

For discussion  
on 17 November 2000

**Legislative Council**  
**Information Technology and Broadcasting Panel**

**Implementation of the Carrier Licence**  
**under the Telecommunications Ordinance as amended by the**  
**Telecommunication (Amendment) Ordinance 2000**

**Purpose**

This paper briefs Members on –

- (i) our proposal to introduce a new type of licence known as “carrier licence” under the new licensing regime in the Telecommunications Ordinance as amended by the Telecommunication (Amendment) Ordinance 2000 (the amended Telecommunications Ordinance) ; and
- (ii) the outcome of the public consultation on our proposal.

**Background**

2. The Telecommunication (Amendment) Ordinance 2000 provides for a new licensing regime categorised broadly into four types of licences, namely, exclusive licence, carrier licence, class licence and licences that fall outside the former three categories.

3. In respect of the carrier licence, the Secretary for Information Technology and Broadcasting (the Secretary) is empowered under section 7(2) of the amended Telecommunications Ordinance to make regulations to prescribe the general conditions, including the period of validity and the licence fees payable. Before making a regulation under section 7(2), the Secretary is required under section 7(3) to, by notice in the Gazette, invite members of the public who are interested to make representations.

4. On 8 September 2000, the Secretary issued a consultation paper (Consultation Paper) pursuant to section 7(3). The Consultation Paper contained the Government's proposal on the implementation of the carrier licence and elaborated on the types of services which would be covered by it. The general conditions which were proposed to be incorporated into a carrier licence, the proposed periods of validity and fees for various types of carrier licences were also set out.

5. The consultation ended on 8 October 2000. We have received a total of 13 submissions from the telecommunications and broadcasting industry. The Consultation Paper as well as all of the submissions have been published on the web sites of the Information Technology and Broadcasting Bureau (ITBB) at <http://www.info.gov.hk/itbb/> and the Office of the Telecommunications Authority (OFTA) at <http://www.ofta.gov.hk>.

6. Our proposal receives general support from the industry that would allow us to enhance and finalise our proposal with a view to introducing the subsidiary legislation on the carrier licence to the Legislative Council as soon as possible. A summary of the views received and detailed response of the Secretary is at Appendix 1.

### **The Proposal on the new Carrier Licence**

7. One main purpose of the Telecommunications (Amendment) Ordinance 2000 is to streamline the licensing procedures to cope with the rapid development of the telecommunications industry. We also intend to license the third generation (3G) mobile services under the new carrier licence regime with a validity period of 15 years (see details in paragraph 23). It is therefore crucial for us to finalise our proposed licensing framework for the new carrier licence, and introduce the subsidiary legislation to the Legislative Council in time to tie in with the 3G licensing exercise.

8. The carrier licence, as defined in section 2 of the amended Telecommunications Ordinance, will encompass a number of telecommunications licences in existence. They include:

- ◆ Fixed Telecommunications Network Services (FTNS) licence for local and external facilities-based telecommunications services
- ◆ Public Radiocommunications Service (PRS) licence for personal communications services (PCS)
- ◆ PRS licence for public mobile radiotelephone services (PMRS)
- ◆ PRS licence for services other than land mobile services
- ◆ Licence issued for the operation of satellite space stations
- ◆ Satellite television uplink and downlink licence
- ◆ Commercial television broadcasting licence and subscription television broadcasting licence issued under the repealed Television Ordinance<sup>1</sup>.

9. Our proposal is to group the licensing and regulation of telecommunications transmission facilities under the carrier licence system. The facilities to be regulated would involve substantial investment and provide, or have the potential to provide, services to a wide sector of the public. We set out in paragraphs 10 to 31 below the details of our proposals, a gist of the views received from the consultation exercise and our response on –

- (a) the scope and categorisation of carrier licence;
- (b) the general conditions of carrier licence;
- (c) the fee structures;
- (d) the period of validity; and
- (e) the implementation with regard to existing licences.

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<sup>1</sup> The Television Ordinance was repealed by the Broadcasting Ordinance. Under the Broadcasting Ordinance, the commercial television broadcasting licence and subscription television broadcasting licence are deemed to be both a licence granted under the Broadcasting Ordinance and a licence granted under the amended Telecommunications Ordinance.

## **A. Scope and Categorisation of Carrier Licence**

10. We propose to divide the carrier licence system into the following types –

- (a) ‘carrier (fixed) licence’;
- (b) ‘carrier (mobile) licence’; and
- (c) ‘carrier (space stations) licence’.

11. The scope of services for each of the carrier licences above will be specified in the individual licences as determined by the Telecommunications Authority (the Authority). Appendix 2 sets out the proposed scope of services for licences that correspond to the existing telecommunications or broadcasting licences. The Authority will review from time to time the scopes of services for carrier licences in the light of the development in the telecommunications market.

12. The three types of carrier licence will have the same general conditions, but the validity periods and fees payable are different. Upon the issue of the licences, the Authority will attach the special conditions that are appropriate to the particular type of licence.

13. The views received from the consultation generally support the categories and the scopes of services proposed. We would like to add that to support the implementation of the new licensing regime, the Authority will issue guidelines on the application for licences (including licensing criteria) pursuant to section 6D(2)(a) of the amended Telecommunications Ordinance. This will ensure equity and transparency to all operators, new or incumbent, local or multinational.

## **B. General Conditions of Carrier Licence**

14. As a general principle to ensure a level playing field, the Secretary considers that the existing operators of a certain kind of network and the new operators of the same kind of network to be licensed under the new licensing regime should operate under similar obligations and rights. We therefore propose that the general licence conditions of

the carrier (fixed), carrier (mobile) and carrier (space stations) licences should be similar to those of the respective licences under the existing licensing regime, with the exception that those redundant conditions are deleted and the necessary textual amendments are made. To ensure consistency, we also propose that the various types of carrier licence should all possess the same set of general conditions.

15. Pursuant to the principles stated above, the Secretary has reviewed all the general conditions of the existing FTNS, PRS and satellite space station licences with a view to identifying those conditions which are generally applicable to all types of carrier licence. In respect of those general conditions which are relevant only to the individual existing licences, they will become special conditions in the corresponding types of carrier licence provided that it is within the power conferred on the Authority under the amended Telecommunications Ordinance to impose such special conditions. In case the special conditions of individual existing licences duplicate the general conditions in the carrier licence, the special conditions will be removed.

16. The Telecommunication (Amendment) Ordinance 2000 has incorporated some of the general conditions in the existing licences into the amended Telecommunications Ordinance. The relevant provisions include those relating to the inspection and testing of installations (section 7J), anti-competitive conduct (section 7K), abuse of position (section 7L), requirement to furnish information (section 7I), inspection of records, documents and accounts (section 35A), and provision, use and sharing of facilities (section 36AA). We therefore propose not to repeat the same provisions in the carrier licences to avoid duplication.

17. The Secretary published in the Consultation Paper the proposed general conditions applicable to all types of carrier licence as attached in Appendix 3.

18. Respondents supported the proposed approach of standardising the general conditions for all types of carrier licences. One submission notably favoured our proposal to exclude from the licence conditions provisions already included in the amended Telecommunications Ordinance.

19. With regard to the comments on the appropriateness on the individual general conditions, a few submissions commented on the proposed General Condition (GC) 13A on Transmission Plan which requires a licensee to use a transmission plan approved by the Authority. They opined that the proposed condition is too restrictive and may impose administrative burden on the licensees. We are of the view that the proposed condition is by no means a new condition. The Authority has put a similar condition in many existing licences so as to ensure a harmonised environment for the operation of various radio and telecommunications systems with different transmission medium. Nevertheless, we agree that GC 13A, as it is currently written, may be too broad. The details of such condition may need to be tailored for different categories of carrier licences. The Secretary therefore takes on board the views expressed and considers that it is more appropriate for the Authority to put this condition as a special condition in the carrier licence.

### **C. Fee Structures**

20. The Secretary proposes that the fee structures for the carrier (fixed), carrier (mobile) and carrier (space stations) licences would be of the same or comparable level as those for the respective licences, if exist, under the existing regime. The fee structures for the entire carrier licence regime are shown in Appendix 4. It is our policy that the licence fee should recover the cost incurred by the Authority in granting the licence and regulating the licensed activities. The Secretary will monitor the fee structures and review the structures as appropriate.

21. The major view contained in the submissions received is that the fees payable under the new licensing regime should not exceed those they are currently paying. Operators can be assured that the Authority will not recover more than the cost it incurs. There were suggestions to review and reform the fee structure or fee formula with a view to reducing the current fees. The current levels and structures of fee are the result of regular reviews to cover the cost of OFTA. OFTA has frozen its fees since 1990 and reduced the licence fees for mobile stations

by 60% in 1999 and 2000 to the current level of \$30 per mobile station. We therefore conclude that we should maintain our proposal as explained in paragraph 20 above.

#### **D. Period of Validity**

22. Except for the carrier (mobile) licences as elaborated in paragraph 23 below, the Secretary does not propose to make any changes to the validity periods currently applicable to the existing licences (including the broadcasting licences) at the present stage. Any new carrier licence issued will therefore carry the same period of validity as the corresponding type of existing licence it replaces.

23. In the light of the rapid development of the mobile services market, the Secretary has reviewed the adequacy of the length of validity period for the carrier (mobile) licences. As licences for the 3G mobile services would fall under the category of carrier (mobile) licence, it is necessary to ensure that the validity period for carrier (mobile) licences would be sufficient for operators to recoup their substantial investment. The Secretary therefore proposes a validity period of 15 years from the day on which it is granted. In comparison, the validity period of the existing licences for mobile services is 10 years.

24. The respective validity period of each type of carrier licence is set out in Appendix 5.

25. Upon the implementation of the carrier licensing regime, there may be occasions where a carrier licence is issued other than as a completely new licence (e.g., pursuant to a surrender arrangement or upon renewal of the existing licence), the period of validity for these kinds of carrier licences will be subject to different arrangements set out in paragraphs 28 – 30 below.

26. The proposed extension of the validity period of the carrier (mobile) licence to 15 years had been commented upon most. All supported our proposal, with two suggestions to extend it further to 20 years. A submission suggested to extend the carrier (space stations) licence to 25 years.

27. The issue concerning the validity period of 3G licences has been considered thoroughly when formulating the licensing framework for 3G mobile services, having regard also to overseas experience. Taking into account the local market conditions, the Secretary takes the view that 15 years should be most appropriate for Hong Kong. As for the carrier (space stations) licence, the Secretary considers that the typical life of a satellite is 15 years and the current licence period of 20 years should be sufficient for the operators to recoup their investment.

#### **E. Implementation with Regard to Existing Licences**

28. Upon the implementation of the carrier licence framework, the Authority will not issue any new FTNS, PRS or satellite space station licences in the existing format. Instead, various types of carrier licence will be issued thereafter. The existing licences will however remain in full force until expiry. Section 7O of the amended Telecommunications Ordinance provides that the existing licences should, for the unexpired period of validity it has left to run and subject to the same conditions to which it was subject before the commencement of the new licensing regime, be deemed to be a licence granted under the amended Telecommunications Ordinance and the provisions of the amended Telecommunications Ordinance shall apply accordingly. Where an existing licence allows for renewal on its expiry for a stated period of validity, then, upon grant of such renewal, the Authority will issue a corresponding type of carrier licence for the renewal period under the new carrier licence regime.

29. For better administration of licences, the Authority considers that it may be worthwhile to allow the existing FTNS, PRS and satellite space station licensees to apply to the Authority for the corresponding new carrier licences, despite that section 7O of the amended Telecommunications Ordinance already provides for transitional arrangements. However, the validity period of the new carrier licences will remain the same as the remaining validity period of the existing licences. The new annual licence fee will also be payable on the same dates as the fee is due under the existing licence. Nevertheless, the



decision whether to grant such application will rest with the Authority after taking into account factors like the remaining validity period of the existing licences and the requirements of the amended Telecommunications Ordinance.

30. For existing television broadcasting licensees who operate their own transmission facilities, they may surrender their licences in exchange for an appropriate “television programme service” licence under the Broadcasting Ordinance and a carrier (fixed) licence the scope of which is restricted to using fixed telecommunications networks to transmit television programmes of their own or of third parties under the amended Telecommunications Ordinance. The existing rights and obligations in an existing licence will be carried forward in the respective licences unless they are in conflict with the provisions in the Broadcasting Ordinance or the amended Telecommunications Ordinance, as the case may be. The validity period of the new licences will be the unexpired portion of the validity period of the old licence. The licence fees payable are as set out in Appendix 4. It is up to individual licensees to decide whether to surrender their existing licences in this manner. Alternatively, existing operators may wish to take the opportunity to expand their carriage capacity and scope of services. They may apply for a fully-fledged carrier (fixed) licence and be subject to any relevant licensing requirements.

31. Some respondents welcomed the proposal to give the existing licensees the choice to convert their existing licences. They also noted that in conversion, the validity period of the carrier licence would be equivalent to the remaining period of the existing licence. This understanding is important in view of the extended validity period of the carrier (mobile) licence compared to its existing equivalent licences. As explained in paragraph 13 above, the Authority would issue guidelines for licence applications. This would include licence applications by existing licensees who apply to convert to the equivalent category of carrier licence.

## **Way Forward**

32. Having considered the comments received, we are of the view that the proposals put forward in the Consultation Paper are appropriate for the implementation of the new carrier licensing regime. We intend to table the relevant regulation under section 7(2) of the amended Telecommunications Ordinance by the end of 2000 to tie in with the licensing of 3G mobile services.

**Information Technology and Broadcasting Bureau  
November 2000**

(English Only)

Appendix I

**Implementation of the Carrier Licence  
under the Telecommunications Ordinance as amended by the  
Telecommunication (Amendment) Ordinance 2000**

**A DETAILED SUMMARY OF THE VIEWS RECEIVED  
AND THE ADMINISTRATION'S RESPONSE TO THOSE VIEWS**

This Appendix sets out a summary of the comments from the 13 submissions received as well as the Administration's response, in relation to the consultation paper on our proposal on the implementation of the carrier licence. Sections (A) to (E) below cover the key issues relating to the carrier licence regime. Section (F) covers other views received from this consultation exercise although they are not directly related to the carrier licence regime.

**A. Scope and Categorisation of Carrier Licence**

*Summary of Proposals*

To facilitate administration of the carrier licences, the Secretary proposes to divide the carrier licence into three types, namely carrier (fixed) licence, carrier (mobile) licence, and carrier (space stations) licence.

*Comments Received*

2. Respondents to the consultation generally supported the categorisation of carrier licence into the three proposed types, covering the provision of the telecommunications services and the establishment and operation of transmission facilities. One operator proposed that a fourth type should be created to cover only the establishment and operation of transmission facilities by the licensee to other carriers.

3. Some respondents commented on the precise scopes of the various types of carrier licences, especially those relating to transmission of television broadcasting signals. For example, one view put forward was that a subscription television licensee who does not operate transmission facilities and only rents networks from licensed carriers for its service delivery should not be required to obtain a carrier licence. There were also views on whether the existing FTNS operators and holders of a fully-fledged version of carrier (fixed) licences or carrier (mobile) licences may transmit subscription television service.

*Views of the Secretary*

4. On the suggestion to create a fourth type of carrier licence, the Secretary considers that the proposed carrier (fixed) licence will allow licensees to provide transmission facilities to other carriers, so long as the licensees operate within the scope of the individual licences granted, as is the case for the existing FTNS licence. Hence, the Secretary does not see the need to create a new type of licence to cater for carrier-to-carrier services. We will of course review the scope and categorisation of the carrier licences in future having regard to the evolving development of the telecommunications market.

5. On the precise scopes of the various types of carrier licences, a carrier licence would be required only if a subscription television licensee operates its own network to transmit television signals. On the other hand, the existing FTNS operators and holders of a fully-fledged version of carrier (fixed) licences or carrier (mobile) licences which are allowed to transmit telecommunications signals are also allowed to transmit broadcasting signals.

6. The Authority will issue guidelines on the application for licences (including licensing criteria and practical matters relating to the scope of service) pursuant to section 6D(2)(a) of the amended Telecommunications Ordinance. This will ensure equity and transparency to all operators, new or incumbent, local or multinational.

## **B. General Conditions of Carrier Licence**

### *Summary of Proposals*

7. The Secretary proposes that the general conditions of carrier (fixed), carrier (mobile) and carrier (space stations) licences should be similar to those of the respective licences under the existing licensing regime. To ensure consistency, the various types of carrier licence should all possess the same set of licence conditions. In respect of those general conditions which are only relevant to the individual existing licences, they will become special conditions in the corresponding types of carrier licence.

### *Comments Received*

8. Generally, respondents raised no objection to the approach of standardising the general conditions for all types of carrier licences. Comments were given as to the wording or appropriateness of individual general conditions. Some more substantial ones include a view that the proposed GC 7, which requires a licensee to keep its customers' information confidential, was redundant in that the Personal Data (Privacy) Ordinance had already provided for protection of personal data. A mobile network operator commented that it was not appropriate to impose on the operator an obligation to ensure that its customers did not cause harmful interference to lawful telecommunications services under the proposed GC 9.2. It also opined that it was impracticable to require a licensee to obtain prior approval from the Authority before making any change to radiocommunications installation under GC 12.5 and to guard telecommunications or radiocommunications installation that crossed above or might fall to be blown onto any overhead power wire or power apparatus under GC 12.6. Another operator queried the reason of introducing GC 15 on prohibition of claims against the Government, which was not a condition in the existing satellite space station licence. The same operator commented that GC 6, which requires licensees to prepare customer charters, is not appropriate for satellite space station operators who did not provide end-to-end service. Some respondents commented that GC 13A, which requires the licensees to use a transmission plan (including the cable channelling plan and radio

frequency plan) approved by the Authority, was a new condition, was restrictive and might impose administrative burden on the licensees. A satellite operator commented that such condition was not appropriate for a satellite station since most of the transmissions originate outside of Hong Kong.

9. There were also views that the special conditions should be standardised.

#### *Views of the Secretary*

10. The proposed GCs are invariably licensing conditions in existing licences whether they are general conditions or special conditions. They have been proven to be effective and useful for the regulation of the telecommunications industry and its healthy development. The Secretary considers that as the proposed GCs are appropriate and applicable to all carrier licences, they should be contained as general conditions for the carrier licences. Licensing conditions which are not applicable to all types of carrier licences, should be stipulated as special conditions. The Authority is empowered under section 7A of the amended Telecommunications Ordinance to include them as special conditions for the corresponding types of carrier licence if he considers fit, having regard to the characteristics of individual carrier licences. It may not be appropriate to standardise all the special conditions which may not be applicable to all carrier licences. The Authority will maintain transparency by publishing the licenses which he has issued in OFTA's web site, including the special conditions, which is in fact the prevailing practice.

11. Responding to the comments on individual general conditions, the Secretary considers that GC 7 is necessary to enable the Authority to protect the interests of consumers. It is very clear that the Personal Data (Privacy) Ordinance applies to both the licensees and OFTA and provides safeguard for personal privacy. The Authority owes a separate and specific duty to protect customer information in the hands of telecommunications operators. Stipulating GC 7 as a licence condition ensures that the Authority will be able to enforce the licence obligation.

12. One important duty of the Authority is to monitor the operation of licensees to ensure that telecommunications apparatus do not cause harmful interference. It is therefore necessary to retain GC 9.2. The point is taken that mobile network operators may not have control over the apparatus used by their customers, but their extent of obligation is only limited to taking reasonable measures, which will not be, and has not been onerous. For the same reason, it is necessary to retain GC 12.5 to ensure that no harmful interference would be caused by changes to radiocommunications installation and GC 12.6 to ensure that the installation that crosses above any overhead power wire or power apparatus does not pose any danger. Although GC 15 on prohibition of claims against the Government is not a condition in the existing satellite space station licences, it has been included in other existing licences. Given the nature of the condition, it should be applicable to all carrier licensees irrespective of the types of networks and services. As for GC 6, it is applicable to satellite space station operators as well since they may also provide end-to-end services under their licences.

13. GC 13A on transmission plan is not a new licence condition. The Authority has put a similar condition in many existing licences so as to ensure a harmonised environment for the operation of various radio and telecommunications systems with different transmission medium. Nevertheless, the Secretary agrees that GC 13A, as it is currently written, may be too broad. The details of such condition may need to be tailored for different categories of carrier licences. The Secretary therefore takes on board the views expressed and considers that it is more appropriate for the Authority to put this condition as a special condition in the carrier licence.

## **C. Fee Structures**

### *Summary of Proposals*

14. The Secretary proposes that the fee structures for the carrier (fixed), carrier (mobile) and carrier (space stations) licences to be stipulated in the carrier licence regulations in this exercise would be of the same or comparable level as those for the respective licences, if exist,

under the existing regime. The Authority will monitor the fee structures and review them as appropriate.

### *Comments Received*

15. The major view received is that the fee payable under the new licensing regime should not exceed those they are currently paying. There were suggestions to review and reform the fee structures or fee formula, with a view to reducing the current fees. In respect of mobile network, one operator raised objections to using the number of base stations and mobile stations as the basis of calculations for the fees for the carrier (mobile) licence, and proposed to use the frequency spectrum assigned as the basis.

### *Views of the Secretary*

16. The Secretary assures operators that the Authority will not recover more than the cost it incurs. This is the basic policy for setting OFTA's fees.

17. Both the formula and levels of fees OFTA is adopting are the result of regular and detailed reviews to ensure that the fees would adequately recover the cost incurred by the Authority. OFTA has frozen its fees since 1990 and reduced the licence fees for mobile stations by 60% in 1999 and 2000, to the current fee level of \$30 per mobile station. The Secretary therefore concludes that our proposal should be maintained.

## **D. Period of Validity**

### *Summary of Proposals*

18. Except for the carrier (mobile) licence, the Secretary proposes that the validity periods currently applicable to the existing licences shall apply to the corresponding types of carrier licences. For the carrier (mobile) licence, the period of validity is extended to 15 years.



### *Comments Received*

19. There was no objection to the proposed period of validity for the carrier (fixed) licence. As for proposed extension of the validity period for carrier (mobile) licence, the proposal that attracted most comments, all was supported by except two mobile operators who suggested to extend it to 20 years. They emphasised the substantial investment of the 3G mobile operators. For carrier (space stations) licence, a satellite space station operator opined that the term should be increased to 25 years.

### *Views of the Secretary*

20. The issue concerning the validity period of 3G licences has been considered thoroughly when formulating the licensing framework for 3G mobile services, having regard also to overseas experience. Taking into account the local market conditions, the Secretary takes the view that 15 years should be most appropriate for Hong Kong. As for the carrier (space stations) licence, the Secretary considers that the typical life of a satellite is 15 years and the current licence period of 20 years should be sufficient for the operators to recoup their investment.

## **E. Implementation with regard to existing licences**

### *Summary of proposals*

21. The existing licences will remain in full force until expiry pursuant to section 7O of the amended Telecommunications Ordinance.

22. The Secretary proposes to allow the existing FTNS, PRS and satellite space station licensees to apply to the Authority for the corresponding new carrier licences. The validity period of these new carrier licences will be the same as the remaining validity period of the existing licences. The new annual licence fees will be payable on the same dates as the fee is due under the existing licence.

23. The existing television broadcasting licensees who operate their own transmission facilities may surrender their licences in exchange for

an appropriate “television programme service” licence under the Broadcasting Ordinance and a carrier (fixed) licence whose scope of service is restricted to using fixed telecommunications networks to transmit television programmes of their own or of third parties under the amended Telecommunications Ordinance. The validity period of the new licences will be the unexpired portion of the validity period of the old licences. The new licence fee is payable. Existing television broadcasting operators may also expand their carriage capacity and scope of services by applying for a fully-fledged carrier (fixed) licence.

### *Comments Received*

24. Some respondents welcomed the proposal to give the existing licensees the choice to convert their licences, and requested that clear guidelines on the procedure for conversion should be given by the Authority. One operator however preferred that all existing licensees be automatically granted the corresponding carrier licences. On the proposal to grant a fully-fledged carrier (fixed) licence to an existing television broadcasting licensee, two respondents were concerned about the circumstances under which the fully-fledged licence would be granted, and whether this might have any implications on the moratorium policy.

### *Views of the Secretary*

25. As mentioned in paragraph 6 above, the Authority is required by section 6D(2)(a) to issue guidelines indicating the manner in which he proposes to perform his function of determining applications for licences, including the licensing criteria. The Authority will spell out the details on the procedure for conversion of the existing licences into carrier licences.

26. On the conversion of licences, the Secretary notes the majority views in favour of the choice given to existing licensees to apply for the new carrier licence. Some of them also noted that in conversion, the validity period of the carrier licence would be equivalent to the remaining period of the existing licence. This understanding is important in view of the extended validity period of the carrier (mobile) licence compared to its existing equivalent licences.

27. Where a broadcaster plans to expand its business to provide transmission facilities and applies for a fully-fledged carrier (fixed) licence, its application will be treated on par with new application and be subject to the relevant policy considerations on the issue of licences, including the moratorium policy on the issue of further local fixed network licences until 1 January 2003.

## **F. Other Comments Received on Consultation**

28. Some respondents also expressed views on other aspects which are not related to the proposals on the implementation of the carrier licence regime. For the sake of completeness, the Secretary would like to address these issues briefly.

### *Charging Principles for Interconnection*

29. Two mobile operators took the opportunity to point out that as they would be granted carrier licence status, the interconnection charging principles that have been in place between fixed and mobile networks should be reviewed. This means that the carrier-to-carrier charging principles should also apply to interconnection between fixed and mobile networks to ensure that the originating operator pays the terminating operator for interconnection charges.

30. The charging principles that the mobile carriers should pay the interconnecting charge to enable delivery of the service to the customers (irrespective of whether the calls are originating calls terminating on mobile networks or terminating calls originating from mobile networks) are fully addressed in the Authority's Revised Statement No 7 on 'Carrier-to-Carrier Charging Principles' issued on 18 November 1997. The statement was the result of thorough consultation with the industry. Review of the charging principles in this respect would be made by the Authority in appropriate time having regard to the change of market conditions and the comments received in this consultation exercise.

### *Pre-paid Subscriber Identification Module (SIM) Cards Counted as Mobile Stations*

31. In the Consultation Paper, the Secretary denotes that for the licence fee of the carrier (mobile) networks, “mobile stations” may include pre-paid SIM cards. This clarification has met with objections from mobile operators, stating that the change would result in the substantial increase on the licence fee.

32. The number of ‘mobile stations’ has been the basis for a licence fee receivable by OFTA. Traditionally, the Authority has taken the number of PRS accounts subscribed by customers as a measure of the number of mobile stations. However, the Authority notes that in the recent change in the operation of mobile market, customers now buy pre-paid SIM cards and use them with mobile handsets directly procured from the market, without the need to open PRS accounts. This is different from the past market practice whereby the use of pre-paid SIM cards is possible only with the opening of PRS accounts. This puts to challenge the conventional way OFTA measures the number of ‘mobile stations’ for the purpose of collecting its licence fees. Given the significant number of pre-paid SIM cards being used nowadays (over 770,000 as at July 2000), the Authority would like to update the measure for mobile stations in the calculation of licence fees and hence the clarification in the Consultation Paper.

33. In view of the comments received, the Authority considers that the issue should be discussed in greater details in a separate consultation exercise. This will however not affect the regulations for charging fees based on ‘mobile stations’.

### *Sound Broadcasting*

34. A sound broadcaster also responded to the consultation and gave its views on the applicability of the proposed carrier licence regime to sound broadcasting. As explained in the Consultation Paper (paragraph 11 and note 3), a review will be conducted later this year on whether the separate regulatory regimes for ‘carriage’ and ‘provision’ of broadcasting service under the technology-neutral Broadcasting Ordinance should be

extended to sound broadcasting. The Secretary welcomes the comments and would take them into account when she conducts review of the sound broadcasting regulatory regimes.

**Implementation of the Carrier Licence  
under the Telecommunications Ordinance as amended by the  
Telecommunication (Amendment) Ordinance 2000**

**SCOPE OF CARRIER LICENCE**

**Table 1: Carrier (fixed) licence**

<b>Corresponding existing licence and means of providing the service</b>	<b>Service under existing licence</b>	<b>Scope of carrier licence</b>
Wireline-based FTNS	Services for telecommunications between network termination points (fixed points) (a) within HKSAR (internal telecommunications services) (b) between one or more points in HKSAR and one or more points outside HKSAR, and between two or more points outside HKSAR but routed in transit via HKSAR (external telecommunications services)	No change
Local wireless FTNS	Internal telecommunications services between fixed points	No change
Satellite-based external FTNS	External telecommunications services between fixed points by means of satellite	No change
Submarine cable-based external FTNS	External telecommunications services between fixed points by means of submarine cable and satellite	No change

<b>Corresponding existing licence and means of providing the service</b>	<b>Service under existing licence</b>	<b>Scope of carrier licence</b>
Overland cable-based external FTNS	External telecommunications services between fixed points by means of overland cable and satellite	No change
FTNS over the hybrid fibre coaxial cable network of Hong Kong Cable Television Limited	Local telecommunications services between fixed points	Other than the services already permitted under the existing licence, the licensee is also allowed to transmit subscription television signals upon the enactment of the Broadcasting Ordinance

<b>Corresponding existing licence and means of providing the service</b>	<b>Service under existing licence</b>	<b>Scope of carrier licence</b>
Renewed subscription television broadcasting licence	<p>The establishment, maintenance and operation of a cable network and of a network using multi-point microwave distribution system (MMDS) for distributing</p> <ul style="list-style-type: none"> <li>(a) domestic pay television programme services licensed under the Broadcasting Ordinance</li> <li>(b) teletext signals</li> <li>(c) subcarrier information ancillary to the domestic pay television signals of domestic pay television service</li> <li>(d) non-programme associated information over the vertical blanking interval (VBI) of the television signals</li> <li>(e) any test or experimental transmissions</li> <li>(f) station identification signal</li> </ul> <p>The establishment and maintenance of associated telecommunications apparatus and services incidental to the operation of a broadcasting service</p>	The same as existing licence



<b>Corresponding existing licence and means of providing the service</b>	<b>Service under existing licence</b>	<b>Scope of carrier licence</b>
Satellite television uplink and downlink licence	<p>The establishment, maintenance and operation of</p> <p>(a) a radiocommunications station to transmit television and associated sound and data signals to those satellites for the distribution of the licensee's services licensed under the Broadcasting Ordinance</p> <p>(b) a radiocommunications station to receive television and associated sound and data signals containing such programming and other material as the licensee may require for its services</p> <p>(c) such microwave stations to transmit television and associated sound and data signals between any points in Hong Kong and to the uplink station for the purpose of providing the services</p> <p>The offer or provision of services or facilities to transmit or receive television and associated sound and data signals for others as approved by the Authority.</p>	The same as existing licence

<b>Corresponding existing licence and means of providing the service</b>	<b>Service under existing licence</b>	<b>Scope of carrier licence</b>
Commercial Television Broadcasting Licence	<p>The establishment, maintenance and operation of radiocommunications stations for transmitting</p> <p>(a) the domestic free television programme service of the licensee</p> <p>(b) subcarrier information ancillary to the domestic free television signals of domestic free television service licence</p> <p>(c) non-programme associated information over the VBI of the television signals</p> <p>(d) test signals or experimental transmissions</p> <p>(e) station identification signal</p> <p>The establishment and maintenance of such associated telecommunications apparatus and services incidental to the operation of a broadcasting service</p>	The same as existing licence, except that the licensee may also be allowed to transmit or receive television and associated sound and data signals for others

***Table 2: Carrier (mobile) licence***

<b>Corresponding existing licence and means of providing the service</b>	<b>Service under existing licence</b>	<b>Scope of carrier licence</b>
Personal Communications Services (PCS)	Public mobile radiocommunications service using the cellular communication technology within the 1.7-1.9 GHz band to enable a customer to conduct both way communications between the mobile station	No change

Corresponding existing licence and means of providing the service	Service under existing licence	Scope of carrier licence
	<p>of the customers and any apparatus, station or service connected to any public telecommunications networks in HKSAR</p> <p>Establishment of direct radiocommunications circuits between the mobile stations of customers of the service with the base stations on the full-duplex channels within the 1.7-1.9 GHz band</p> <p>Exclusion of any direct radiocommunications between a station in HKSAR and a station outside HKSAR</p> <p>Provision for the carriage of telephonic and non-telephonic messages</p> <p>Voice and facsimile mailbox service enabling any member of the public to deposit voice or facsimile messages into the electronic mailboxes allocated to customers of the service through a public telecommunications service licensed under the amended Telecommunications Ordinance for subsequent retrieval by customers</p> <p>Dealing in and demonstration with a view to sale in the course of trade or business such apparatus or material for radiocommunications as may be necessary to supply customers of the service</p>	
Public Mobile Radiotelephone	Same as above for PCS except that the 800/900 MHz band is used instead of the	No change

Corresponding existing licence and means of providing the service	Service under existing licence	Scope of carrier licence
Services (PMRS)	1.7-1.9 GHz band	
Public radiocommunication service (for services other than land mobile services)	<p>Public radiocommunications service including:</p> <p>(a) maritime mobile service, which means a mobile radiocommunications service between the coast stations operated by the licensee in the territory of HKSAR and customers' ship stations (regardless of whether the ship stations are within HKSAR waters or outside the territory of the HKSAR), or between customers' ship station (regardless of whether the ship stations are within HKSAR waters or outside the territory of HKSAR) routed in transit via the coast stations operated by the licensee in the territory of HKSAR</p> <p>(b) maritime mobile-satellite service, which means a mobile radiocommunications service via satellite between the coast earth stations operated by the licensee in the territory of HKSAR and customers' ship earth stations (regardless of whether the ship earth stations are within HKSAR waters or outside the territory of HKSAR), or between customers' ship earth stations (regardless of whether the ship earth stations are within HKSAR waters or outside the territory of HKSAR) routed in transit via the coast earth stations operated by the licensee in the territory of HKSAR</p> <p>(c) aeronautical mobile service, which means a mobile radiocommunications</p>	No change

Corresponding existing licence and means of providing the service	Service under existing licence	Scope of carrier licence
	<p>service between the aeronautical stations operated by the licensee in the territory of HKSAR and customers' aircraft stations (regardless of whether the aircraft stations are located within the territory of HKSAR or outside the territory of HKSAR), or between customers' aircraft stations (regardless of whether the aircraft stations are located within the territory of HKSAR or outside the territory of HKSAR) routed in transit via the aeronautical stations operated by the licensee in the territory of HKSAR.</p> <p>(d) aeronautical mobile-satellite service, which means a mobile radiocommunications service via satellite between the aeronautical earth stations operated by the licensee in the territory of HKSAR and customers' aircraft earth stations (regardless of whether the aircraft earth stations are located within the territory of HKSAR or outside the territory of the HKSAR), or between customers' aircraft earth stations (regardless of whether the aircraft earth stations are located within the territory of HKSAR or outside the territory of HKSAR) routed in transit via the aeronautical earth stations operated by the licensee in the territory of HKSAR</p> <p>(e) Land mobile-satellite service, which means a mobile radiocommunications service via satellite between the gateway</p>	

Corresponding existing licence and means of providing the service	Service under existing licence	Scope of carrier licence
	<p>earth stations operated by the licensee in the territory of HKSAR and customers' land mobile earth stations (regardless of whether the land mobile earth stations are located within the territory of HKSAR or outside the territory of HKSAR), or between customers' land mobile earth stations (regardless whether the land mobile earth stations are located within the territory of HKSAR or outside the territory of HKSAR) routed in transit via the gateway earth stations operated by the licensee in the territory of HKSAR</p> <p>The operation of coast stations, coast earth stations, aeronautical stations, aeronautical earth stations and gateway earth stations for the maritime mobile service, maritime mobile-satellite service, aeronautical mobile service, aeronautical mobile-satellite service and land mobile-satellite service respectively</p> <p>Exclusion of the operation of any mobile station or space station for the services</p> <p>Availability of access from and provision of access to any public telecommunications services lawfully operated in the HKSAR</p> <p>Provision of the carriage of telephonic and non-telephonic messages</p>	

**Table 3: Carrier (space stations) licence**

<b>Corresponding existing licence and means of providing the service</b>	<b>Service under existing licence</b>	<b>Scope of carrier licence</b>
Licence issued for the operation of satellite space stations	<p>The establishment, maintenance, possession, use and operation of radiocommunications stations as follows:</p> <ul style="list-style-type: none"> <li>(a) earth stations for telemetry, tracking and control of space objects</li> <li>(b) earth stations for monitoring space objects</li> <li>(c) space stations on board the satellite for radiocommunications</li> <li>(d) space stations on board the satellite for telemetry, tracking and control of space objects</li> </ul>	<p>Other than the services already permitted by the existing licence, the licensee is also allowed to sell or lease the transmission capacities associated with the space stations on board the satellite for radiocommunications</p>

(English Only)

Appendix 3

**Implementation of the Carrier Licence  
under the Telecommunications Ordinance as amended by the  
Telecommunication (Amendment) Ordinance 2000**

**GENERAL CONDITIONS**

**TELECOMMUNICATIONS ORDINANCE  
(Chapter 106)**

**CARRIER ( ) LICENCE<sup>2</sup>**

DATE OF ISSUE:

.....

of

.....

(the “Licensee”) is licensed, subject to the following conditions set out in this licence -

- (a) to provide a public telecommunications service (the “Service”), the scope of which is described in Schedule 1;
- (b) to establish and maintain a telecommunications network (the “Network”) described in Schedule 2 to provide the Service;

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<sup>2</sup> This is a form of carrier licence generally applicable to all carrier licences, which are currently classified as carrier (fixed) licence, carrier (mobile) licence and carrier (space stations) licence.



- (c) to possess and use the radiocommunications installations described in Schedule 3 to provide the Service; and
- (d) to deal in, import and demonstrate, with a view to sale in the course of trade or business, such apparatus or material for radiocommunications as may be necessary to supply customers of the Service.

## GENERAL CONDITIONS<sup>3</sup>

- | <b>1. DEFINITIONS AND INTERPRETATION</b>  | <i>FTNS</i>  | <i>PRS(PCS)</i> | <i>Satellite</i> |
|---|--------------|-----------------|------------------|
| 1.1. In this licence, except as hereinafter provided or unless the context otherwise requires, words or expressions shall have the meanings assigned to them in the Telecommunications Ordinance (the “Ordinance”) and, as the case may be, the Interpretation and General Clauses Ordinance (Cap. 1). For the purposes of interpreting this Licence, headings and titles shall be disregarded. |              |                 | 2                |
| 1.2. This licence shall not be construed as granting an exclusive right to the Licensee to provide the Service.   | <i>GC 1</i>  | <i>GC 1</i>     |                  |
| 1.3. This licence replaces any licence or any exemption from licensing, however described, which the Authority may have granted to the Licensee for providing the Service.  | <i>GC 2</i>  | <i>GC 2</i>     |                  |
| 1.4. The grant of this licence does not authorize the Licensee to do anything which infringes any exclusive licence granted under the Ordinance or any exclusive right to operate and provide telecommunications networks, systems, installations or services granted under any other ordinances.   | <i>GC 3)</i> |                 | 7                |

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<sup>3</sup> In the margin of each General Condition, there is marked, where applicable, the corresponding condition (general or otherwise) of the FTNS, PRS(PCS) and satellite space stations licences.

## 2. TRANSFER

The Licensee may only with the prior written consent of the Authority and subject to such reasonable conditions as the Authority thinks fit transfer this licence or any permission, right or benefit under this licence. In giving his consent the Authority will have regard to such matters as he thinks fit including but not limited to the effect which the transfer will have on market structure and the financial and technical competence and viability of the transferee.

*GC 4*      *GC*      *13*  
*5(1)(2)*

## 3. INTERNATIONAL CONVENTIONS

*GC 6*      *GC 4,*      *9*  
*SC 6*

3.1. The Licensee shall at all times perform and observe the requirements of the Constitution and Convention of the International Telecommunication Union and the regulations and recommendations annexed to it, as are stated to be applicable to Hong Kong, and any other international convention, agreement, protocol, understanding or the like to the extent that the instruments described in this General Condition 3.1 impose obligations on Hong Kong of which the Authority gives notice to the Licensee, except to the extent that the Authority may in writing exempt the Licensee from such compliance.

- 3.2. Where the Government has been consulted about or is involved in the preparation or negotiation of an international convention, agreement, protocol or understanding or the like or amendments thereto which are on the subject-matter of telecommunications or which relate to another subject-matter but which the Government anticipates could have a material impact on the provision of the Service under this licence, the Government will, where practicable, provide the Licensee with a reasonable opportunity to make a submission stating its views on the matter.

#### **4. COMPLIANCE GENERALLY**

The Licensee shall comply with the Ordinance, Regulations made under the Ordinance, licence conditions or any other instruments which may be issued by the Authority under the Ordinance. *GC 7 SC 7 2*

#### **5. PROVISION OF SERVICE**

*GC 10(1) GC3  
SC 2(1)*

The Licensee shall, subject to Schedule 1 and any Special Conditions of this licence relating to the provision of the Service, at all times during the validity period of this licence operate, maintain and provide a good, efficient and continuous service in a manner satisfactory to the Authority. The Authority may, on application in writing by the Licensee, exempt a part or parts of the Service from the requirement of continuous provision.

## 6. CUSTOMER CHARTER

Unless a waiver in writing is granted by the Authority, the Licensee shall prepare a customer charter which sets out the minimum standards of service to the Licensee's customers and gives guidance to the employees of the Licensee in their relations and dealings with customers. *GC 11 SC 4*

## 7. CONFIDENTIALITY OF CUSTOMER INFORMATION *GC 12 SC 5 10*

7.1. The Licensee shall not disclose information of a customer except with the consent of the customer, which form of consent shall be approved by the Authority, except for the prevention or detection of crime or the apprehension or prosecution of offenders or except as may be authorized by or under any law.

7.2. The Licensee shall not use information provided by its customers or obtained in the course of provision of service to its customers other than for and in relation to the provision by the Licensee of the Service.

## 8. RECORDS AND PLANS OF THE NETWORK

8.1. The Licensee shall keep records and plans (including overall network plans and cable route maps) of the telecommunications installations, radiocommunications installation and telecommunications nodes and exchanges provided under this licence and any other details concerning the Network as may be reasonably required by the Authority, including but not limited to information from operational support systems, traffic flow information, and database information relating to the manner in which the Network treats calls of a particular kind ("Network Information"). *GC 27(1) SC 18*

- 8.2. As required by the Authority, the Licensee shall make the Network Information available, within reasonable time, to the Authority or to a person authorized in writing by the Authority for inspection for the Authority's own purposes. *GC 27(2)*

**9. CONTROL OF INTERFERENCE AND OBSTRUCTION** *GC 8 GC 6(8), 6 SC 8*

- 9.1. The Licensee shall take reasonable measures to install, maintain and operate the Service and the Network in such a manner as not to cause any harmful interference or physical obstruction to any lawful telecommunications service, or cause any physical obstruction to the installation, maintenance, operation, adjustment, repair, alteration, removal or replacement of the facilities of any lawful telecommunications or utility service provider.
- 9.2. The Licensee shall take reasonable measures to ensure that the customers of the Service do not cause harmful interference to lawful telecommunications services or utility services through use of the Service.
- 9.3. The Authority may give such reasonable directions as he thinks fit to avoid harmful interference or physical obstruction referred to in General Condition 9.1. The Licensee shall comply with the directions.

**10. RESTRICTIONS ON ATTACHMENT TO PUBLIC BUILDINGS AND TREES** *GC 33 SC 20*

No part of the Network shall be attached to any Government building except with the prior written consent of the Government Property Administrator, or to any tree on any Government land except with the prior written consent of the Director of Agriculture Fisheries and Conservation, the Director of Leisure and Cultural Services.

**11. COMPLIANCE**

If the Licensee employs any person under contract for the purpose of the Service, or for the installation, operation or maintenance of the Network (a “Contractor”), the Licensee shall continue to be responsible for compliance with the conditions of this licence, and the performance thereof, by any Contractor. *GC 5 8*

**12. REQUIREMENTS OF TELECOMMUNICATIONS INSTALLATIONS FOR RADIOCOMMUNICATIONS** *GC 38 GC 6 5*

12.1. Each radiocommunications installation operated by or on behalf of the Licensee shall be used only at the location and with emissions and at the frequencies and of the classes and characteristics specified in Schedule 3 and with such power and aerial characteristics as are specified in that Schedule in relation to the class and characteristics of the emission in use.

12.2. The apparatus comprised in each radiocommunications installation shall at all times comply with such technical standards as may be issued by the Authority.

12.3. The apparatus comprised in a radiocommunications installation shall be of a type approved by the Authority and shall be so designed, constructed, maintained and operated that its use shall not cause any interference to any radiocommunications.

12.4. A radiocommunications installation shall be operated only by the Licensee or a person authorized by the Licensee. The Licensee shall not allow an unauthorized person to have access to the apparatus comprised in a radiocommunications installation. The Licensee shall ensure that persons operating each telecommunications installation for radiocommunications shall at all times observe the conditions of this licence.

12.5. The Licensee shall not make a change -

(a) to any radiocommunications installation; or

(b) of the location of any radiocommunications installation,

without the prior approval in writing of the Authority.

12.6. If any telecommunications installation or radiocommunications installation crosses above or may fall or be blown onto any overhead power wire (including electric lighting and tramway wires) or power apparatus it shall be guarded to the reasonable satisfaction of the owner of the power wire or power apparatus concerned.



**13. USE OF FREQUENCIES**

GC 39 GC 7 5

The radiocommunications installation operated by or on behalf of the Licensee shall only be operated on such frequencies as the Authority may assign. The Authority may by notice require the Licensee to cease operating the radiocommunications installation on any frequency assigned to the Licensee if in the opinion of the Authority, the Licensee is not making efficient use of that portion of the radio spectrum.

**[13A. TRANSMISSION PLAN<sup>4</sup>**

The transmission plan employed in the Licensee's system shall be approved by the Authority. The licensee shall only carry services permitted under this licence in accordance with such approved plan and such approved plan may be modified by the Authority from time to time.]

**14. SAFETY**

GC 40 SC 22 15

14.1. The Licensee shall take proper and adequate safety measures for the safeguarding of life and property in connection with all installations, equipment and apparatus operated or used, including safeguarding against exposure to any electrical or radiation hazard emanating from the installations, equipment or apparatus used under this licence.

14.2. The Licensee shall comply with the safety standards and specifications as may from time to time be prescribed by the Authority and any directions of the Authority in relation to any safety matter.

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<sup>4</sup> Taking into account the views received at the Consultation exercise, we propose not put this in the General Conditions for the carrier licence.

**15. PROHIBITION OF CLAIMS AGAINST THE GOVERNMENT** *GC 36 SC 21*

The Licensee shall have no claim against the Government in tort or in contract in respect of any disturbance or interruption to any part of the Network due to works carried out by or on behalf of the Government which result in disturbance to the Network.

**16. INDEMNITY** *GC 42 SC 23 14*

The Licensee shall indemnify the Government against any losses, claims, charges, expenses, actions, damages or demands which the Government incurs or which may be made against the Government as a result of or in relation to the activities of the Licensee or any employee, agent or contractor of the Licensee in relation to the provision of the Service or the installation, maintenance and operation of the Network.

**17. CONTRAVENTION BEYOND THE LICENSEE'S CONTROL** *GC 43 SC 24*

17.1. The Licensee shall not be liable for any breach of this licence where it is able to demonstrate, to the reasonable satisfaction of the Authority, that the breach was caused by circumstances beyond its control and that it has taken all reasonable steps open to it to rectify that breach.

17.2. Where the circumstances referred to in General Condition 17.1 are such that there is an outage or interruption in the Service affecting a significant number of the Licensee's customers for a period of more than 7 days the Licensee shall provide the Authority with a full report in writing detailing the reasons for the breach and indicating when, or if, it will be able to continue to provide the Service.

17.3. If the Authority, after considering a report provided under General Condition 17.2, is of the reasonable belief that the Licensee would be able to provide the Service within a reasonable period of time despite the circumstances outlined in that report the Authority may direct that the Licensee recommence the Service within such reasonable period as the Authority may in writing direct. The Licensee shall comply with such direction.

## **18. PUBLICATION OF LICENCE**

*GC 45 SC 25 18*

The Licensee, or the Authority, may at their discretion make the terms and conditions of this licence, including any specific conditions, publicly available in any manner they think fit.

**Implementation of the Carrier Licence  
under the Telecommunications Ordinance as amended by the  
Telecommunication (Amendment) Ordinance 2000**

**FEE STRUCTURES OF CARRIER LICENCE**

**(a) Carrier (fixed) licence**

1. A fee of \$1,000,000 shall be payable on the grant of a licence and, in each year while the licence remains in force, on the anniversary of the grant of the licence.
2. A fee of \$700 shall be payable on each anniversary of the grant or the renewal of the licence for each 100 customer connections, made by telecommunications line or radiocommunications means, to the Network established and maintained under Schedule 2 to the licence provided by the licensee.
3. Save as provided in paragraph 4, a fee for use of radio spectrum assigned to the licensee shall be payable on the grant and on each anniversary of the grant of the licence and calculated in accordance with the formula set out below –
  - (a) where the radio spectrum is assigned exclusively to the licensee –
    - (i) \$50 for every 1 kHz or part thereof of spectrum then assigned below 1 GHz;
    - (ii)  $\$(50-4F)$  for every 1 kHz or part thereof of spectrum 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 spectrum 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 spectrum assigned at or above 19 GHz;

- (b) where any part of the radio spectrum is assigned to the licensee on a non-exclusive or shared basis, the fee calculated in accordance with the formula set out in subparagraph (a) shall be proportionally reduced by a reduction factor equal to the number of users authorized or reserved by the Authority to use that particular part of the radio spectrum. For the avoidance of doubt, the reduction factor is to be determined on the grant and on each anniversary of the grant of the licence.
4. No fee is payable for the use of spectrum 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    |

For carrier (fixed) licence whose scope of service is restricted to using fixed telecommunications networks to transmit television programmes of their own or of third parties:

1. A fee of \$100,000 shall be payable on the grant of a licence and, in each year while the licence remains in force, on the anniversary of the grant of the licence.
2. A fee of \$700 shall be payable on each anniversary of the grant or the renewal of the licence for each 100 customer connections, made by telecommunications line or radiocommunications means, to the Network established and maintained under Schedule 2 to the licence provided by the licensee.

3. Save as provided in paragraph 4, a fee for use of radio spectrum assigned to the licensee shall be payable on the grant and on each anniversary of the grant of the licence and calculated in accordance with the formula set out below –
- (i) where the radio spectrum is assigned exclusively to the licensee –
    - (a) \$50 for every 1 kHz or part thereof of spectrum then assigned below 1 GHz;
    - (b)  $\$(50-4F)$  for every 1 kHz or part thereof of spectrum 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;
    - (c)  $\$(20-F)$  for every 1 kHz or part thereof of spectrum 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;
    - (d) \$1 for every 1 kHz or part thereof spectrum assigned at or above 19 GHz;
  - (ii) where any part of the radio spectrum is assigned to the licensee on a non-exclusive or shared basis, the fee calculated in accordance with the formula set out in subparagraph (a) shall be proportionally reduced by a reduction factor equal to the number of users authorized or reserved by the Authority to use that particular part of the radio spectrum. For the avoidance of doubt, the reduction factor is to be determined on the grant and on each anniversary of the grant of the licence.
4. No fee is payable for the use of spectrum 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

**(b) Carrier (mobile) licence**

1. The annual fee payable on the grant and on the anniversary of the grant of a licence in each year while the licence remains in force shall be the sum of –
  - (a) for the 1<sup>st</sup> to the 50<sup>th</sup> base station installed for the service: \$1,000 per base station
  - (b) for the 51<sup>st</sup> to the 100<sup>th</sup> base station installed for the service: \$500 per base station
  - (c) for the 101<sup>st</sup> base station installed for the service and any additional base stations: \$100 per base station
  - (d) for the 1<sup>st</sup> 200 mobile stations or less used by customers of the service<sup>5</sup>: \$6,000
  - (e) for every additional 100 mobile stations or less used by customers of the service: \$3,000
  - (f) for every 1 kHz of spectrum assigned to the licensee: \$50
  
2. For the purpose of determining the fees payable, the number of stations and the width of the spectrum assigned shall be those authorized or in service at the time when the licence is granted or on the anniversary of the grant.

**For carrier (mobile) licence whose scope of service is restricted to services other than land mobile services:**

The annual fee payable on the grant and on the anniversary of the grant of the licence in each year while the licence remains in force shall be the sum of –

- (a) \$50,000 per licence; and
- (b) \$1,000 per land station or land earth station operated by the licensee for the service.

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<sup>5</sup> Taking into account the views received at the submission, the Telecommunications Authority agrees to consult the industry in a separate consultation exercise. This will not affect the regulations for the Carrier Licence.

**(c) Carrier (space stations) licence<sup>6</sup>**

1. For licence that covers operation of radiocommunications equipment on board the satellite
  - (a) an initial fee of \$450,000 is payable on the grant of the licence
  - (b) a fee of \$150,000 is payable on the anniversary of the grant of the licence in each year while the licence remains in force.
  
2. For licence that only covers the earth stations for telemetry, tracking, control and monitoring
  - (a) an initial fee of \$120,000 is payable on the grant of the licence
  - (b) a fee of \$80,000 is payable on the anniversary of the grant of the licence in each year while the licence remains in force.

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<sup>6</sup> Under the existing regime, the fees for the satellite space station licences are approved and set on a case by case basis, having regard to the administrative cost of the Authority estimated at the time the licence is granted. Under the amended Telecommunications Ordinance, the licence fee for the carrier licence will be prescribed by regulations by the Secretary after public consultation. The Secretary proposes that the licence fees for the carrier (space stations) licences be standardized to increase transparency and efficiency. The proposed fee for the carrier (space stations) licence in this consultation paper has taken into account the latest estimate of the administrative cost incurred in the licensing of satellites “AsiaSat 4” and “APSTAR IIR”.



(English Only)

Appendix 5

**Implementation of the Carrier Licence  
under the Telecommunications Ordinance as amended by the  
Telecommunication (Amendment) Ordinance 2000**

**PERIOD OF VALIDITY OF CARRIER LICENCE**

**(a) Carrier (fixed) licence**

15 years from the day on which it is granted and, at the discretion of the Authority, be renewed for such further period not exceeding 15 years as the Authority thinks fit.

For carrier (fixed) licence whose scope of service is restricted to using fixed telecommunications networks to transmit television programmes of their own or of third parties:

No more than 12 years from the day on which it is granted.

**(b) Carrier (mobile) licence**

15 years from the day on which it is granted.

**(c) Carrier (space stations) licence**

20 years from the day on which it is granted.