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Panel on Information Technology and Broadcasting

Meeting on 10 December 2012

Background brief on licence fee for Unified Carrier Licences under the Telecommunications Ordinance

Purpose

This paper provides a summary of views and concerns expressed by Members on the fees payable by the licencees of Unified Carrier Licence[1] ("UCL") under the Telecommunications Ordinance ("TO") (Cap.106).

Background

2. Distinction between fixed and mobile networks and services is becoming increasingly blurred because of market and technology developments, giving rise to "Fixed-Mobile Convergence" ("FMC"). To ensure that Hong Kong's regulatory environment remains conducive to the development of FMC, the former Telecommunications Authority[2] ("TA") conducted two public consultation exercises in 2005 and 2006. The former TA subsequently issued a statement on "Deregulation for Fixed-Mobile Convergence" on 27 April 2007 recommending creating a UCL as a single vehicle for licensing fixed, mobile and/or converged services.

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[1] UCL was defined as a new type of carrier licence under the Telecommunications (Carrier Licences) (Amendment) Regulation (Cap. 106 sub. leg. V) for 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.

[2] Pursuant to the Communications Authority Ordinance (Cap. 616), with effect from 1 April 2012, all duties and powers of the TA were conferred on the Communications Authority ("CA"), and all duties and powers of the Office of the Telecommunications Authority ("OFTA") were conferred on the Office of the Communications Authority ("OFCA"), the executive arm of the CA.

3. On 21 December 2007, the Secretary for Commerce and Economic Development ("SCED") issued the "Consultation Paper on the Creation of a Unified Carrier Licence under the Telecommunications Ordinance" setting out the proposals on the general conditions, period of validity and fee structure for the UCL. In parallel, the former TA issued a separate consultation paper entitled "Licensing Framework for Unified Carrier Licence" 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.

Previous discussions

Panel on Information Technology and Broadcasting

4. At the meetings of the Panel on Information Technology and Broadcasting ("ITB Panel") on 14 January and 13 May 2008, members were briefed on the proposals in the consultation papers issued by SCED and the former 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. The ITB Panel noted that the Administration proposed to impose a number of fees for the UCL licencees:

(i) *Fixed fee* – A UCL licencee would be required to pay a fixed annual fee of $1 million if it was authorized to provide fixed local services or mobile services or both. A lower amount of $100,000 would apply if it provided fixed external services and/or radiocommunications services where moving stations were primarily for use in locations other than on land (i.e. mobile services other than land mobile services) only.

(ii) *Customer connection fee* – There would be a subscriber-based fee component of $8 per customer connection payable per annum under the UCL.

(iii) *Number fee* – There would be an annual fee of $3 for each subscriber number allocated to the UCL licencee regardless of whether the number had 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 would remain at the same levels as those under the existing carrier licences.

5. According to the Administration, industry players generally 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 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 was estimated to be exhausted in seven years (i.e. by 2015), based on existing demand and pace of number allocation to operators.

6. While some members of the ITB Panel supported in principle the Administration's proposals, some other members expressed concern about the divergent views among industry players. Noting that the fee proposal was drawn up on the basis of the principle of cost-recovery and in view of the substantial profit achieved by the former OFTA over the past few years, some members expressed concern about the reasons for increasing the customer connection fee from $7 to $8 and introducing a $3 number fee.

7. The Administration explained that the reduction in the total expenditure of the former OFTA Trading Fund in the past 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 licencee could operate both fixed and mobile services, the proposed fee structure with an increase to $8 (from the original fee of $7) per customer connection for FCL, and a reduction to $8 (from the original 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.

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

8. To enable the introduction of the UCL, the Telecommunications (Carrier Licences) (Amendment) Regulation 2008 (L.N. 132) and the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2008 (L.N. 133) were gazetted on 16 May 2008 and tabled at the Council meeting on 21 May 2008. At the meeting of the House Committee on 23 May 2008, a subcommittee was formed to study the two amendment regulations which came into operation on 1 August 2008.

9. The subcommittee noted that the Consumer Council, Hong Kong Telecommunications Users Group and mobile operators had indicated support for the proposal to create the UCL and restructure the UCL fee, as it would provide operators with the incentive to use telecommunications numbers more efficiently. The fixed network operators considered that the proposed increase of customer connection fee from $7 to $8 for fixed services and the introduction of a $3 number fee were unreasonable, premature and unnecessary.

10. The Administration advised that the licence fee for fixed services was proposed to be increased from $7 to $8 per customer connection because of the loss incurred by the former OFTA in the past in regulating the fixed services, and that the former OFTA's workload in administering fixed line services was not expected to decrease in the near future. Such workload included handling of determinations, interconnection disputes, consumer complaints, building access/exchange co-location issues as well as the review of regulatory issues like directory services, etc. The former OFTA stressed that the licence fee for UCL was set with a view to recovering the cost of the former OFTA in administering the licences, aligning the fees for fixed and mobile services, and providing incentive for efficient use of numbers.

11. The subcommittee also discussed the reason for implementing the number fee. Some members considered it contradictory to introduce the proposed number fee as a means to discourage operators from using numbers while the former OFTA would rely on it as part of its revenue. The Administration explained that as telecommunications numbers were scarce public resource, it was reasonable to impose a fee on operators who used the public resource for commercial purpose so as to cover the former OFTA's cost in regulating the industry.

Latest position

12. On 29 June 2012, the Administration and the CA issued a consultation paper on the proposed licence fee reductions for UCL, Public Radiocommunications Service ("PRS") Licences and Services-Based Operator ("SBO") Licences, with effect from 1 March 2013. The CA proposed to reduce the customer connection fee from $800 to $700 (or by 12.5%) for each 100 customer connections, and to reduce the fee level for UCL from $800 to $700 for each 100 mobile stations or less used by customers of the service for PRS and SBO licences. The public consultation ended on 30 July 2012. On 27 November 2012, SCED and the CA issued a joint statement promulgating their decision to proceed with the proposal to

reduce the licence fees for UCLs, PRS licences and SBO licences. The Administration will brief the Panel on 10 December 2012 on the way forward.

Relevant papers

13. A list of the relevant papers with their hyperlinks is at http://www.legco.gov.hk/yr07-08/english/hc/sub_leg/sc12/general/sc12.htm

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