

立法會
Legislative Council

LC Paper No. CB(1)2134/07-08
(These minutes have been seen by
the Administration)

Ref : CB1/SS/12/07

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

**Minutes of second meeting on
Saturday, 14 June 2008, at 9:00 am
in the Chamber of the Legislative Council Building**

Members present : Hon Bernard CHAN, GBS, JP (Chairman)
Hon SIN Chung-kai, SBS, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Hon Albert CHAN Wai-yip

Members absent : Dr Hon Philip WONG Yu-hong, GBS
Hon Ronny TONG Ka-wah, SC

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

Ms 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

**Attendance by
invitation**

: PCCW Limited

Mr Stuart CHIRON
Director of Regulatory Affairs

Hong Kong Broadband Network Limited

Mr Nelson FAN
Head – Legal, Regulatory and Company Secretarial
Department

Mr Felix LEUNG
Regulatory Affairs Manager

Consumer Council

Mr Victor HUNG
Chief Research and Trade Practices Officer

Wharf T&T Limited

Ms Agnes TAN
Vice President, Legal, Regulatory & Carrier Affairs

Mr Jordan LEE
Senior Manager, Regulatory & Carrier Affairs

SmarTone Mobile Communications Limited

Mr Eric LEE
Manager, Legal & Regulatory Affairs

Mr T L OR
Senior Manager, Engineering & Operations

Pacnet

Mr Andrew SIMPSON
Director of Regulatory affairs

Ms Grace GUANG
General Counsel

Hong Kong Cable Television Limited

Mr William CHOW
Corporate Lawyer

Hong Kong Telecommunications Users Group

Mr Simon CHAN
Chairman

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. Meeting with deputations and the Administration

Meeting with deputations

The following deputations presented their views to the Subcommittee:-

- PCCW Limited
(LC Paper No. CB(1)1897/07-08(01) – English version only)
- Hong Kong Broadband Network Limited
- Consumer Council
(LC Paper No. CB(1)1897/07-08(02) – English version only)
- Wharf T&T Limited
(LC Paper No. CB(1)1829/07-08(01) – English version only)
- Smartone Mobile Communications Limited
(LC Paper No. CB(1)1912/07-08(01) – Chinese version only)

- Pacnet
(LC Paper No. CB(1)1897/07-08(03) – English version only)
 - Hong Kong Cable Television Limited
(LC Paper No. CB(1)1897/07-08(04) – English version only)
 - Hong Kong Telecommunications Users Group
(LC Paper No. CB(1)1897/07-08(05) – English version only)
2. The Hong Kong CSL Limited had provided a submission (LC Paper No. CB(1)1906/07-08(01) – English version only) to the Subcommittee.

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

Meeting with the Administration

- Admin 4. The Administration undertook to provide the following information:
- (a) the exact figures of telecommunications numbers allocated to individual telecommunications operators in the past three years; and
 - (b) an estimate of the required adjustment to licence fees under the unified carrier licence (UCL) if the proposed number fee was abolished.
- Admin 5. The Administration also undertook to consider Mr Albert CHAN's suggestion to waive a certain amount of the number fee for all UCL licensees.

Dates of next meetings

6. Members agreed that the third and fourth meetings of the Subcommittee would be held on Friday, 20 June 2008 at 8:30 am, and on Monday, 23 June 2008 at 8:30 am to continue discussion with the Administration.

Extension of scrutiny period

7. 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 to 9 July 2008. As the Chairman would be out of town in the following week, members agreed that Mr SIN Chung-kai would, on behalf of the Subcommittee, move a motion at the Council meeting on 18 June 2008 to extend the scrutiny period. They also noted that the deadline for giving notice of motion to amend the two regulations was 2 July 2008.

II. Any other business

8. There being no other business, the meeting ended at 11:10 am.

Council Business Division 1
Legislative Council Secretariat
8 July 2008

**Proceedings of the second meeting of
the Subcommittee on Subsidiary Legislation to Introduce a Unified Carrier Licence
under the Telecommunications Ordinance
on Saturday, 14 June 2008, at 9:00 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000531 – 000644	Chairman	Opening remarks by the Chairman	
000645 – 001146	Chairman PCCW Limited (PCCW)	Meeting with deputations Presentation of views (LC Paper No. CB(1)1897/07-08(01))	
001147 – 001401	Chairman Consumer Council (CC)	Presentation of views (LC Paper No. CB(1)1897/07-08(02))	
001402 – 002055	Chairman Wharf T&T Limited (WT&T)	Presentation of views (LC Paper No. CB(1)1829/07-08(01))	
002056 – 002355	Chairman SmarTone Mobile Communications Limited (SmarTone)	Presentation of views (LC Paper No. CB(1)1912/07-08 - tabled at the meeting and subsequently issued on 16 June 2008)	
002356 – 002708	Chairman Pacnet	Presentation of views (LC Paper No. CB(1)1897/07-08(03))	
002709 – 003221	Chairman Hong Kong Telecommunications Users Group (HKTUG)	Presentation of views (LC Paper No. CB(1)1897/07-08(05))	
003222 – 005136	Chairman Administration	The Administration's initial response to deputations' views as follows : (a) to prolong the life span of the current 8-digit numbering plan, financial and non-financial measures, such as the introduction of the proposed number fee, should be implemented without delay. It was estimated that by introducing the proposed measures, the current numbering plan could be used beyond 2019 or 2026;	

Time marker	Speaker	Subject(s)	Action required
		<p>(b) the utilization rate of allocated numbers were at about 60% for both fixed and mobile carriers which had room for improvement;</p> <p>(c) the proposed licence fees under UCL were based on a "revenue-neutral" principle; and</p> <p>(d) given a highly competitive telecommunications market in Hong Kong, operators would carefully consider the market situation before making a decision to pass on the increased operating cost to consumers. In addition, operators could return idle numbers to the Office of the Telecommunications Authority (OFTA) so as to reduce licence fee.</p>	
005137 – 005813	Chairman Mr Howard YOUNG CC	<p>(a) Mr Howard YOUNG asked CC whether the imposition of the proposed number fee would be effective in prolonging the life span of the current 8-digit numbering plan and whether savings in operating cost of mobile carriers would be passed on to consumers.</p> <p>(b) CC's advice that CC would closely monitor the implications of the UCL in respect of the reduction in operating cost of mobile operators and increased operating cost of fixed operators due to the imposition of the new licence fee under UCL. Nevertheless, it was likely that consumers would absorb part of the additional cost. Operators might also use it as an excuse to increase service fees.</p>	
005814 – 011157	Chairman Mr Albert CHAN WT&T PCCW Administration	<p>(a) Mr Albert CHAN's suggestion that an agreement should be reached between OFTA and operators on the quantity of numbers required for operational need within a certain period of time and those exceeding the agreed quantity should be returned to OFTA, thereby releasing the pressure on number exhaustion without jeopardizing the industry's normal operation.</p> <p>(b) WT&T welcomed Mr CHAN's suggestion and proposed that one of the possible</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>measures was to increase the utilization rate of the allocated numbers, say, by returning 20% of the allocated numbers which were left idle to OFTA. However, WT&T was worried about the lead time for operators to apply for allocation of new numbers when their stock was close to running out.</p> <p>(c) The Administration's advice that the quantity of idle numbers to be stocked by operators would be subject to individual operators' modus operandi. For example, mobile operators would maintain some numbers for their pre-paid SIM cards. Nevertheless, the number fee would provide financial incentive for operators to retain allocated numbers in a more efficient manner. Detailed mechanism for the allocation of new numbers would be worked out by a working group set up by OFTA (the working group), which was represented by operators as well as other stakeholders.</p> <p>(d) PCCW was of the view that there was no imminent need for imposing the proposed number fee in view that there was still more than 20 million numbers available for allocation held by OFTA and that a host of administrative measures could be taken by OFTA to conserve numbers. The number fee should only be introduced as the last resort.</p> <p>(e) The Administration's response that timely measures should be taken to prolong the life span of the current 8-digit numbering plan. The proposed number fee would constitute one of the fee components of UCL which would be used as the licensing vehicle for new telecommunications services, such as the broadband wireless access (BWA) service to be issued in the second half of 2008. The licence fees under UCL should be determined without delay in order to provide a business environment with certainty for investors interested in the market. If the number fee was introduced at a later stage during the validity period of a UCL issued, it would be perceived as unfair</p>	

Time marker	Speaker	Subject(s)	Action required
		to the licence holder.	
011158 – 011709	Chairman Mr SIN Chung-kai Administration	<p>(a) Mr SIN Chung-kai's enquiry about the lead time for OFTA to allocate new numbers to operators and whether it was feasible for OFTA to give the right of first refusal to operators before allocating their returned numbers to another operator.</p> <p>(b) The Administration's pledge to allocate returned numbers to the operators concerned based on a fast track process (say within one to two days) after verifying their fulfillment of the required utilization rate. Moreover, while the Administration would, in the first place, allocate returned numbers to operators concerned, there were also new numbers available for allocation. As such, it was estimated that the allocation of returned numbers to another operator would only be required after the new numbers were exhausted. OFTA also undertook to further examine the proposal of providing the right of first refusal to the operators who had returned numbers to OFTA.</p>	
011710 – 012922	Chairman Mr Albert CHAN PCCW WT&T Administration Mr SIN Chung-kai	<p>(a) Mr Albert CHAN's suggestion that a certain amount of the proposed number fee should be waived. He elaborated that the waiver should be based on operators' operational need, i.e. the actual usage for, say, the last three years. The number fee would only apply to numbers held by operators which were beyond their operational need and should be charged at a level higher than \$3 per year. He also commented that the 60% utilization rate should be raised to 80%. Mr SIN Chung-kai suggested to waive the proposed number fee on an annual basis based on the quantity of numbers used in the previous year.</p> <p>(b) PCCW and WT&T considered it reasonable to introduce administrative measures before introducing the proposed number fee.</p> <p>(c) The Administration's explanation that to ensure a level playing field, the OFTA cannot negotiate with individual operators on the amount of telephone numbers the</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>number fee of which can be waived. While number resources were scarce public resources, it was reasonable that users were required to pay for their utilization. The Administration stressed that it was necessary to set out the licensing regime of UCL including the licence fee without further delay to provide certainty and to tie in with the licensing of BWA service within 2008. Nevertheless, the Administration would continue discussion with the industry on other operational measures to ensure effective allocation of numbers by OFTA and utilization of numbers by operators.</p> <p>(d) PCCW's comment that the licensing of BWA service and licence fees under UCL could be treated separately as the former would affect very few users of new service but the latter would affect a vast number of existing users.</p> <p>(e) The Administration's position that to provide a fair and stable environment for all the licensees, clear licensing terms and conditions, including the licence fee which would be applied, should be settled before the UCL was to be implemented.</p>	
012923 – 014115	Chairman Administration Mr Albert CHAN SmarTone	<p>(a) Discussion on the licence fee under UCL. The Administration advised that as the income from the proposed number fee would be subject to the quantity of numbers held by operators, there were uncertainties as to whether OFTA could achieve a return on fixed assets as determined by the Government. In addition, the licence fees under UCL were based on the cost-recovery principle. In other words, the total abolition or substantial reduction of the number fee, if pursued, would need to be offset by an increase in other fee components, such as the customer connection fee.</p> <p>(b) Mr Albert CHAN called on operators to propose a mechanism (i.e. the quantity of numbers and the length of a grace period) for exempting the number fee for the Subcommittee's consideration.</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) SmarTone supported the Administration's proposal to apply the number fee universally to all operators. It was keen to ensure that there would be a level playing field for all operators even if member's suggestion was taken forward.</p> <p>(d) The Chairman's advice that operators' response to Mr Albert CHAN's suggestion, if any, should be forwarded to the Legislative Council Secretariat before the next meeting of the Subcommittee.</p>	
014116 – 014631	Chairman Mr Albert CHAN Administration	<p>Meeting with the Administration</p> <p>(a) Mr Albert CHAN re-iterated his suggestion to partially waive the proposed number fee taking into account operational need of operators.</p> <p>(b) The Administration explained that an across-the-board licensing regime should apply to all licensees of the same type of licence while administrative measures which take into account the modus operandi of operators would be studied by the working group.</p> <p>(c) Mr Albert CHAN's request for information on numbers allocated to operators.</p> <p>(d) The Chairman reminded members that notice of amendments to the legislative proposal, if any, should be given by 2 July 2008.</p>	The Administration to take action as stated in paragraph 2(a) of the minutes
014632 – 014835	Chairman Mr Albert CHAN Administration	Discussion on the feasibility of waiving a certain amount of the number fee, say \$150,000 for the first 50,000 numbers allocated to each operator, to relieve part of the industry's difficulties. The Administration undertook to examine whether and how a universal exemption could be applied to all UCL licensees.	The Administration to take action as stated in paragraph 3 of the minutes

Time marker	Speaker	Subject(s)	Action required
014836 – 020406	Chairman Mr Jasper TSANG Administration Mr Albert CHAN Mr SIN Chung-kai	<p>(a) Discussion on the rationale for introducing the current fee package under UCL. Mr Jasper TSANG considered it contradictory to introduce the proposed number fee as a means to discourage operators from using numbers while OFTA would rely on it as part of its revenue. The Administration stressed that the present proposal had carefully balanced the need to encourage efficiency in using telecommunications numbers and OFTA's cost in regulating the industry. Telecommunications numbers were scarce public resources and it was reasonable to impose a utilization fee. In budgeting the licence fee income, OFTA had made projections such that the fluctuation in income from the proposed number fee would not adversely affect OFTA's achieving the prescribed return on fixed assets. However, the abolition or substantial reduction of the proposed number fee, if pursued, would lead to increase in other fee component(s).</p> <p>(b) Mr Jasper TSANG and Mr Albert CHAN questioned if the number fee should only apply to the idle numbers held by operators. The Administration explained that there would be practical difficulties in verifying the quantities of idle numbers held by operators, e.g. operators could claim that numbers had been allocated to commercial operators installed with Private Automatic Branch Exchange (PABX) systems to circumvent the requirement to pay for the proposed number fee. According to OFTA's available data, while one residential telephone line or one mobile station only occupied one telecommunications number, one commercial telephone line could occupy multiple telecommunications numbers. On average, four numbers were now allocated per commercial telephone line. Therefore, suitable measures should be adopted to ensure better utilization of numbers.</p>	

Time marker	Speaker	Subject(s)	Action required
020407 – 021341	Chairman Mr SIN Chung-kai Administration Mr Jasper TSANG Mr Albert CHAN	<p>(a) Mr SIN Chung-kai's query about the method used to calculate the proposed customer connection fee and number fee.</p> <p>(b) The Administration's advice that the estimation of the proposed customer connection fee was based on the number of connected lines reported by operators and returns by auditors. The proposed number fee was based on the numbers allocated to operators with suitable adjustments, such as the numbers ported to other operators.</p> <p>(c) Mr Jasper TSANG and Mr Albert CHAN doubted if the imposition of the proposed number fee would effectively achieve the policy intent to prolong the life span of the current 8-digit numbering plan.</p> <p>(d) The Administration's re-iteration that the abolition of the number fee, if pursued, would result in an increase in other fee component(s), such as the customer connection fee.</p> <p>(e) The Chairman requested the Administration to provide an estimate of the required adjustment to licence fees under UCL if the proposed number fee was abolished.</p>	The Administration to take action as stated in paragraph 2(b) of the minutes
021342 – 021508	Chairman	Dates of next two meetings and extension of scrutiny period of the amendment regulations	