

L.N. 133 of 2008**TELECOMMUNICATIONS (LEVEL OF SPECTRUM
UTILIZATION FEES) (SECOND GENERATION
MOBILE SERVICES) (AMENDMENT)
REGULATION 2008**

(Made by the Secretary for Commerce and Economic Development under section 32I of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Regulation shall come into operation on 1 August 2008.

2. Interpretation

(1) Section 3(b) of the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap. 106 sub. leg. AA) is amended by repealing “and”.

(2) Section 3(c)(ii) is amended by repealing the full stop and substituting a semicolon.

(3) Section 3 is amended by adding—

“(d) “relevant unified carrier licence” (有關的綜合傳送者牌照) means a unified carrier licence as defined in section 2 of the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) which entitles its holder to use the spectrum referred to in section 2.”.

3. Spectrum utilization fee

(1) Section 4(1)(a) is amended by adding “or relevant unified carrier licence (as the case may be)” after “licence”.

(2) Section 4(1)(b) is amended by adding “or relevant unified carrier licence (as the case may be)” after “licence”.

(3) Section 4(2)(a) is amended by adding “or relevant unified carrier licence (as the case may be)” after “carrier licence”.

(4) Section 4(2)(b) is amended by adding “or relevant unified carrier licence (as the case may be)” after “carrier licence”.

(5) Section 4 is amended by adding—

“(3) For the purposes of subsection (1), if the relevant mobile carrier licence is, before the expiry of its period of validity, surrendered to the Authority in return for a relevant unified carrier licence which entitles the licensee to use the same spectrum for the

provision of service as the relevant mobile carrier licence, then the period of validity of the relevant unified carrier licence in relation to that spectrum shall be calculated as from the date of the first issue of the relevant mobile carrier licence in relation to that spectrum to the licensee, and the reference to “the issue of the licence” in subsection (2)(a) and (b) shall be construed as a reference to the first issue of the relevant mobile carrier licence accordingly.”.

Frederick S. MA
Secretary for Commerce and
Economic Development

16 May 2008

Explanatory Note

The Telecommunications (Carrier Licences) (Amendment) Regulation 2008 (L.N. 132 of 2008) amends the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) (“CL Regulation”) to introduce a new type of carrier licence, namely, a unified carrier licence. Under the CL Regulation, certain types of licences can be surrendered to the Telecommunications Authority in return for the issuance of a unified carrier licence under section 7(5) of the Telecommunications Ordinance (Cap. 106).

2. The object of this Regulation is to make consequential amendments to the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap. 106 sub. leg. AA) (“principal Regulation”) as a result of the introduction of unified carrier licences. The amendments include the following—

- (a) to add a definition of “relevant unified carrier licence” to facilitate the interpretation of the term used in the principal Regulation (section 2);
- (b) to apply in relation to relevant unified carrier licences the existing method of calculation for spectrum utilization fees that applies to relevant mobile carrier licences (section 3); and
- (c) to make clear that, for the purpose of payment of the spectrum utilization fees, the period of validity of a relevant unified carrier licence which has replaced an unexpired relevant mobile carrier licence and assumed the use of its spectrum shall be calculated from the date of the first issue of the relevant mobile carrier licence when the spectrum is first assigned, and in which case,

“the issue of the licence” (as referred to in section 4(2)(a) and (b) of the principal Regulation) in respect of the relevant unified carrier licence shall mean the first issue of the relevant mobile carrier licence.

If more than one unexpired relevant mobile carrier licences (each entitling its holder to use an individual spectrum) are replaced with a relevant unified carrier licence, then, for the purpose of payment of the spectrum utilization fees, the period of validity of the relevant unified carrier licence in relation to the individual spectrum assigned with the individual relevant mobile carrier licence shall be calculated from the individual date of the first issue of each of the relevant mobile carrier licences, and “the issue of the licence” (as above referred) in respect of the relevant unified carrier licence shall mean the individual first issue of each of the relevant mobile carrier licences (section 3).