

立法會
Legislative Council

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the Administration)

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**Subcommittee on Subsidiary Legislation to Introduce a Unified Carrier
Licence under the Telecommunications Ordinance**

**Minutes of first meeting on
Friday, 6 June 2008, at 10:45 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon Bernard CHAN, GBS, JP (Chairman)
Hon SIN Chung-kai, SBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Howard YOUNG, SBS, JP
Hon Ronny TONG Ka-wah, SC
- Members absent** : Hon Jasper TSANG Yok-sing, GBS, JP
Hon Albert CHAN Wai-yip
- Public Officers attending** : Agenda item II

Mr Alan SIU, JP
Deputy Secretary for Commerce and Economic Development
(Communications and Technology)

Miss Ida LEE Bik-sai
Principal Assistant Secretary for Commerce and Economic
Development (Communications and Technology)B

Mrs Marion LAI, JP
Director-General of Telecommunications

Mr Y K HA
Deputy Director-General of Telecommunications

Mr Sanda CHEUK Sing-tak
Senior Telecommunications Engineer (Regulatory 13)
Office of the Telecommunications Authority

Ms Rayne CHAI
Senior Government Counsel
Department of Justice

Ms Phyllis POON
Senior Government Counsel (Acting)
Department of Justice

Clerk in attendance : Ms YUE Tin-po
Chief Council Secretary (1)3

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Guy YIP
Senior Council Secretary (1)5

Ms May LEUNG
Legislative Assistant (1)6

Action

I. Election of Chairman

Mr Bernard CHAN was elected Chairman of the Subcommittee.

II. Meeting with the Administration

(L.N. 132 of 2008 -- Telecommunications (Carrier
Licences) (Amendment)
Regulation 2008

L.N. 133 of 2008 -- Telecommunications (Level of
Spectrum Utilization Fees)
(Second Generation Mobile
Services) (Amendment)
Regulation 2008

- LC Paper No. CB(1)1700/07-08(01) -- Marked-up copy of Telecommunications (Carrier Licences) (Amendment) Regulation 2008 and Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2008 as amended by L.N. 132 and 133 of 2008
- LC Paper No. CB(1)1456/07-08(06) -- the Administration's paper on the "Outcome of the Public Consultations on the Proposed Creation of a Unified Carrier Licence under the Telecommunications Ordinance" issued for the meeting of the Panel on Information Technology and Broadcasting on 13 May 2008
- LC Paper No. LS86/07-08 -- Paragraphs 86 to 91 of the Legal Service Division Report
- LC Paper No. CB(1)1700/07-08(02) -- Background brief prepared by the Legislative Council Secretariat)

2. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Extension of scrutiny period

3. Members agreed to extend the scrutiny period of the Telecommunications (Carrier Licences) (Amendment) Regulation 2008 and Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2008 (the amendment regulations) to 9 July 2008.

Date of next meeting and public consultation

4. Members agreed that the second meeting of the Subcommittee would be held on Thursday, 12 June 2008 at 4:30 pm. Industry players would be invited to attend the meeting to give views on the subject. In this connection, they agreed that invitation letters should be issued to deputations as listed in Appendix IV of the

Members' brief.

(Post-meeting note: Due to unavailability of simultaneous interpretation service and with the concurrence of the Chairman, the meeting was re-scheduled to be held on Saturday, 14 June 2008, from 9 am to 11 am. Invitation letters were sent on 6 June 2008.)

III. Any other business

5. There being no other business, the meeting ended at 11:50 am.

Council Business Division 1
Legislative Council Secretariat
8 July 2008

**Proceedings of the first meeting of
the Subcommittee on Subsidiary Legislation to Introduce a Unified Carrier Licence
under the Telecommunications Ordinance
on Friday, 6 June 2008, at 10:45 am
in Conference Room B of the Legislative Council Building**

| Time marker | Speaker | Subject(s) | Action required |
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| 000048 – 000225 | Mr Bernard CHAN Mr Philip WONG Mr SIN Chung-kai Mr Howard YOUNG | (a) Election of Chairman (b) Members' agreement to extend the scrutiny period of the amendment regulations | |
| 000226 – 002356 | Chairman Administration | <p><u>Briefing by the Administration</u> (LC Paper No. CB(1)1829/07-08(01) - tabled at the meeting and subsequently issued via Lotus Notes on 6 June 2008)</p> <p>The Administration's advice that distinction between fixed and mobile networks and services was becoming increasingly blurred because of market and technology developments, giving a rise to "Fixed-Mobile Convergence" (FMC). To ensure that Hong Kong's regulatory environment remained conducive to the emergence of FMC, two public consultations on the introduction of the Unified Carrier Licence (UCL) for licensing fixed, mobile and/or converged services and its special conditions were conducted in 2007 respectively, the outcome of which was reported to the Panel on Information Technology and Broadcasting on 13 May 2008. In general, the public and the industry were supportive of the creation of the UCL. The amendment regulations, if passed by the Legislative Council (LegCo), would come into operation on 1 August 2008. The Telecommunications Authority (TA) would use the UCL as the licensing vehicle for new telecommunications services, such as the broadband wireless access (BWA) service. Noting industry players' concern about the implementation of an annual fee of \$3 per subscriber number (the number fee) as a fee component of the UCL, the Administration highlighted the following:</p> <p>(a) <i>Telephone numbers as scarce resources</i></p> <p>The available numbers for allocation were 54 million, among which 36.8 million had been allocated to operators. Unallocated</p> | |

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| | | <p>numbers held by the Office of the Telecommunications Authority (OFTA) and unused numbers held by operators were at about 17.2 million and 16.5 million respectively at present. While the annual consumption of new numbers was 1.6 million on average (1.2 million for mobile service and 0.4 million for fixed service), it was estimated that the current 8-digit numbering plan would be exhausted by 2015. Therefore, it was necessary to introduce timely measures to prolong the life span of the 8-digit numbering plan, or else the migration to a longer digit plan (9- or 10-digit) would incur very high social cost.</p> <p>(b) <i>Consumption of numbers</i></p> <p>The idle rates of numbers allocated to mobile, fixed and paging services were 39%, 38% and 96.5% respectively. The under-utilization of pager numbers was due to a gradual shift of service demand from paging service to mobile service since 1990's.</p> <p>(c) <i>Increasing consumption rate of numbers to extend the life span of the current numbering plan</i></p> <p>To extend the life span of the 8-digit numbering plan, consideration should be given to reducing the quantity of idle numbers held by operators and imposing a fee to encourage operators to better utilize their allocated numbers.</p> <p>(d) <i>Measure to reduce the quantity of idle numbers</i></p> <p>(i) The number fee would be introduced under the UCL regardless whether the number had been assigned to end customers or not. It would not be applicable to existing operators who opted not to convert their licences to the UCL before expiry of their current licences.</p> <p>(ii) It was planned to introduce the number</p> | |

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| | | <p>fee to paging operators and mobile virtual network operators (MVNOs) not later than July 2010. As for Service-Based Operators Licence, an annual number fee of \$7 had been implemented since its inception in 2006.</p> <p>(iii) Numbers beginning with the digit "5" had started to be allocated for mobile service from May 2008. Meanwhile, OFTA would consider allocating numbers beginning with the digit "7" for mobile service after exhaustion of the "5"-prefixed numbers.</p> <p>(iv) A working group had been set up under OFTA to explore other measures to promote better number utilization, including allocation of smaller number blocks (to be reduced from the existing size of 100,000 to 10,000 numbers per block), raising the threshold for operators' eligibility to request the allocation of new numbers from 60% to 70% or 80% and permitting operators to return non-consecutive idle numbers.</p> <p>(e) <i>Number fee applicable to all operators</i></p> <p>The UCL would be a single vehicle for regulating fixed, mobile and/or converged services. It would only be fair to apply the same licence fee to all UCL licensees, irrespective of the services to be provided. It was planned to apply the same number fee to other service operators, including the paging operators and MVNOs.</p> <p>(f) <i>Financial implications</i></p> <p>The number fee would provide economic incentive to encourage operators to better utilize the scarce resources of telecommunications numbers. Under the UCL, new fee components would be introduced which purported to aligning the regulation of fixed, mobile and converged services. The number fee would only constitute about 0.5% of the total revenue for a fixed telephone line. The proposed fee for</p> | |

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| | | <p>the UCL would be revenue-neutral on the part of OFTA.</p> <p>(g) <i>Anticipated result</i></p> <p>Assuming an annual consumption of numbers at 1.6 million, the introduction of the proposed financial and administrative measures to increase the utilization rate of numbers would enable the reclamation of idle numbers from fixed, mobile and paging services thereby prolonging the current numbering plan to beyond 2026.</p> | |
| 002357 – 002949 | Chairman Mr SIN Chung-kai Administration | <p>(a) Mr SIN Chung-kai's enquiry on the progress of the proposal to implement Fixed Mobile Number Portability (FMNP) and its implications, if implemented, on the UCL.</p> <p>(b) The Administration's advice as follows :</p> <p>(i) at present, numbers could be transferred between fixed networks and between mobile networks, but not between fixed and mobile networks. Pursuant to the TA's Statement dated 27 April 2007, a market research to assess the consumers' demand for FMNP was conducted, results of which were currently being analyzed. The initial findings were that consumers were concerned about how to differentiate fixed and mobile telephone numbers and to port a telephone number for multiple users. The feasibility to introduce FMNP should be handled separately from the UCL; and</p> <p>(ii) cross porting of fixed and mobile numbers would pool together the number resources for better utilization and might prolong the 8-digit numbering plan.</p> <p>(c) Mr SIN Chung-kai's remark that the advantage of FMNP should be advocated as FMNP would prolong the life span of the current numbering plan, whereas the migration to a longer digit numbering plan would entail very high social cost.</p> | |

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| 002950 – 004540 | Chairman Mr SIN Chung-kai Administration | <p><u>Administration's response to submission from Wharf T&T Limited</u> (LC Paper No. CB(1)1829/07-08(02) - tabled at the meeting and subsequently issued via Lotus Notes on 6 June 2008)</p> <p><i>It was unfair to apply the UCL to all fixed and mobile carriers</i></p> <p>(a) It would only be fair to apply an across-the-board licence fee to all UCL licensees as the distinction between fixed and mobile services was increasingly blurred in a converged environment.</p> <p><i>Operational measures should be implemented to efficiently use number resources before resorting to the introduction of the number fee</i></p> <p>(b) A multi-pronged approach would be adopted by OFTA to promote better use of the number resources, and both financial measures (i.e. the number fee) and operational measures should be adopted. It was necessary to create the UCL at this point in time as it was required as the single licensing vehicle for regulating telecommunications services to cope with growing need of converged telecommunications services, which was a worldwide trend. It was opportune to introduce the concept of number fee at the time when we created the UCL was created.</p> <p><i>Increase in licence fee at 160% for fixed carriers was unjustified in view of the decreasing operational cost of OFTA as a result of its light-handed regulatory regime</i></p> <p>(c) The increase of licence fee for fixed carriers was considered reasonable to achieve the cost recovery principle, and in fact the increase would be less if the concerned operators returned idle numbers to OFTA. OFTA had all along strived to reduce its operational cost and the savings achieved would be ploughed back to operators by way of reducing their licence fee. In fact, since the inception of OFTA, licence fee had ever been on a reduction.</p> | |

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| | | <p><i>Why should mobile carriers enjoy licence fee reduction while the fixed carriers face an increase</i></p> <p>(d) Licence fee payable by mobile operators per mobile station had reduced from \$75 in 1999 to \$18 at present, and would be further reduced to \$8 under the UCL, which was based on OFTA's cost in regulating the mobile service. Regarding the fixed service, the licence fee was proposed to be increased from \$7 to \$8 per customer connection because of the increase in cost in regulating the fixed service, such as handling of consumer complaints, administration arrangements to facilitate operators' network rollout and the facilitation of interconnection with other networks.</p> <p><i>Mobile service was driving the biggest demand in numbers but would enjoy licence fee reduction under the UCL whereas fixed carriers had to bear the number fee and increase of licence fee</i></p> <p>(e) Rather than the quantity of numbers used, the consumption rate of allocated numbers, currently at about 60% for both fixed and mobile operators, was the reason for implementing the number fee. If implemented, the number fee would provide financial incentive to encourage operators to return idle numbers to OFTA for re-allocation.</p> <p><i>The UCL would be applicable to existing licensees upon conversion or expiry of their existing licences resulting in the new fee taking effect at different time for different licensees, some would be as late as 2018</i></p> <p>(f) This was an across-the-board measure applicable to all licensees. Operators could choose to convert their licences immediately or upon expiry of their licences according to their commercial consideration. Among them, four fixed operators, which licences would expire in 2010, were holding 90% of the allocated fixed numbers. The proposed legislative amendments, if implemented in a timely manner, would facilitate the effective</p> | |

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| | | <p>use of number resources.</p> <p><i>Mobile operators may not pass the licence fee savings in terms of reduced subscription fee to consumers</i></p> <p>(g) The level of subscription fee was a commercial decision. There was a reduction trend for the subscription fee charged by mobile operators since the 1990's. As the licence fee of mobile operators would be reduced under the proposed UCL, savings thus achieved by operators might be passed on to consumers to enhance their price competition strength. Regarding fixed operators, the imposition of the number fee would only constitute 0.5% of their revenue per telephone line and therefore would only bring minimal impact on their operating cost.</p> | |
| 004541 – 005012 | Chairman Dr Philip WONG Administration | <p>(a) Dr Philip WONG's support for the implementation of various measures to prolong the life span of the 8-digit numbering plan. He also enquired about the implications on operators and OFTA for migrating to a longer digit numbering plan.</p> <p>(b) The Administration's advice that operators needed to upgrade their hardwares and softwares when Hong Kong migrated from the 7-digit to 8-digit numbering plan in 1995. In addition, the society had incurred very high cost for the migration (such as re-printing letter-headed papers, informing overseas contacts, re-programming softwares, etc.). A lead time of about 3 years would be required for completing the migration process. Regarding OFTA, any additional cost to be incurred for migrating to a longer numbering plan would be absorbed by the OFTA Trading Fund.</p> | |
| 005013 – 005411 | Chairman Mr SIN Chung-kai Administration | <p>(a) Mr SIN Chung-kai's suggestion for OFTA to give operators concerned a right of first refusal before re-allocating their returned numbers to another operator.</p> <p>(b) The Administration's advice that numbers returned by operators would, in the first place, be allocated to the same operator when</p> | |

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| | | <p>they applied for new allocation thereby saving the costs of OFTA and operators in managing numbers and at the same time preventing operators from hoarding auspicious numbers by returning unwanted numbers. The feasibility to give operators a right of first refusal would be further examined by OFTA.</p> | |
| 005412 – 005728 | Chairman Dr Philip WONG Administration | <p>(a) Dr Philip WONG's suggestion to abolish the fixed length concept (i.e. telephone numbers with unified numbers) and to adopt a flexible numbering plan with specific digits signifying the start and end of a telephone number. This would avoid investments required for migrating to longer numbering plans in future.</p> <p>(b) The Administration's advice that a flexible numbering plan would entail additional call processing time by the network to handle the complete dialling of the telephone numbers. At present, flexible numbering plan was only used in international direct dial in view of the variable length of numbers used by overseas countries and the end of the overseas telephone numbers was signified by the "#" key. To enable more effective call processing by the telephone network, a unified numbering scheme with fixed digit length for each subscribe number, i.e. the 8-digit numbering plan, was adopted in 1995. While there were on-going studies on other codification method (e.g. by keying in the called party's name), appropriate measures should be adopted as soon as possible to prolong the life span of the current numbering plan.</p> | |
| 005729 – 010217 | Chairman Mr Ronny TONG Administration | <p>(a) Mr Ronny TONG's query whether it would defeat the purpose of encouraging effective use of the number resources if OFTA would reserve auspicious numbers returned by operators for their future use.</p> <p>(b) The Administration's advice that operators would likely prefer to pay the number fee in order to retain auspicious numbers already allocated to them. To ensure effective use of numbers, a database would be maintained</p> | |

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| | | <p>to keep track of numbers returned by operators for re-allocation to the same operator when they applied for new allocation in future. The provision of a right of first refusal for operators, as suggested by Mr SIN Chung-kai, would be further examined.</p> | |
| 010218 – 010447 | Chairman Dr Philip WONG Administration | <p>(a) Dr Philip WONG's enquiry on whether safeguards were in place to avoid hoarding of numbers by operators trying to monopolize the market.</p> <p>(b) The Administration's advice that safeguards would be in place, including:</p> <ul style="list-style-type: none"> (i) the consumption rate of numbers for operators' eligibility to request the allocation of new numbers (currently at 60% which would be raised to 70% or 80%); and (ii) the size of number blocks to be allocated to operators (current at 100,000 numbers per block which would be reduced to 10,000 numbers per block). | |
| 010448 – 010544 | Chairman Administration | <p>(a) The Chairman's enquiry on how the adoption of the new threshold of the number utilization rate would apply if operators returned numbers to OFTA and when the new threshold would take effect.</p> <p>(b) The Administration's advice that under the current 60% utilization threshold, if individual operators returned idle numbers to OFTA, they would be eligible for new allocation of numbers if their actual number utilization rate was maintained above this threshold. However, if the threshold raised to 70% or 80%, they would need to achieve the new threshold before they were eligible for new number allocation. The new threshold was now being discussed by a working group set up between OFTA and the industry and there was not yet a concrete timetable for implementation.</p> | |

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| 010545 – 010837 | Chairman Mr SIN Chung-kai Mr Ronny TONG | Date of next meeting, arrangements for public consultation and extension of the scrutiny period of the amendment regulations. | |

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Legislative Council Secretariat
8 July 2008