

Bills Committee on Telecommunication (Amendment) Bill 1999

Interim Fee Arrangement under Section 14

Background

At the last Bills Committee meeting held on 14 April 2000, Members asked the Administration to consider giving effect to an interim arrangement for the access fee payable by mobile network operators, such as to include an appropriate standard term or condition in Telecommunications Authority (TA)'s authorisation. Since it is an interim fee only to facilitate early access, it will not prejudice the determination of the final access fees by the arbitrator. This note sets out the Administration's consideration on the matter.

Interim Fee

2. We welcome the suggestion by Members on the interim arrangement to facilitate early access in a practicable and legal manner. This is in line with our policy objective to facilitate early access into shielded areas by mobile network operators under the proposed section 14 for provision of mobile network services to the public places.

3. In practice, upon TA's authorisation on access and determination on technical requirements, when access fee is pending final arbitration, an interim fee may be paid by the mobile network operator to the person having a lawful interest in the land concerned to exercise the authorisation on access. This will allow for the installation of radiocommunications equipment and hence provision of services to the public at the earliest possible date. Immediate payment of an interim fee will give assurance to the landowner. The interim fee can be agreed mutually between the parties concerned or be determined by the TA in granting authorisation under section 14(1A). The access fee determined by the arbitrator will then be applied retrospectively from the date of access.

4. In granting authorisation under section 14(1A), the TA may include a standard term in his authorisation that access should be allowed

subject to the payment of an access fee to be determined by the arbitrator, when commercial negotiation between the landowner and mobile network operator concerned fails, and that an interim fee can be paid to effect the authorisation at a level agreed between the two parties, or as set by TA. To put beyond doubt that the TA may set the interim fee and that the fee to be determined by the arbitrator under section 14(5) will be applied retrospectively from the date of access, we propose to make further CSAs which will be circulated to members later.

Information Technology and Broadcasting Bureau
26 April 2000