

28 April 2020

By email and web-posting

Circular letter to all Services-Based Operator Licensees

Dear Sir/Madam,

Enhancement of the Licensing Regime for Services-Based Operators (“SBOs”)

With a view to streamlining and enhancing the regulatory framework of the SBO licensing regime, the Communications Authority (“CA”) has updated the regime pursuant to section 7(6) of the Telecommunications Ordinance (Cap. 106) which will take effect from **1 August 2020**. Details are set out in the paragraphs below.

Extension of Period of Validity of SBO Licence

In order to enhance the administrative efficiency and provide greater business certainty for the SBOs, the CA has decided to extend the period of validity of the SBO Licence from one year to two years. For further details, please refer to the section under the heading “Services-Based Operator Licence” of the regulatory instrument entitled “*Period of Validity and Licence Fees determined by the Communications Authority*”¹ (“Instrument”).

Updated Licence Fee Structure

Fixed Fee

The CA has **revised the timing for collection of the fixed fee for those categories of licensees subject to payment of fixed fee only**, in that

¹ Please refer to the Instrument available at:
www.coms-auth.hk/en/licensing/telecommunications/fee_validity/index.html.

they are required to pay the licence fee on a biennial basis. Categories of licensees subject to payment of both fixed and variable licence fees will continue to pay the licence fees on an annual basis. Details are set out as follows -

	<u>Fixed Fee</u>
(a) SBO Licence authorising the provision of one or both of “Class 1” and “Class 2” services	\$25,000 payable <u>annually</u>
(b) Subject to (d) and (e) below, SBO Licence authorising the provision of one or more of the following types of “Class 3 services” - <ul style="list-style-type: none">• External Telecommunications Services (“ETS”)• International Value-Added Network Services (“IVANS”) (with or without Internet Access Services)• Private Payphone Services (“PPS”)• Security and Fire Alarm Signals Transmission (“ALARM”) Services• Teleconferencing (“TELECON”) Services	\$1,500 for each type of the “Class 3 services” payable <u>biennially</u>
(c) Subject to (d) below, SBO Licence authorising the provision of one or more of the following types of “Class 3 services” - <ul style="list-style-type: none">• Mobile Communications Service on board an Aircraft (“MCA”)• Mobile Virtual Network Operator (“MVNO”) Services• Public Radio Communications Relay (“RELAY”) Services	\$750 for each type of the “Class 3 services” payable <u>annually</u>

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| (d) | SBO Licence authorising the provision of a combination of any one or more of “Class 1” and “Class 2” services <u>and</u> any one or more of “Class 3 services” | \$25,000 | payable <u>annually</u> |
| (e) | SBO Licence authorising the provision of a combination of any one or more of the “Class 3 services” mentioned in (b) above <u>and</u> any one or more of the “Class 3 services” mentioned in (c) above | \$750 for each type of the “Class 3 services” | payable <u>annually</u> |

Annual Variable Fees

In order to ensure regulatory symmetry between the SBO Licence and the Unified Carrier Licence, Localised Wireless Broadband Service Licence, Public Radiocommunications Service Licence, and Wireless Internet of Things (“WIoT”) Licence, the structure of variable fees under the SBO Licence has been updated.

A sliding fee scale is adopted for the base or fixed stations (referred to as “base station” hereinafter) established, maintained, used or possessed under the SBO Licence (currently a flat rate of \$750 is charged for each base station). Further, a **WIoT device² fee is introduced** under the SBO Licence for the WIoT services provided thereunder (currently WIoT devices provided by SBOs to customers are subject to payment of mobile station fee at \$500 for each 100 mobile stations or less). The updated variable fees are listed below. Licensees are referred to the Instrument under the heading “Services-Based Operator Licence” for details of all items of licence fees payable under the SBO Licence.

² A WIoT device means a device, interface, subscriber identification module or any other thing, that (a) is provided by the licensee; (b) is identified by the CA for connection to the network and/or system(s) established and maintained under the licence; (c) enables automated data-only machine-to-machine type communications; (d) operates by radiocommunications means; (e) does not carry real-time voice communications; and (f) does not use any subscriber number in the numbering plan within numbering blocks allocated by the CA to a licensee.

Updated Variable Fees
(payable annually)

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| (a) Base or fixed station(s) established, maintained, used or possessed under an SBO Licence - | |
| • For the 1st to the 50th base station | \$1,000 per base station |
| • For the 51st to the 100th base station | \$500 per base station |
| • For the 101st base station installed for the service and any additional base stations | \$100 per base station |
| (b) WIoT device used by customers of the service(s) under an SBO Licence | \$200 for each 100 WIoT devices or less |

Revision to Special Conditions (“SCs”)

In order to streamline the categories of services provided under the SBO Licence, the four categories of public telecommunications services currently regulated thereunder will be consolidated into three categories, viz. “Class 1”, “Class 2”, and “Class 3” services³. Specifically, public telecommunications services previously classified as “Services Other than Class 1-2-3 services”⁴ will be subsumed under “Class 2 services” under the revised SBO Licence. Despite the consolidation, the licence obligations of

³ “Class 1 services” refer to local voice telephony services that have all the attributes of the conventional telephone services;
“Class 2 services” refer to local voice telephony services that do not have all the attributes of the conventional telephone services;
“Class 3 services” include ETS; IVANS (including Internet Access Services); MCA; MVNO Services; PPS; RELAY Services; ALARM Services; and TELECON Services.

For further details on the public telecommunications services authorised under the revised SBO Licence, please refer to SC 15 and Schedule 1 of the new Sample SBO Licence at www.coms-auth.hk/en/licensing/telecommunications/sbo/index.html.

⁴ “Services Other than Class 1-2-3 services” are local voice telephony services that do not have all the attributes of the conventional telephone services and without the use of any subscriber numbers.

each type of SBO licensees providing local voice telephony services will basically remain the same.

Opportunity has also been taken to remove a special licence condition (previously SC 11) on telecommunications number translation device, as such device has become obsolete due to advancement in technology. The full set of revised SBO Licences is accessible via www.coms-auth.hk/en/licensing/telecommunications/sbo/index.html.

Renewal Requirements of the SBO Licence

In order to enhance the administration of the SBO licensing system, prior to the expiry of its SBO Licence, an SBO will be required to -

- (a) declare that its status of operation is active and provide evidence thereto (e.g. copy of interconnection / capacity-leasing agreement(s) with its hosting network operator(s), sales agreements with its customers in effect, and/or number of active subscriptions);
- (b) ensure that its key corporate information, such as registered company name and address, and regulatory contact, is up-to-date; and
- (c) ensure that the basic obligations under the SBO Licence, such as submission of statistics return as applicable and payment of licence fee for the new licence term, are discharged before expiry of the existing licence term.

Should an SBO fail to comply with the licence renewal requirements before the expiry of its SBO Licence, the CA may take regulatory actions as appropriate, such as issue of a warning letter or non-renewal of the licence.

With a view to facilitating compliance with the above licence renewal requirements, OFCA would initiate the renewal process with the SBOs six months prior to the expiry of their SBO Licences, by issuing reminders on licence renewal, requesting submission of key corporate information, and

following up on any outstanding obligations, etc.

For the avoidance of doubt, SBOs authorised for the provision of MVNO Services would continue to be subject to the licence renewal requirements stipulated in the Circular Letter entitled “*New Annual Licence Renewal Arrangement for SBO Licences for the Provision of MVNO Services*”⁵ dated 28 December 2016 as may be amended from time to time.

Implementation of the Updated SBO Licensing Regime

The updated SBO licensing regime will take effect from **1 August 2020**. SBO Licences that are to be issued or renewed on or after 1 August 2020 will be subject to (i) a period of validity of two years; (ii) the updated licence fee structure; and (iii) the revised special conditions as detailed in this Circular Letter. As for the revised licence renewal requirements, they will be applied for those SBO Licences which are issued or renewed with a two-year validity period upon the expiry of the licences.

Should there be any enquiry on the matter, please contact Regulatory Section (R21) at 2961 6635.

Yours faithfully,

(Linda Yu)
for Director-General of Communications

⁵ Please refer to the circular letter at:
www.coms-auth.hk/en/licensing/telecommunications/apply/mvno/index.html.