

立法會
Legislative Council

LC Paper No. CB(1)1700/07-08(02)

Ref: CB1/SS/12/07

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

Background brief

Purpose

This paper provides background information on the legislative proposals to create a unified carrier licence (UCL) and summarizes the views and concerns expressed by members at meetings of the Panel on Information Technology and Broadcasting (ITB Panel) on related issues.

Background

2. Distinction between fixed and mobile networks and services is 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 remains conducive to the development of FMC, the Telecommunications Authority (TA) conducted two public consultation exercises in 2005 and 2006. The TA subsequently issued a statement on "Deregulation for Fixed-Mobile Convergence" on 27 April 2007¹ recommending to create a UCL as a single vehicle for licensing fixed, mobile and/or converged services.

3. On 21 December 2007, the Secretary for Commerce and Economic Development (SCED) issued the "Consultation Paper on the Creation of a UCL under the Telecommunications Ordinance" setting out the proposals on the general conditions, period of validity and fee structure for the UCL. In parallel, the TA issued a separate consultation paper entitled "Licensing Framework for UCL" covering the special conditions proposed to be attached to the UCL, the general approach for granting a UCL under different scenarios and the arrangement for migration of existing carrier licences to UCLs. The consultation exercises ended on 4 March 2008.

¹ Available from : <http://www.ofta.gov.hk/en/tas/others/ta20070427.pdf>

The legislative proposals

4. To enable the introduction of the UCL, two amendment regulations under the Telecommunications Ordinance (Cap. 106) were gazetted on 16 May 2008 and tabled at the Council meeting on 21 May 2008. Subject to the completion of the negative vetting process within the 2007-2008 legislative session, the two amendment regulations shall come into operation on 1 August 2008. The TA will use the UCL as the licensing vehicle for the broadband wireless access (BWA) service to tie in with the auction of BWA spectrum in the fourth quarter of 2008.

Telecommunications (Carrier Licences) (Amendment) Regulation 2008

5. The major proposals under the Telecommunications (Carrier Licences) Regulation (Cap. 106V) are:

(a) Definition of unified carrier licence

The UCL will be defined as a new type of carrier licence under Cap. 106V and its scope will permit the provision of all types of fixed, mobile and converged telecommunications services (or any combination thereof) which are currently authorized under the Fixed Carrier Licence (FCL), Fixed Carrier (Restricted) Licence, Mobile Carrier Licence (MCL) and Mobile Carrier (Restricted) Licence, except for the Space Station Carrier Licence.

(b) General conditions

The same set of general conditions currently applied to carrier licences will also apply to the UCL.

(c) Period of validity

The UCL will be granted with a validity period of 15 years, except where a UCL is granted for conversion of an existing carrier licence without change in scope of service in which case the period of validity will be the same as the remaining term of the original carrier licence.

(d) Fees

(i) *Fixed fee* – A UCL licensee is required to pay a fixed annual fee of \$1 million if it is authorized to provide fixed local services or mobile services or both. A lower amount of \$100,000 will apply if it provides fixed external services and/or radiocommunications services where moving stations

are primarily for use in locations other than on land (i.e. mobile services other than land mobile services) only.

- (ii) *Customer connection fee* – There will be a subscriber-based fee component of \$8 per customer connection payable per annum under the UCL.
- (iii) *Number fee* – There will be an annual fee of \$3 for each subscriber number allocated to the UCL licensee regardless of whether the number has been assigned to end customers or not.
- (iv) *Spectrum management fee and base station / land station fee* – The calculation of spectrum management fee and base station/land station fee under the UCL will remain at the same levels as those under the current carrier licences.

Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2008

6. Consequential amendments are proposed under the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap. 106AA) to the effect that where a MCL has been converted to a UCL utilizing the same spectrum, the period of validity of the relevant UCL shall be counted as from the first issue of the relevant MCL, for the purpose of calculating the spectrum utilization fee as if the licence has not been converted.

Discussion by the Panel on Information Technology and Broadcasting

7. The Administration briefed members of the ITB Panel, at its meetings on 14 January and 13 May 2008 respectively, on the proposals in the consultation papers issued by SCED and TA, and the consultation findings. The Panel also invited industry players to present their views on the two consultation papers at the meeting on 14 January 2008.

8. In general, industry players supported the proposal to create the UCL but opposed to the proposed licence fees, in particular the customer connection fee and number fee. However, the Panel also noted that the Consumer Council and the Hong Kong Telecommunications User Group supported the proposal to charge the number fee as a means to encourage better utilization of the number resources and to prolong the life span of the current 8-digit numbering plan, which is estimated to be exhausted in seven years (i.e. by 2015), based on existing demand and pace of number allocation to operators.

9. While some members supported in principle the Administration's legislative proposals, some other members expressed concern about the proposed number fee and the divergent views among industry players. The views and concerns raised by members are summarized in the ensuing paragraphs.

Proposed fees for unified carrier licence

10. The Panel has noted that the current fee proposal was drawn up on the basis of the principle of cost-recovery. In view of the substantial profit achieved by the Office of the Telecommunications Authority (OFTA) in recent years, members have expressed concern about the reasons for increasing the customer connection fee from \$7 to \$8 and introducing a \$3 number fee.

11. The Administration has explained that the reduction in the total expenditure of the OFTA Trading Fund in recent years was mainly attributable to savings in staff costs and stringent cost control. The surplus achieved might not necessarily guarantee profits in the years ahead. As UCL would come into operation in 2009-2010, it was incumbent for the Administration to take into account the projected future growth in the fixed and mobile telecommunications industry. As a UCL licensee could operate both fixed and mobile services, the proposed fee structure with an increase to \$8 (from the existing fee of \$7) per customer connection for FCL, and a reduction to \$8 (from the existing fee of \$18) per mobile station for MCL, should be viewed in totality in the light of FMC. The Administration therefore considered the proposed level of UCL fees appropriate, prudent and balanced. Nevertheless, fee reduction would be considered whenever there was room for adjustment subject to operational experience.

12. As regards the assumption that the 8-digit numbers would be exhausted in seven years, members expressed concern whether the proposed number fee was fair to the fixed network operators (FNOs), as it was the mobile network operators (MNOs) that had been driving the greatest demand for telecommunications numbers. To prolong the life span of the existing 8-digit numbering plan, some members suggested that the pager numbers beginning with the digit "7", which were currently greatly under-utilized, should be released for other telecommunications services. A member opined that the number fee was too low to deter operators from hoarding auspicious numbers. He suggested to impose a higher fee or introduce a quota system whereby the allocation of telecommunications numbers would be based on the actual usage of each network operator.

13. According to the Administration, there was no provision under the existing licensing regime requiring operators to return unused numbers for reallocation. FNOs and MNOs were generally reluctant to return unused numbers because of vested commercial interests. As telecommunications

numbers were scarce public resources and in view of the low utilization rate at around 60% of the numbers allocated, there was a real need to impose a number fee as an economic incentive for operators to make more efficient use of the telecommunications numbers. That notwithstanding, a working group established under the Telecommunications Numbering Advisory Committee would explore other administrative measures to promote better number utilization. As for pager numbers, the Administration clarified that the licensing of pager service was not covered under the fixed/mobile carrier licences or the proposed UCL. While paging operators would be urged to return unused numbers for reallocation, the Administration planned to impose the number fee to pager numbers in the near future.

Consumer protection and dispute resolution

14. A member suggested that an arbitration/litigation fund should be set up, with income from the number fee, for financing the investigation, arbitration and litigation of consumer complaints and contractual disputes for telecommunications services. The Administration advised that the number fee was "revenue neutral" and would not bring OFTA any extra income if operators returned unused numbers. Nevertheless, the Administration had proposed to include special conditions on "Compliance with Codes of Practices" (SC1) and "Service Contracts and Dispute Resolution" (SC 36) under the new UCL to enhance consumer protection and improve the handling of consumer complaints about contractual issues. A pilot voluntary Customer Complaint Settlement Scheme for dispute resolution would also be launched in this respect.

15. Members expressed that consumers in remote areas and low-income districts might not have much choice of telecommunications services due to service providers' commercial consideration. A member suggested that telecommunications network operators should be required to provide services in both economically viable as well as unviable areas under the new UCL.

Relevant papers

16. A list of relevant papers is at the **Appendix**.

List of relevant papers

Committee	Paper	LC Paper No.
Meeting of Panel on Information Technology and Broadcasting (ITB Panel) on 14 January 2008	<ul style="list-style-type: none"> ✧ Administration's paper : "Public Consultations on the Creation of a Unified Carrier Licence under the Telecommunications Ordinance" ✧ Submission from Hong Kong Cable Television Limited ✧ Submission from PCCW-HKT Telephone Limited ✧ Submission from Wharf T&T Limited ✧ Administration's follow-up paper : "Public Consultation on the proposed Unified Carrier Licences" ✧ Minutes of meeting 	<p>CB(1)544/07-08(03)</p> <p>CB(1)573/07-08(01)</p> <p>CB(1)583/07-08(01)</p> <p>CB(1)583/07-08(02)</p> <p>CB(1)1147/07-08(01)</p> <p>CB(1)943/07-08</p>
Meeting of ITB Panel on 13 May 2008	<ul style="list-style-type: none"> ✧ Administration's paper : "Outcome of the Public Consultations on the Creation of a Unified Carrier Licence under the Telecommunications Ordinance" ✧ Submission from Wharf T&T Limited 	<p>CB(1)1456/07-08(06)</p> <p>CB(1)1542/07-08(03)</p>
Meeting of the House Committee on 23 May 2008	<p>The Subcommittee was formed at the meeting of the House Committee</p> <ul style="list-style-type: none"> ✧ Telecommunications (Carrier Licences) (Amendment) Regulation 2008 ✧ Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2008 ✧ Legal Service Division Report ✧ Minutes of meeting 	<p>http://www.legco.gov.hk/yr07-08/english/subleg/negative/ln132-08-e.pdf</p> <p>http://www.legco.gov.hk/yr07-08/english/subleg/negative/ln133-08-e.pdf</p> <p>LS86/07-08</p> <p>CB(2)2060/07-08</p>