

L.N. 180 of 1999

TELECOMMUNICATION (AMENDMENT)

(NO. 2) REGULATION 1999

(Made by the Chief Executive in Council under section 37 of the
Telecommunication Ordinance (Cap. 106))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Secretary for Information Technology and Broadcasting by notice in the Gazette.

2. Form of licences

(1) Schedule 3 to the Telecommunication Regulations (Cap. 106 sub. leg.) is amended, in the Satellite Master Antenna Television Licence, before the General Conditions---

(a) in paragraph (b), by adding ", teletext services or other subcarrier information and sound programmes" after "programmes";

(b) by adding after paragraph (b)---

"(baa) commencing from 1 January 2000, to receive telecommunications messages transmitted from satellites intended for reception by users of the system;"

(c) by repealing paragraph (ba) and substituting---

"(ba) by connecting the system with a subscription television network pursuant to an agreement between the licensee and the relevant subscription television broadcasting licensee---

(i) to receive---

(A) television programmes and ancillary telecommunication services; and

(B) functional data signals,

transmitted by the relevant subscription television broadcasting licensee; and

(ii) to relay to the subscription television network functional data signals from outlet points of the system referred to in paragraph (a);"

(d) by repealing paragraph (bb) and substituting---

"(bb) by connecting the system with a programme service pursuant to an agreement between the licensee and the relevant programme service licensee---

(i) to receive---

(A) television programmes and ancillary telecommunication services; and

(B) functional data signals,

provided by the relevant programme service licensee; and

(ii) to relay to the programme service functional data signals from outlet points of the system referred to in paragraph (a);

(bc) by connecting the system with subscription satellite television services pursuant to an agreement between the licensee and the relevant Satellite Television

Uplink and Downlink Licensee---

(i) to receive---

(A) television programmes and ancillary telecommunication services; and

(B) functional data signals,

transmitted by the relevant Satellite Television Uplink and Downlink Licensee; and

(ii) to relay to the subscription satellite television services via a telecommunication system or a telecommunication service functional data signals from outlet points of the system referred to in paragraph (a);

(bd) by connecting the system with a telecommunication system or a telecommunication service pursuant to an agreement between the licensee and the licensee, or the exempted person, of the relevant telecommunication system or telecommunication service---

(i) to receive telecommunications messages transmitted by the licensee, or the exempted person, of the relevant telecommunication system or telecommunication service; and

(ii) to relay telecommunications messages to the telecommunication system or telecommunication service from outlet points of the system referred to in paragraph (a);

(be) to receive commercial television programmes by connecting the system with a communal aerial broadcast distribution system pursuant to an agreement between the licensee and the relevant communal aerial broadcast distribution system owner; and";

(e) in paragraph (c), by repealing "and (bb)" and substituting
", (baa), (bb), (bc), (bd) and (be)";

(f) in the definition part---

(i) in the definition of "ancillary telecommunication services", by adding "
a programme service licence or a Satellite Television Uplink and Downlink Licence,
as the case
may be" after "subscription television broadcasting licence";

(ii) by adding---

"commercial television broadcasting licensee" (商營電視廣播持牌人) has the same meaning as in section 2 of the Television Ordinance (Cap. 52);

"commercial television programmes" (商營電視節目) is to be construed according to the meaning of commercial television broadcasting in the Television Ordinance (Cap. 52);

"communal aerial broadcast distribution system" (公共天線系統) means a coaxial cable system distributing signals transmitted by commercial television broadcasting licensees;

"communication" (通訊) includes any communication---

(a) whether between persons and persons, things and things or persons and things;
and

(b) whether in the form of speech, music or other sounds; or text, or visual images
whether or not animated; or signals in any form or combination of forms;

"exempted person" (獲豁免人士) means, in relation to a telecommunication system or
a telecommunication service, a person exempted from licensing under the Ordinance;

"Ordinance" (《條例》) means the Telecommunication Ordinance (Cap. 106);

"programme service" (節目服務) means a programme service within the meaning of the
Television Ordinance (Cap. 52);

"programme service licence" (節目服務牌照) and "programme service licensee" (節目
服務持牌人) have the same meaning as in section 2 of the Television Ordinance (Cap.
52);

"programme service programmes" (節目服務節目) is to be construed according to the
meaning of programme service in the Television Ordinance (Cap. 52);

"Satellite Television Uplink and Downlink Licence" (衛星電視上行及下行牌照) means
a licence granted under sections 7 and 34 of the Ordinance that has the title
"Satellite Television Uplink and Downlink Licence";

"Satellite Television Uplink and Downlink Licensee" (衛星電視上行及下行持牌人)
means the holder of a Satellite Television Uplink and Downlink Licence;

"subscription satellite television programmes" (收費衛星電視節目) is to be construed
according to the meaning of subscription satellite television services;

"subscription satellite television services" (收費衛星電視服務) means the
subscription services expressly permitted to be provided in Hong Kong under a
Satellite Television Uplink and Downlink Licence;

"subscription television broadcasting licence" (收費電視廣播牌照) has the same
meaning as in section 2 of the Television Ordinance (Cap. 52);

"telecommunication service" (電訊服務) means a telecommunication service licensed
under the Ordinance, expressed as being licensed in exercise of the powers conferred
by sections 7 and 34 of the Ordinance, exempted from licensing under the Ordinance
or deemed to be licensed under the Ordinance;

"telecommunication system" (電訊系統) means a telecommunication system licensed
under the Ordinance, expressed as being licensed in exercise of the powers conferred
by sections 7 and 34 of the Ordinance, exempted from licensing under the Ordinance
or deemed to be licensed under the Ordinance;

"telecommunications messages" (電訊訊息) means any communication sent or received
by telecommunication but does not include---

- (a) television programmes, teletext or other subcarrier information, or sound programmes; or
- (b) other data signals incidental to the provision of such television programmes, teletext or other subcarrier information, or sound programmes, transmitted pursuant to a satellite broadcasting service or a terrestrial broadcasting service;"

(2) Schedule 3 is amended, in the Satellite Master Antenna Television Licence, in the General Conditions---

(a) by repealing General Condition 4 and substituting---

"4. (1) The licensee shall at all reasonable times, when directed by the Authority, make the system available for inspection and testing by the Authority and any person authorized by the Authority in writing for that purpose.

(2) The licensee shall permit the Authority or any person authorized by the Authority in writing to enter its premises for inspection of records, documents and accounts relating to the licensee's business, at all reasonable times, in order for the Authority to perform his functions under this licence and the Ordinance. The licensee shall also provide copies of such records, documents and accounts to the Authority on demand.

(3) The Authority may make such use of any information obtained under this General Condition as he considers necessary for the administration of this licence and the Ordinance.";

(b) in General Condition 7, by repealing "matter" and substituting "communication";

(c) in General Condition 10---

(i) in paragraph (1), by adding "or other communication" after "programmes";

(ii) by repealing paragraph (1A) and substituting---

"(1A) The licensee shall not, except for subscription television programmes, programme service programmes, subscription satellite television programmes, their ancillary telecommunication services and telecommunications messages, facilitate the charging of a fee for the right to receive programmes or other communication received by means of the system.";

(iii) by repealing paragraph (5) and substituting---

"(5) The licensee shall ensure a copy of an agreement---

(a) between the licensee and a subscription television broadcasting licensee for the connection of the system with a subscription television network;

(b) between the licensee and a programme service licensee for the connection of the system with a programme service;

(c) between the licensee and a Satellite Television Uplink and Downlink Licensee for the connection of the system with subscription satellite television services;

(d) between the licensee and the licensee, or the exempted person, of a telecommunication system or telecommunication service for the connection of the system with a telecommunication system or a telecommunication service; or

(e) between the licensee and a communal aerial broadcast distribution system owner for the connection of the system with a communal aerial broadcast distribution system, is filed with the Authority within 14 days of the agreement being made.

(6) The obligation under paragraph (5) may be waived by the Authority in relation to a particular agreement or agreements of a certain kind.";

(d) in General Condition 11---

(i) in paragraph (1)---

(A) in subparagraph (a)---

(I) by adding "(or other communication)" after "programme" where it first, secondly, fourthly and last appears;

(II) by repealing "programme" where it thirdly appears and substituting "signal";

(B) in subparagraph (b), by repealing "programme" and substituting "signal";

(ii) in paragraph (2), by repealing "programme" and substituting "signal";

(iii) in paragraph (3), by adding ", programme service programmes, subscription satellite television programmes, their ancillary telecommunication services and telecommunications messages" after "programmes";

(e) in General Condition 12---

(i) in paragraph (1), by adding "or other communication" after "programmes";

(ii) by repealing paragraph (2) and substituting---

"(2) For the purposes of paragraph (1), "programmes or other communication" (節目或其他通訊) does not include subscription television programmes, programme service programmes, subscription

satellite television programmes, their ancillary telecommunication services and telecommunications messages.";

(f) by adding---

"12A. Without the Authority's consent in writing, the licensee shall not transmit any telecommunications messages received from satellites to any location outside the premises of users of the system.";

(g) in General Condition 13, by repealing the first sentence and substituting---

"The transmission plan employed in the system shall be approved by the Authority. The licensee shall distribute programmes, services, telecommunications messages and signals permitted under this licence in accordance with such approved plan and such approved plan may be modified by the Authority from time to time.";

(h) by adding---

"15. The licensee shall at all times perform and observe the requirements of the Constitution and Convention of the International Telecommunication Union and the regulations and recommendations annexed to or made under the Constitution and Convention as are applicable to Hong Kong except to the extent that the Authority may in writing expressly exempt the licensee from such compliance.

16. The Authority may at his discretion make the terms and conditions of this licence (including any specific conditions, transmission plan and Schedules to this licence) publicly available in any manner he thinks fit."

Mable CHAN

Clerk to the Executive Council

Council Chamber

6 July 1999

Explanatory Note

This Regulation amends the Satellite Master Antenna Television ("SMATV") Licence in Schedule 3 to the Telecommunication Regulations (Cap. 106 sub. leg.) to---

(a) permit television programmes, teletext services or other subcarrier information and sound programmes transmitted from satellites intended for general reception to be received and distributed under a SMATV Licence (section 2(1)(a));

(b) permit telecommunications messages transmitted from satellites to be received and distributed under a SMATV Licence (section 2(1)(b));

(c) provide that the television programmes, ancillary telecommunication services and functional data signals referred to in paragraph (ba)(i) in the preamble to the SMATV Licence must be those transmitted by the relevant subscription television broadcasting licensee (section 2(1)(c));

(d) permit programme service programmes, subscription satellite television programmes, telecommunications messages and commercial television broadcasting programmes to be received and distributed under a SMATV Licence and to define relevant terms (section 2(1)(d) to (f));

(e) amend General Condition 4 to expand the Telecommunications Authority's power to inspect the SMATV system and the SMATV licensee's documents (section 2(2)(a));

(f) amend General Condition 7 to remove the reference to "matter" and replace by "communication" (section 2(2)(b));

(g) amend General Conditions 10(1), 11 and 12(1) to ensure those provisions cover communication other than programmes, and make consequential amendments (in relation to the amendments in section 2(1)(d)) to General Conditions 10(1A), 11(3) and 12(2) (section 2(2)(c), (d) and (e));

(h) provide in General Condition 13 that a SMATV licensee shall distribute programmes, services, telecommunications messages and signals in accordance with a transmission plan approved and modified from time to time by the Telecommunications Authority (section 2(2)(g));

(i) add the following new provisions---

(i) a new General Condition 12A to provide that a SMATV licensee shall not transmit any telecommunications messages received from satellites to any location outside the premises of users of the SMATV system (section 2(2)(f));

(ii) a new General Condition 15 in relation to compliance with the Constitution and Convention of the International Telecommunication Union (section 2(2)(h));

(iii) a new General Condition 16 to allow the Telecommunications Authority to make the terms and conditions of a SMATV Licence publicly available (section 2(2)(h)).