

LEGISLATIVE COUNCIL BRIEF

Telecommunication Ordinance

(Chapter 106)

TELECOMMUNICATION (AMENDMENT) REGULATION 2000

INTRODUCTION

At the meeting of the Executive Council on 7 March 2000, the Council ADVISED and the Chief Executive ORDERED that the Telecommunication (Amendment) Regulation 2000 should be made under section 37 of the Telecommunication Ordinance to reduce the Public Radiocommunication Service (PRS) licence fee per mobile station from \$55 to \$30 a year with effect from 1 May 2000.

BACKGROUND AND ARGUMENT

General Background

2. Although there has not been any increase in fees since 1990, the OFTA Trading Fund (OFTATF) has inherited a relatively high fees regime from its vote-funded predecessor when it commenced to operate as a trading fund on 1 June 1995. Due to the surge in growth in the telecommunications market in the years preceding OFTATF's establishment, we projected at the time that it would generate profits significantly in excess of the target return during its first three years of operation but had expected that the over-recovery in revenue would be short-term. To reduce the gap between revenue and costs, we undertook to freeze fees for five years (up to June 2000) to let inflation catch up. We also established a Development Reserve in the books of OFTATF to account for profits in excess of the target return. The Development Reserve may be drawn down to reduce the magnitude of subsequent fee increases or to meet future expansion of OFTA's activities.

Public Radiocommunication Service Licences

3. Primarily due to the sustained and rapid growth in the number of mobile stations, which comprise mainly mobile phones, OFTATF's overall after tax profit in 1998/99 increased to more than 70% of the value of its average net fixed assets (ANFA) as compared to the target rate of 14.5% set by the Financial Secretary. As a result, we reduced the licence fee for mobile stations of PRS from \$75 to \$55 a year with effect from 1 May 1999.

4. Notwithstanding the reduction of the PRS fees in 1999-2000, we expect that return on ANFA of the OFTATF will remain as high as 72% by the end of March 2000. This was the result of the continued substantial increase in number of mobile phone subscribers in 1999. The balance in the Development Reserve is expected to rise to \$426 million at the end of March 2000.

5. OFTA has conducted a review of the PRS licence fees and proposed a further fee reduction by 45%, from \$55 to \$30 per mobile station per annum. At this rate and taking into account the anticipated growth in the number of PRS licences, we expect that the OFTATF will still be able to achieve its target rate of return over next five years.

Other Licences

6. OFTATF has not been able to recover the full cost of processing certain licences such as the Public Non-exclusive Telecommunication Network Services, Ship Station and Amateur Station licences from users through fees. The total shortfall in revenue in this regard amounted to \$28 million in 1998-99. The OFTA does not propose to increase these fees immediately after the end of the fee-freezing period in June 2000. Given the radical changes in the telecommunications sector arising from our decisions to progressively liberalise the local and external telecommunications markets, the OFTA would undertake a fundamental review of its organisation and the licence fee structure.

The Proposal

7. The licence fees for mobile stations of PRS are prescribed in Part II of Schedule 1 to the Telecommunication Regulations. To reduce this fee to \$30 per mobile station, we need to amend that Schedule.

THE REGULATION

8. **Section 2** of the Amendment Regulation amends the fees provision so that the licence fee will be reduced to \$30 a year per mobile station. This is achieved by reducing the fees for the first 200 mobile stations or less from \$11,000 to \$6,000 a year and for each subsequent 100 mobile stations or less from \$5,500 to \$3,000 a year. The commencement section provides for the Amendment Regulation to take effect from 1 May 2000.

LEGISLATIVE TIMETABLE

9. The legislative timetable will be as follows –

Publication in the Gazette	10 March 2000
Tabling at the Legislative Council	15 March 2000

BASIC LAW IMPLICATIONS

10. The Department of Justice advises that the proposed legislation is consistent with the Basic Law.

HUMAN RIGHTS IMPLICATIONS

11. The Department of Justice advises that the proposed legislation has no human rights implications.

BINDING EFFECT OF THE LEGISLATION

12. The amendments will not affect the binding effect of the Telecommunication Regulations.

FINANCIAL AND STAFFING IMPLICATIONS

13. The proposed reduction of the PRS licence fee for mobile stations does not have any staffing implications. With over 4.1 million mobile stations in operation in December 1999, the proposed fee reduction will return approximately \$103 million a year back to the telecommunications sector and consumers. OFTA projects that at the proposed annual fee level of \$30 per mobile station, it will still be able to achieve the target rate of return of 14.5% on its average net fixed assets for the next five years. Should the OFTATF's return fall below the target rate thereafter, it will need to draw down the Development Reserve to top up the shortfall or to consider the need to increase the fees.

ECONOMIC IMPLICATIONS

14. At present, the licence fee is paid by the mobile telecommunications providers and not separately recovered from customers. If this arrangement continues, the proposed reduction in licence fees will reduce the costs of operation of mobile telecommunications providers and may to a certain extent benefit mobile phone users. For pagers, the trade practice is that licence fees are paid for by pager users who will stand to benefit from the reduction. The reduction will be conducive to the development of the telecommunications industry.

ENVIRONMENTAL IMPLICATIONS

15. There are no environmental implications.

PUBLIC CONSULTATION

16. There has been no public consultation. The public and the telecommunications industry are unlikely to raise any objection to the proposal which brings them benefits.

PUBLICITY

17. We will issue a press release on 10 March. A spokesman will be available for answering media enquiries.

ENQUIRIES

18. For any enquiries relating to this Brief, please contact –

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Information Technology and Broadcasting Bureau