

**Consultation Paper on the Creation of
Class Licence for In-building Telecommunications Systems
under Section 7B(2) of the Telecommunications Ordinance (Cap 106)**

15 March 2002

Introduction

An in-building telecommunications system refers to the telecommunications system installed within a building or buildings (including the part of the system that connects the buildings so long as such part does not cross unleased Government land or public streets) for the conveyance of telecommunications and broadcasting signals to the residents or occupants of the building or buildings. It covers wireline systems (including blockwiring systems and in-building coaxial cable distribution systems (IBCCDS)), wireless systems and the ancillary equipment.

2. The establishment or maintenance of any means of telecommunications requires a licence issued under the Telecommunications Ordinance (Cap 106). An in-building telecommunications system is a means of telecommunications, therefore a licence is required for its establishment and maintenance. At present, telecommunications systems installed within individual buildings or property developments are subject to various licensing regulatory frameworks depending on the scope of the service:

- (a) By virtue of section 8(4)(e) of the Telecommunications Ordinance, no licence is required for a communal aerial distribution system (CABD) (which is an in-building telecommunications system) for receiving and distributing local terrestrial television broadcast signals.
- (b) In-building telecommunications systems established by the local Fixed Telecommunications Network Services (FTNS) licensees are treated as a part of the local FTNS networks concerned¹.

¹ With effect from 1 April 2001, FTNS licences are no longer issued. Fixed carrier licences are now

- (c) The in-building telecommunications systems that are established by the Public Non-exclusive Telecommunications Service (PNETS) licensees or Satellite Master Antenna Television (SMATV) licensees through which telecommunications or broadcasting services are delivered to the residents or occupiers of the buildings under their respective PNETS or SMATV licences are regulated by the relevant PNETS or SMATV licences.

3. In the light of the technological advancement of telecommunications, the rapid expansion of the telecommunications industry, as well as the increasing demand for varied and quality telecommunications and broadcasting services from the public, in-building telecommunications systems become valuable facilities through which telecommunications and broadcasting services are delivered to the residents or occupiers of the buildings. This allows us to meet the rising needs and aspirations of an Information Society and therefore should be encouraged.

4. On the other hand, given the space limitation for the installation of telecommunications systems within buildings, the transmission capacity in in-building telecommunications systems may become a scarce resource and constitute a bottleneck for access to the customers in the buildings. It is therefore important that the allocation of the capacity in and the use of these facilities are not arbitrarily decided by the operators of the systems. In principle, the systems should be opened up for access by all authorized telecommunications and broadcasting operators on a non-discriminatory basis, so that the residents or occupiers are not arbitrarily deprived of the enjoyment and choice of telecommunications or broadcasting services. A separate licence for the specific regulation of the establishment or operation of an in-building telecommunications system and the delivery of telecommunications and broadcasting services within a building is important to meet the principle

issued instead to license the operation of fixed telecommunications network services. The rights and obligations of the existing FTNS licensees are however not affected. An FTNS licensee may nonetheless apply to surrender its FTNS licence and request in return for the issue of a fixed carrier licence with the same scope and for the remainder of the years the FTNS licence has to run. See Telecommunications (Carrier Licences) Regulation (Cap 106).

outlined above.

5. In the paper named “The 1998 Review of Fixed Telecommunications: A Considered View”, we considered the merits of the development of in-building telecommunications systems and proposed a streamlined licensing regime, that is, regulation by means of class licence. The government elaborated on the proposal in the above consultation paper and invited views from the industry and public. The proposal gained general support. The government subsequently proposed, and the Legislative Council enacted, the Telecommunication (Amendment) Ordinance 2000 to provide for the new class licence.

6. The Telecommunications Authority (TA) is now considering the details of implementing the class licence for in-building telecommunications systems to authorize certain class of persons to install and operate in-building telecommunications system. This consultation paper introduces and explains in detail the regulatory framework that the TA proposes to create for this class licence, and invites comments from all interested parties on his proposal.

Class Licence for In-building Telecommunications Systems

7. The TA proposes that a class licence be created to specifically regulate in-building telecommunications systems. Given the large number of buildings and property developments in Hong Kong, it would be impractical to issue individual licences for the operation of in-building telecommunications systems. A class licence has the advantage of being applicable to a defined ‘class’ of persons as soon as the class licence is created. Under the class licence regime, a person will be licensed if he meets the qualifications stated in the class licence. He will then be governed by the class licence conditions in operating the telecommunications system, installation or equipment covered by the class licence. There is no need for them to undergo a separate licence application/approval process. This will help encourage the provision and operation of in-building broadband networks, and work towards achieving full cabling for broadband network in Hong Kong to cope with the demand in the information age.

8. A draft class licence for in-building telecommunications

systems is attached in the Annex. The draft sets out the in-building telecommunications systems that are proposed to be regulated by the class licence, the qualification that a person must possess before becoming eligible as a licensee, and the conditions of the class licence. The TA welcomes views from interested parties on the draft class licence.

The In-building Telecommunications Systems

9. The telecommunications system proposed to be regulated by the class licence should have the following features and qualities:

- ◆ the system can be a wireline and / or wireless system (but excluding dish aerials or antennas as stated in paragraph 10);
- ◆ the system is installed within a building or buildings (including the part of the system that connects the buildings so long as such part does not cross unleased Government land or public streets) belonging to the same property development;
- ◆ the system does not cross any unleased Government land or public streets;
- ◆ save for this class licence, the system is not regulated by any public telecommunications network or service licences; and
- ◆ the system is used for serving the residents or occupiers of buildings.

Wireline and Wireless Systems

10. Following the technology neutral approach, the TA does not propose to set any restrictions on the type of telecommunications systems that can be installed within a building. An in-building telecommunications system can therefore be a cable system using IBCCDS, optical fibres or copper wires. It can also be a wireless system

provided that the frequencies used and other emission parameters are authorized under the class licence. Such authorization will include the same frequencies, power level and associated emission characteristics which are exempted from licensing under the Telecommunications (Cordless Telecommunications Apparatus) (Exemption from Licensing) Order and the Telecommunications (Low Power Devices) (Exemption from Licensing) Order made under section 39 of the Telecommunications Ordinance². For the purpose of the licence, the in-building telecommunications system includes aerials, antennas and equipment for the reception of terrestrial broadcasting services³. The system, however, does not include aerials, antennas or equipment for the reception of non-terrestrial broadcasting services.

Terminal Equipment

11. At present, various exemption arrangements are in place to exempt users of terminal equipment from obtaining a telecommunications licence who are customers of the holders of fixed telecommunications network services (FTNS) licences, public radiocommunications service (PRS) licences or public non-exclusive telecommunications services (PNETS) licences⁴. Terminal equipment covers radiocommunications apparatus such as mobile telephones and apparatus for non-radiocommunications such as telephones, fax terminals, private automatic branch exchanges (PABX) and modems. Terminal equipment does not constitute part of the FTNS, PRS or PNETS networks or equipment and the exemption from licensing hinges entirely on the equipment being used by those persons as end customers of the FTNS, PRS and PNETS operators.

² The TA is currently considering reviewing the existing exemption orders including the Telecommunications (Cordless Telecommunications Apparatus) (Exemption from Licensing) Order and the Telecommunications (Low Power Devices) (Exemption from Licensing) Order. The purpose of the review is to revise and update the technical conditions and / or specifications for the radiocommunications apparatus to bring them up-to-date with the technology advancement. This will be the subject of a separate exercise.

³ Aerials or antennas for the reception of terrestrial broadcasting services, irrespective of whether the television programmes are broadcast by any company licensed under the Broadcasting Ordinance (Cap 562) is currently allowed under section 8(4)(e) of the Telecommunications Ordinance.

⁴ The relevant exemption orders are the Telecommunications (Public Non-exclusive Telecommunications Service Customers) (Exemption from Licensing) Order, Telecommunications (Public Radiocommunications Service Customers) (Exemption from Licensing) Order and Telecommunications (Fixed Telecommunications Network Services) (Exemption from Licensing) Order.

12. After the class licence for in-building telecommunications system is introduced, there will be increasing cases that terminal equipment of end customers becomes connected to the in-building telecommunications system of the class licensee. Terminal equipment connected to in-building telecommunications system will be treated on par with terminal equipment connected to telecommunications systems under a public telecommunications licence

Installed Within the Same Property Development

13. To fall within the class licence, the in-building telecommunications system has to be installed within a building or buildings (including the part of the system that connects the buildings so long as such part does not cross unleased Government land or public streets) belonging to the same property development. In Hong Kong, where the majority of population lives in multi-storey buildings, the property interest in a building or development, as the case may be, is usually divided into a number of shares. When a person buys a flat, he is in fact buying certain undivided shares (out of the total number of shares) with the exclusive right to occupy a specified flat and the right to use the common parts jointly with all other owners. As such, all the owners are co-owners holding jointly and severally the common parts of the building or development. By “class licensees of an in-building telecommunications system”, it means all the owners of the buildings of the same property development. By “same property development”, it means the buildings that are, according to the title deeds (in particular the deeds of mutual covenant), held in common ownership by the owners.

14. The class licence will therefore not cover an in-building telecommunications system connecting two buildings or two property developments covered by different deeds of mutual covenant.

Not Crossing Unleased Government Land or Public Streets

15. An in-building telecommunications system will be counted as one system falling within the class licence so long as it does not cross unleased Government land or public streets. This would mean that, where a property development (held in common ownership) is cut across

by a public street, the in-building telecommunications system installed within the property development will be regarded as two separate systems under the class licence, despite the fact that the system might be connected by a leased circuit or whatever arrangement made with the FTNS licensees who have the right to lay local circuits. The services permitted under the class licence will only be communications within the individual in-building telecommunications systems and do not include communications between separate systems.

Not Regulated by Public Telecommunications Network or Service Licences

16. The TA proposes that the class licence will only cover those in-building telecommunications systems that are *not* subject to other licences issued under the Telecommunications Ordinance. As mentioned in paragraph 2, there exists a substantial number of in-building telecommunications systems which are already subject to different licensing regimes. The TA has no intention, by the creation of a class licence, to regulate those in-building telecommunications systems which are already subject to regulation under other telecommunications licences. One notable example is those in-building telecommunications systems established by FTNS licensees or fixed carrier licensees who have the right to provide local telecommunications service. These in-building telecommunications systems will be excluded from the scope of the class licence. They will be treated as part of the FTNS networks and remain subject to the conditions of the FTNS or fixed carrier licences. The other examples include the in-building telecommunications systems installed by SMATV licensees for the provision of the services under their licences.

17. A full description of the in-building telecommunications systems intended to be covered by the class licence is set out in the First Schedule to the draft class licence. The TA would like to invite comments in this respect.

The Class of Persons Qualified as Licensees

18. The TA proposes that only those persons who have interest in the common parts of a building (the property owners) in which the in-building telecommunications system is installed are eligible as licensees. The reasons are mainly two-fold. Firstly, since the in-building telecommunications system is placed in the common areas of the building, the persons who are best qualified to control and maintain the system should be the owners. Secondly, there is admittedly limited space for installation of cables or wireless equipment for telecommunications and broadcasting services inside typical buildings in Hong Kong. The TA is concerned that if operators without property interest are licensed under the class licence to install and operate in-building telecommunications systems, it may result in the proliferation and uncoordinated installation of these systems. This will bring about an adverse effect of confusing the property owners and difficulties for operators which have statutory right of access to the buildings under section 14 of the Telecommunications Ordinance to gain access to the buildings for installation of telecommunications systems. Thus for the grant of a licence to a class (where no individual licensing application and processing is involved), the TA considers it more appropriate to license only the property owners to install and operate the in-building telecommunications systems.

19. There are different forms of structure of ownership of buildings in Hong Kong. In a multi-storey building with multiple occupants, many people may be regarded as having a property interest in the building. Facing these various property interests differing probably in degree, the TA proposes the following rule in determining the eligibility of licensees:

- ◆ Where there is only one owner to the building (e.g. commercial building in which the office space is only leased out), the property owner will be the class licensee of the in-building telecommunications system installed within the building.
- ◆ Where there is multiple ownership to a building (e.g. typical residential property development), the day to day running of the common parts (in which the in-building

telecommunications system is invariably installed) may be entrusted to an owners' incorporation. The TA proposes that:-

- the owners' incorporation will be the class licensee.
- if there is no owners' incorporation, then all the registered owners of the building with interest in the common parts will collectively be regarded as licensees.

20. Although the licensees will be the property owners, the OFTA recognizes that not all property owners possess the necessary technique and resources to install their own in-building telecommunications systems. Therefore, property owners, as class licensees, may engage a third party as contractor to install and operate the in-building telecommunications systems on their behalf. As a contractor, the third party is not required to obtain a licence for such activities. However, the conditions and obligations of a class licence cannot be delegated and will rest with the class licensees i.e. the property owners.

21. A full description of the class of persons qualified as licensees under the class licence are set out in the Second Schedule to the draft class licence. The TA invites comments from all interested parties on the qualification proposed.

Services Allowed under the Proposed Class Licence

22. The services that are allowed under the proposed class licence fall broadly into two categories: (a) intra-building telecommunications and broadcasting services; and (b) access services that enable public telecommunications operators to make use of the systems to provide public telecommunications and broadcasting services to the residents and occupiers of the buildings.

23. The TA proposes that the class licensees are allowed to provide all kinds of telecommunications services to the residents or occupiers of the building or buildings so long as the communications signals do not go outside of the in-building telecommunications system, and are for communications between or among points that are wholly

within the building or buildings belonging to the same system. In other words, all forms of intra-building voice, data, images, video services etc will be permitted. The class licensee is not required to obtain a separate telecommunications service licence to provide these services. However, so far as the provision of television (including video) programmes is concerned, there are separate licensing arrangements for the transmission of the programme service signals and the contents of the programme services. This class licence will only license the “transmission” part of the programme services. The “content” part is governed by the Broadcasting Ordinance. A separate content licence will therefore be required under the Broadcasting Ordinance. At present, offering of television programme services to not more than 5,000 homes requires an Other Licensable Television Programme Service Licence under the Broadcasting Ordinance.

24. Provision of telecommunications services that involves the conveyance of telecommunications signals between a point outside the building and a point within the building will, however, not be covered under the class licence. Examples include Internet access services, and any form of communications services between two or more in-building telecommunications systems that are separated by unleased Government land or public streets, but are connected by local leased circuits (regardless of whether the property in which the in-building telecommunications systems are installed are owned by the same persons). The provision of these services will be regarded as public telecommunications services and any person who wants to provide such services will have to obtain an appropriate public telecommunications licence (for example, a PNETS licence). There will be no prohibition on the class licensees to apply for such separate licences for provision of these services using the in-building telecommunications systems.

25. As mentioned in paragraph 4, the TA intends that the in-building telecommunications systems are opened up for access by various telecommunications and broadcasting operators on a non-discriminatory basis. Under section 14 of the Telecommunications Ordinance, fixed telecommunications network services (FTNS) operators have statutory right of access to buildings to install equipment and cables to reach the residents in the buildings. Even if the property owners (i.e. the class licensees) have installed and are operating an in-building telecommunications system, this statutory right will not be affected. If

commercial agreement cannot be reached by both parties for system interconnection/access, FTNS operators may request the TA's determination under the Telecommunications Ordinance, or choose to interconnect with other in-building telecommunications systems inside the building or install their own systems.

Conditions of the Class Licence

26. The main purpose of the class licence is to ensure that the in-building telecommunications systems are properly managed so that the customers can have uninhibited enjoyment of a variety of intra-building and public telecommunications services through the in-building telecommunications systems. It is therefore important that the systems are available for interconnection with operators on a non-discriminatory basis, and that the use of the systems is coordinated. Thus, the usual licence conditions that apply to licensees maintaining means of telecommunications should also apply to this class licence. They include conditions that oblige the licensee to maintain the system in a satisfactory manner, not to cause any interference and obstruction to other telecommunications service or facilities, to take proper and adequate safety measures, not to lay the system across public streets or interconnect with buildings not belonging to the same property development, to comply with the directions, guidelines, codes of practice etc to be issued by the TA.

27. The TA also proposes to impose licence conditions pertaining to the special nature of the class licence. These conditions are more specifically explained below. Any breach of the licensing conditions will subject the licensee to the TA directions under section 36B and/or financial penalty under section 36C of the Telecommunications Ordinance. The TA invites comments on all the conditions proposed.

Interconnection (Condition 7)

28. The in-building telecommunications system should be opened up to operators on a non-discriminatory and fair basis for access, so that the residents or occupiers of the buildings would not be arbitrarily deprived of the enjoyment and choice of telecommunications and

broadcasting services. It is therefore imperative that a condition mandating interconnection on a non-discriminatory basis by public telecommunications and broadcasting network and service operators should be imposed.

29. The terms of interconnection will first be a matter of commercial negotiation between the class licensee and the operators. If the parties cannot reach an agreement, section 36A may be relied upon to seek determination by the TA of the terms of interconnection, including the level of the interconnection charge. The level of interconnection charge will be determined by the TA on a cost-based basis, including a reasonable cost of capital. Further, in the event that an in-building telecommunications system constitutes a bottleneck facility, section 36AA may be invoked to mandate sharing. When the TA is requested to make a determination, the terms and conditions should provide for fair and reasonable compensation payable in all circumstances of the case for the shared use of the bottleneck facilities. In line with existing practice, the TA may recover the costs in respect of a determination or determination process under section 36A of the Telecommunications Ordinance from the class licensees and any other parties involved in the determination.

Use of Channel within IBCCDS (Condition 8)

30. An in-building telecommunications system includes the IBCCDS, which is used to carry and distribute telecommunications and broadcasting services. The frequency channels within the IBCCDS are limited and valuable resources. In order to ensure that the frequency channels are used in an effective and efficient manner, the class licensee must comply with the directions, guidance notes, codes of practice, technical specifications and statements issued by the authority from time to time regarding the use of frequency channels within the IBCCDS (e.g. the TA Statement entitled *Frequency Layout Plan of In-Building Coaxial Cable Distribution Systems* issued on 15 July 1999). Any request for deviation must be submitted to the TA for approval. For this purpose, the TA is preparing a guidance note on the use of frequency channels of IBCCDS to be followed by the class licensees.

System Layout Plan (Condition 11)

31. The class licensee is required to maintain an updated layout plan of the in-building telecommunications system containing at least the following information:

- (i) routes of the trunking system;
- (ii) types of cables with capacities and quantities;
- (iii) number of outlets; and
- (iv) where applicable, locations of antennas, receiving systems, repeaters, amplifiers, distribution boxes, if any.

The information is necessary for facilitating interconnection. The licensee is required to provide the updated layout plan within 14 days upon the written request of the TA. This is to ensure that the TA will have quick access to such information whenever necessary.

Registration not Required

32. The TA has considered but is inclined not to require the class licensees to register with the TA. Given the likely number of the in-building telecommunications systems falling within the scope of the class licence, it would be administratively impractical to require all the owners to register their in-building telecommunications systems with the TA. This would also defeat the purpose of the class licence regime, namely to streamline the licensing process and reduce administrative involvement.

The Existing In-building Telecommunications Systems

33. The TA understands that at present there are already in-building telecommunications systems installed and operated. Most of them if not all are established or maintained by telecommunications operators, with agreements or contracts between the property owners and the telecommunications operator dealing with commercial matters such as ownership or fee arrangement. The TA would like to reiterate that as explained in paragraph 18 above, only property owners will be eligible to become class licensees for the establishment and maintenance of in-building telecommunications systems. Any other person not being a

property owner (including telecommunications operators whose scopes of services under their existing licences do not permit the establishment and operation of the in-building telecommunications system) establishing or maintaining an in-building telecommunications system is not covered by the class licence. He may contravene section 8 (1) of the Telecommunications Ordinance and subject to the sanctions thereunder. These people are advised to approach the relevant property owners to enter into agreements with the property owners who may appoint them to install and operate the systems on behalf of the property owners.

34. In this connection, property owners are advised to note that any contract or agreement that in all the circumstances of the case, unreasonably restricts the right of a resident or occupier, or deprives a resident or occupier of the right, to have access to the public telecommunications services of his choice is void under section 19B(1) of the Telecommunications Ordinance. Any contract term which seeks to give any contractor an exclusive right of access may have problem in this regard. It is very important that any plan to upgrade the intelligent network of a building cannot adversely affect residents' choice of telecommunications networks or service operators.

35. The TA welcomes comments from the property owners if they see any problem with their existing contracts with the telecommunications operators which may hinder them from discharging their duties as a class licensee.

Invitation of Comments

36. Views and comments on this consultation paper should reach the Office of the Telecommunications Authority on or before 30 April 2002. Any person who submits the views and comments should be aware that the TA may publish all or any part of the views and comments received and to disclose the identity of the source in such manner as the TA deems fit. Any part of the submission, which is considered commercially confidential, should be marked. The TA would take such markings into account in making his decision as to whether to disclose such information or not. Submissions should be addressed to

Office of the Telecommunications Authority
29/F Wu Chung House
213 Queen's Road Central
Wanchai
Hong Kong
[Attention: Senior Regulatory Affairs Manager (Economic
Regulation) 3]
Fax: 2803 5110
E-mail: ecchui@ofta.gov.hk

An electronic copy of the submission in Word 7.0 format should be provided by e-mail to the address indicated above.

Office of the Telecommunications Authority
15 March 2002

**TELECOMMUNICATIONS ORDINANCE
(Chapter 106)**

CLASS LICENCE

IN-BUILDING TELECOMMUNICATIONS SYSTEMS

The Telecommunications Authority, in exercise of the powers conferred on him by sections 7(5) and 7B(2) of the Telecommunications Ordinance (Cap 106), issues this Licence on this [] day of [], 200[].

1. Interpretation

1.1 In this Licence –

“Authority” means the Telecommunications Authority appointed under section 5 of the Ordinance;

“building” includes any “building” as defined in the Buildings Ordinance (Cap 123) and any land upon which that building is erected and any other land which –

- (a) is in common ownership with that building or land; or
- (b) is owned or held by any person for the common use, enjoyment and benefit (whether exclusively or otherwise) of the owners and occupiers in that building; and

“buildings” shall be construed accordingly;

“common parts” mean –

- (a) where an occupation permit has been issued by the Building Authority under the Buildings Ordinance, the whole of a building, except –
 - (i) such parts as have been specified or designated in a lease

as being for the exclusive use, occupation or enjoyment of a lessee; and

(ii) such parts which have not been leased but have been reserved for the exclusive use, occupation or enjoyment by the owner or any person permitted by the owner; and

(b) where an occupation permit has not been issued by the Building Authority under the Buildings Ordinance, the whole of a building; and

(c) “common parts” as defined in the Building Management Ordinance (Cap 344);

“deed of mutual covenant” means a document which –

(a) defines the rights, interests and obligations of owners among themselves; and

(b) is registered in the Land Registry;

“development” means the building or group of buildings erected upon any land under the ownership of one owner, or the common ownership of more than one owner, in accordance with the relevant Government lease and deed of mutual covenant.

“IBCCDS” means the in-building coaxial cable distribution system;

“interconnection” means interconnection as defined in sections 2 and 36A of the Ordinance ;

“Licensee” means a person licensed under Condition 2.1 of this Licence;

“Ordinance” means the Telecommunications Ordinance (Cap 106);

“System” means an in-building telecommunications system more particularly described in the First Schedule;

1.2 Any word or expression used in this Licence shall, unless otherwise provided, have the same meaning as it has in the Ordinance or

regulations made under the Ordinance.

1.3 For the purposes of interpreting this Licence, headings and titles shall be disregarded.

2. Grant of Licence

2.1 Any person who falls within the class described or defined in the Second Schedule is licensed, subject to the terms and conditions of this Licence, to

(a) install, establish, maintain and operate the System;

(b) provide all forms of telecommunications services to a resident or occupier of the building or buildings within the development through the System, provided that the services do not involve communications between a location inside the building or buildings within the development and another location outside of the building or buildings within the development in which the System is installed, and are for communications between or among points within the building or buildings within the development;

(c) provide the service to connect the residents or occupiers of the building or buildings within the development to points of interconnection with public telecommunications networks or services licensed, or deemed to be licensed, or exempted from licensing under the Ordinance outside the building or buildings within the development; and

(d) receive and distribute to residents or occupiers of the building or buildings within the development terrestrial sound or television broadcasting services by radio transmission.

3. General

3.1 This Licence shall not be construed as granting an exclusive right to the Licensee.

3.2 This Licence replaces any licence or any exemption from licensing,

however described, which the Authority may have granted to the Licensee.

- 3.3 This Licence shall remain in full force unless expressly revoked by the Authority.

4. Compliance Generally

4.1 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 and any guidelines or Codes of Practices which may be issued by the Authority as in his opinion are suitable for the purpose of providing practical guidance on any particular aspect of any conditions of the Licence.

4.2 The Licensee shall not use the System to provide a public telecommunications service.

5. System Maintained in Satisfactory Manner

5.1 The Licensee shall at all times and from time to time during the subsistence of this Licence install, establish, maintain and operate the System in a manner satisfactory to the Authority.

6. Interference and Obstruction

6.1 The Licensee shall take reasonable measures to install, establish, operate and maintain the System in such a way as not to cause any direct or indirect harmful interference with or physical obstruction to any lawful telecommunications service, or the installation, maintenance, operation, adjustment, repair, alteration, removal or replacement of the facilities of any lawful telecommunications or utility service provider.

6.2 The Authority may give such reasonable directions as he thinks fit to avoid any direct or indirect harmful interference or physical obstruction referred to in Condition 6.1. The Licensee shall comply with the directions.

7. Interconnection

- 7.1 The Licensee shall interconnect the System, on a non-discriminatory basis, with public telecommunications networks and services licensed, or deemed to be licensed, or exempted from licensing under the Ordinance.
- 7.2 The Licensee shall use all reasonable endeavours to ensure that interconnection is done promptly, efficiently and at fair and reasonable charges.

8. Use of Channel within the IBCCDS

- 8.1 The Licensee shall not use any frequency channel within the IBCCDS of the System to carry telecommunications or broadcasting services of which a licence is required but not obtained under respectively the Ordinance and the Broadcasting Ordinance.
- 8.2 The Licensee shall comply with the directions, guidance notes, codes of practice, technical specifications and statements issued by the Authority from time to time regarding the use of the frequency channels within the IBCCDS.
- 8.3 Where the number of frequency channels within the IBCCDS to be used for carrying television broadcast and security signals exceeds the number prescribed by the Authority from time to time in the directions, guidance notes, codes of practice, technical specifications or statements referred to in Condition 8.3, the Licensee shall submit the transmission plan, including the exact channels of the services to be carried, to the Authority for approval.

9. Safety

- 9.1 The Licensee shall take proper and adequate safety measures for the safeguarding of life and property in connection with all installations, equipment, 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.
- 9.2 The Licensee shall comply with the safety requirements laid down in

any safety specification issued by the Authority and any directions of the Authority in relation to any safety matter.

10. Requirement for Permission of Installation

- 10.1 No wire shall be laid or maintained by the Licensee across any public street or unleased Government land.
- 10.2 Direct interconnection may not be made between buildings not within the development without the consent in writing of the Authority.

11. System Layout Plan

- 11.1 The Licensee shall at all times maintain an updated layout plan of the System which shall contain at least the following information:
 - (a) routes of the trunking system;
 - (b) types of cables with capacities or quantities;
 - (c) number of outlets; and
 - (d) locations of antennas, receiving systems, repeaters, amplifiers, distribution boxes, if any.
- 11.2 The Licensee shall provide the Authority with an updated layout plan of the System within 14 days upon the written request from the Authority.

FIRST SCHEDULE

In-Building Telecommunications System

1. Subject to paragraphs 2, 3 and 4, an in-building telecommunications system means a telecommunications system installed, established, operated and maintained within the common parts of a building or buildings within the development so long as the telecommunications system does not cross unleased Government land or public streets.
2. An in-building telecommunications system includes a wireline and / or wireless system. Where the system includes a wireless system, the transmitters and receivers in the wireless system shall operate only at the frequencies and power level, and conform to the emission characteristics, specified in the Third Schedule.
3. For the purpose of this Licence, an in-building telecommunications system includes
 - (a) the necessary ancillary equipment such as antennas and associated equipment for the reception and distribution of terrestrial sound and television broadcasting services; and
 - (b) the extension of the system up to the point of termination at the wall sockets within individual units or flats which are under the exclusive occupation of the residents or occupiers of the building or buildings within the development.
4. For the avoidance of doubt, an in-building telecommunications system under this Licence does not include
 - (a) an in-building telecommunications system which is installed, established, operated and maintained by a fixed carrier licensee or a fixed telecommunications network services licensee who has the right to provide local telecommunications services;
 - (b) an in-building telecommunications system which is already subject to a licence issued by the Authority under the Ordinance;

and

- (c) dish aerials or antennas and the associated equipment for the reception and distribution of non-terrestrial broadcasting services.

SECOND SCHEDULE

The Class of Persons Qualified as Licensees

1. Subject to paragraph 2, the class of persons who is qualified as Licensees shall be all those persons (whether they be sole owners, joint tenants or tenants in common) who are vested with the legal estate or an equitable interest in the common parts of a building or buildings within a development in which the System is installed, established, operated and maintained.
2. Where the property interest in a building or buildings within the development is held in the form of undivided shares, the class of persons who is qualified as Licensees shall be
 - (a) the owners incorporation registered under section 8 of the Building Management Ordinance in respect of the building or buildings within the development; or
 - (b) if no owners incorporation is registered under section 8 of the Building Management Ordinance, all the registered owners who are vested with the legal estate or an equitable interest aforesaid in the share or shares of the building or buildings within the development, as the case may be.

THIRD SCHEDULE

Frequencies, Power Level and Emission Characteristics Referred to in Paragraph 2 of the First Schedule

The following frequencies, power level and emission characteristics:

[the same as those set out in the Telecommunications (Cordless Telecommunications Apparatus) (Exemption from Licensing) Order and Telecommunications (Low Power Devices) (Exemption from Licensing) Order⁵]

⁵ Subject to such revision and amendment as explained in paragraph 10 of this consultation paper.