

LEGISLATIVE COUNCIL BRIEF

Telecommunications Ordinance (Chapter 106)

**TELECOMMUNICATIONS (CARRIER LICENCES)
(AMENDMENT) REGULATION 2003**

**REDUCTION OF ANNUAL FEE PAYABLE FOR
FIXED CARRIER LICENCES WHICH PERMIT EXTERNAL
SERVICES ONLY**

INTRODUCTION

This brief aims to inform Members of the Telecommunications (Carrier Licences) Amendment Regulation 2003 at Annex A made by the Secretary for Commerce, Industry and Technology (the Secretary). The Amendment Regulation aims to reduce the annual fee payable for fixed carrier licences which permit external services only from \$1,000,000 to \$500,000.

JUSTIFICATIONS

2. The Government started to liberalise the market for operating external facilities using cables and satellites in early 2000. Since the commencement of the Telecommunications (Carrier Licences) Regulation (the CR) (Cap. 106V) in April 2001, the Telecommunications Authority issues fixed carrier licences to these operators. After the initial period of liberalisation, the administration of these licences which permit external services only has been substantially simplified. The Secretary therefore considers it appropriate to reduce the licence fee for fixed carrier licences other than the fixed carrier (restricted) licences (hereafter referred as “fixed carrier licences”) which scope of service as set out in each individual licence is limited to external services. “External services” are defined in section 2 of the Telecommunications Ordinance (Cap. 106) (the Ordinance) as telecommunications service between (a) Hong Kong and one or more places outside Hong Kong; or (b) two or more places

outside Hong Kong where the services are routed through Hong Kong.¹

THE AMENDMENT REGULATION

3. To reduce the annual fixed fee for those fixed carrier licences which permit external services only, the Secretary has amended Part 1 of Schedule 3 to the CR. Under the Amendment Regulation, the annual fixed fee will be reduced from \$1,000,000 to \$500,000 a year.

4. The commencement section provides for the Amendment Regulation to take effect on a date to be appointed by the Telecommunications Authority by notice published in the Gazette.

LEGISLATIVE TIMETABLE

5. The legislative timetable will be -

Publication in the Gazette	23 May 2003
Tabling at the Legislative Council	28 May 2003

IMPLICATIONS OF THE PROPOSAL

6. The fee reduction proposal would have insignificant effect on the financial performance of the OFTA Trading Fund. The proposal does not have any staffing implications.

7. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. It has no productivity, environmental or sustainability implications.

8. The licence fee reduction will bring down the operational cost of the external services licensees investing in cables and satellites. This will help maintain our competitiveness as a telecommunications hub in Asia.

¹ For the avoidance of doubt, any fixed telecommunications facilities or services connecting the customers in the Hong Kong SAR to the Point of Presence, and the supply of backhauled to other fixed carrier or FTNS licensees for external facilities fall within the scope of services of licensees with authorization to provide local fixed telecommunications network services.

PUBLIC CONSULTATION

9. To amend the fee payable for a carrier licence other than an exclusive licence, the Secretary is required under section 7(3) of the Ordinance to consult members of the public who are interested before making the necessary legislative amendment. We conducted a public consultation exercise from 17 April to 9 May 2003 on our proposal to reduce the annual fixed fee for those fixed carrier licences which permit external services only from \$1,000,000 to \$500,000. Other components of the licence fee for the fixed carrier licence shall remain unchanged, but the fee payable on the basis of customer connections to the network will not be applicable to them.

10. We also set out the following implementation issues in the consultation paper :

- a) Some licensees who obtained their licences before the commencement of CR are holding the fixed telecommunications network service (FTNS) licence issued under the Telecommunications Regulations. These licences are no longer issued, and will be gradually replaced by the fixed carrier licences upon expiration or when individual licensees choose to convert the licences. In order that these licensees who are permitted to operate external services only may benefit from the proposed reduction in licence fee, the Office of Telecommunications Authority (OFTA) would assist them in converting their licences to new fixed carrier licences either upon licence renewal or at any time as they see fit.
- b) There shall be no retrospective effect or transitional arrangements. If the licensee holds a fixed carrier licence, the new annual licence fee shall apply on the next anniversary of the issue of the licence. The licence fee which has been paid under the existing licence on the issue of the licence, on any previous anniversary of the issue or on any renewal shall not be refundable.

11. We received a total of thirteen submissions from the industry, including seven from the external services operators and six from other telecommunications operators. All of the external services operators who will benefit from our proposal express support. We should therefore make the amendment regulation as soon as practicable so that they may benefit from the reduced fee upon licence renewal.

12. The submissions also reflect requests for more general and extensive fee reductions. We shall continue our regular licence fee review proactively, and consider fee reduction where appropriate.

PUBLICITY

13. A press release will be issued to tie in with the gazettal of the Amendment Regulation. A spokesman will be available for answering media enquiries.

BACKGROUND

14. Under section 7(2) of the Ordinance, the Secretary may by regulations prescribe the general conditions and fees payable for a carrier licence other than an exclusive licence. The existing licence fee payable for fixed carrier licences is provided in the CR commenced in April 2001. On the anniversary of the issue of the licence, a fixed carrier licensee has to pay, inter alia, an annual fee of \$1,000,000.

ENQUIRIES

15. For any enquiries relating to this Brief, please contact :-

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**Information Technology and Broadcasting Branch
Commerce, Industry and Technology Bureau
May 2003**

**TELECOMMUNICATIONS (CARRIER LICENCES)
(AMENDMENT) REGULATION 2003**

(Made under section 7(2) of the Telecommunications
Ordinance (Cap. 106))

1. Commencement

This Regulation shall come into operation on a day to be appointed by the Telecommunications Authority by notice published in the Gazette.

2. Fees payable for carrier licences

Schedule 3 to the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) is amended in Part 1 -

- (a) in section 1, by adding "If the licence permits the provision of external services only, the fee is \$500,000." at the end;
- (b) in section 2, by adding "If the licence permits the provision of external services only, no such fee is payable." at the end.

Secretary for Commerce, Industry
and Technology

2003

Explanatory Note

This Regulation amends Part 1 of Schedule 3 to the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) in order to reduce the fees payable for fixed carrier licences (other than fixed carrier (restricted) licences) which permit the provision of external services only.