

**Consultation Paper on Licence Fees Reduction
for Five Types of Licences
Issued under the Telecommunications Ordinance (Cap. 106)
and Introduction of a New Fee Component
under Unified Carrier Licences**

8 June 2018

PURPOSE

This consultation paper is jointly issued by the Secretary for Commerce and Economic Development (“SCED”) and the Communications Authority (“CA”) to seek views and comments from the industry and interested parties on the proposals to reduce the licence fees payable by holders of five types of licences issued under the Telecommunications Ordinance (Cap. 106) (“Ordinance”), and to introduce a new fee component under unified carrier licences (“UCLs”) to facilitate the development of Wireless Internet of Things (“WIoT”) services.

LEGAL FRAMEWORK

Unified Carrier Licences

2. Under section 7(2) of the Ordinance, the SCED may by regulation prescribe the general conditions and fees payable for a carrier licence other than an exclusive licence. The Telecommunications (Carrier Licences) Regulation (Cap. 106V) (“Regulation”) made by the SCED under section 7(2) of the Ordinance provides for, *inter alia*, the fees payable for UCLs. Before making a regulation under section 7(2) of the Ordinance, the SCED is required under section 7(3) of the Ordinance to, by notice in the Gazette, invite members of the public who are interested to make representations by a date not less than 21 days after the notice is published and as specified in the notice.

Public Radiocommunications Service Licences, Services-Based Operator Licences, Mobile Radio System Mobile Station Licences and Private Mobile Radio System Licences

3. The licence fees payable for public radiocommunications service (“PRS”) licences, services-based operator (“SBO”) licences, mobile radio system mobile station (“MRS”) licences and private mobile radio system (“PMRS”) licences are determined by the CA under section 7(6) of the Ordinance.

THE PROPOSALS

4. The operation of the Office of the Communications Authority Trading Fund (“OFCATF”) is financed mainly by income from licence fees. In line with the cost recovery principle, OFCATF has conducted a review of its financial performance and licence fees. As the retained earnings of OFCATF for the coming five years from 2018-19 up to 2022-23 are projected to be \$166.2 million (details at **Appendix A**), it is considered that there is room to reduce the licence fees.

A. Proposed Licence Fees Reduction

UCLs

5. Part 6 of Schedule 3 of the Regulation (extracted at **Appendix B**) sets out the licence fees payable upon the issue of UCLs and on the anniversary of the issue of UCLs in each year while the licences remain in force. The annual fees payable include, *inter alia*, fee for customer connection made by telecommunications line or radiocommunications means to the network established and maintained under the licence (i.e. customer connection fee, see item 2 of **Appendix B**). At present, the annual fee payable is \$700 for each 100 customer connections.

6. According to the records of the Office of the Communications Authority (“OFCA”), the number of customer connections for UCLs has increased by 16.1%, from 14.9 million in 2012-13 to 17.3 million in 2017-18, and it is anticipated that the number of customer connections for UCLs will

continue to grow in the coming years. Taking into account the projected growth rate, the SCED proposes to reduce the customer connection fee under UCLs from \$700 to \$500 for each 100 customer connections. The other fee components in **Appendix B** will remain unchanged.

PRS Licences and SBO Licences

7. The licence fees payable by holders of PRS licences for public radio paging services (“PRS-Paging”) and SBO licences (Class 3) (mobile virtual network operators) (“SBO-MVNO”) include a fee component charged on the basis of mobile stations used by customers of the services (“mobile station fee”), which is charged on a similar basis as that of the UCL customer connection fee, and the two fees are set at the same level (i.e. \$700 for each set of 100 mobile stations). In line with the proposed reduction of the UCL customer connection fee, the CA proposes to reduce the mobile station fee of PRS-Paging licences and SBO-MVNO licences from \$700 to \$500 for each set of 100 mobile stations along with the implementation of the proposed licence fee reduction for UCLs. The other fee components under PRS-Paging licences and SBO-MVNO licences will remain unchanged.

MRS Licences and PMRS Licences

8. The licence fees payable by holders of MRS licences and PMRS licences include a fee component charged on the basis of mobile stations. At present, the annual fee for a mobile station under MRS licences and PMRS licences is \$270. According to the records of OFCA, the total number of mobile stations for MRS licences and PMRS licences is about 121 000 in 2017-18 and the growth of the number of such mobile stations in the coming five years is expected to be fairly static. Taking into account the projected growth rate, the CA proposes to reduce the fee for each mobile station under MRS licences and PMRS licences from \$270 to \$220. The other fee components under MRS licences and PMRS licences will remain unchanged.

B. Introduction of a New Fee Component under UCL for the Provision of WIoT Services

9. On 1 December 2017, the CA created a new licence, namely, the WIoT Licence, for the provision of WIoT platforms and services using the

shared frequency band of 920-925 MHz with a view to facilitating the development of WIoT services in Hong Kong. The WIoT Licence fee consists of a fixed fee of \$100,000 and variable fees based on the number of base stations and WIoT devices in use. Base station fee under the WIoT Licence is the same as that of UCL. As regards the WIoT device fee, taking into account the characteristics of a WIoT device as distinguished from a typical mobile device and hence a relatively lower cost to be incurred in administering the WIoT licensees, the WIoT device fee is set at \$200 for each 100 devices under the WIoT Licence.

10. On the other hand, mobile network operators (“MNOs”) may also provide WIoT service under their UCLs subject to the licence conditions therein. Since a WIoT device is regarded as a customer connection under UCL, each 100 WIoT devices are subject to a customer connection fee of \$700 based on the existing fee structure. To further facilitate the development of WIoT services in Hong Kong and in view of the likely massive deployment of WIoT services by some MNOs, the SCED proposes to introduce a new fee component of WIoT device fee under UCL to align with that of the WIoT Licence. In line with the cost recovery principle, the SCED proposes to set the fee at \$200 for each 100 WIoT devices used by customers of WIoT service under UCL.

11. To avoid any confusion, the definition of WIoT device will be clearly set out under the Regulation to refer to device used by customers of WIoT services which (a) enables automated data-only machine-to-machine type communications; (b) operates by means of radiocommunications means; (c) does not carry real-time interactive voice communications; and (d) does not use any subscriber number. Also, for the avoidance of doubt, the existing customer connection fee will then not be applicable to a WIoT device connected to the licensee’s network.

IMPLICATION OF THE PROPOSALS

12. If all the above proposals are implemented, the projected retained earnings of OFCATF are expected to drop from \$166.2 million to \$0.3 million at the end of the five-year period (i.e. 31 March 2023). For details, please see **Appendix C**.

IMPLEMENTATION

13. The SCED and the CA will carefully consider views and comments submitted by interested parties in response to this consultation. Taking into account all comments received, the SCED and the CA will announce the decision in the second half of this year.

14. After the announcement of the decision, the SCED will proceed to introduce an amendment regulation into the Legislative Council pursuant to section 7(2) of the Ordinance to implement the proposed licence fees reduction as well as the proposed introduction of the WIoT device fee under UCLs. Subject to the enactment of the amendment regulation, the SCED proposes to implement the fee proposals with effect from January 2019. The CA will proceed to effect the reduction of the mobile station fees for PRS-Paging licences, SBO-MVNO licences, MRS licences and PMRS licences at the same time.

INVITATION FOR COMMENTS

15. This consultation paper sets out the proposals of the SCED and the CA on the licence fees reduction and introduction of a new fee component under UCL. For the avoidance of doubt, nothing in this consultation paper represents or constitutes any decision made by the SCED, the CA, or the Government. The consultation contemplated by this consultation paper is without prejudice to the exercise of the powers by the SCED and the CA under the Ordinance or any subsidiary legislation made thereunder.

16. The SCED and the CA would like to seek views from the industry and any interested party on the proposals set out in this consultation paper. All submissions should be made in writing and should reach OFCA **on or before 9 July 2018**. **Late submissions will not be considered.**

17. Submissions received will be treated as public information. The SCED and the CA reserve the right to publish any views and comments received and disclose the identity of the source in such manner as they see fit. Any part of the submission which is considered commercially confidential should be clearly indicated. The SCED and the CA will take such indication

into account in making the decision as to whether or not to disclose such information. Submissions should be sent to -

By post : Office of the Communications Authority
29/F, Wu Chung House
213 Queen's Road East
Wan Chai, Hong Kong
(Attn: Accounting Officer I(I))

By fax : 2834 1797

By e-mail : consult-licence-fee-reduction-2018@ofca.gov.hk

**Commerce and Economic Development Bureau
(Communications and Creative Industries Branch) and
Communications Authority
8 June 2018**

**Financial Projections of OFCATF
2018-19 to 2022-23
(based on the existing level of licence fees)**

	18-19	19-20	20-21	21-22	22-23
	\$M	\$M	\$M	\$M	\$M
Revenue	458.2	470.1	472.4	473.0	478.1
Expenditure	(453.5)	(464.2)	(475.8)	(487.0)	(502.4)
Operating surplus / (deficit) before interest income	4.7	5.9	(3.4)	(14.0)	(24.3)
Interest income	26.8	29.0	31.0	32.8	34.2
Surplus after interest income	31.5	34.9	27.6	18.8	9.9
Target return required by the Government	(25.7) [#]	(7.9)	(7.6)	(7.1)	(6.5)
Retained earnings for the year	5.8	27.0	20.0	11.7	3.4
Retained earnings brought forward	98.3 [*]	104.1	131.1	151.1	162.8
Retained earnings carried forward	104.1	131.1	151.1	162.8	166.2

The target return required by the Government in the financial projection of 2018-19 includes the cumulative target return for three years from 2016-17 to 2018-19.

* The retained earnings brought forward to 2018-19 (i.e. \$98.3M) represents the surplus (including dividend and provisions for taxation withheld and interest income) retained by OFCATF from 2016-17 to 2017-18.

Part 6 of Schedule 3
Telecommunications (Carrier Licences) Regulation (Cap. 106V)

Existing Licence Fees Payable for Unified Carrier Licences

1. A fee of \$1,000,000 shall be payable on the issue of a unified carrier licence and, in each subsequent year while the licence remains in force, on the anniversary of the issue of the licence. If the licence permits the provision of external services only, or of radiocommunications services (where moving stations are primarily for use in locations other than on land) only, or of these two types of services only, the fee is \$100,000.
2. A fee of \$700 shall be payable on the issue of a unified carrier licence and on each anniversary of the issue of the licence while the licence remains in force, for each 100 customer connections, made by telecommunications line or radiocommunications means, to the network established and maintained under the licence. For the purposes of this section, a customer connection shall be any network termination point provided by the licensee and as identified by the Authority for connection of customer equipment to the network, and a network termination point shall include any subscriber identification module used by a customer, and any other device or interface, used for connection to the network. If the licence permits the provision of external services only, or of radiocommunications services (where moving stations are primarily for use in locations other than on land) only, or of these two types of services only, no such fee is payable.
3. A fee of \$3 shall be payable on the issue of a unified carrier licence and on each anniversary of the issue of the licence while the licence remains in force, for each subscriber number allocated to the licensee that is not ported out from the licensee's network or assigned, as authorized by the Authority, to another licensee (who has made payment of the licence fee for such number under its licence) and for each subscriber number allocated to another licensee that is ported in to the licensee's network. For the purposes of this section, a subscriber number is a number in the

numbering plan within numbering blocks allocated by the Authority to a licensee, which number may be assigned by the licensee to its customer for use of a telecommunications service.

4. A fee for base stations, being –

- (a) base stations installed for mobile services; or
- (b) land stations or land earth stations installed for radiocommunications services (where moving stations are primarily for use in locations other than on land),

shall be payable on the issue of a unified carrier licence and on each anniversary of the issue of the licence while the licence remains in force, calculated as follows –

- (c) for the 1st to the 50th base station installed for the service \$1,000 per base station
- (d) for the 51st to the 100th base station installed for the service \$500 per base station
- (e) for the 101st base station installed for the service and any additional base stations \$100 per base station

For the purpose of determining the fees payable under this section, the number of stations shall be those authorized or in service at the time when the unified carrier licence concerned is issued or on the anniversary of the issue.

5. Subject to section 6, a fee for the management of any radio frequency assigned shall be payable on the issue of a unified carrier licence and on each anniversary of the issue of the licence while the licence remains in force, calculated as follows –

- (a) subject to paragraph (b), where the radio frequency is assigned to the licensee –
 - (i) \$50 for every 1 kHz or part thereof of frequency then assigned below 1 GHz;

- (ii) $\$(50-4F)$ for every 1 kHz or part thereof of frequency then assigned within 1 GHz to 10.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;
 - (iii) $\$(20-F)$ for every 1 kHz or part thereof of frequency then assigned within 11 GHz to 18.999 GHz, where F is the frequency rounded down to the nearest GHz in the band then assigned;
 - (iv) \$1 for every 1 kHz or part thereof of frequency then assigned at or above 19 GHz;
- (b) where any part of the radio frequency is assigned to the licensee on a shared basis, the fee calculated in accordance with the formula set out in paragraph (a) shall be proportionally reduced by a reduction factor –
- (i) equal to the number of users authorized or reserved by the Authority to use that particular part of the radio frequency;
 - (ii) determined on the date on which the fee is payable.

6. No fee is payable under section 5 for the management of radio frequency within any of the following frequency bands-

6.765 – 6.795 MHz
 13.553 – 13.567 MHz
 26.957 – 27.283 MHz
 40.66 – 40.7 MHz
 2400 – 2500 MHz
 5.725 – 5.875 GHz
 24.0 – 24.25 GHz
 61 – 61.5 GHz
 122 – 123 GHz
 244 – 246 GHz

Appendix C

Financial Projections of OFCATF 2018-19 to 2022-23 (after taken into account the proposed licence fees reduction)

	18-19	19-20	20-21	21-22	22-23
	\$M	\$M	\$M	\$M	\$M
Revenue	457.9	441.8	428.7	428.7	433.3
Expenditure	(453.5)	(464.2)	(475.8)	(487.0)	(502.4)
Operating surplus / (deficit) before interest income	4.4	(22.4)	(47.1)	(58.3)	(69.1)
Interest income	26.8	28.7	30.2	31.4	32.2
Surplus after interest income	31.2	6.3	(16.9)	(26.9)	(36.9)
Target return required by the Government	(25.7) [#]	(7.9)	(7.6)	(7.1)	(6.5)
Retained earnings for the year	5.5	(1.6)	(24.5)	(34.0)	(43.4)
Retained earnings brought forward	98.3*	103.8	102.2	77.7	43.7
Retained earnings carried forward	103.8	102.2	77.7	43.7	0.3

The target return required by the Government in the financial projection of 2018-19 includes the cumulative target return for three years from 2016-17 to 2018-19.

* The retained earnings brought forward to 2018-19 (i.e. \$98.3M) represents the surplus (including dividend and provisions for taxation withheld and interest income) retained by OFCATF from 2016-17 to 2017-18.