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Panel on Information Technology and Broadcasting

Meeting on 11 June 2007

**Background Brief on
Review on the Convergence of Fixed and
Mobile Communications Services**

Purpose

This paper sets out the background of the review on the convergence of fixed and mobile communications services, and summarizes members' major views and concerns on the subject.

Background

Need for review and consultation

2. At present, there are two types of telecommunications services in the market, namely, fixed services and mobile services. Typical fixed services include the traditional fixed line services and broadband Internet access services. Mobile operators, on the other hand, offer the popular cellular mobile phone services. Fixed and mobile services have been regulated under separate licensing regimes and are licensed under fixed carrier licences and mobile carrier licences respectively with different rights and obligations for the two groups of network operators. With dynamic market development and the advent of new technologies, the distinctions between fixed and mobile networks and services are increasingly becoming blurred. In a fixed-mobile convergence (FMC) environment, the existing separate licensing framework for fixed and mobile services may not be sustainable. As such, the Telecommunications Authority (TA), as the industry regulator, has considered it necessary to review the current regulatory framework to ensure that the regulatory environment remains conducive to the emergence of innovative technologies and services.

3. To pave way for FMC, the Administration has conducted a public consultation exercise in 2005, followed by a consultancy study in the first half of 2006 to identify the possible regulatory changes necessitated by FMC. Taking into consideration the feedback received from stakeholders, the submissions received in the first consultation exercise and the recommendations of the consultancy study, the Administration conducted a second public consultation exercise in July 2006 to consult the industry and the public on a number of deregulatory measures in the FMC environment. Details of the two consultation exercises and the consultancy study are set out in the ensuing paragraphs.

First public consultation exercise

Scope of consultation

4. On 21 September 2005, the Office of the Telecommunications Authority (OFTA) issued a consultation paper entitled "Revision of Regulatory Regimes for Fixed-Mobile Convergence" to initiate the first consultation exercise on regulatory review for FMC. The focus of the consultation was to solicit public views on the proposed introduction of a unified carrier licensing framework under which a licensee may be allowed to provide fixed services, mobile services or both fixed and mobile services, depending on the scope of services proposed by the licensees in their licence applications.

Preliminary findings

5. While some comments were received in the submissions regarding the detailed arrangements for the proposed unified licensing regime, quite a number of network operators suggested that TA should review all substantive issues pertinent to FMC in a holistic manner. A number of regulatory issues that need to be reviewed were identified. They included, but not limited to, interconnection settlement arrangement; local access charge, number portability and numbering plan.

Consultancy study

Scope of study

6. The TA indicated in the first consultation paper that a consultancy study would be commissioned to conduct a comprehensive study on the regulatory changes that might be warranted in the light of FMC. OFTA subsequently appointed Ovum Limited (the Consultant) as an independent consultant in the first half of 2006 to identify regulatory barriers, to study regulatory changes that would cater for the development of FMC, and to conduct cost-benefit analysis on the possible changes to the regulatory framework.

Consultant's views

7. The Consultant has recommended removing the following major regulatory asymmetries identified for the fixed and mobile network operators:

(a) *Interconnection settlement arrangements*

The Consultant has considered the current asymmetric "Mobile Party's Network Pays" (MPNP) arrangement, introduced more than 20 years ago, whereby mobile network operators (MNOs) have to pay to fixed network operators (FNOs) the usage charges for interconnection irrespective of whether the call originates from the fixed or the mobile network, is out of line with international best practices, and might in fact be distorting competitive processes and constituting barriers to the eventual development of FMC.

(b) *Interconnection charges from service providers*

The existing arrangement for Local Access Charge (LAC) payable by external telecommunications services providers to local network operators for conveying external telecommunications traffic to and from end-users through local networks was introduced in 1998. While the current level of LAC of the incumbent fixed operator (PCCW) was determined by TA in 2001, other FNOs and MNOs are encouraged to set their own LAC commercially by negotiations. On the other hand, MNOs cannot charge a mobile LAC. The Consultant has recommended to deregulate LAC for fixed networks and to remove the asymmetry in the existing regulation between FNOs and MNOs.

8. The consultancy report entitled "Review of the Regulatory Framework for Fixed-Mobile Convergence in Hong Kong" was published for public information along with the second consultation exercise.

Second public consultation exercise

Scope of consultation

9. Having considered the recommendations of the consultancy study, the submissions received in the first consultation exercise and the feedback received from stakeholders, TA set out its preliminary views and proposals for regulatory changes in a second consultation paper entitled "Deregulation for Fixed-Mobile Convergence" issued on 14 July 2006 to consult the industry and the public on a number of deregulatory measures in the FMC environment.

Key issues and preliminary proposals

10. TA considers that regulatory intervention should be withdrawn to give way to a market-driven approach for the telecommunications industry, i.e. the future development of FMC, its extent and pace, should be decided by the market. TA does not anticipate that there will be a market failure if the existing regulatory intervention is to be withdrawn. However, for the protection of public and consumer interests, TA will retain the statutory powers to make a determination under section 36A of the Telecommunications Ordinance (TO)(Cap.106) in the event that commercial negotiations fail and a market failure is established. The key issues and TA's preliminary proposals are as follows:

(a) *Interconnection settlement arrangements*

On the existing *MPNP arrangement* between fixed networks and mobile networks, as the factors underpinning the MPNP arrangement in the early 1980s has changed, TA has considered that continued differential regulatory treatments to FNOs and MNOs might distort the level playing field and might not be sustainable in the long run. TA has therefore proposed to phase out the current regulatory guidance on MPNP over a transitional period of two years during which the status quo is to be maintained. The network operators will be free to negotiate the terms and conditions of interconnection to apply after the transitional period using mutually acceptable settlement options.

(b) *Interconnection charges from service providers*

On *LAC arrangement* for interconnection between external service providers and fixed/mobile network operators, TA has proposed to deregulate LAC for fixed networks. Instead of TA proactively determining the level of LAC for any network operator, a market-driven approach allowing the market to decide on the level of LAC is proposed.

(c) *Licensing regime*

On licensing regime, as already proposed in the first public consultation exercise, TA recommended to create a unified carrier licence for the provision of fixed services, mobile services and converged services. Under the unified carrier licence, network operators providing fixed services only and those providing mobile services only will be treated equally in terms of licence fees and most of the rights and obligations.

(d) *Number portability and numbering plan*

On *fixed-mobile number portability (FMNP)* and related telephone numbering plan, the consultancy study has not identified any urgent need for proceeding with FMNP as converged service is yet to be commercially available in the market and there is also no information on the public's preference. As such, TA has proposed to conduct further market studies to assess the consumer demand for FMNP before making further proposal on its introduction.

Preliminary findings

11. There was a mixed view on the proposals to deregulate for FMC. Preliminary analysis indicated that about half of the submissions were supportive of the phasing out of the interconnection asymmetry between fixed and mobile operators while some of the submissions expressed concerns that this might lead to higher fixed line costs and reduce investments by the fixed network operators.

Views and concerns expressed by Panel members

12. At the Panel meeting on 13 November 2006, OFTA briefed members on the various regulatory issues relating to FMC. Major views and concerns expressed by members are summarized as follows:

- (a) On the feasibility of introducing FMNP, members are of the view that the porting of numbers across fixed and mobile services, which is currently not supported though technically viable, should be implemented to provide greater convenience to consumers.
- (b) On interconnection charging arrangements, members consider the existing MPNP arrangement unfair and unacceptable as the factors underpinning the MPNP arrangement in the early 1980s have changed in the light of market development over the past years.
- (c) There is concern over the underlying principles and circumstances under which statutory powers under section 36A of the TO might be invoked by TA in determining the terms and conditions of interconnection between particular networks for the protection of public interests. According to the Administration, if commercial negotiations on the terms and conditions of interconnection to apply between network operators fail and a market failure is established, TA will then make a determination under the above section to safeguard the interests of consumers and the public.

Latest position

13. TA has issued a statement on 27 April 2007 to announce its conclusions on the consultation on "Deregulation for Fixed-Mobile Convergence". The Administration will brief the Panel on the conclusions of the two rounds of public consultations and invite members' views on the proposed regulatory changes arising from the review on FMC at the panel meeting to be held on 11 June 2007.

Reference

14. A list of relevant papers is in Appendix.

Council Business Division 1
Legislative Council Secretariat
8 June 2007

List of relevant papers

Committee	Paper	LC Paper No.
Panel on ITB	✧ Executive summary of consultation paper on Revision of Regulatory Regimes for Fixed-Mobile Convergence (circulated to members on 23 September 2005)	CB(1)2310/04-05(01)
	✧ Press release of consultation paper on Revision of Regulatory Regimes for Fixed-Mobile Convergence issued by OFTA on 21 September 2005 (circulated to members on 23 September 2005)	CB(1)2310/04-05(02)
	✧ Administration's paper on "Deregulation for Fixed-Mobile Convergence" including the executive summary of the second consultation paper for meeting on 13 November 2006	CB(1)237/06-07(04)
	✧ Minutes of meeting held on 13 November 2006	CB(1)468/06-07

* Other relevant papers and their hyperlinks are as follows:

- ✧ 1st consultation paper on "Revision of Regulatory Regimes for Fixed-Mobile Convergence" (issued by OFTA on 21 September 2005)
(<http://www.ofta.gov.hk/en/report-paper-guide/paper/consultation/20050921.pdf>)
- ✧ 2nd consultation paper on "Deregulation for Fixed-Mobile Convergence" (issued by OFTA on 14 July 2006)
(<http://www.ofta.gov.hk/en/report-paper-guide/paper/consultation/20060714.pdf>)
- ✧ Press release of 2nd consultation paper on "Deregulation for Fixed-Mobile Convergence" (issued by OFTA on 14 July 2006)
(http://www.ofta.gov.hk/en/press_rel/2006/Jul_2006_r2.html)
- ✧ Review of the Regulatory Framework for Fixed-Mobile Convergence in Hong Kong - the Consultancy Report by Ovum Limited (submitted by Ovum Limited to OFTA on 28 April 2006)
(<http://www.ofta.gov.hk/en/report-paper-guide/report/rp20060714.pdf>)