

LEGISLATIVE COUNCIL BRIEF

Telecommunications Ordinance
(Chapter 106)

TELECOMMUNICATIONS (DESIGNATION OF FREQUENCY BANDS SUBJECT TO PAYMENT OF SPECTRUM UTILIZATION FEE) (AMENDMENT) ORDER 2018

TELECOMMUNICATIONS (LEVEL OF SPECTRUM UTILIZATION FEES) (SECOND GENERATION MOBILE SERVICES) (AMENDMENT) REGULATION 2018

TELECOMMUNICATIONS (DETERMINING SPECTRUM UTILIZATION FEES BY AUCTION) (AMENDMENT) REGULATION 2018

TELECOMMUNICATIONS (METHOD FOR DETERMINING SPECTRUM UTILIZATION FEE) (ADMINISTRATIVELY ASSIGNED SPECTRUM IN THE 1800 MHZ BAND) REGULATION

INTRODUCTION

This paper briefs Members on –

(a) the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2018 (“106Y Amendment Order”, copy at **Annex A**);

A

(b) the Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2018 (“106AA Amendment Regulation”, copy at **Annex B**);

B

C (c) the Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2018 (“106AC Amendment Regulation”, copy at **Annex C**); and

D (d) the Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1800 MHz Band) Regulation (“New Regulation”, copy at **Annex D**),

which will be published in the Gazette on 18 May 2018.

JUSTIFICATIONS

2. Currently, 49.8 MHz of spectrum in the 900 MHz band and 148.8 MHz of spectrum in the 1800 MHz band has been assigned to the four mobile network operators (“MNOs”) to provide mobile services. The assignments of spectrum in the 900 MHz band will expire on dates between November 2020 and January 2021, whereas the assignments of spectrum in the 1800 MHz band will all expire in September 2021. In addition, 0.2 MHz of spectrum in the 900 MHz band and 1.2 MHz of spectrum in the 1800 MHz band is currently vacant. Taken together, a total of 200 MHz of spectrum, comprising 50 MHz in the 900 MHz band and 150 MHz in the 1800 MHz band (“900/1800 MHz Spectrum”), will become available for assignment/re-assignment in 2020/2021.

3. In view of the forthcoming expiry of the existing assignments, the Communications Authority (“CA”) and the Secretary for Commerce and Economic Development (“SCED”), after two rounds of public consultation, issued a Joint Statement on 19 December 2017 promulgating their respective decisions on the arrangements for re-assignment of the 900/1800 MHz Spectrum and the related spectrum utilisation fee (“SUF”)¹. We briefed the Legislative Council Panel on Information Technology and Broadcasting (“Panel”) on the decisions in February 2018 vide LC Paper No. CB(4)577/17-18(05).

¹ The Statement of the CA and the SCED on *Arrangements for the Frequency Spectrum in the 900 MHz and 1800 MHz Bands upon Expiry of the Existing Assignments for Public Mobile Telecommunications Services and the Spectrum Utilisation Fee* is available at: http://www.cedb.gov.hk/ccib/eng/paper/pdf/900_1800MHz_Spectrum_joint_statement_eng.pdf.

4. The CA announced in the Joint Statement its decision to adopt a hybrid administratively-assigned cum market-based approach for the re-assignment of the 200 MHz of the 900/1800 MHz Spectrum upon expiry of the existing assignments. The arrangements for re-assignment comprise the following steps –

- ***Offer of right of first refusal:***

- (a) each of the four incumbent spectrum assignees will be offered a right of first refusal to be assigned 2 x 10 MHz of spectrum in the 1800 MHz band. In other words, a total of 80 MHz (representing 40% of the 900/1800 MHz Spectrum to be re-assigned) is to be re-assigned administratively (“RFR Spectrum”);

- ***Auction of spectrum:***

- (b) the remaining spectrum in the 1800 MHz band (at least 70 MHz) and all the spectrum in the 900 MHz band (50 MHz) will be assigned by way of auction. In other words, at least 120 MHz (representing 60% of the 900/1800 MHz Spectrum to be re-assigned) will be auctioned; and

- (c) if any incumbent spectrum assignee decides not to exercise the right of first refusal to take up the RFR Spectrum as in (a) above, the spectrum thus becoming available in the 1800 MHz band will be pooled together with the spectrum in (b) above for assignment by way of auction (collectively “Auctioned Spectrum”).

5. As for the method for determining the SUF, the SCED announced in the Joint Statement his decisions that the SUF for the Auctioned Spectrum should be determined by auction, subject to an auction reserve price at \$38 million per MHz; and that the SUF for the RFR Spectrum in the 1800 MHz band should be set at the average SUF of the Auctioned Spectrum in the same band, subject to a minimum price at \$54 million per MHz and a cap at \$70 million per MHz. The SCED has also decided that all spectrum assignees will be given a choice to pay the

SUF either by lump sum payment upfront or annual instalments².

6. The four pieces of subsidiary legislation are to give effect to the decisions in relation to SUF as contained in the Joint Statement.

LEGISLATIVE AMENDMENTS

A. The 106Y Amendment Order (at Annex A)

7. The 106Y Amendment Order amends the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106Y) to designate 1.2 MHz of spectrum currently vacant in the 1800 MHz band (i.e. the frequency bands of 1710 – 1710.5 MHz, 1784.9 – 1785 MHz, 1805 – 1805.5 MHz and 1879.9 – 1880 MHz) as the frequency bands the use of which should be subject to payment of SUF³.

B. The 106AA Amendment Regulation (at Annex B)

8. The Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap. 106AA) is a bespoke regulation designed to specify the method for determining the SUF of the 900/1800 MHz Spectrum for the existing assignment term which is due to expire in 2020/2021.

9. The existing assignments of spectrum in the 900 MHz band will expire on dates between November 2020 and January 2021. Pursuant to the CA's decision that the new 15-year term of assignment for all the spectrum in the 900 MHz band will be aligned to commence on 12 January 2021⁴, the 106AA Amendment Regulation amends

² The first instalment of the SUF should be equivalent to the lump sum payment divided by 15, and the subsequent instalments should increase every year by 2.5% to reflect the time value of money.

³ The 50 MHz of spectrum in the 900 MHz band and the other 148.8 MHz of spectrum in the 1800 MHz band has already been so designated.

⁴ The alignment will involve an administrative extension of the existing frequency assignment in the 900 MHz band for Hutchison Telephone Company Limited by 53 calendar days from 20 November 2020, and for SmarTone Mobile Communications Limited by eight calendar days from 4 January 2021, so that the term of assignments of all the spectrum in the 900 MHz band would expire on 11 January 2021, subject to their payment of SUF for the use of the spectrum during the extended assignment periods.

Cap. 106AA to prescribe the method for determining the SUF of spectrum in the 900 MHz band during the extended periods of the existing assignments⁵.

10. In addition, the 106AA Amendment Regulation amends Cap. 106AA to make it clear that Cap. 106AA only applies in relation to the use of the 900/1800 MHz Spectrum for the existing assignment periods (including the extended periods of existing assignments). The determination of SUF of the 900/1800 MHz Spectrum for the new assignment term will be governed by the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap. 106AC) as amended by the 106AC Amendment Regulation (i.e. **Annex C** and paragraphs 11 to 12 below) and the New Regulation (i.e. **Annex D** and paragraph 13 below).

C. The 106AC Amendment Regulation (at Annex C)

11. The 106AC Amendment Regulation amends Cap. 106AC to apply the method prescribed in Cap. 106AC to the determination of the SUF of the Auctioned Spectrum for the new assignment term. The 106AC Amendment Regulation also specifies the method for determining the SUF if an MNO elects to pay the SUF by annual instalments.

12. In addition, the 106AC Amendment Regulation specifies that the use of part of the Auctioned Spectrum that falls within the frequency bands 1780.1 – 1784.9 MHz and 1875.1 – 1879.9 MHz is not subject to payment of SUF if the user of the spectrum is authorised by the CA to use the spectrum for the sole purpose of providing mobile services within the designated area as specified by the CA (i.e. country parks and remote areas)⁶.

⁵ The SUF for such periods shall be equal to the SUF for the year just before the expiry of the existing assignments proportionate to the number of days of the extended assignment periods.

⁶ At present, frequency bands 1780.1 – 1784.9 MHz and 1875.1 – 1879.9 MHz have been designated as frequency bands for which no SUF is payable if the spectrum in those bands is used for the provision of mobile service coverage in country parks and remote areas specified as the designated areas by the former Telecommunications Authority. Part of that spectrum is currently assigned to three MNOs. The CA and the SCED have respectively decided in the Joint Statement to administratively re-assign the part of spectrum already so assigned to the three MNOs for another 15 years and to continue not to charge SUF for use of this spectrum in order that they would continue to provide mobile service coverage in the designated areas in the new term of assignment.

D. The New Regulation (at Annex D)

13. The New Regulation specifies the method for determining the SUF to be paid in a lump sum and by annual instalments for using the RFR Spectrum for the new assignment term.

LEGISLATIVE TIMETABLE

14. The legislative timetable will be –

Publication in the Gazette	18 May 2018
Tabling at the Legislative Council	23 May 2018
Commencement of the legislative amendments	13 July 2018

IMPLICATIONS OF THE LEGISLATIVE AMENDMENTS

15. On financial implication, according to the legislative amendments to set out the methods for determining the SUF of the 900/1800 MHz Spectrum for the extended periods of existing assignments and the new assignment term, the whole re-assignment exercise will involve a total SUF of an estimated minimum of \$8.88 billion⁷, and the SUF collected will be paid into the General Revenue in accordance with section 32I(8) of the TO. As to economic implications, while the legislative amendments themselves have minimal economic implication, the re-assignment arrangements of the 900/1800 MHz Spectrum upon expiry would help ensure customer service continuity, and promote efficient use of the spectrum and competition in the mobile telecommunications market. These are conducive to the long-term development of the telecommunications sector.

16. The legislative amendments are in conformity with the Basic Law, including the provisions concerning human rights. They have no civil service, environmental, competition, productivity, family and gender

⁷ This assumes that all incumbent spectrum assignees will take up the RFR Spectrum at the minimum price, all Auctioned Spectrum will be auctioned off at the auction reserve price, and all MNOs elect to pay SUF by one-off lump-sum payment.

implications, and no sustainability implications other than the economic implications set out in paragraph 15 above. They do not affect the binding effect of the TO.

PUBLIC CONSULTATION

17. Two rounds of public consultation which together lasted for about seven months had been conducted to devise the re-assignment arrangements for the 900/1800 MHz Spectrum and the methods for determining the concerned SUF. The consultation was kicked off in February 2016, with the issue of the first consultation paper to solicit the views and comments of the telecommunications industry and the general public⁸. Having carefully considered the views and comments received in the first round of consultation, the second consultation paper was issued in February 2017 to seek further views and comments of the telecommunications industry and the general public⁹. In the course of the second consultation, we briefed the Panel on 13 March 2017¹⁰. We further reported to the Panel at its meeting on 12 February 2018¹¹ on the CA's and the SCED's respective decisions as promulgated in the Joint Statement issued on 19 December 2017 on the re-assignment arrangements for the 900/1800 MHz Spectrum and the methods for determining the relevant SUF.

PUBLICITY

18. Subject to the enactment of the four pieces of subsidiary legislation, the CA aims to hold the auction of the Auctioned Spectrum around the end of 2018. Before the auction takes place, the SCED and the CA will, respectively, specify by notice published in the Gazette the minimum fee of the Auctioned Spectrum (i.e. the auction reserve price), and the terms and conditions of the auction, including the application

⁸ The first consultation paper is available at:
http://www.cedb.gov.hk/ccib/eng/paper/pdf/900_1800MHz_Spectrum_first_consultation.pdf.

⁹ The second consultation paper is available at:
http://www.cedb.gov.hk/ccib/eng/paper/pdf/900_1800MHz_Spectrum_second_consultation.pdf.

¹⁰ The Panel paper is available at:
<https://www.legco.gov.hk/yr16-17/english/panels/itb/papers/itb20170313cb4-655-3-e.pdf>.

¹¹ The Panel paper is available at:
<https://www.legco.gov.hk/yr17-18/english/panels/itb/papers/itb20180212cb4-577-5-e.pdf>.

period for the auction, the criteria for qualifying a bidder to participate or disqualifying a bidder from participating in the auction, etc. An information memorandum which provides key information of the auction and a press release will also be published by the CA to invite interested parties to participate in the auction.

ENQUIRIES

19. For enquiries, please contact Mr Keith Giang, Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries) at 2810 2708.

Commerce and Economic Development Bureau
16 May 2018

Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2018

(Made by the Communications Authority under section 32I(1) of the Telecommunications Ordinance (Cap. 106) after carrying out the consultation required under section 32G(2) of the Ordinance)


Communications Authority

1. Commencement

This Order comes into operation on 13 July 2018.

14 MAY 2018

2. Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order amended

The Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y) is amended as set out in section 3.

3. Schedule amended

The Schedule, after Part 2A—

Add

“Part 2B

MHz	MHz
1710–1710.5	1805–1805.5
1784.9–1785	1879.9–1880”.

Explanatory Note

This Order designates additional frequency bands in which the use of spectrum is subject to the payment of spectrum utilization fee.

Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2018

(Made by the Secretary for Commerce and Economic Development under section 321 of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Regulation comes into operation on 13 July 2018.

2. Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation amended

The Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap. 106 sub. leg. AA) is amended as set out in sections 3 and 4.

3. Section 2 amended (application)

(1) Before section 2(1)—

Add

“(1A) This Regulation only applies in relation to—

- (a) the use of the spectrum that falls within the frequency bands 890–915 MHz and 935–960 MHz set out in Part 2 of the specified Schedule on or before 11 January 2021;
- (b) the use of the spectrum that falls within the frequency bands 1710.5–1780.1 MHz and 1805.5–1875.1 MHz set out in Part 2 of the specified Schedule on or before 29 September 2021; and

(c) the use of the spectrum that falls within the frequency bands set out in Part 2A of the specified Schedule on or before 29 September 2021.”.

(2) Section 2(1)—

Repeal

“which falls within the frequency bands set out in Part 2 of the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y) shall be”

Substitute

“referred to in subsection (1A)(a) and (b) is”.

(3) Section 2(2)—

Repeal

“which falls within the frequency bands set out in Part 2A of the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y)”

Substitute

“referred to in subsection (1A)(c)”.

(4) After section 2(2)—

Add

“(3) In this section—

specified Schedule (指明附表) means the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y).”.

4. **Section 4 amended (spectrum utilization fee referred to in
section 2(1))**

(1) Section 4(1)(a)—

Repeal

“and”.

(2) Section 4(1)(b)—

Repeal

“remaining”

Substitute

“6th to the 15th”.

(3) Section 4(1)(b)—

Repeal the full stop

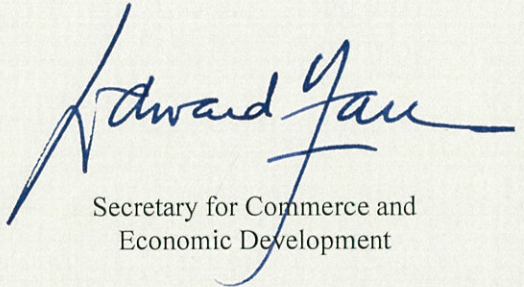
Substitute

“; and”.

(4) After section 4(1)(b)—

Add

“(c) for the remainder of the period of validity of the relevant mobile carrier licence or relevant unified carrier licence (as the case may be), an amount equal to a fraction of the spectrum utilization fee payable for the 15th year of the period representing the proportion that the number of days in the remainder bears to 365.”.



Secretary for Commerce and
Economic Development

14 MAY 2018

Explanatory Note

The Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) Regulation (Cap. 106 sub. leg. AA) (*principal Regulation*) prescribes the level of spectrum utilization fees to be paid by the users of the spectrum that falls within the frequency bands set out in Parts 2 and 2A of the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y) (*specified Schedule*) for their respective existing assignment periods.

2. This Regulation amends the principal Regulation to—
 - (a) provide that the principal Regulation only applies in relation to the use of the relevant parts of the spectrum on or before the expiry dates of the relevant existing assignment periods (including any period of administrative extension); and
 - (b) prescribe the level of spectrum utilization fees payable for the period of administrative extension of the relevant existing assignments of the spectrum that falls within the frequency bands set out in Part 2 of the specified Schedule.

Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2018

(Made by the Secretary for Commerce and Economic Development under section 321 of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Regulation comes into operation on 13 July 2018.

2. Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation amended

The Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap. 106 sub. leg. AC) is amended as set out in sections 3 to 6.

3. Section 3 amended (method for determining spectrum utilization fee)

(1) Section 3(1AAB)—

Repeal

“the Schedule”

Substitute

“Schedule 1”.

(2) After section 3(1AAC)—

Add

“(1AAD) Subject to section 3C, the spectrum utilization fee for the use of the spectrum that falls within the frequency bands set out in Schedule 2 for the period beginning on 12 January 2021 and ending on 11 January 2036 must be determined by an auction or a series of auctions to be

held in accordance with this Regulation and the specified terms.

(1AAE) Subject to sections 3B and 3C, the spectrum utilization fee for the use of the spectrum that falls within the frequency bands set out in Schedule 3 for the period beginning on 30 September 2021 and ending on 29 September 2036 must be determined by an auction or a series of auctions to be held in accordance with this Regulation and the specified terms.

(1AAF) Subject to section 3C, the spectrum utilization fee for the use of the remaining spectrum for the period beginning on 30 September 2021 and ending on 29 September 2036 must be determined by an auction or a series of auctions to be held in accordance with this Regulation and the specified terms.”.

(3) Section 3—

Repeal subsection (3)

Substitute

“(3) In this section—

remaining spectrum (剩餘頻譜)—

(a) for the purposes of subsection (1AAC), means any spectrum that—

(i) falls within the frequency bands set out in the Schedule to the Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1.9–2.2 GHz Band) Regulation (Cap. 106 sub. leg. AD); and

(ii) is not assigned to any existing assignee as defined by section 2(3) of that Regulation

- because the Authority's offer to assign the spectrum as described in section 2 of that Regulation has not been accepted;
- (b) for the purposes of subsection (1AAF), means any spectrum that—
- (i) falls within the frequency bands set out in the Schedule to the Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1800 MHz Band) Regulation; and
 - (ii) is not assigned to any existing assignee as defined by section 2 of that Regulation because the Authority's offer to assign the spectrum as described in section 3(a) of that Regulation has not been accepted.”.

4. Sections 3B and 3C added

After section 3A—

Add

“3B. When spectrum utilization fee referred to in section 3(1AAE) is not payable

- (1) No spectrum utilization fee is payable for the use of the spectrum that falls within the frequency bands 1780.1–1784.9 MHz and 1875.1–1879.9 MHz if the user of the spectrum is authorized by the Authority to use the spectrum through a base station located in a designated area for the sole purpose of providing mobile telecommunications services within the designated area.
- (2) The Authority may specify an area to be a designated area for the purposes of subsection (1).

- (3) The Authority must publish the details of the specification of the designated area in the Gazette.

3C. Payment of spectrum utilization fee determined under section 3(1AAD), (1AAE) or (1AAF)

- (1) The spectrum utilization fee determined under section 3(1AAD), (1AAE) or (1AAF) must be paid—
 - (a) in a lump sum; or
 - (b) annually in 15 instalments in accordance with subsection (2).
- (2) For subsection (1)(b), the spectrum utilization fee for each instalment is as follows—
 - (a) for the first instalment—an amount equal to the lump sum referred to in subsection (1)(a) divided by 15;
 - (b) for each subsequent instalment—an amount equal to the spectrum utilization fee payable in the immediately preceding instalment increased by 2.5%.
- (3) The spectrum utilization fee is payable at the time and in the way required by the Authority.”.

5. Schedule renumbered

The Schedule—

Renumber the Schedule as Schedule 1.

6. Schedules 2 and 3 added

After Schedule 1—

Add

“Schedule 2

[s. 3]

Frequency Bands

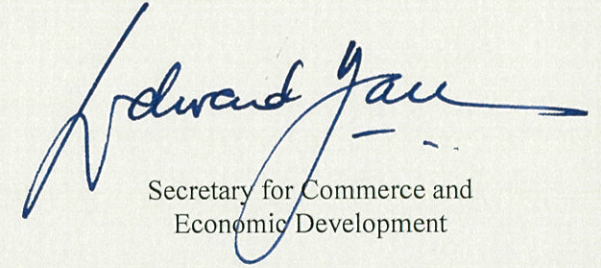
MHz	MHz
890–895	935–940
895–900	940–945
900–905	945–950
905–910	950–955
910–915	955–960

Schedule 3

[s. 3]

Frequency Bands

MHz	MHz
1710–1720	1805–1815
1730–1740	1825–1835
1770–1780	1865–1875
1780–1785	1875–1880”.



Secretary for Commerce and
Economic Development

14 MAY 2018

Explanatory Note

This Regulation amends the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap. 106 sub. leg. AC) (*principal Regulation*) mainly for the following purposes—

- (a) to provide for the determination by auction, and the payment, of spectrum utilization fees for using the following parts of the spectrum for their respective assignment periods—
 - (i) the spectrum that falls within the frequency bands set out in Schedules 2 and 3 to be added to the principal Regulation by this Regulation; and
 - (ii) any spectrum that falls within the frequency bands set out in the Schedule to the Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1800 MHz Band) Regulation and that, when offered by the Communications Authority to an existing assignee (as defined by section 2 of that Regulation), has not been accepted; and
- (b) to exempt from payment of the spectrum utilization fee the use of the spectrum that falls within certain frequency bands in country parks and remote areas designated by the Authority.

Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1800 MHz Band) Regulation

(Made by the Secretary for Commerce and Economic Development under section 321 of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Regulation comes into operation on 13 July 2018.

2. Interpretation

In this Regulation—

existing assignee (現有受配人) means a person who has been assigned, for a period ending on 29 September 2021, the use of any spectrum that falls within the following frequency bands—

- (a) 1710.5–1780.1 MHz and 1805.5–1875.1 MHz set out in Part 2 of the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y);
- (b) 1780.1–1784.9 MHz and 1875.1–1879.9 MHz set out in Part 2A of that Schedule;

specified period (指明期間) means a period of 15 years beginning on 30 September 2021 and ending on 29 September 2036;

specified spectrum (指明頻譜) means any spectrum that falls within the frequency bands set out in the Schedule.

3. Application

This Regulation applies if—

- (a) the Authority makes an offer to assign to an existing assignee any specified spectrum for use by that assignee for the specified period; and
- (b) that assignee accepts the offer.

4. Determination of spectrum utilization fee

- (1) The spectrum utilization fee payable by an existing assignee for every 1 kHz of any specified spectrum assigned for the specified period is the higher of the following—
 - (a) \$54,000;
 - (b) the auction price referred to in subsection (2).
- (2) The auction price is the average spectrum utilization fee for every 1 kHz of the aggregate of the following—
 - (a) all spectrum utilization fees obtained for the spectrum auctioned under section 3(1AAE) of the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap. 106 sub. leg. AC);
 - (b) if applicable—all spectrum utilization fees obtained for the spectrum auctioned under section 3(1AAF) of that Regulation.
- (3) However, if the spectrum utilization fee determined under subsection (1) is higher than \$70,000 for every 1 kHz, the spectrum utilization fee payable by the existing assignee for every 1 kHz of the spectrum assigned is \$70,000.
- (4) This section is subject to section 5.

5. Payment of spectrum utilization fee

- (1) The spectrum utilization fee payable under this Regulation must be paid—
 - (a) in a lump sum; or

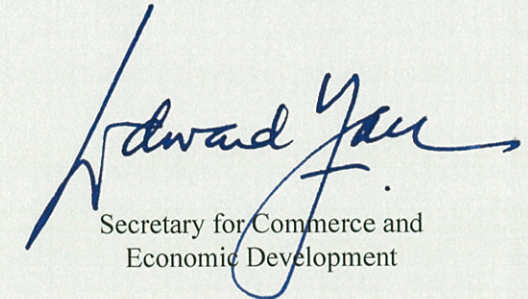
- (b) annually in 15 instalments in accordance with subsection (2).
- (2) For subsection (1)(b), the spectrum utilization fee for each instalment is as follows—
 - (a) for the first instalment—an amount equal to the lump sum referred to in subsection (1)(a) divided by 15;
 - (b) for each subsequent instalment—an amount equal to the spectrum utilization fee payable in the immediately preceding instalment increased by 2.5%.
- (3) The spectrum utilization fee is payable at the time and in the way required by the Authority.

Schedule

[s. 2]

Frequency Bands

MHz	MHz
1720–1730	1815–1825
1740–1750	1835–1845
1750–1760	1845–1855
1760–1770	1855–1865


Secretary for Commerce and
Economic Development

14 MAY 2018

Explanatory Note

If a person who has been assigned under the Telecommunications Ordinance (Cap. 106) the use of any spectrum that falls within the frequency bands 1710.5–1784.9 MHz and 1805.5–1879.9 MHz for a period ending on 29 September 2021 accepts an offer from the Communications Authority to be assigned any spectrum that falls within the frequency bands set out in the Schedule to this Regulation (*specified spectrum*) for a period of 15 years beginning on 30 September 2021 (*specified period*), the spectrum utilization fee payable by that person for the use of the specified spectrum for the specified period is to be determined under the Regulation.