

24 June 2020

Circular letter to:

- **Unified Carrier Licensees**
- **Mobile Carrier Licensee**
- **Localised Wireless Broadband Service Licensees**
- **Wireless Internet of Things Licensees**
- **Public Radiocommunications Service Licensees**
- **Services-Based Operator Licensees**
- **Class Licensees for Offer of Telecommunications Services**

Dear Sir/Madam,

Draft Updated Guidelines on Publication of Tariff

At present, holders of Unified Carrier Licence (“UCL”), Mobile Carrier Licence, Localised Wireless Broadband Service Licence, Wireless Internet of Things Licence, Public Radiocommunications Service Licence, Services-Based Operator Licence and licensees under the Class Licence for Offer of Telecommunications Services (collectively “Relevant Licences”) are required to publish and/or file the tariffs of services provided under their licences pursuant to the respective licence conditions. In order to streamline the regulatory requirements for filing and publication of tariffs, a proposal was put forward by the Office of the Communications Authority (“OFCA”) (“Proposal”) and discussed at the meeting of Telecommunications Regulatory Affairs Advisory Committee (“TRAAC”) held on 11 June 2020¹.

The Proposal suggests removal of Special Condition (“SC”) 7.2(b), SC 7.2(c), SC 7.2(d) of UCL concerning filing a copy of the tariff to the Communications Authority (“CA”), placing a copy of the tariff in

¹ Please see TRAAC Paper 2/2020 for information. The paper is available at: https://www.ofca.gov.hk/filemanager/ofca/en/content_757/traac2_2020.pdf

the business premises of the licensees and supplying a copy of the tariff to any person who may request it; and of SC 8 concerning notification of discounts. Similar licence conditions in other Relevant Licences are also suggested be removed. TRAAC Members generally supported the Proposal.

Subject to the approval of the Proposal by the CA, the “*Guidelines on Publication and Filing of Tariff*” issued by OFCA in June 2013² (“Existing Guidelines”) will be revised to update the guidance on publication of tariffs pursuant to the removal of the licence conditions concerned. The draft updated “*Guidelines on Publication of Tariff*” (“draft Updated Guidelines”) are set out in the Annex.

You are invited to provide your views and comments on the draft Updated Guidelines in writing to OFCA on or before **8 July 2020**. OFCA may publish all or part of the views and comments received, and disclose the identity of the party making the submission in such manner as it sees fit. Any part of the submissions considered commercially confidential should be clearly marked to enable OFCA to identify and decide whether or not to disclose such information. Please note that late submissions will not be considered.

You may send your written submission to OFCA at –

Office of the Communications Authority
29/F., Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong
(Attention: Head, Regulatory 2)

Fax: 2803 5112
E-mail: tariff-info@ofca.gov.hk

² The Existing Guidelines are available at:
<https://www.coms-auth.hk/filemanager/statement/en/upload/187/gn201307e.pdf>

Nothing in this letter shall be construed as the endorsement of the CA or in any way prejudice its decision in relation to the Proposal or any related matters.

Yours faithfully,

(Linda Yu)
for Director-General of Communications

Encl.

[DRAFT]

Guidelines on Publication of Tariff

[Date]

INTRODUCTION

Pursuant to section 7F of the Telecommunications Ordinance (the “Ordinance”) and the respective licence conditions of the Unified Carrier Licence (“UCL”), Mobile Carrier Licence (“MCL”), Localised Wireless Broadband Service (“LWBS”) Licence, Wireless Internet of Things (“WiOT”) Licence, Public Radiocommunications Service (“PRS”) Licence, Services-Based Operator (“SBO”) Licence, and Class Licence for Offer of Telecommunications Services (“CLOTS”) (collectively “Relevant Licences”), a licensee is obliged to publish its tariffs for public telecommunications services operated under its licence.

2. These guidelines aim at providing practical guidance to licensees for compliance with their respective licence obligations on publication of tariffs, and supersede the “*Guidelines on Publication and Filing of Tariff*” issued on 4 June 2013. These guidelines may be revised by the Communications Authority (“CA”) when necessary.

SERVICES SUBJECT TO TARIFF PUBLICATION REQUIREMENT

3. Tariff of a service is a standard offer of the licensee to customers. The licensee shall publish and charge no more than the tariffs for the service operated under its licence¹, and shall provide the service on its published terms and conditions².

4. Although a licensee is required to publish the tariffs of **ALL** services provided under its licence, taking into account the practical operating environment of the industry, the CA considers that a licensee should only be required to publish the tariffs of those services which are intended to be offered

¹ Please refer to Special Condition (“SC”) 7 of UCL, SC 13 of MCL, SC 4 of LWBS Licence, SC 4 of WiOT Licence, relevant SCs of PRS Licence, SC 4 of SBO Licence, and Condition 12 of CLOTS.

² Please refer to SC 10 of UCL, SC 17 of MCL, SC 6 of LWBS Licence, SC 6 of WiOT Licence, SC 1 of SBO Licence, and Condition 7 of CLOTS.

to *more than one customer*, irrespective of whether the service is a type of –

- (a) retail service which is provided directly by the licensee to customers for their own use; or
- (b) wholesale service which is provided by the licensee to other parties who may make use of such service to provide lawful telecommunications services to third parties.

5. A tariff may cover a single telecommunications service, a combination of a number of telecommunications services, or a combination of a number of telecommunications services and non-telecommunications services. In the event that the telecommunications services are bundled and offered in the form of a package (including cases where the packages contain both telecommunications and non-telecommunications service elements), licensees should publish the tariff of the service package covering all the services in the service package, provided that the tariff of **each** of the telecommunications service elements under the service package is also published individually³.

6. Despite the above, where a service provided by a licensee is intended to be provided to a single specific customer, e.g. a tailor-made solution where the technical configuration and specification of such service are specially designed to suit the need of that single customer such that a standard offer is not necessary or practical for the purpose of providing the service to other potential customers, the licensee is exempted from the requirement of publishing such tariff unless otherwise required by the CA.

INFORMATION IN PUBLISHED TARIFFS

7. The tariff of a service shall include the terms and conditions for the provision of the service. Pursuant to section 7F(2) of the Ordinance and the respective licence conditions, the information in a published tariff should include –

- (a) a description of the service;
- (b) discounts, allowances, rebates or credits given or allowed on the supply

³ Subject to the provisions under sections 7F(3) and 7F(4) of the Ordinance.

of the service;

- (c) the supply of goods or other services related to the service;
- (d) the payment for goods or other services related to the service; and
- (e) any other relevant information that the CA considers necessary as a part of the terms and conditions.

8. As a general rule, terms and conditions of a service having an impact on customers' interests or forming an important part of the licensee's offer to its potential customers should be included in the published tariff of the service. The CA may, from time to time, specify relevant information that it considers necessary to be included as part of the terms and conditions of the published tariffs of a licensee, taking into account relevant product and market developments. Any revision to the tariffs is to be effected by publishing the revised tariffs superseding the original tariffs.

9. The price information published by a licensee for a service may include standard prices for offer to all customers or discounted prices for offer to individual market segment or group of customers taking into account the latest market situation. For the avoidance of doubt, all price information published by a licensee for a service is regarded as part of the tariff for that service in fulfilment of the tariff publication requirement under the Relevant Licence, and the licensee shall charge no more than the prices published in respect of the customers to whom the prices are stated to be applicable.

PUBLICATION OF TARIFFS

10. Holders of UCL, LWBS Licence, WIoT Licence and SBO Licence for Class 1 service are required to publish tariffs on their websites as per the respective licence conditions. The full version of the published tariffs, including all the information as stated in paragraphs 7 and 8 above, shall be published on the licensee's website which should be reasonably accessible by the public. Holders of MCL, SBO Licence for non-Class 1 service, PRS Licence, and licensees under the CLOTS have a general obligation to publish tariffs under their respective licences. They are encouraged to fulfil such a requirement by publishing the tariffs on their websites as set out in paragraphs 10 to 13.

11. Tariff information should be presented in a clear, legible and well-organised manner, and be reasonably easy to be located by customers through the licensee's website. Licensees should also make available the tariff information on web pages which are printer-friendly, such that the information is properly presented in the printed version. Providing a print icon on the relevant web pages would be a good practice. The licensee is also encouraged to use a dedicated web page for the purpose of publication of tariff.

12. In addition to the publication of the full version of the tariff for a service, licensees may also provide a concise version of the tariff of the service on their websites which contains the main attributes of the service, key terms and conditions (such as the charges, minimum commitment period etc.) for marketing purposes, as long as the tariff information shown in the concise version is **NOT** inconsistent with the full version of the published tariffs.

13. Licensee shall ensure that the tariff information published on its website is up-to-date at all times. For the avoidance of doubt, the CA may require a licensee to provide tariff information, including historical tariff information, to ensure compliance with its licence obligation.

Office of the Communications Authority
[Date]