasting Branch
Commerce, Industry and Technology Bureau
2/F, Murray Building
Garden Road
Hong Kong
(Attn: Senior Executive Officer, Mr Tony Wong)

Commerce, Industry and Technology Bureau
17 April 2003

**Fees Payable for Fixed Carrier Licences
Other Than Fixed Carrier (Restricted) Licences**

- (1) A fee of \$1,000,000 shall be payable on the issue of a fixed carrier licence (excluding a fixed carrier (restricted) licence) and, in each year while the licence remains in force, on the anniversary of the issue of the licence.*
- (2) A fee of \$700 shall be payable on each anniversary of the issue or the renewal of a fixed carrier licence (excluding a fixed carrier (restricted) licence) for each 100 customer connections, made by telecommunications line or radiocommunications means, to the network established and maintained under the licence.*
- (3) Subject to section 4, a fee for the management of radio frequency assigned shall be payable on the issue and on each anniversary of the issue of the fixed carrier licence concerned (excluding a fixed carrier (restricted) licence) and calculated as follows---*
 - (a) where the radio frequency is assigned exclusively to the licensee---*
 - (i) \$50 for every 1 kHz or part thereof of frequency then assigned below 1 GHz;*
 - (ii) $\$(50-4F)$ for every 1 kHz or part thereof of frequency then assigned within 1 GHz to 10.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;*
 - (iii) $\$(20-F)$ for every 1 kHz or part thereof of frequency then assigned within 11 GHz to 18.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;*
 - (iv) \$1 for every 1 kHz or part thereof of frequency then assigned at or above 19 GHz;*

(b) where any part of the radio frequency is assigned to the licensee on a non-exclusive or shared basis, the fee calculated in accordance with the formula set out in paragraph (a) shall be proportionally reduced by a reduction factor---

(i) equal to the number of users authorized or reserved by the Authority to use that particular part of the radio frequency;

(ii) determined on the date on which the fee is payable.

(4) No fee is payable under section 3 for the management of radio frequency within any of the following frequency bands---

6.765 --- 6.795 MHz

13.553 --- 13.567 MHz

26.957 --- 27.283 MHz

40.66 --- 40.7 MHz

2400 --- 2500 MHz

5.725 --- 5.875 GHz

24.0 --- 24.25 GHz

61 --- 61.5 GHz

122 --- 123 GHz

244 --- 246 GHz