

LEGISLATIVE COUNCIL BRIEF

Telecommunications Ordinance
(Chapter 106)

TELECOMMUNICATIONS (AMENDMENT) REGULATION 2004

**TELECOMMUNICATIONS (CARRIER LICENCES)
(AMENDMENT) REGULATION 2004**

INTRODUCTION

This brief informs Members on the Telecommunications (Amendment) Regulation 2004, and the Telecommunications (Carrier Licences) (Amendment) Regulation 2004 at Annexes 1 and 2 (collectively known as Amendment Regulations hereafter) respectively. The Amendment Regulations aim to reduce the annual licence fees payable for –

- (a) Mobile stations under:
 - (i) Public Radiocommunications Services (PRS) Licences
 - (ii) Mobile Carrier Licencesfrom \$24 to \$20 per mobile station; and
- (b) Fixed Carrier Licence for the provision of external services only from \$500,000 to \$200,000

with effect from 1 May 2004.

JUSTIFICATIONS

2. Licence fees are collected by the Office of the Telecommunications Authority (OFTA) Trading Fund to recover its costs in administering the licences. Over the past three years, the number of mobile phone subscribers (including activated prepaid SIM cards)

continued to increase. The number of subscribers has reached 6.2 million in October 2003. As a result of the growth, OFTA's licence administration costs per mobile station have decreased. The Government therefore decided that this component of licence fees should be reduced from \$24 to \$20 per mobile station per year. Apart from mobile service operators, trunked radio operators, radiolocation service operators, mobile data service operators, paging companies, and mobile virtual network operators will also benefit from the fee reduction.

3. The administration of fixed carrier licences which permit the provision of external services only has been substantially simplified after the initial period of liberalisation. The corresponding costs for administering the licences have also declined. The Government therefore decided to reduce the annual fee payable for these licences from \$500,000 to \$200,000. Other components of the fees payable for fixed carrier licences would remain unchanged.

THE AMENDMENT REGULATIONS

4. To reduce the annual fee for PRS licences, the Secretary for Financial Services and the Treasury has, through the Telecommunications (Amendment) Regulation 2004, amended Part II of Schedule 1 of the Telecommunications Regulations (Cap. 106A).

5. To reduce the annual fees for fixed carrier licences which permit external services only, and mobile carrier licences, the Secretary for Commerce, Industry and Technology has, through the Telecommunications (Carrier Licences) (Amendment) Regulation 2004, amended Part 1 and Part 3 of Schedule 3 of the Telecommunications (Carrier Licences) Regulation (Cap. 106V) that set out relevant licence fees.

LEGISLATIVE TIMETABLE

6. The legislative timetable will be –

Publication in the Gazette	5 March 2004
Tabling at the Legislative Council	10 March 2004

IMPLICATIONS OF THE PROPOSAL

7. With the reduction in licence fees, the rate of return on average net fixed assets of the OFTA Trading Fund for 2004/05 is expected to fall below the target rate of 14.5% to 12.1%. The shortfall will be met by the Development Reserve of the OFTA Trading Fund.

8. The Amendment Regulations are in conformity with the Basic Law, including the provisions concerning human rights. They have no productivity, environmental, sustainability or civil service implications.

9. The proposal will benefit over 20 operators who operate external services by cables or satellites in Hong Kong. All the 2G and 3G operators, together with trunked radio operators, radiolocation service operators, mobile data service operators, paging companies, and mobile virtual network operators, would benefit from the proposed fee reduction. These will help maintain Hong Kong's competitiveness as a telecommunications hub in Asia.

PUBLIC CONSULTATION

10. Before amending the Telecommunications (Carrier Licences) Regulation, the Secretary for Commerce, Industry and Technology is required by the Telecommunications Ordinance to, by notice in the Gazette, consult members of the public who are interested in the matter, and consider the representations received. A public consultation exercise was launched on 9 January 2004 and a total of 11 submissions were received.

11. The submissions are generally supportive of the Government's proposals. One submission suggested that the licence fee for fixed carrier licences providing external services only should be further reduced to \$50,000 per year. Since this would be significantly below OFTA's costs in administering those licences, this suggestion is not feasible at this stage. A few submissions considered that the lower licence fee for fixed carrier licences providing external services only should be equally applicable to fixed carrier licences providing local services. OFTA has reviewed its costs and considered that there is no room to reduce the licence fee for fixed carriers providing local services. This is because administering local fixed carrier services involves many labour intensive activities, including interconnection issues, co-location

of exchanges, sharing of costs among operators, cross-operator charging, road opening, building access related issues, analysis of tariff applications, complaints and disputes handling etc. Some submissions suggested that there should be an annual review of licence fee for mobile stations. OFTA will indeed assess, on a yearly basis, whether there could be scope for reduction of licence fee for mobile stations, and will put forward licence fee reduction proposals as appropriate.

12. We briefed the Information Technology and Broadcasting Panel of the Legislative Council on 25 February 2004. The Panel is supportive of the proposals to reduce the licence fees.

PUBLICITY

13. A press release will be issued to tie in with the gazettal of the Amendment Regulations. A spokesman will be available for answering media enquiries.

ENQUIRIES

14. For any enquiries related to this Brief, please contact –

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**Communications and Technology Branch
Commerce, Industry and Technology Bureau
3 March 2004**

TELECOMMUNICATIONS (AMENDMENT) REGULATION 2004

(Made under section 29A of the Interpretation and General Clauses Ordinance (Cap. 1) by virtue of section 37 of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Regulation shall come into operation on 1 May 2004.

2. Schedule 1 amended

Schedule 1 to the Telecommunications Regulations (Cap. 106 sub. leg. A) is amended, in Part II, under the heading “PUBLIC RADIOCOMMUNICATIONS SERVICE LICENCE” –

- (a) in paragraph 1(d), by repealing “\$4,800” and substituting “\$4,000”;
- (b) in paragraph 1(e), by repealing “\$2,400” and substituting “\$2,000”.

Secretary for Financial Services and
the Treasury

2004

Explanatory Note

This Regulation amends Schedule 1 to the Telecommunications Regulations (Cap. 106 sub. leg. A) in order to reduce the annual licence fee payable for a public radiocommunications service licence.

**TELECOMMUNICATIONS (CARRIER LICENCES)
(AMENDMENT) REGULATION 2004**

(Made under section 7(2) of the Telecommunications Ordinance
(Cap. 106))

3. Commencement

This Regulation shall come into operation on 1 May 2004.

4. Fees payable for carrier licences

Schedule 3 to the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) is amended –

- (a) in Part 1, in section 1, by repealing “\$500,000” and substituting “\$200,000”;
- (b) in Part 3 –
 - (i) in section 1(d), by repealing “\$4,800” and substituting “\$4,000”;
 - (ii) in section 1(e), by repealing “\$2,400” and substituting “\$2,000”.

Secretary for Commerce, Industry and
Technology

2004

Explanatory Note

This Regulation amends Schedule 3 to the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) in order to reduce the annual licence fees payable for (a) a fixed carrier licence that permits the provision of external services only and (b) a mobile carrier licence.