

Consultation Paper on Reduction of Licence Fee for the Carrier Licences

Introduction

Under section 7(2)(b) 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, following the necessary consultation process, the Secretary made the Telecommunications (Carrier Licences) Regulation (the “CR”)(Cap.106V). The CR provides for, inter alia, the fees payable for fixed carrier licences and mobile carrier licences and has commenced operation from 1 April 2001.

3. The Secretary now proposes to make an amendment regulation to revise the fees payable for the mobile carrier licences other than the mobile carrier (restricted) licences (hereafter referred as “mobile carrier licences”) and the fees payable for the fixed carrier licences other than the fixed carrier (restricted) licences (hereafter referred as “fixed carrier licences”). This consultation paper explains the Secretary’s proposal and seeks views from members of the public.

The Proposal

4. Under the CR, the licence fees payable for fixed carrier licences and mobile carrier licences on the issue and on the anniversary of the issue of fixed carrier licences and mobile carrier licences in each year while the licences remain in force are provided in Part 1 and Part 3 of Schedule 3 to the CR (see Annex A and Annex B).

5. For fixed carrier licences which permit the provision of external services only, the fee payable on the issue and on the anniversary of the issue while the licence remains in force is \$500,000 (see item (1) of Annex A). Since the administration of fixed carrier licences which permit external services only has been substantially

simplified after the initial period of liberalisation since April 2001, the Secretary proposes to reduce the fee payable for these licences on the issue and on the anniversary of the issue from \$500,000 to \$200,000. Other components of the fees payable for fixed carrier licences shall remain unchanged.

6. For mobile carrier licences, the annual fees are composed of, inter alia, fees for “mobile stations used by customers of the service” (see items 1(d) and 1(e) of Annex B). Currently, this is \$4,800 for the first 200 mobile stations and \$2,400 for every additional 100 mobile stations or less, which is broadly equivalent to \$24 per mobile station. Over the past three years, the number of mobile phone subscribers (including activated prepaid SIM cards) has increased from 4,943,574 in December 2000 to 6,218,684 in October 2003 (annual growth rates ranging from 6.2% to 8.8%). Details are shown as follows: -

	Subscriber Units ¹ (Including activated prepaid SIM)	% Growth year-on-year
Dec 2000	4,943,574	-
Dec 2001	5,251,798	6.2%
Dec 2002	5,713,774	8.8%
Oct 2003	6,218,684	8.8%

Notwithstanding the above, according to the latest estimation from OFTA, the annual growth rate of the activated SIM card plus accounts which are used to calculate the licence fee is 3.5% only for the year 2003/04. With the increasing number of mobile stations, the licence administration costs per mobile station has decreased. The Secretary therefore proposes to reduce the level of fees for items 1(d) and 1(e) in Annex B to \$4,000 and \$2,000 respectively. This is equivalent to a reduction from \$24 to \$20 per mobile station per year. The other items in Annex B shall remain unchanged.

7. The Secretary proposes to implement these reductions with effect from 1 May 2004, subject to the enactment of the amended Regulations.

Implementation

8. In accordance with section 7(3) of the Ordinance, the Secretary will

¹ Source: “Key statistics for telecommunications in Hong Kong” as published in OFTA web-site.

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.

9. Apart from the licence fee payable by the mobile carrier licensees in accordance with the CR, the following licence fees are also payable by telecommunications operators on the same basis of “mobile stations used by customers of the services”:

- (a) the licence fee payable under the public radiocommunications service (PRS) licences² issued for the operation of public mobile radiotelephone services (PMRS), personal communications services (PCS), trunked radio services, radiolocation services, mobile data services, and paging services – this fee is set by the Chief Executive in Council under the Telecommunications Regulations; and
- (b) the licence fee payable under the public non-exclusive telecommunications service (PNETS) licences issued for the operation of mobile virtual network services – this fee is set by the Telecommunications Authority (TA) under section 7(6) of the Ordinance.

The Government intends to reduce these two licence fees to the same level and at the same time. Apart from the mobile operators, trunked radio operators, radiolocation service operators, mobile data service operators, paging companies, and mobile virtual network operators will also benefit from the fee reduction.

10. Fixed telecommunications network service (FTNS) licences are no longer issued and are gradually replaced by fixed carrier licences upon expiration or when individual licensees choose to convert the licences. Only a few fixed network operators are still holding FTNS licences for external services³. In order that these licensees can benefit from the proposed fee reduction for fixed carrier licences, 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.

² The six mobile operators operating the second generation (2G) mobile services, trunked radio operators, radiolocation service operators, mobile data service operator and paging operators are currently holding PRS licences.

³ There are six external FTNS licences up to end November 2003 and they would be converted to fixed carrier licences by April 2004 if the licensees agree to do so.

Invitation for Comments

11. The Secretary would welcome comments on the proposal set out in the consultation paper. All submissions should be made in writing and should reach the Commerce, Industry and Technology Bureau on or before 30 January 2004. 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 : Commerce, Industry and Technology Bureau
c/o Office of the Telecommunications Authority
29/F, Wu Chung House
213 Queen's Road East
Wan Chai, Hong Kong
(Attn: Accounting Officer I(A), Mr. Thomas Lo)

By fax : 2803 5111

By e-mail: tpllo@ofta.gov.hk

Commerce, Industry and Technology Bureau
9 January 2004

**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. If the licence permits the provision of external services only, the fee is \$500,000.
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. If the licence permits the provision of external services only, no such fee is payable.
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

Annex B

FEE PAYABLE FOR MOBILE CARRIER LICENCES OTHER THAN MOBILE CARRIER (RESTRICTED) LICENCES

1. The annual fee payable on the issue and on the anniversary of the issue of a mobile carrier licence (excluding a mobile carrier (restricted) licence) in each year while the licence remains in force shall be the sum of-

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|---|-------------------------|
| (a) for the 1st to the 50th base station installed for the service | \$1000 per base station |
| (b) for the 51st to the 100th base station installed for the service | \$500 per base station |
| (c) for the 101st base station installed for the service and any additional base stations | \$100 per base station |
| (d) for the 1st 200 mobile stations or less used by customers of the service | \$4800 |
| (e) for every additional 100 mobile stations or less used by customers of the service | \$2400 |
| (f) for every 1 kHz of frequency assigned to the licensee | \$50 |

2. For the purpose of determining the fees payable under section 1, the number of stations and the width of the frequency assigned shall be those authorized or in service at the time when the mobile carrier licence concerned is issued or on the anniversary of the issue.