

LEGISLATIVE COUNCIL BRIEF

Telecommunications Ordinance
(Chapter 106)

TELECOMMUNICATIONS (CARRIER LICENCES) (AMENDMENT) REGULATION 2012

INTRODUCTION

A This brief informs Members of the Telecommunications (Carrier Licences) (Amendment) Regulation 2012 (“the Amendment Regulation”) at **Annex A** which aims to reduce the annual fee payable for customer connections in respect of Unified Carrier Licences (“UCLs”) from \$800 to \$700 for each 100 customer connections with effect from 1 March 2013.

JUSTIFICATIONS

2. Fees payable for licences are collected by the Office of Communications Authority (“OFCA”) Trading Fund to recover its costs in administering the licences. According to the records of OFCA, the number of customer connections¹ for UCLs had been increasing over the past years and in 2011-12, there was a growth of 6.6%, from 13.6 million to 14.5 million. Premised on the assumption that there would be a continued growth of customer connections and taking into account the projected licence administration costs, the Government considers that there is room for a downward adjustment of customer connection fee of UCLs and decides to reduce the fee level from \$800 to \$700 for each 100 customer connections per annum.

¹ For this purpose, a customer connection shall be any network termination point provided by the licensee and as identified by the Communications 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.

THE AMENDMENT REGULATION

3. To implement the proposal to reduce the annual fee for customer connections under UCLs, we propose to amend Part 6 of Schedule 3 to the Telecommunications (Carrier Licences) Regulation (Cap. 106V) (“the Regulation”) by the Amendment Regulation.

LEGISLATIVE TIMETABLE

4. The legislative timetable will be –

Publication in the Gazette	14 December 2012
Tabling at the Legislative Council	19 December 2012
Commencement of the Amendment Regulation	1 March 2013

IMPLICATIONS OF THE AMENDMENT REGULATION

5. With the above fee reduction, and those outlined in paragraph 7 below, the rate of return on average net fixed assets of the OFCA Trading Fund for the coming five years will fall to a level close to the target rate of 6.7%.

6. The Amendment Regulation is in conformity with the Basic Law, including the provisions concerning human rights. It does not affect the current binding effect of the Telecommunications Ordinance (Cap. 106). It has no civil service, productivity or environmental implications. It does not have any significant sustainability implications.

7. Subject to the passage of the Amendment Regulation for implementing the proposal to reduce the fee for customer connections under UCLs, the Communications Authority (“CA”) will proceed to reduce the mobile station fee for Public Radiocommunications Service (“PRS”) Licences (Public Radio Paging Services (“Paging”)) and Services-Based Operator (“SBO”) Licences (Class 3) to the same level and at the same time. Hence, apart from mobile and fixed service operators holding UCLs, the proposal will also benefit paging companies holding PRS licences, and mobile virtual network operators holding SBO

licences. In overall terms, it will help maintain Hong Kong's competitiveness as a telecommunications hub in Asia.

PUBLIC CONSULTATION

8. Before amending the Regulation, the Secretary for Commerce and Economic Development is required by the Telecommunications Ordinance (Cap. 106) to invite, by notice in the Gazette, members of the public who are interested in the matter to make representations. A public consultation exercise was launched jointly with the CA on 29 June 2012 and a total of 6 submissions were received.

9. The submissions are generally supportive of the Government and the CA's proposal. All submissions commented that the licence fees should be reduced further. Some submissions suggested that there should be a refund of licence fees paid and / or creation of a fee / tax holiday. In light of the cost recovery principle, OFCA considers that there is no room for a further downward adjustment or refund of licence fees. This is because (a) the operating cost of OFCA, as driven by salaries of staff and cost of supplies, is on the rise; and (b) the newly enacted Competition Ordinance (Cap. 619) and the Trade Descriptions (Unfair Trade Practices)(Amendment) Ordinance 2012 also call for more manpower resources in OFCA to carry out its duties under the new regulatory regimes. Some submissions submitted that there should be an immediate reduction in licence fees or back-dating the reduction to 1 April 2012 when CA was established. OFCA considers that an immediate fee reduction is not practical taking into account the legislative process involved in effecting the fee reduction for UCLs. There is also no ground to align the implementation date of the fee reduction with 1 April 2012 as the proposal is not related to the establishment of CA. Some submissions suggested that there should be an annual review of licence fees. As a matter of fact, it has been an established practice of OFCA or the former OFTA to review licence fees on a yearly basis. A proposal of licence fee adjustment will be formulated for public consultation should there be scope to do so.

10. We briefed the Information Technology and Broadcasting Panel of the Legislative Council on 10 December 2012. The Panel is supportive of this proposal.

PUBLICITY

11. 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.

ENQUIRY

12. For enquiries, please contact Mr Ivanhoe Chang, Principal Assistant Secretary for Commerce and Economic Development (Communications and Technology) at 2810 2713.

**Communications and Technology Branch
Commerce and Economic Development Bureau
12 December 2012**

Telecommunications (Carrier Licences) (Amendment) Regulation 2012

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

1. Commencement

This Regulation comes into operation on 1 March 2013.

2. Telecommunications (Carrier Licences) Regulation amended

The Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) is amended as set out in section 3.

3. Schedule 3 amended (fees payable for carrier licences)

Schedule 3, Part 6, section 2—

Repeal

“\$800”

Substitute

“\$700”.



Secretary for Commerce and
Economic Development

11 DEC 2012

Explanatory Note

This Regulation amends Part 6 of Schedule 3 to the Telecommunications (Carrier Licences) Regulation (Cap. 106 sub. leg. V) in order to reduce the customer connection fees payable for unified carrier licences.