

**Notice Pursuant to Section 32H
of the Telecommunications Ordinance
(Chapter 106)**

Interpretation

In this Notice, unless the context otherwise requires,

“ASO” means analogue switch-off;

“Authority” means the Communications Authority;

“BO” means the Broadcasting Ordinance (Cap. 562);

“CAO” means the Communications Authority Ordinance (Cap. 616);

“Carrier Licence” means the Unified Carrier Licence No. 053 granted by the Authority to the Licensee under the TO;

“CE in C” means the Chief Executive in Council;

“Channel 37” means a TV frequency channel operating in 598 – 606 MHz;

“DTT” means Digital Terrestrial Television;

“Licensee” means Television Broadcasts Limited;

“MFN” means Multiple Frequency Network;

“MFN Channels” means the TV frequency channels assigned to the Licensee as specified in Part (A) (ii) of Schedule 3 to the Carrier Licence for DTT transmission using MFN;

“OFCA” means the Office of the Communications Authority;

“SFN” means Single Frequency Network;

“SPF” means the Radio Spectrum Policy Framework promulgated by the Government in April 2007;

“Statement” means the statement on minimum notice periods for variation or withdrawal of spectrum assignments issued by the former Telecommunications Authority on 31 January 2008;

“TO” means the Telecommunications Ordinance (Cap. 106);

“TV Licence” means the Domestic Free Television Programme Service Licence granted by the CE in C to the Licensee under the BO;

“TV Programme” means the television programme channel currently conveyed over the MFN Channels; and

“TV Service” means the Domestic Free Television Programme Service of the Licensee licensed under the TV Licence.

Background

The Licensee is licensed under the Carrier Licence to provide a public telecommunications network service, the scope of which is described in Schedule 1 to the Carrier Licence, which includes transmission of television and associated sound and data signals for the TV Service licensed under the TV Licence. The MFN Channels operating in the 470 – 806 MHz band have been assigned to the Licensee to use half of the available transmission capacity for DTT transmission using MFN for conveyance of the TV Programme up to 30 November 2027, as specified in Schedule 3 to the Carrier Licence.

2. On 11 February 2019, the Government announced that the CE in C had approved to proceed with ASO on 30 November 2020 and that it planned to make available a total of 160 MHz spectrum in the 614 – 806 MHz

band for public mobile telecommunications services in Hong Kong. Subsequently, the Authority published on the same date the Spectrum Release Plan for 2019 – 2021 stating, *inter alia*, that a maximum of 160 MHz of spectrum in the 614 – 806 MHz band would be released primarily for indoor mobile telecommunications services.

3. Given that the International Telecommunication Union has also identified the 614 – 806 MHz band as being suitable for deployment of public mobile telecommunications services, there are public interest reasons to vacate the spectrum in the 614 – 806 MHz band after ASO for other high value uses so as to fully realise the advantages of digital dividend for the benefits of the Hong Kong community at large. This is also in line with the Authority's duty to promote the efficient use of spectrum as a public resource of Hong Kong under the TO.

4. Of the MFN Channels, some are located in the 614 – 806 MHz band. To make available the spectrum for mobile services, it is necessary to migrate these MFN Channels out of the 614 – 806 MHz band. Given that SFN compares favourably with MFN in terms of efficient use of radio spectrum, it is considered efficient and beneficial to switch the network configuration from MFN to SFN for the DTT transmission for the TV Programme.

5. With the above considerations, the Authority has come to the view that the spectrum assignment of the Licence should be varied for migration of the MFN Channels to Channel 37 using SFN pursuant to the following provisions of the TO and the CAO –

Section 32G(1), TO

The Authority shall promote the efficient allocation and use of the radio spectrum as a public resource of Hong Kong.

Section 32H(3) and (4), TO

Section 32H(3) : Subject to subsection (4), the Authority may vary or withdraw frequencies, bands of frequencies or satellite orbital

positions or parameters assigned, or vary the purposes for which and the conditions under which the frequencies, bands of frequencies or satellite orbital positions or parameters are to be used.

Section 32H(4) : The Authority may only exercise its authority under subsection (3) if the Authority has given reasonable notice of the intended variation or withdrawal to the licensee which has been assigned the relevant frequency, band of frequency or satellite orbital position or parameter.

Section 4(4), CAO

Without limiting any other matters to which the Authority may have regard, in performing its functions, the Authority must have regard to such of the following as appear to it to be relevant in the circumstance –

- (a) the fostering of an environment that supports a vibrant communications sector to enhance Hong Kong's position as a communications hub in the region;*
- (b) the encouragement of innovation and investment in the communications market;*
- (c) the promotion of competition and adoption of best practices in the communications market for the benefit of the industry and consumers;*

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6. In sum, under the TO, the Authority has the statutory duty to promote the efficient use of spectrum as a public resource of Hong Kong. In performing its function, the Authority is also required by section 4(4) of the CAO to foster an environment that supports a vibrant communications sector, encourage innovation and investment, and have regard to the need to promote competition in the communications market for the benefit of the industry and

consumers.

7. Under Special Condition 13.6 of the Carrier Licence, the Authority may amend Schedule 3 to the Carrier Licence when necessary and the Licensee shall comply with the amendments with the instructions given by the Authority.

8. Under the SPF, carrier licensees for the provision of mobile or wireless carrier services would usually be given not less than three years' notice for variation of spectrum insofar as it is practicable in the circumstances. In the present circumstances, spectrum in the 614 – 806 MHz band is planned to be made available in December 2021 to meet the demand for high value-added mobile telecommunications services. Also, it is technically feasible for the Licensee to implement the arrangements necessary for variation of the spectrum assignment before December 2021. The Authority therefore considers that it is appropriate to give the Licensee an advance notice shorter than three years, taking into account paragraph 6 of the Statement and paragraph 4.3 of the SPF.

9. To enable the continued and uninterrupted reception of the Licensee's DTT signal at the new Channel 37 by the viewing public at large, reconfiguration of the in-building coaxial cable distribution systems or common aerial broadcast distribution systems are generally required. According to some major stakeholders, including building management offices and contractors of the above distribution systems, such reconfiguration works would take about six months to complete. The Authority therefore considers it essential for the Licensee to transmit its DTT signals at both the MFN and Channel 37 for a simulcast period.

Notification

10. The Authority,

having duly noted that the CE in C has decided to switch off analogue television services on 30 November 2020;

having considered that spectrum in the 614 – 806 MHz band will be released for high value-added public mobile telecommunications services for the benefits of the Hong Kong community at large;

having considered that MFN should be replaced by SFN as far as practicable to promote efficient use of the radio spectrum as a public resources of Hong Kong; and

having considered that the Licensee has to simulcast the TV Programme at both the MFN Channels and Channel 37 for the period from 1 April to 30 November 2021,

hereby exercises its power under sections 32H(3) and 32H(4) of the TO and gives notice to the Licensee to vary the spectrum assignment of the Licensee for the DTT transmission for conveyance of the TV Programme by amending Schedule 3 of the Carrier Licence as follows –

- (i) Channel 37 shall be assigned for the DTT transmission from 1 February 2021 to 30 November 2027. The early assignment date is for facilitating the Licensee to prepare for and implement the simulcast; and
- (ii) the MFN Channels shall be withdrawn with effect from 30 November 2021, 11:59 pm.

11. This Notice will be made public.

(Tony Li)
for Communications Authority
25 July 2019