

Guidelines for Application of Building Access Authorization for Provision of Fixed Telecommunications Service

1 August 2008

Introduction

Under section 14(1) of the Telecommunications Ordinance (“Ordinance”), the Telecommunications Authority (“TA”) may grant authorization to relevant licensees to gain access to common parts of buildings to install in-building telecommunications systems (i.e. building access). The granting of such authorization is restricted to fixed network operators (“FNOs”), which include Fixed Telecommunications Network Services (“FTNS”) Licensees, Fixed Carrier (“FC”) Licensees and Unified Carrier Licensees which are authorized to provide fixed services. Under the relevant licence conditions¹ of the Unified Carrier Licence (“UCL”) and some FTNS Licences / Fixed Carrier Licences (“FCL”), the licensee is required to comply with the relevant guidelines issued by the TA. This document sets out the principles and criteria for the TA to grant authorization of building access to the FNOs.

Authorization of Building Access

2. The TA will grant authorization of building access to a licensee which is authorized under its licence to provide fixed services on the basis of the technology that it uses for establishing and maintaining an installation in a building, whether the installation is for serving the residents and occupants of that building and whether there are difficulties to reach building access agreements with the relevant Incorporated Owners, property management companies or building developers. Under such criteria, only FNOs are entitled to apply to the TA for authorization of building access.

3. Other than the four FNOs licensed in 1995² and Hong Kong Cable

¹ Please refer to the licence condition on “Access to Buildings” in the UCL (Special Condition 33) and in some FTNS / FC licences.

² The four FNOs are PCCW-HKT Telephone Limited (“PCCW”), Hutchison Global Communications Limited (“HGC”), Wharf T&T Limited (“WTT”) and New World Telecommunications Limited (“NWT”)

Television Limited (“HKCTV”), which are granted with building access right in general, other existing FNOs are required to seek the TA’s approval on a case-by-case basis on building access. On a case by case basis, these FNOs may request OFTA’s assistance for mediation with the building management in an attempt to resolve any dispute in relation to access to a particular building. In case the dispute cannot be resolved by mediation, the TA may grant an authorization pursuant to section 14(1) of the Telecommunications Ordinance, if the case warrants.

4. With the implementation of the UCL on 1 August 2008, a streamlined and harmonised procedure for authorization of building access will be adopted as follows³ :

- (a) New Unified Carrier Licensees may seek the TA’s authorization of building access. The TA will grant a blanket authorization to a licensee provided that the following criteria are met:
 - it is authorized to provide fixed services; and
 - it demonstrates a plan to roll out self-built customer access network to buildings based on deployment of technology which requires the laying of facilities in the common parts of a building for serving only the residents and occupants of that building.
- (b) The four FNOs with their FTNS/FC licences issued in 1995 and Hong Kong Cable TV Limited (“HKCTV”) have been granted blanket authorization on building access. They will be re-issued with the blanket authorizations when their existing licences expire and issued with replacement UCLs, if they continue to meet the criteria listed in sub-paragraph (a).
- (c) Other existing FNOs, including holders of FTNS licences issued in 2000 and FC licences issued in 2003, may apply to the TA for a blanket authorization to replace case-by-case authorization, provided they meet the criteria listed in sub-paragraph (a). When these licensees take up UCL for replacement of their existing licences either upon expiry or for conversion of their existing licences before expiry into UCL, they will be re-issued with the blanket authorization if they

³ See paragraphs 7(d), 11 and 12 in the Statement on “Licensing Framework for Unified Carrier Licence” issued by the TA on 9 May 2008 (“UCL Statement”).

continue to meet the same criteria.

5. Under the harmonised and streamlined procedure described above, the following conditions apply for the blanket authorization of building access granted by the TA to a licensee:

- (a) The authorization is valid throughout the validity period of the licence held by the concerned licensee for all building access works. The licensee is not required to submit to the TA for case-by-case authorization of building access;
- (b) The authorization only applies for the deployment of the specific technology, which is submitted by the licensee and endorsed by the TA, to provide building access as proposed by the licensee. If the licensee deploys a technology different to that previously authorized by the TA, it should apply to the TA to amend the authorization to cover the newly deployed technology;
- (c) The authorization only applies for installation and operation of facilities for the provision of services to the public. For the avoidance of doubt, offering services only to the licensee itself or to affiliated companies or entities does not qualify as offering services to the public;
- (d) The licensee should observe all relevant guidelines or codes of practice governing how the FNOs may exercise their rights under the authorization; and
- (e) The TA may withdraw such blanket authorization by prior notice in writing.

Guidelines for Building Access

6. The TA has promulgated a number of codes of practice, guidelines, and information notes providing guidance to telecommunications operators for provision of facilities in buildings for access to public telecommunications and broadcasting services. These codes of practice, guidelines and information

notes are published on the website of the Office of the Telecommunications Authority (“OFTA”)⁴.

7. The TA reserves the right to amend any part of this document, as and when necessary. However, the TA will consult the relevant interested parties before amending this document.

Office of the Telecommunications Authority
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⁴ See a list of building access related guidelines / information notes at <http://www.ofta.gov.hk/en/industry/inbuilding/info-notes.html> and codes of practice at <http://www.ofta.gov.hk/en/code/cop-tor-fns.html>