

LEGISLATIVE COUNCIL BRIEF

Telecommunication Ordinance (Chapter 106)

TELECOMMUNICATION (MOBILE EARTH STATIONS) (EXEMPTION) ORDER

INTRODUCTION

At the meeting of the Executive Council on 8 September 1998, the Council ADVISED and the Chief Executive ORDERED that the Telecommunication (Mobile Earth Stations) (Exemption) Order at the Annex should be made under section 39(1) of the Telecommunication Ordinance, to grant exemption in respect of the possession, establishment, maintenance, use, import and export of mobile earth stations.

BACKGROUND AND ARGUMENT

General Background

2. Mobile satellite services are radiocommunication services provided between mobile earth stations (MESs) and other MESs or terrestrial public switched telephone networks by means of one or more space stations (i.e. radiocommunication stations on board satellites). A MES can be a hand-held, low-power portable unit, a transportable terminal to be used during halts at unspecified points, or a terminal installed in a vehicle, on board a ship or an aircraft.

3. Under the World Trade Organisation (WTO) General Agreement on Trade in Services, Hong Kong, China has committed to liberalising a number of international telecommunications services, including mobile satellite services. The commitments on basic telecommunications services have come into effect since 5 February 1998. As a signatory to the International Telecommunication Union Memorandum of Understanding to Facilitate Arrangements for Global Mobile Personal Communications by Satellite,

Including Regional Systems (GMPCS-MoU), the Office of the Telecommunications Authority has agreed to co-operate in facilitating the licensing of terminals based on general licences and exempting terminals from customs restrictions during transit.

4. Under section 8(1) of the Ordinance, a person needs to obtain a licence granted either by the Chief Executive in Council or the Telecommunications Authority (TA) for the possession, establishment, maintenance or use of any radiocommunication apparatus within Hong Kong or on board a ship or an aircraft registered in Hong Kong.

5. Currently, the TA may issue under the Telecommunication Regulation a Self-Provided External Telecommunication System (SPETS) licence for the possession, establishment, maintenance and use of a satellite terminal for communications with a place outside Hong Kong. The SPETS licence was drawn up primarily for fixed or transportable satellite terminals which would emit significant radiation and hence would require complicated frequency co-ordination with neighbouring regions in order to avoid radio interference. Such licence is not considered appropriate for MES because -

- (a) individual licences need to be issued for what will eventually develop into a mass market product; and
- (b) the initial and annual licence fees have been set at a level to recover the cost of frequency co-ordination with neighbouring administrations. This co-ordination is unnecessary for these MESs, which do not emit significant radiation, so the fee structure is inappropriate.

Proposed Licensing Framework for Mobile Earth Stations

6. We propose to implement a licensing framework for MESs that will facilitate the free circulation and use of such devices in Hong Kong by exempting a person from the obligations to hold a licence or permit for possessing a MES; establishing, maintaining or using a low-power MES; and importing into or exporting from Hong Kong a MES or any of its components.

7. We do not propose to grant exemption in respect of the establishment, maintenance or use of high-power MESs because these terminals may emit significant radiation. We expect that there will be few cases of

using high-power MESs in Hong Kong. In such cases, the person will need to apply to the TA for a SPETS (Short Term) licence which will permit him to operate and use the MES for a period up to three months. This will allow the TA to exercise appropriate regulatory control. If the person wishes to use his high-power MES for a longer period, he will need to apply for a SPETS licence.

THE ORDER

8. Section 39(1) of the Ordinance provides that the Chief Executive in Council may by order exempt any person or any class of persons from the Ordinance or from such provisions thereof as he thinks fit. **Section 2** of the Order exempts a person from the obligation to hold a licence or permit under the Ordinance in respect of -

- (a) the possession of a MES;
- (b) the establishment, maintenance or use of a low-power MES (the parameters of such MES are set out in the **Schedule** to the Order); and
- (c) the import into or export from Hong Kong of a MES or any of its components.

LEGISLATIVE TIMETABLE

9. The legislative timetable will be -

Publication in the Gazette	11 September 1998
Tabling at the Legislative Council	16 September 1998

HUMAN RIGHTS IMPLICATIONS

10. The Department of Justice advises that the Order has no human rights implications.

BINDING EFFECT OF THE ORDER

11. Section 3 of the Ordinance provides that "Save as otherwise expressly provided, this Ordinance does not bind the State or apply to any

means of telecommunication established or maintained by the State or to any apparatus for telecommunication possessed or used by the State for the purpose of or in connection with any such means of telecommunication". Sections 8 and 9 of the Ordinance are not expressed to bind the State. Accordingly, the Order does not affect the State.

FINANCIAL AND STAFFING IMPLICATIONS

12. There are no financial and staffing implications.

ECONOMIC IMPLICATIONS

13. The proposal will be conducive to the development of mobile satellite services in Hong Kong and enhance Hong Kong's position as a telecommunications centre.

ENVIRONMENTAL IMPLICATIONS

14. There are no environmental implications.

PUBLIC CONSULTATION

15. The technical parameters for classifying low-power MES, as set out in the Schedule to the Order, have been endorsed by the Radio Spectrum Advisory Committee and the Telecommunications Standard Advisory Committee of the Office of the TA.

PUBLICITY

16. A Legislative Council brief and a press release will be issued when the Order is gazetted on 11 September.

TELECOMMUNICATION (MOBILE EARTH STATIONS) (EXEMPTION) ORDER

(Made by the Chief Executive in Council under section 39 of the Telecommunication Ordinance (Cap. 106))

1. Interpretation

In this Order -

“equivalent isotropically radiated power” ,(等效全向輻射功率) “mobile earth station” (移動地球站) and “unwanted emissions” (無用發射) have the meanings assigned to them respectively by Article 1 of Chapter 1 of the Radio Regulations published by the General Secretariat of the International Telecommunication Union, edition of 1994, as revised from time to time.

2. Exemption

(1) A person who possesses a mobile earth station shall be exempted from section 8(1)(b) of the Ordinance to the extent that he possesses the mobile earth station.

(2) A person who establishes, maintains or uses a mobile earth station which meets the criteria set out in the Schedule, for purposes other than the provision of a public telecommunications service, shall be exempted from section 8(1)(a) or (b) of the Ordinance, as the case may be, to the extent that he establishes, maintains or uses the mobile earth station.

(3) A person who imports into, or exports from, Hong Kong any mobile earth station or any component part of any mobile earth station shall be exempted from section 9 of the Ordinance.

SCHEDULE

[s. 2(2)]

CRITERIA FOR EXEMPTION UNDER SECTION 2(2)

1. The operating frequency for transmission shall be within the frequency band 1610 MHz to 1660.5 MHz.
2. The operating frequency for reception shall be within the frequency bands 1530 MHz to 1559 MHz, 1613.8 MHz to 1626.5 MHz or 2483.5 MHz to 2500 MHz.
3. The mean equivalent isotropically radiated power produced by the mobile earth station shall not exceed 7 Watts.
4. The mean equivalent isotropically radiated power density produced by the mobile earth station shall not exceed 3dBW/4kHz within the frequency band 1610 MHz to 1626.5 MHz.
5. The unwanted emissions generated by the mobile earth station shall comply with the relevant requirements in the ITU-R Recommendation M.1343 “Essential Technical Requirements of Mobile Earth Stations for Global Non-Geostationary Mobile-Satellite Service Systems in the Bands 1-3 GHz” approved by the International Telecommunication Union as revised from time to time.

Clerk to the Executive Council

COUNCIL CHAMBER

1998

Explanatory Note

This Order exempts a person from the obligation to hold a licence or permit under the Telecommunication Ordinance (Cap. 106) in respect of -

- (a) the possession of a mobile earth station;
- (b) the establishment, maintenance or use of a low-power mobile earth station; and
- (c) the import into or export from Hong Kong of a mobile earth station or any of its components.