

L.N. 132 of 2008**TELECOMMUNICATIONS (CARRIER LICENCES)
(AMENDMENT) REGULATION 2008**

(Made by the Secretary for Commerce and Economic Development under section 7(2) of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Regulation shall come into operation on 1 August 2008.

2. Interpretation

(1) Section 2 of the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) is amended by renumbering it as section 2(1).

(2) Section 2(1) is amended, in the definition of “fixed carrier licence”, by adding “means a carrier licence issued before the commencement of the Telecommunications (Carrier Licences) (Amendment) Regulation 2008 (L.N. 132 of 2008) for communication between fixed locations, but” before “does”.

(3) Section 2(1) is amended, in the definition of “mobile carrier licence”, by adding “before 21 November 2008” after “issued”.

(4) Section 2(1) is amended, in the English text, in the definition of “station”, by repealing the full stop and substituting a semicolon.

(5) Section 2(1) is amended, in the Chinese text, in the definition of “傳送者牌照”, by repealing the full stop and substituting a semicolon.

(6) Section 2(1) is amended by adding—

““relevant licence” (有關牌照) means—

(a) an existing licence other than a carrier licence issued for the licensee to establish, possess, maintain, use and operate a space station or earth station for telemetry, tracking, control and monitoring of a space object and for space radiocommunications;

(b) a fixed carrier licence;

(c) a fixed carrier (restricted) licence;

(d) a mobile carrier licence; or

(e) a mobile carrier (restricted) licence;

“unified carrier licence” (綜合傳送者牌照) means a carrier licence issued on or after the commencement of the Telecommunications (Carrier Licences) (Amendment) Regulation 2008 (L.N. 132 of 2008), but does not include a space station carrier licence.”.

(7) Section 2 is amended by adding—

“(2) For the avoidance of doubt, it is hereby declared that a mobile carrier licence issued on or after the commencement of the Telecommunications (Carrier Licences) (Amendment) Regulation 2008 (L.N. 132 of 2008) but before 21 November 2008 shall not be construed as a unified carrier licence.”.

3. Period of validity of carrier licences

(1) Section 4(1) is amended by repealing “subsections (2) to (7), the period of validity of a” and substituting “subsections (2), (3), (4), (6A), (6B), (6C) and (7), the period of validity of a unified carrier licence,”.

(2) Section 4(3) is amended by adding “(other than a unified carrier licence)” after “carrier licence” where it twice appears.

(3) Section 4(3) is amended, in the Chinese text, by repealing “在交回時” and substituting “在交回前”.

(4) Section 4(4) is amended, in the English text, by adding “(other than a unified carrier licence)” after “carrier licence”.

(5) Section 4(4)(a) is amended by adding “(other than a unified carrier licence)” after “carrier licence”.

(6) Section 4(4)(b) is amended by adding “(other than a unified carrier licence)” after “carrier licence”.

(7) Section 4(5) is repealed.

(8) Section 4(6) is repealed.

(9) Section 4 is amended by adding—

“(6A) Where a relevant licence has been surrendered to the Authority in return for the Authority issuing under section 7(5) of the Ordinance a unified carrier licence—

(a) to the holder of the relevant licence; and

(b) which is, in the opinion of the Authority but subject to subsection (6B), equivalent to the relevant licence,

the period of validity of the unified carrier licence shall, notwithstanding Schedule 2, commence upon the surrender of the relevant licence, and expire at the expiration of the period of validity which the relevant licence had left to run immediately before it was so surrendered.

(6B) For the purposes of subsection (6A), a unified carrier licence is equivalent to a relevant licence—

(a) if the service provided under the unified carrier licence is, in the opinion of the Authority, the same as the service provided under the relevant licence; and

(b) irrespective of whether any fee payable for the unified carrier licence is different from any fee payable for the relevant licence.

(6C) Where the Authority has issued a unified carrier licence under section 7(5) of the Ordinance to the holder of a relevant licence which has been surrendered (other than the surrender as referred to in subsection (6A)) or which has expired, the period of validity of the unified carrier licence shall be the period as specified in Schedule 2.”.

4. Section substituted

Section 5 is repealed and the following substituted—

“5. Fees payable for carrier licences

(1) Subject to subsections (2), (3), (4), (5), (6), (7) and (8), the fees payable for a unified carrier licence, fixed carrier licence, fixed carrier (restricted) licence, mobile carrier licence, mobile carrier (restricted) licence or space station carrier licence are the fees specified in Schedule 3 in relation to the licence.

(2) Subsection (1) does not apply to an existing licence.

(3) The annual date of payment for a fee specified in Schedule 3 in relation to a carrier licence mentioned in section 4(3) that is not surrendered to the Authority in return for a unified carrier licence shall, notwithstanding the provisions of Schedule 3, be the anniversary date of the issue of the existing licence previously surrendered to the Authority in return for that carrier licence, or the annual date of payment as specified by the Chief Executive in Council (as the case may be).

(4) The annual date of payment for a fee specified in Schedule 3 in relation to a unified carrier licence mentioned in section 4(6A), where the relevant licence surrendered is a licence specified in Schedule 3, shall be the annual date of payment for a fee as specified in that Schedule, in relation to that relevant licence.

(5) The annual date of payment for a fee specified in Schedule 3 in relation to a unified carrier licence mentioned in section 4(6A), where the relevant licence surrendered is a licence specified in Part I of Schedule 1 to the Telecommunications Regulations (Cap. 106 sub. leg. A), shall, notwithstanding the provisions of Schedule 3, be the anniversary date of the issue of that relevant licence.

(6) The annual date of payment for a fee specified in Schedule 3 in relation to a unified carrier licence mentioned in section 4(6A), where the relevant licence surrendered is an existing licence other than a licence specified in Part I of Schedule 1 to the Telecommunications Regulations (Cap. 106 sub. leg. A), shall, notwithstanding the provisions of Schedule 3, be the anniversary date of the issue of that relevant licence.

(7) The annual date of payment for a fee specified in Schedule 3 in relation to a unified carrier licence mentioned in section 4(6A), where the relevant licence surrendered is a carrier licence previously issued in return for an existing licence surrendered to the Authority as mentioned in section 4(3) as it read before its amendment by the Telecommunications (Carrier Licences) (Amendment) Regulation 2008 (L.N. 132 of 2008), shall, notwithstanding the provisions of Schedule 3, be the anniversary date of the issue of that existing licence.

(8) The annual date of payment for a fee specified in Schedule 3 in relation to a unified carrier licence mentioned in section 4(6C) shall be the annual date of payment for a fee as specified in that Schedule.”.

5. References in existing licences to fixed telecommunications network services licences, etc.

(1) Section 6 is amended, in the heading, by repealing “existing” and substituting “relevant”.

(2) Section 6(1) is amended by repealing “an existing licence” and substituting “a relevant licence”.

(3) Section 6(1) is amended, in the English text, by repealing “the existing licence” and substituting “the relevant licence”.

(4) Section 6 is amended by repealing the table and substituting—

“TABLE

Column 1	Column 2
Fixed telecommunications network services licence	Fixed carrier licence, or unified carrier licence under which a service that may be provided under a fixed carrier licence is provided
Public radiocommunications service licence for personal communications service	Mobile carrier licence, or unified carrier licence under which a service that may be provided under a mobile carrier licence is provided
Public radiocommunications service licence for public mobile radiotelephone service	Mobile carrier licence, or unified carrier licence under which a service that may be provided under a mobile carrier licence is provided

Column 1	Column 2
Public radiocommunications service licence (for services other than land mobile services)	Mobile carrier (restricted) licence, or unified carrier licence under which a service that may be provided under a mobile carrier (restricted) licence is provided
Fixed carrier licence	Unified carrier licence under which a service that may be provided under a fixed carrier licence is provided
Fixed carrier (restricted) licence	Unified carrier licence under which a service that may be provided under a fixed carrier (restricted) licence is provided
Mobile carrier licence	Unified carrier licence under which a service that may be provided under a mobile carrier licence is provided
Mobile carrier (restricted) licence	Unified carrier licence under which a service that may be provided under a mobile carrier (restricted) licence is provided”.

6. Period of validity of carrier licences

(1) Schedule 2 is amended, in section 1, by repealing everything after “licence is” and substituting “15 years from the day on which it is issued.”.

(2) Schedule 2 is amended, in section 2, by repealing everything after “licence is” and substituting “not more than 12 years, as specified by the Authority, from the day on which it is issued.”.

(3) Schedule 2 is amended by adding—

“5. Unified carrier licence

The period of validity of a unified carrier licence shall be 15 years from the day on which it is issued.”.

7. Fees payable for carrier licences

(1) Schedule 3 is amended, in the Chinese text, in section 2 of Part 1, by repealing “有關牌照” and substituting “該牌照”.

- (2) Schedule 3 is amended, in the Chinese text, in section 2 of Part 2, by repealing “有關牌照” and substituting “該牌照”.
- (3) Schedule 3 is amended by adding—

“PART 6

UNIFIED CARRIER LICENCES

1. A fee of \$1,000,000 shall be payable on the issue of a unified carrier licence and, in each subsequent year while the licence remains in force, on the anniversary of the issue of the licence. If the licence permits the provision of external services only, or of radiocommunications services (where moving stations are primarily for use in locations other than on land) only, or of these two types of services only, the fee is \$100,000.
2. A fee of \$800 shall be payable on the issue of a unified carrier licence and on each anniversary of the issue of the licence while the licence remains in force, for each 100 customer connections, made by telecommunications line or radiocommunications means, to the network established and maintained under the licence. For the purposes of this section, a customer connection shall be any network termination point provided by the licensee and as identified by the Authority for connection of customer equipment to the network, and a network termination point shall include any subscriber identification module used by a customer, and any other device or interface, used for connection to the network. If the licence permits the provision of external services only, or of radiocommunications services (where moving stations are primarily for use in locations other than on land) only, or of these two types of services only, no such fee is payable.
3. A fee of \$3 shall be payable on the issue of a unified carrier licence and on each anniversary of the issue of the licence while the licence remains in force, for each subscriber number allocated to the licensee that is not ported out from the licensee's network or assigned, as authorized by the Authority, to another licensee (who has made payment of the licence fee for such number under its licence) and for each subscriber number allocated to another licensee that is ported in to the licensee's network. For the purposes of this section, a subscriber number is a number in the numbering plan within numbering blocks

allocated by the Authority to a licensee, which number may be assigned by the licensee to its customer for use of a telecommunications service.

4. A fee for base stations, being—
- (a) base stations installed for mobile services; or
 - (b) land stations or land earth stations installed for radiocommunications services (where moving stations are primarily for use in locations other than on land),
- shall be payable on the issue of a unified carrier licence and on each anniversary of the issue of the licence while the licence remains in force, calculated as follows—
- (c) for the 1st to the 50th base station installed for the service \$1,000 per base station
 - (d) for the 51st to the 100th base station installed for the service \$500 per base station
 - (e) for the 101st base station installed for the service and any additional base stations \$100 per base station

For the purpose of determining the fees payable under this section, the number of stations shall be those authorized or in service at the time when the unified carrier licence concerned is issued or on the anniversary of the issue.

5. Subject to section 6, a fee for the management of any radio frequency assigned shall be payable on the issue of a unified carrier licence and on each anniversary of the issue of the licence while the licence remains in force, calculated as follows—
- (a) subject to paragraph (b), where the radio frequency is assigned to the licensee—
 - (i) \$50 for every 1 kHz or part thereof of frequency then assigned below 1 GHz;
 - (ii) $$(50-4F)$ for every 1 kHz or part thereof of frequency then assigned within 1 GHz to 10.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;
 - (iii) $$(20-F)$ for every 1 kHz or part thereof of frequency then assigned within 11 GHz to 18.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;
 - (iv) \$1 for every 1 kHz or part thereof of frequency then assigned at or above 19 GHz;

- (b) where any part of the radio frequency is assigned to the licensee on a shared basis, the fee calculated in accordance with the formula set out in paragraph (a) shall be proportionally reduced by a reduction factor—
- (i) equal to the number of users authorized or reserved by the Authority to use that particular part of the radio frequency;
 - (ii) determined on the date on which the fee is payable.
6. No fee is payable under section 5 for the management of radio frequency within any of the following frequency bands—
- 6.765 – 6.795 MHz
 - 13.553 – 13.567 MHz
 - 26.957 – 27.283 MHz
 - 40.66 – 40.7 MHz
 - 2400 – 2500 MHz
 - 5.725 – 5.875 GHz
 - 24.0 – 24.25 GHz
 - 61 – 61.5 GHz
 - 122 – 123 GHz
 - 244 – 246 GHz”.

Frederick S. MA
Secretary for Commerce and
Economic Development

16 May 2008

Explanatory Note

The object of this Regulation is to amend the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) to introduce a new type of carrier licence, namely, a unified carrier licence, and to provide for—

- (a) the period of validity of unified carrier licences, including those issued on the surrender of the relevant licences (as newly defined) (sections 2, 3 and 6);
- (b) the fees payable for a unified carrier licence and the time to make such payment (sections 4 and 7); and
- (c) the interpretation of certain terms used in respect of carrier licences (section 5).