

28 September 2017

By email

**Circular letter to:**

- **All Unified Carrier Licensees authorised to provide mobile services**
- **All Services-Based Operator Licensees authorised to provide mobile virtual network operator services**

Dear Sir/Madam,

**Issue of the Code of Practice on the Cessation Arrangements  
for Mobile Virtual Network Operator (“MVNO”) Services**

Pursuant to Special Condition (“SC”) 1 of the Unified Carrier Licence or SC 13 of the Services-Based Operator (“SBO”) Licence, the Communications Authority (“CA”) today issued a Code of Practice on the Cessation Arrangements for MVNO Services (“CoP”) to provide practical guidance to the licensees in the event of cessation of MVNO services in order to better protect consumer interest.

The CoP (**at Annex A**) sets out the requirements to ensure that MVNOs and their hosting mobile network operators should manage the service cessation arrangements in a better co-ordinated manner and that a reasonable advance notice, namely, one calendar week for local services and one calendar day for international services, will be given to the affected service subscribers and the general public about any impending service cessation by a MVNO. This will enable affected service subscribers to make timely arrangements to reduce the adverse impacts caused by the service cessation. Regarding the advance notices which

should be issued / published by the MVNOs and their hosting mobile network operators in the form of Service Cessation Alerts and Service Cessation Notices respectively, they are advised to use the sample formats at **Annex B** and **Annex C** respectively.

In finalising and adopting the CoP, the CA has taken into account the views and comments submitted by the industry and relevant stakeholders during the consultation conducted through the Office of the Communications Authority. A summary of the submissions received from the industry and stakeholders, and the responses of the CA are set out in **Annex D**.

The CoP shall be observed and complied by all MVNOs and their hosting mobile network operators as part of their licensing obligations. In order to safeguard the MVNOs' commitment to comply with the CoP, MVNOs will be imposed a performance bond requirement to secure the payment of any financial penalty due to any contravention of licence obligation on compliance with the CoP, with a two-tier arrangement as follows –

- (a) For MVNOs with 100 000 or fewer subscribers, the bonded sum will be HK\$ 100,000; and
- (b) For MVNOs with more than 100 000 subscribers, the bonded sum will be HK\$ 200,000.

The CoP is published on the CA's website and will be brought into effect one month from the date of issue, i.e. on 28 October 2017. As for the above performance bond requirement for the MVNOs, it will be effected starting from the same day and relevant amendments to the SBO Licences of the MVNOs will subsequently be made at the time when the MVNOs seek annual renewal of their SBO Licences.

Should you have any enquiry on the above, please contact the undersigned or Mr. Patrick Man at 2961 6527.

Yours faithfully,

( Christine Chim )  
for Communications Authority

Enclosure:

1. **Annex A** – Code of Practice on the Cessation Arrangements for Mobile Virtual Network Operator Services (6 pages)
2. **Annex B** – Sample format for Service Cessation Notice (2 pages)
3. **Annex C** – Sample format for Service Cessation Alert (2 pages)
4. **Annex D** – Summary of the Views and Comments of the Industry and Stakeholders and the Responses of the CA (7 pages)

## Code of Practice on the Cessation Arrangements for Mobile Virtual Network Operator Services

### Preamble

Under Special Condition (“SC”) 1.2(a) and 1.2(c) of the Unified Carrier Licence and SC 13.1(a) and 13.1(c) of the Services-Based Operator Licence, the Communications Authority<sup>1</sup> (“CA”) may issue a Code of Practice for the purpose of providing practical guidance to the licensee in respect of the provision of a satisfactory service and to ensure the protection and promotion of the interests of consumers of telecommunications goods and services. This Code of Practice on the Cessation Arrangements for Mobile Virtual Network Operator Services (“CoP”) issued by the CA sets out the requirements, in the event of Service Cessation, which shall be observed and complied with by the mobile virtual network operators (“MVNOs”)<sup>2</sup> and their hosting mobile network operators (“Hosting MNOs”).<sup>3</sup>

2. For the purpose of this CoP, “Service Cessation” is defined as –

- (a) any suspension or termination by a Hosting MNO of the provision of its wholesale network capacity services to an MVNO for whatsoever reason, resulting in the MVNO being unable to continue the provision of mobile services to its customers; or
- (b) any suspension or termination of the provision of mobile services by an MVNO of its own volition to all or any specific group of its customers.

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<sup>1</sup> In this CoP, any reference to the CA is to be construed as reference which should imply, connote or include OFCA as the case may require.

<sup>2</sup> MVNOs refer to the holders of a Services-Based Operator Licence for the provision of mobile virtual network operator services.

<sup>3</sup> Hosting MNOs refer to the holders of a Unified Carrier Licence for the provision of public mobile radiocommunications services, which provide wholesale network capacity services to MVNOs.

For the avoidance of doubt, Service Cessation does NOT include any potential or threat of Service Cessation by the Hosting MNO; or any service suspension or termination caused by temporary network outage or equipment failure by either the MVNO or the Hosting MNO.

3. Notwithstanding any provision in and without prejudice to the rights and obligations under any agreements entered into between an MVNO and a Hosting MNO, and any agreements entered into between the MVNO and its customers, in the event of a Service Cessation, both the MVNO and the Hosting MNO shall be subject to the respective duties and obligations as stipulated in this CoP.

### **Duties and Obligations of the Hosting MNO**

4. For any Service Cessation under the scenario in paragraph 2(a), the Hosting MNO shall take the following actions in a manner satisfactory to the CA –

- (a) to provide a minimum notice period of at least one calendar week in advance of the Service Cessation for local services and/or one calendar day in advance of the Service Cessation for international services to the MVNO. The Hosting MNO shall issue a formal notice in writing on the Service Cessation (hereinafter referred to as the “Service Cessation Notification” or “SCN”) to the MVNO with a copy to the CA at the same time at least one business day<sup>4</sup> before the start of the minimum notice period. The CA may at its discretion make public the SCN by posting it on the official website of the CA/OFCAs right after the receipt of the notice;
- (b) to provide mobile number portability (“MNP”) services for at least three months after the date of the Service Cessation to assist any affected customers of the MVNO to port out their mobile numbers to other service providers, if the Hosting MNO has been providing MNP services to the MVNO and carrying out mobile number porting activities for the MVNO

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<sup>4</sup> Business day means 9:00 a.m. – 5.00 p.m. on any day (other than Saturday, Sunday, or any statutory or public holiday).

before the date of the Service Cessation pursuant to an agreement between the parties; and

- (c) to provide all relevant information in connection with the Service Cessation as may be required from time to time by the CA within the stipulated timeframe.

## **Duties and Obligations of the MVNO**

5. For any Service Cessation under the scenarios in paragraphs 2(a) or 2(b), the MVNO shall take the following actions in a manner satisfactory to the CA –

- (a) to provide a minimum notice period of at least one calendar week in advance of the Service Cessation for local services and/or one calendar day in advance of the Service Cessation for international services to their customers and the public. The MVNO shall publish a public notice to announce, notify and alert all affected customers and the public in respect of the Service Cessation (hereinafter referred to as “Service Cessation Alert” or “SCA”) before the start of the minimum notice period. The MVNO shall provide an advance copy of the SCA to the CA on a business day before the start of the minimum notice period. The SCA shall be made public and served on affected customers by the MVNO through all reasonable means, including but not limited to (i) one or more of such means as use of short message services, making voice calls, writing letters, issuing emails for sending of SCA to the affected customers; and (ii) one or more of such means as publication of the SCA on the MVNO’s website, publication on social media, issuing press statements for making the SCA known to the public. The CA may at its discretion make public the SCA by posting it on the official website of the CA/OFCA right after the receipt of the notice;
- (b) to provide MNP services for at least three months after the date of Service Cessation to assist any affected customers to port out their mobile numbers to other service providers,

irrespective of whether the MVNO has its own MNP platform and carries out its own mobile number porting activities, or whether it has engaged a third party for the provision of the required MNP service;

- (c) to cease, immediately after the publication of the SCA, marketing, selling and offering for sale of mobile services by any means, or entering into any agreement for the provision of telecommunications services with any customers or potential customers through any of its sale channels, retail outlets, distributors, resellers, agents, telesales, over the internet or otherwise;
- (d) to maintain customer service hotlines for handling public enquiries and complaints for at least three months after the date of the Service Cessation;
- (e) to properly handle all enquiries and complaints from its customers, including in relation to contractual matters (including handling requests for refund); and
- (f) to provide all relevant information on the number of affected customers, the number of customers ported out to other service providers, and all other information as may be required from time to time by the CA within the stipulated timeframe.

### **Required Information in the SCN and SCA**

6. The SCN issued by the Hosting MNO and the SCA published by the MVNO shall be printed on a company letter with the logo of the Hosting MNO or the MVNO as appropriate and shall contain the following information set out in a clear and explicit manner –

- (a) the name of the Hosting MNO or MVNO as appropriate;
- (b) the name and signature of the authorized person acting on behalf of the Hosting MNO or MVNO as appropriate;

- (c) the date of publication of such a notice;
- (d) the scheduled date and time of the Service Cessation;
- (e) the type(s) of services and customers that will be affected or are likely to be affected by the Service Cessation;
- (f) the customer service hotline number(s) and email address(es) of the MVNO (as appropriate) that affected customers may use to make enquiries or complaints relating to the Service Cessation and all other subsequent arrangements (applicable to the SCA only); and
- (g) details of the MNP arrangements for those of its customers who would like to port out their mobile numbers to other service providers (applicable to the SCA only).

7. While the CA may at its discretion make public the SCN and/or the SCA by posting them on the official website of the CA/OFCa, the CA/OFCa may also issue any public notifications including press statements and consumer alerts regarding the Service Cessation as it deems appropriate.

### **Application and Update of the CoP**

8. This CoP does not serve to replace or substitute the requirement for termination under any agreements made between the Hosting MNO and the MVNO, or between the MVNO and its customers. The CoP seeks to enhance the transparency of information and to minimise inconvenience caused to customers of the MVNO in the event of Service Cessation.

9. For the avoidance of doubt, all MNOs and MVNOs are obliged to provide services in compliance with the Telecommunications Ordinance (Cap. 106), the conditions of their licences and any other applicable laws and statutes. Nothing in this CoP shall be taken to absolve the licensees from such duties and obligations.



10. From time to time, the CA may review and update this CoP in accordance with developments in telecommunications policy, market and technology, as appropriate. If the CA considers that relevant amendments are necessary, it will take into account the views of the industry and other interested parties before effecting the amendments.

**Communications Authority**  
**28 September 2017**

[MNO LETTERHEAD]

**Sample format for Service Cessation Notice to be provided by  
Hosting MNOs to MVNOs with a copy to the CA  
(for Unified Carrier Licensees authorized to provide mobile services)**

[DATE OF PUBLICATION OF THIS SCN]

[Name of the MVNO]

[Address of the MVNO]

Dear Sir,

**Service Cessation Notice**

Pursuant to the Code of Practice on the Cessation Arrangements for Mobile Virtual Network Operator Services issued by the Communications Authority, [Name of the Hosting MNO] hereby informs [Name of the MVNO] that it will cease to provide the [wholesale network capacity services and/or other services] to [Name of the MVNO] with effect from [Date of Service Cessation].

Particulars of the service cessation are as follows -

- (a) Scheduled date and time of the service cessation for each type of services (e.g. local mobile services, mobile roaming services):

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- (b) Type(s) of services and customers that will be affected or are likely to be affected by the service cessation:

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Yours faithfully,

*(Note: Please sign by the authorized person acting on behalf of the Hosting MNO.)*

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[Name of signatory]

[Position of the signatory]

[Name of Hosting MNO]

cc: Communications Authority

(by fax to [xxxx xxxx] and by email to [xxxx xxxx])

[MVNO LETTERHEAD]

**Sample format for Service Cessation Alert to be provided by MVNOs to affected customers and the public with a copy to the CA (for SBO licensees authorized to provide MVNO services)**

[DATE OF PUBLICATION OF THIS SCA]

To whom it may concern:

**Service Cessation Alert**

Pursuant to the Code of Practice on the Cessation Arrangements for Mobile Virtual Network Operator Services issued by the Communications Authority, [Name of the MVNO] hereby informs all customers and the general public that it will cease to provide the [type(s) of services] with effect from [Date].

Particulars of the service cessation are as follows -

- (a) Scheduled date and time of the service cessation for each type of services (e.g. local mobile services, mobile roaming services):

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- (b) Type(s) of services and customers that will be affected or are likely to be affected by the service cessation:

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- (c) Affected customers may contact us through the following channels:

Customer service hotline(s): \_\_\_\_\_

Email address(es): \_\_\_\_\_

Other channels: \_\_\_\_\_

(d) Details of the mobile number portability arrangement:

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*(Note: Please state clearly the period which the mobile number portability will be supported)*

Yours faithfully,

*(Note: Please sign by the authorized person acting on behalf of the MVNO.)*

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[Name of signatory]

[Position of the signatory]

[Name of the MVNO]

cc: Communications Authority  
(by fax to [xxxx xxxx] and by email to [xxxx xxxx])

**CODE OF PRACTICE  
ON THE CESSATION ARRANGEMENTS FOR  
MOBILE VIRTUAL NETWORK OPERATOR SERVICES**

**Summary of the Views and Comments of the Industry and Stakeholders  
and the Responses of the Communications Authority (“CA”)**

To consult the industry and stakeholders on the proposed Code of Practice on the Cessation Arrangements for the Mobile Virtual Network Operator Services (“CoP”), Office of the Communications Authority (“OFCA”), as the executive arm of the CA, issued a circular letter to all mobile network operators (“MNO”s) and mobile virtual network operators (“MVNO”s) on 3 August 2017 and discussed with members of the Telecommunications Regulatory Affairs Advisory Committee (“TRAAC”) and Telecommunications Users and Consumers Advisory Committee (“TUCAC”) and MVNOs at a joint meeting of the TRAAC and TUCAC held on 10 August 2017 (“Joint Meeting”). Views and comments received from the following MNOs, MVNOs, members of the TRAAC and TUCAC at the Joint Meeting and by the deadline of written submissions on 24 August 2017 are summarised in the ensuing paragraphs.

- (a) Hong Kong Mobile Television Network Limited (“HKMTV”);
- (b) Hong Kong Telecommunications (HKT) Limited (“HKT”);
- (c) Future Power International Limited (“Future Power”), an MVNO;
- (d) Multibyte Info Technology Limited (“Multibyte”), an MVNO;
- (e) NTT Com Asia Limited (“NTT”), an MVNO;
- (f) Mr. C B Wong, member of the TUCAC;
- (g) Mr. C M Chung, member of the TUCAC;
- (h) Mr. K W Ma, member of the TUCAC; and
- (i) Mr. Kenny Chiu, member of the TUCAC.

Responses of the CA are given after the summary of views and comments of the respondents.

## **GENERAL COMMENTS ON THE PROPOSAL TO ISSUE THE COP**

### *Views and Comments of the Respondents*

2. Some members of the TUCAC and Multibyte at the Joint Meeting; and HKMTV in its written submission generally supported the proposal to issue the proposed CoP to strengthen the MVNO licensing regime. In particular, a member of the TUCAC considered that the Hosting MNOs and MVNOs in fact had the social responsibility to properly manage any service cessation and they might implement self regulatory measures to mitigate the impact. Two members of the TUCAC considered that the Hosting MNOs should be able to contribute by providing mobile services to the affected customers of the MVNOs in case of service cessation.

3. On the other hand, HKT objected to the issue of the proposed CoP and counter-proposed alternative measures in its written submission, as follows –

- (a) the existing controls implemented by OFCA on the financial stability of a MVNO was not sufficient. It also questioned why MVNOs were not required to submit detailed financial information and statistics to the CA and OFCA respectively as regularly as the MNOs; and
- (b) suggested an alternative arrangement for cessation of MVNO services. The Hosting MNO should inform OFCA of any difficulties for an MVNO to settle its debts in the form of a notice to MVNO with a copy to OFCA. OFCA could make enquiries with the MVNO concerned to assess the risk of service termination to customers, and if the CA concluded that the MVNO was unlikely to be able to continue to provide services, the CA would direct the MVNO to take appropriate measures. The Hosting MNO would give the MVNO the final notice of service termination and advise OFCA of the same. For post-termination arrangements, the CA should have the power to compel the MVNO to release the customer data to a custodian (either OFCA or a third party) to manage MNP matters. In

addition, OFCA should better educate consumers about the risks associated with subscribing to services from a MVNO.

*CA's Response*

4. It is noted that with the exception of HKT, all participants of the Joint Meeting and industry players in general agreed with the issue of a CoP.

5. As regards the need for financial assessment of MVNOs as suggested by HKT in paragraph 3(a) above, the CA may consider implementing a similar arrangement to strengthen the financial assessment of MVNOs by requesting the existing MVNOs to submit annual audited financial reports to demonstrate its financial capability to continue the provision of the MVNO services in the coming licence year. Having said that, the CA is mindful that this arrangement can only provide an early alert to the CA to any financial difficulties encountered by the MVNOs. The CoP will help in minimizing the impact of service cessation on the consumers by setting out the requirements which shall be observed by the MVNOs and their Hosting MNOs in the event of service cessation.

6. As regards the “alternative” arrangement proposed by HKT in paragraph 3(b) above, the CA notes that it is in fact similar to the existing arrangement in handling commercial disputes between the Hosting MNOs and MVNOs, as seen from the two incidents of abrupt cessation of mobile services offered by MVNOs, namely Easycall Limited (“Easycall”) in March 2016 and CMMobile Global Communications Limited (“CMMobile”) in January 2017. However, unless MVNOs and the Hosting MNOs are required to give formal notification to the CA and/or the public with a minimum notice period of service cessation through the issue of the CoP, the experience of the two incidents demonstrates that OFCA’s request for their voluntary cooperation and notification would not be able to protect consumer interest adequately

7. As regards consumer education, OFCA has all along been committed to educating the public and has been posting consumer alerts on specific topics of interest as and when necessary. Hence, the CA considers that there may not be a need to issue a separate consumer alert specifically to highlight the risks associated with subscribing to services from the MVNOs.



8. All in all, the CA considers that in light of the severe impact of the last two abrupt service cessation incidents on consumers, there is a need to impose requirements on the Hosting MNOs and MVNOs in relation to notification of imminent service cessation vide the issue of a mandatory CoP. The CoP can serve the purpose of delineating clearly the respective duties and responsibilities of the Hosting MNOs and MVNOs, ensuring that the service cessation arrangement would be implemented in a better coordinated manner and providing reasonable advance notification to alert customers for making necessary arrangements so as to minimise the adverse impact on them.

## **SPECIFIC COMMENTS ON THE CONTENT OF THE COP**

### *Views and Comments of the Respondents*

9. Among the respondents, only HKT submitted specific comments on the content of the proposed CoP, as follows –

- (a) on the proposed publication of a service cessation notification by the Hosting MNO (i.e. SCN), HKT considered that only the MVNO or the CA should be responsible for issuing notice to inform the public because the MVNO's customers in fact did not know who the Hosting MNO was and might get confused by the public notice issued by a Hosting MNO;
- (b) as for the means for publishing the notice by an MVNO, HKT submitted that the MVNO should be advised to use alternative means to fulfil the duty to publish notice, other than sending bulk SMS/large number of voice calls as so doing would increase the debt to the Hosting MNO;
- (c) on the proposed duration of the SCN, HKT submitted that the notice period of five business days was too long and would increase the financial loss of the Hosting MNO. HKT proposed a shorter duration and that, during the notice period, the Hosting MNO should be permitted to stop the provision of certain services to the MVNO, such as IDD and roaming services which gave rise

to payment to other parties;

- (d) regarding the proposed duration of six months to support the MNP services, HKT considered that a shorter period of three months after service cessation would be sufficient, and proposed the CA to obtain and make available the customer data of the MVNO in order to facilitate the MNP process; and
- (e) on the proposed maintenance of a customer service hotline for six months, HKT submitted that six months were too long. It in fact considered that there was no point for the Hosting MNO to maintain a dedicated customer service hotline for six months. In the case of HKT, customers could simply call its general hotline if necessary. Any enquiries or complaints should be referred to the MVNO or OFCA.

#### *CA's Response*

10. On paragraph 9(a), the CA takes note of HKT's comments that the publication of a SCN by the Hosting MNO might cause confusion to the public. Under the CoP, the MVNO is required to publish a service cessation alert ("SCA") which essentially contains all the relevant information which should be brought to the attention of the MVNO's end customers and the public. Further, the CA may at its discretion publish the SCN and the SCA provided by the Hosting MNO and the MVNO in whole or in part, and from the experience of the two incidents involving Easycall and CMMobile, OFCA would publish relevant consumer alerts as appropriate. Having regard to the comments of HKT, the CA accepts that the requirement upon the Hosting MNO can be revised such that the Hosting MNO should provide a copy of the SCN to the CA once it is issued to the MVNO.

11. On paragraph 9(b), the CoP stipulates that the MVNO should use all reasonable means (including SMS, voice call, email, letter etc.) to inform the affected customers. In other words, SMS is only one of the means of notification to the customers. If the MVNO chooses not to use this means for sending notification to the customers, it would not constitute a breach of the CoP. In the light of the industry feedback, relevant amendment has been

made to the CoP to clarify the means that may be used by the MVNO to notify the affected customers.

12. On paragraph 9(c), the overall aim of the CoP is to ensure that consumers could have reasonable advance notice on service cessation so as to minimize any impact on them. On the other hand, the CA acknowledges the concern of HKT that international services such as mobile roaming and IDD may incur a higher cost as compared with local mobile services as the former will involve using the network resources of an operator outside Hong Kong that may lead to more financial loss to the Hosting MNO. On balance, the CA considers it appropriate and justified to impose a shorter notice period for cessation of international services vis-à-vis local services. As such, the CA proposes that there should be a minimum notice period of at least one calendar week in advance of the service cessation for local services and/or one calendar day in advance of the service cessation for international services. To enable the CA/OFCAs to get hold of the situation, the requirement to provide a copy of the SCN/SCA to the CA before the start of the minimum notice period will be maintained.

13. On paragraph 9(d), having regard to the comments of HKT and the need to strike a balance between imposing additional operational burdens on operators on the one hand, and protection of consumer interest on the other, the CA accepts that the duration for both the Hosting MNO and MVNO to support MNP can be shortened from a period of six months to three months. As regards the need to transfer customer data for supporting MNP, the CA finds it unnecessary to make it a mandatory requirement and OFCA will render assistance to the parties concerned as in the past two service cessation incidents.

14. On paragraph 9(e), the CA is not convinced that the Hosting MNO is unable to answer questions from the affected end users. Rather, they can offer assistance on general enquiries such as number porting, actual cessation time and date, the types of services being affected, etc. Having said that, as the MVNO is required to maintain a dedicated customer hotline under the CoP, the CA accepts that the general hotlines maintained by the Hosting MNOs should be able to handle enquiries in relation to cessation of its service to MVNOs as well, so that the requirement for the Hosting MNOs to set up

dedicated customer hotlines can be lifted under the CoP. In addition, to align with the period for supporting MNP services, the period for the MVNO to maintain a customer service hotline will also be shortened to three months.

## **ASSOCIATED PERFORMANCE BOND REQUIREMENT**

### *Views and Comments of the Respondents*

15. A member of the TUCAC and Multibyte at the Joint Meeting; and HKT, Future Power and NTT in their written submissions mentioned that they generally disagreed with the imposition of the performance bond of HK\$200,000 given that MVNOs already needed to pay huge set-up costs and security deposits to the Hosting MNOs, and it was not fair to set the performance bond at the proposed amount of HK\$200,000 regardless of the size of the MVNOs' operation. HKT further submitted that the imposition of the performance bond requirement would discourage new MVNOs from entering the market and drive out existing MVNOs, and requested OFCA to inform the Hosting MNOs so that they could make preparations in case any MVNOs failed to have their licences renewed owing to their failure to comply with the performance bond requirements.

### *CA's Response*

16. The CA maintains that it is necessary to impose an associated performance bond requirement on MVNOs to ensure effective enforcement of the CoP. That said, taking into account views received, the CA considers it appropriate to introduce a two-tier structure for the bonded sum with a view to lessening the financial burden of small and medium sized MVNOs. For MVNOs with 100 000 or fewer subscribers, the bonded sum will be HK\$ 100,000, whereas for MVNOs with more than 100 000 subscribers, the bonded sum will be HK\$ 200,000. Moreover, the CA will inform the public and the Hosting MNOs in case any MVNO which is providing mobile services in the market fails to have its licence renewed in the future.

- END -