

LEGISLATIVE COUNCIL BRIEF

Telecommunications Ordinance
(Chapter 106)

TELECOMMUNICATIONS (REGISTRATION OF SIM CARDS) REGULATION

INTRODUCTION

At the meeting of the Executive Council on 1 June 2021, the Council ADVISED and the Chief Executive ORDERED that the Telecommunications (Registration of SIM Cards) Regulation (the Regulation) should be made under section 37 of the Telecommunications Ordinance (Cap. 106) (TO) to introduce the Real-name Registration Programme for subscriber identity module (SIM) cards (Registration Programme), incorporating the adjustments to the original proposals as set out in paragraphs 6 to 11 below.

JUSTIFICATIONS

Public consultation and views received

2. The Government conducted a public consultation exercise on the Registration Programme from 30 January to 20 March 2021¹. To recap, the key proposals are summarised as follows –

- (a) SIM card users are required to provide personal information including name in English and Chinese (as applicable), identity document number (i.e. HKID number or serial number of other acceptable identity documents such as travel documents for visitors), copy of the identity document and date of birth for registration;

¹ The public consultation was scheduled to end on 28 February 2021. The Government subsequently announced an extension of the consultation period to 20 March to allow more time for the industry and members of the public to study and discuss the proposals, and submit their views to the Government.

- (b) a cap will be imposed on pre-paid SIM (PPS) cards registrable by each user (including individual and corporate users) under each operator. A company/corporation should provide the name in English and Chinese (as applicable), the number and a copy of the business / branch registration certificate if available as well as personal information of a natural person as a responsible person for the registration of PPS cards subject to a cap. Users who are below 16 years old will need the endorsement of an adult for them to register their own SIM cards;
- (c) the Registration Programme will be implemented in two phases. In Phase One, telecommunications operators should put in place a registration system and Phase Two will allow new users of SIM cards and users of existing PPS cards to register their information with their operators. New SIM service plan (SSP) and PPS users can only activate their SIM cards upon registration of their information starting from Phase Two. Unregistered PPS cards can no longer be used after Phase Two;
- (d) telecommunications operators should check and verify the information provided by users, and to deregister the concerned SIM cards in certain circumstances. The information collected should be kept and stored by the respective operators for at least 12 months after the SIM cards are deregistered;
- (e) law enforcement agencies (LEAs) can request telecommunications operators to provide SIM cards registration records pursuant to a warrant issued by a magistrate or without warrant in certain urgent or emergency situations; and
- (f) the existing sanctions as imposed by the Communications Authority (CA) on telecommunications operators as stipulated under the TO will be applicable in enforcing the Registration Programme. No new criminal offences will be created.

3. During the public consultation period, we have conducted over 20 meetings with political parties, mobile network operators, telecommunications licensees, industry and trade organisations, innovation and technology bodies and other business sectors which extensively use mobile services in their operations. We have also separately consulted the CA, Office of the Privacy Commissioner for Personal Data (Privacy Commissioner), the Competition Commission, the

Consumer Council and the Legislative Council (LegCo) Panel on Information Technology and Broadcasting. All these stakeholders were generally supportive of/did not have objection to the Registration Programme.

4. In addition, we have received a total of over 105 000 written submissions (emails, faxes, letters and pre-printed forms) during the consultation period. Of these, over 77 000 submissions (i.e. about 74%) expressed support or no objection to the Registration Programme whereas around 27 000 submissions (i.e. about 26%) opposed.

5. While there is strong support from stakeholders for the Registration Programme, quite a large number of stakeholders expressed concerns over specific proposals therein, summarised as follows –

- (a) **Cap on PPS cards:** nearly all parties considered that the proposed cap of three PPS cards for each user under each operator is too restrictive, in particular for corporate/company users. This concern is understandable given PPS cards are unregulated at the moment and the many operational needs for a larger number of such cards as identified by respondents from various trades, business and professional sectors. They include retail, sales, transport, logistics and catering sectors which need to provide front-line staff with PPS cards, and the IT start-ups which use a sizable number of PPS cards for testing new software, applications and devices. The taxi trade also needs a large number of PPS cards to be deployed by drivers in their daily operation. Stakeholders across the board strongly requested relaxation of the cap and to provide separate caps for corporate users so as to address their legitimate operational needs.
- (b) **Transitional periods:** another common concern as raised by most stakeholders is that the proposed transitional periods are too short. While the telecommunications trade including providers of PPS services are largely on side with the proposals, they are urging the Government to consider their practical problems in compliance with the new registration requirements. The duration of 120 days for Phase One (lead time for licensees to set up the registration system) and 240 days for Phase Two (period for existing PPS users to register with operators) were considered insufficient to complete the tasks involved. Making reference to

actual experience elsewhere (especially Macao) and in view of the large amount of PPS cards currently in use in Hong Kong (about 12 million), the trade demands that the transitional periods be substantially extended.

- (c) **Other operational issues:** smaller players in the market are concerned if the new arrangement would drive them out of business as they are worrying that the proposal would drastically reduce the demand and sales of PPS. They are also concerned if the new registration requirements would pose additional workload, hurdles and cost to their businesses, such as verification of personal information provided by users, level of compliance expected and whether the nine million existing SSP customers will need to be re-registered. Some went further in asking the Government to consider financial subsidies, if not compensation, for their loss of business.

Proposed Refinements for the Registration Programme

6. We have thoroughly studied the feedback received and considered that these concerns are valid and legitimate. We propose some refinements which are essential and useful to preserve the goodwill and cooperative spirit of various sectors towards the Registration Programme, to ensure smooth implementation of the key proposals as well as to achieve the policy objective.

Cap on Number of Registrable PPS Cards

7. It is clear to us that relaxation of the cap is the most crucial issue to all our stakeholders during public consultation. Noting that it is becoming more prevalent for an individual to own/use various mobile devices that use SIM cards (e.g. mobile phones, tablets, smart watches, etc.), the cap of three PPS cards per operator has been criticised as being too restrictive and inconvenient. The problem of the proposed cap would be even more critical for company/corporate users.

8. We also note that the nature of demand and the need for PPS cards differ between individual and corporate users. Hence, it would be more logical and reasonable to impose different caps on individual and corporate users. As such, we propose a maximum of **ten PPS cards for each individual user** per operator and **25 PPS cards for each corporate user** per operator.

9. As a related issue, we will regard individuals and bodies of persons holding a valid business registration (BR) certificate or valid branch registration certificate under the Business Registration Ordinance (Cap. 310)² as corporate users for the Registration Programme. This is in line with the established practice of the major telecommunications operators in arranging corporate service plans. Currently, there are more than 1.5 million of valid BR holders in Hong Kong covering different types of organisations/entities. Application for BR is relatively convenient and easy. We also envisage that telecommunications operators will adapt to the changing market landscape following implementation of the Registration Programme to offer more flexible SSPs to suit different customers' needs. We believe this refinement will be widely welcomed by the public.

Transitional Periods

10. The request to extend the transitional periods is loud and clear and is not unreasonable taking into account the experience in other jurisdictions. For example, Macao needed some 1.5 years for the whole transitional process to complete registration of about 1.1 million SIM cards. We propose to extend the transitional periods given the large amount of practical work needed for compliance and preparation as follows –

- (a) **Phase One to be extended to around 180 days** for operators to put in place the registration infrastructure, back-end systems, staff engagement and training. In other words, after this period, all new PPS cards that are available for sale in the market or new SSP that are effective afterwards must be registered before activation.
- (b) **Phase Two to be extended to 360 days** for existing users to complete registration of existing PPS cards with their operators. Any existing PPS cards that have not completed registration within this period will be deactivated/suspended and cannot be used.

² Under the Business Registration Ordinance, every person carrying on business in Hong Kong (including any form of trade, commerce, craftsmanship, profession, calling or other activity carried on for the purpose of gain and also a club) must register the business with the Business Registration Office of the Inland Revenue Department (IRD). A business registration certificate bearing unique registration number will be issued by the IRD.

Existing SSP Customers

11. We consider that there is no need for existing SSP customers to “re-register” their personal particulars with their operators since relevant information has been collected and kept by their operators since day one upon activation of their service plans, so long as they do not change the SIM card or switch to another operator. The information of these SSP customers (including the corporate customers) being kept by the operators is taken to be record kept for the purpose of the Registration Programme.

The Guidelines

12. The CA will issue guidelines to supplement/elaborate on the Regulation regarding the detailed operational requirements of the Registration Programme. The Office of the Communications Authority (OFCA) will engage the operators and relevant stakeholders in preparing the guidelines to ensure that they are practicable and can fulfil the registration requirements. The guidelines will take effect when the Registration Programme starts.

LEGISLATIVE TIMETABLE

13. The legislative timetable for the Regulation is as follows –

Publication in the Gazette	4 June 2021
Tabling of Regulation at LegCo	9 June 2021
Commencement	1 September 2021

IMPLICATIONS OF THE PROPOSAL

14. The economic and financial implications of the proposed Registration Programme, if implemented, are set out in **Annex**. The Registration Programme is in conformity with the Basic Law, including provisions concerning human rights. It will not affect the current binding effect of the existing provisions of the TO and its subsidiary legislation. It has no civil service, productivity, environmental, family and gender implications. There are no sustainability implications other than the economic implications set out above.

PUBLIC CONSULTATION

15. The Commerce and Economic Development Bureau (CEDB) in collaboration with the Security Bureau, the Police and OFCA have completed a seven-week public consultation from 30 January to 20 March 2021. The various stakeholders whom we met have expressed strong support for us to take forward the Registration Programme with necessary refinements as mentioned above. The Registration Programme has also taken into account the suggestions and views of the Privacy Commissioner. Meanwhile, OFCA will work closely with the operators to gauge their views on the detailed operational requirements to be included in the guidelines to ensure that they are practicable. In addition, the guidelines would be considered and approved by the CA before they will take effect upon the commencement of the Regulation. We will continue to liaise with the operators and keep in view any suggestions and concerns as raised by the public to ensure smooth implementation of the Registration Programme.

PUBLICITY

16. CEDB will brief the media on 1 June 2021 to explain the adjustments to the Registration Programme. A press release will be issued on the same day. We will arrange publicity to promote and publicise the timeline and registration requirements. We will also collaborate with telecommunications operators and relevant non-governmental organisations to provide assistance to the needy groups (especially the elderly groups) to fulfil the registration requirements.

ENQUIRIES

17. Enquiries on this brief can be directed to Communications and Creative Industries Branch of Commerce and Economic Development Bureau at telephone number 3655 5595.

**Commerce and Economic Development Bureau
Security Bureau
1 June 2021**

Economic and Financial Implications of Registration Programme

Economic Implications

The Registration Programme imposes registration requirements on all mobile service operators/licensees providing SIM card services including the larger mobile network operators and mobile virtual network operator, and smaller operators under the Class Licence for Offer of Telecommunications Services (CLOTS). The Registration Programme will likely increase compliance costs and legal liabilities on them such as additional capital costs in establishing a registration system in compliance with the Regulation.

Financial Implications

2. It is the operators/licensees' responsibility to collect and safe keep/store the personal particulars of the SIM card users under the Registration Programme. Hence, the cost in setting up the necessary infrastructure for registering and storing such data should be borne by the operators providing SIM card services as part of their business costs similar for providing other telecommunications services.