

Statement of the Communications Authority
Review of the Class Licence for
Offer of Telecommunications Services under
Section 8(1)(aa) of the Telecommunications Ordinance (Cap. 106)

26 April 2019

INTRODUCTION

The Class Licence for Offer of Telecommunications Services (“CLOTS”) was introduced in 2007. It authorizes any person meeting the criteria or conditions set out in CLOTS to offer any telecommunications services to the general public without establishment, operation or maintenance of any means of telecommunications under a light-handed regulatory regime without requiring prior licence application and approval. With the emergence of new technologies and the adoption of new business models and commercial practices by market players, there is a need to ensure that the regulatory regime of CLOTS remains efficient and up-to-date and that consumers’ interests will be better protected thereunder.

2. Against this background, the Communications Authority (“CA”) issued on 4 January 2019 a consultation paper entitled “Review of the Class Licence for Offer of Telecommunications Services under Section 8(1)(aa) of the Telecommunications Ordinance (Cap. 106)”¹ to solicit views and comments from the public on its proposals to strengthen the existing class licence regime through variations to the conditions in CLOTS. Pursuant to section 7C(4) of the Telecommunications Ordinance (“TO”), a Gazette notice was also published on the same day announcing the issue of the Consultation Paper. By the close of the consultation on 1 February 2019, six submissions² were received from the following respondents (in alphabetical order) –

- China Mobile Hong Kong Company Limited (“CMHK”)
- Colt Technology Services Ltd. (“Colt”)
- Hong Kong Telecommunications (HKT) Limited (“HKT”)
- SmarTone Mobile Communications Limited (“SmarTone”)
- WTT HK Limited (“WTT”)
- an anonymous respondent

¹ See https://www.coms-auth.hk/filemanager/en/content_711/cp20190104.pdf

² The submissions are available at:

https://www.coms-auth.hk/en/policies_regulations/consultations/completed/index_id_494.html

3. Having carefully considered all the views and comments received, the CA sets out in this Statement its decisions on the relevant regulatory arrangements and responses to major issues raised by the respondents. For the avoidance of doubt, the CA has taken into account and given thorough considerations to all of the submissions before arriving at the decisions promulgated in this Statement, although not all of the issues raised are specifically mentioned or addressed herein.

RELEVANT STATUTORY PROVISIONS

4. CLOTS was introduced in February 2007 pursuant to section 8(1)(aa) and the related section 8(1)(1A) of the TO, which stipulate that –

“8. Prohibition of establishment and maintenance of means of telecommunications, etc., except under licence

(1) Save under and in accordance with a licence granted by the Governor in Council or with the appropriate licence granted or created by the Authority, no person shall in Hong Kong or on board any ship, aircraft or space object that is registered or licensed in Hong Kong –

(a)

(aa) offer in the course of business a telecommunications service; or

(b)”

.....

(1A) For the purpose of subsection 1(aa), a person is to be regarded as offering a telecommunications services if –

(a) he makes an offer which, if accepted, would give rise to an agreement, arrangement or understanding for the provision of a telecommunications service by him or by another person with whom he has made an arrangement for the provision of the telecommunications service; or

(b) he invites a person to make an offer of the kind referred to in paragraph (a).”

5. Regarding the statutory provisions relating to the variation of class licence, sections 7C(1) and 7C(2) of the TO stipulate that –

“7C. Variation of class licence

- (1) *The Authority may vary the conditions of a class licence by notice in the Gazette.*
- (2) *The Authority may in varying a class licence –*
 - (a) *specify further telecommunications networks, systems, installations or services that a person may supply under the licence;*
 - (b) *vary or revoke the type of telecommunications network, system, installation or service that a person may supply under the licence;*
 - (c) *add conditions to the licence; and*
 - (d) *vary or revoke conditions in the licence.*

...”

VIEWS AND COMMENTS RECEIVED AND RESPONSES OF THE CA

Registration of CLOTS Licensees

6. As pointed out in the Consultation Paper, CLOTS licensees are currently not required to make any application to, or register their operations with, the CA before offering any telecommunications services in the market. As a result, the CA and the Office of the Communications Authority (“OFCA”) do not have any information of the identity or contact details of the CLOTS licensees and hence have difficulties getting in touch with them when there is a need to do so. To ensure efficient communications with CLOTS licensees for more effective regulatory oversight, compliance monitoring and handling of customer complaints, the CA proposes to require CLOTS licensees to provide their essential operational information through registration. This requirement will be implemented through the addition of the proposed new Condition 5 in CLOTS as set out in the Consultation Paper. From the administration angle, the CA is open to consider whether the registration requirement should be applied to all CLOTS licensees or only to those who provide specific telecommunications services with a customer base exceeding a certain threshold.

Views and Comments Received

7. All respondents to the Consultation Paper are in general

supportive of the CA's proposal to require CLOTS licensees to register with the CA before commencing to offer any telecommunications services in Hong Kong.

8. As to whether the registration requirement should be applied to all CLOTS licensees or only those providing certain telecommunications services with customer base exceeding a certain threshold, Colt is of the view that CLOTS licensees offering services to business customers should be excluded from the registration requirement. It considers that unlike average consumers, business customers do not necessarily rely on the CA's regulatory control for protection.

9. SmarTone considers that the registration requirement should apply to all CLOTS licensees to avoid any confusion. It also suggests that with technological advancements and changing lifestyles of the new generations, online communications channels such as email, social media or mobile apps should also be considered as effective customer service channels. To allow more flexibility and creativity in offering services in the digital era, SmarTone suggests that CLOTS licensees should be allowed to provide a channel of customer services which is not limited to a customer service hotline number.

10. The anonymous respondent submits that the registration requirement should be confined to resale of specific types of telecommunications services³ and for licensees with more than 50 000 active local customers. Furthermore, licensees should only be required to provide annual update of the registration information.

Responses of the CA

11. The CLOTS licensing regime is generally applicable to resellers who acquire wholesale services from other telecommunications licensees and resell the services in the retail market under their own brand names. As stated in the Consultation Paper, the scope of such services may include resale of local fixed and mobile voice and data services, prepaid IDD services, "Wi-Fi eggs" services and prepaid international voice/data roaming services. The objective of the review is to ensure that the licensing regime of CLOTS remains efficient and up-to-date for consumer protection.

12. The CA is mindful of the need to ensure that any changes to the

³ The anonymous respondent suggests that in addition to those services mentioned in paragraphs 7(a) to 7(e) of the Consultation Paper, the registration requirement should be applied to the offer of any product, solution or software which involves the resale of aforementioned services only to the extent where such services concerned constitute a substantial and vital part of the product, solution or software.

CLOTS licensing regime should be light-handed, easy to implement and should not cause any undue burden on the licensees, especially for those with smaller scale of operation and may have limited resources to comply with the registration and other related regulatory requirements. These smaller CLOTS licensees may only be serving certain niche markets with a small customer base such that they may comparatively pose less risks to the general public. As seen from the experience of service outages, suspension or termination of service by some telecommunications licensees in recent years, there was no significant impact to the general public if the licensee concerned had a customer base of less than 10 000 subscriptions⁴. Taking also into account comments received in the public consultation, the CA considers it advisable to initially focus its regulatory efforts on those CLOTS licensees with a more sizeable customer base. This will also relieve the administrative burden for both the CA and the smaller CLOTS licensees. As a pragmatic first step, the CA considers it appropriate to apply the new registration requirement to those CLOTS licensees with a customer base of 10 000 subscriptions or more. The CA will monitor market development after the implementation of the new registration requirement and will keep in view the need to review the threshold level in future if the situation warrants.

13. As regards the proposals from Colt and the anonymous respondent about the types of CLOTS licensees that should be subject to the registration requirement, the CA would like to emphasize the need for registration by those CLOTS licensees with a large scale of operation, regardless of the types of services offered, or whether they are reselling services to customers outside Hong Kong so long as the offer of telecommunications service is conducted in Hong Kong. This will enable a fair and effective regulatory arrangement from the consumer protection angle.

14. In respect of the proposed new Condition 5.1(c) to require CLOTS licensees to provide customer service hotline number(s), the CA does not consider it appropriate to relax the requirement at this juncture since customer service hotline remains a common and efficient means which is well accepted by customers to contact the respective licensees. In any event, CLOTS licensees may register with the CA any additional online communications channels such as email, social media or mobile apps provided by them as a supplement to their customer service hotlines.

15. As for the proposed requirement for CLOTS licensees to update the CA of any changes to their registered information in the first instance, the

⁴ A customer (which may be an individual person or organisation) of the CLOTS licensee may have multiple “subscriptions” (such as SIM cards, fixed lines or other form of customer connections or subscriber accounts) for using the telecommunications services offered by the CLOTS licensee.

CA maintains its view that the requirement is reasonable and appropriate. This will enable the CA to have accurate and up-to-date information for contact with the licensees in a timely manner and to follow up with the licensees in complaint handling and other regulatory matters.

16. Taken into account the submissions received and the above considerations, **the CA decides to adopt the registration requirement as proposed in the Consultation Paper by introducing the new Condition 5 to CLOTS (see Appendix).** To reduce the administrative burden for CLOTS licensees with relatively small scale of operation, the CA further decides to **waive the registration requirement for those licensees with a customer base of less than 10 000 subscriptions.** The threshold can be reviewed after accumulation of more experience in the implementation of the registration requirement and having regard to market developments. CLOTS licensees with a customer base of less than 10 000 subscriptions are welcome to register with the CA on a voluntary basis.

17. To enhance the industry's awareness and facilitate CLOTS licensees' compliance with the new registration requirement, the CA will issue guidelines to set out the implementation details of the revised CLOTS including the registration arrangement. To provide for a smooth transition to the revised CLOTS regime, **existing CLOTS licensees will be allowed three months' time after the effective date of the revised CLOTS to complete the registration process,** failing which they may risk contravening the relevant conditions under CLOTS.

Refusal of Registration

18. To strengthen regulatory oversight and licensing control over CLOTS licensees, the CA proposes in the Consultation Paper to introduce a new Condition 2.3 such that the CA may refuse registration of a person to be a CLOTS licensee (due to reasons such as the person's licence has been previously cancelled, suspended or withdrawn by the CA) by means of serving a notice to such person that such person is not qualified to be licensed under CLOTS.

Views and Comments Received

19. All respondents have not indicated objection to the proposed new Condition 2.3. The anonymous respondent suggests that the CA should allow applicants an opportunity to rectify any deficiency in their applications for registration before rejecting them. Besides, applicants should be provided

with reasons in writing if their registrations are rejected and they should be allowed to re-apply after a certain period of time.

Responses of the CA

20. The CA notes that respondents have no objection to the introduction of the new Condition 2.3. If a person has been served with a notice to the effect that such person is not qualified to be licensed under CLOTS (“non-qualification notice”), such person’s application for registration as a CLOTS licensee will not be accepted until and unless the non-qualification notice is revoked by the CA. As regards the view expressed by the anonymous respondent, the CA would like to emphasize that it would invoke Condition 2.3 if the facts and circumstances of the case so warrant. The procedure to be followed will be consistent with the exercise of other relevant statutory powers, including the provision of reasons for the CA’s decision in writing where applicable. If a person served with a non-qualification notice demonstrates to the satisfaction of the CA that such person has rectified the deficiencies previously identified and can now comply with the conditions of CLOTS, the CA will revoke the non-qualification notice and inform the person accordingly in writing.

21. Taking into account the above considerations, **the CA has slightly revised Condition 2.3 to clarify the arrangements for the refusal of registration under CLOTS.**

Provision of Updated Information by CLOTS Licensees

22. To align the requirements in respect of the provision of operational information by the licensees under CLOTS with those under the Unified Carrier Licence (“UCL”) and the Services-based Operator (“SBO”) Licence, the CA proposes in the Consultation Paper to amend the existing Condition 9 of CLOTS so that CLOTS licensees will be required to provide updated information related to their business (such as subscriber, financial and technical information) on a regular basis and as necessary.

Views and Comments Received

23. CMHK and WTT have no objection to the proposal, and Colt considers it fair to mandate the updating of the records. HKT suggests that the updates should not be more detailed than that submitted in the initial registration in order to avoid administrative burden on CLOTS licensees. SmarTone suggests that the CA should carefully assess whether the proposal

would bring benefits to the industry and the public as a whole without imposing disproportional compliance cost on CLOTS licensees. The anonymous respondent proposes that CLOTS licensees should only provide updates of information either annually or at limited frequency in order to reduce administrative burden, and that the requirement for reporting the number of subscribers should be either removed or simplified down to broad ranges.

Responses of the CA

24. The CA would like to clarify that CLOTS licensees registered with the CA are required to provide updates of their business operations on a regular basis (e.g. subscriber statistics) and as necessary (e.g. when there are changes in contact information, scope of service etc.) to enable the CA maintain effective regulatory oversight. CLOTS licensees will also be required to provide other information on an ad hoc basis to facilitate the performance of the CA's functions as necessary.

25. Having regard to the views and comments received, **the CA decides to adopt the proposal in the Consultation Paper to amend Condition 9 of CLOTS** so that CLOTS licensees will be required to provide relevant information related to their business to the CA. The CA is minded to keep the arrangement for providing updated information as simple as possible in order to minimise administrative burden on both CLOTS licensees and the CA. Detailed requirements will be set out in the guidelines to be issued by the CA.

Alignment with Relevant Licence Conditions of the UCL and SBO Licence

26. To avoid any regulatory asymmetry among UCL, SBO and CLOTS licensees which offer similar types of telecommunications services, the CA proposes in the Consultation Paper to amend the conditions of CLOTS to ensure that where applicable, different licensees under their respective licences will be subject to the same set of regulatory obligations. In this connection, new Conditions 7.2 and 7.3 (on offer of satisfactory service), 8.3 and 8.4 (on inspection), and 14 (on number portability) are proposed to be added to CLOTS. The CA also proposes to take the opportunity to remove some outdated licence conditions of CLOTS (e.g. on telecommunications number translation device).

Views and Comments Received

27. HKT has no objection to the new Conditions 7.2, 7.3, 8.3, and 8.4 and finds the new Condition 14 acceptable, but urges the CA to completely align the wording of the new Condition 8.3 and the level of requirement under new Condition 8.4 with those under the SBO Licence. SmarTone expresses reservation on the necessity of the new Conditions 8.3 and 8.4 on grounds that the existing Conditions 8.1 and 8.2 of CLOTS should have already empowered the CA to conduct inspection and that the existing Condition 9 already empowers the CA to request CLOTS licensees to furnish information when needed.

28. Colt proposes that the new Conditions 7.2 and 7.3 should not be applicable to telecommunications services offered to enterprise customers. Colt also considers the requirement of testing instruments under the new Condition 8.4 not necessary for CLOTS licensees and should be removed.

Responses of the CA

29. In respect of the scope of the proposed new Conditions 7.2 and 7.3 (on tariff requirements), the CA notes that similar requirements are already applicable to both UCL and SBO licensees for services offered to both individual and business customers. Similarly, the proposed new Conditions 8.3 and 8.4 are also in line with the corresponding existing conditions of the UCL and SBO Licence to provide support for testing and inspection by the CA. To avoid regulatory asymmetry, it is reasonable and appropriate to impose the same requirements on CLOTS licensees. Hence, **the CA decides to adopt the proposal in the Consultation Paper to introduce new Conditions 7.2, 7.3, 8.3, 8.4 and 14 to CLOTS.**

Other Issues

Views and Comments Received

30. HKT and WTT consider that the proposed changes to CLOTS would result in increased administrative work for OFCA. Accordingly, they consider that a cost recovery licence fee mechanism should be imposed on CLOTS licensees to cover the costs that may be incurred in administering and regulating CLOTS licensees.

Responses of the CA

31. The CA does not foresee a significant increase in costs in administering CLOTS licensees after the implementation of the registration and reporting requirements as they are routine in nature and can be implemented by electronic processing with minimal regulatory oversight. Accordingly, the CA has no plan to impose licence fees on CLOTS licensees for the time being. Having said that, the CA will review the issue having regard to the actual resources incurred after the implementation of the revised licensing regime.

IMPLEMENTATION

32. With the above considerations, the CA decides to implement the revised CLOTS as set out in **Appendix**. Pursuant to section 7C(1) of the TO, the CA will publish the revised CLOTS in the Gazette to inform the public about the updated conditions of CLOTS. The revised CLOTS will **take effect six months after the date of publication in the Gazette**, while the **registration requirement** will be subject to a **further three-month grace period** after the effective date of the revised CLOTS. This will enable existing CLOTS licensees sufficient time to make preparation to adjust their commercial operations to ensure their compliance with the new Conditions. To provide practical guidance to CLOTS licensees, the CA will issue guidelines to set out the relevant administrative procedures for registration and other details of implementation before the revised CLOTS takes effect.

Communications Authority
26 April 2019

**TELECOMMUNICATIONS ORDINANCE
(Chapter 106)**

CLASS LICENCE

Section 8(1)(aa) of the Telecommunications Ordinance

OFFER OF TELECOMMUNICATIONS SERVICES

The Communications Authority, in exercise of the powers conferred on it by sections 7(5) and 7B(2) of the Telecommunications Ordinance (Cap 106), publishes this Licence on this 26th day of April, 2019. This Licence shall take effect on 26th day of October, 2019.

1. Interpretation

1.1 In this Licence

“Authority” means the Communications Authority established under section 3 of the Communications Authority Ordinance (Chapter 616);

“Class 1 service” means an internal telecommunications service

- (a) for carrying real-time voice communications which may be integrated with other types of communications;
- (b) which is capable of allowing customers to make and receive calls to and from parties assigned with numbers from the numbering plan of Hong Kong;
- (c) to which customers are assigned with numbers from the numbering plan of Hong Kong; and
- (d) which is not a “Class 2 service” as defined in this Licence.

“Class 2 service” means an internal telecommunications service

- (a) for carrying real-time voice communications which may be integrated with other types of communications;
- (b) which is capable of allowing customers to make or receive calls to and from parties assigned with numbers from the numbering plan of Hong Kong;
- (c) to which customers are assigned with numbers from the numbering plan of Hong Kong; and
- (d) in the provision of which –
 - (i) the Class Licensee (and where appropriate its agents, contractors and resellers) in all promoting, marketing or advertising materials concerning such service declares the service as a “Class 2 service” (where the materials are in English text), or “第二類服務” (where the materials are in Chinese text); or
 - (ii) the Class Licensee, in lieu of (i), complies with such conditions as may be specified by the Authority in a direction that may be issued by the Authority.

“Class Licensee” means a person licensed under Condition 2.1 of this Licence;

“licensed telecommunications operators” means carriers, services-based operators or any telecommunications operators licensed under the Ordinance with whom a Class Licensee has entered into an agreement, arrangement or understanding for the provision of any telecommunications service;

“the Ordinance” means the Telecommunications Ordinance (Chapter 106).

- 1.2 Any word or expression used in this Licence shall, unless otherwise provided, have the same meaning as it has in the Ordinance or regulations made under the Ordinance.

- 1.3 For the purposes of interpreting this Licence, headings and titles shall be disregarded.

2. Grant of Licence

- 2.1 Subject to the terms and conditions of this Licence, a person is licensed to offer in the course of business a telecommunications service.
- 2.2 A person referred to in Condition 2.1 is not licensed to establish or maintain any means of telecommunications for the purpose of offering telecommunications services under this Licence.
- 2.3 Without prejudice to the generality of the Ordinance and the foregoing, a person referred to in Condition 2.1 is not qualified to be licensed under this Licence if that person has been served with a notice by the Authority to that effect. If a person is not qualified to be licensed under this Licence, unless and until the above non-qualification notice is revoked by the Authority, any application from that person for registration under Condition 5 will not be accepted by the Authority.

3. General

- 3.1 This Licence shall not be construed as granting an exclusive right to the Class Licensee.
- 3.2 The grant of this Licence does not authorize the Class Licensee to do anything which infringes any exclusive right to provide telecommunications circuits or services granted under the Ordinance or other Ordinance.
- 3.3 This Licence shall remain in full force unless expressly revoked by the Authority.

4. Compliance

- 4.1 The Class Licensee shall comply with the Ordinance, regulations made under the Ordinance, licence conditions or any other instruments which may be

issued by the Authority under the Ordinance and such guidelines or codes of practices which may be issued by the Authority as in its opinion are suitable for the purpose of providing practical guidance on any particular aspect of any conditions of this Licence.

- 4.2 If the Class Licensee employs any person under contract for the purpose of the offering a telecommunications service under this Licence (a “contractor”), the Class Licensee shall continue to be responsible for compliance with the conditions of this Licence, and the performance thereof, by the contractor.

5. Registration

- 5.1 Subject to Condition 5.3, the Class Licensee shall register the following information with the Authority before commencement of offering in the course of business a telecommunications service, and shall only offer services under this Licence upon written confirmation from the Authority on the successful completion of the registration -

- (a) name of the Class Licensee;
- (b) company registration number of the Class Licensee under the Companies Ordinance (Cap. 622) or the number of the business registration certificate issued to the Class Licensee under the Business Registration Ordinance (Cap. 310);
- (c) customer service hotline number(s);
- (d) contact details;
- (e) type(s) of telecommunications services to be offered by the Class Licensee;
- (f) name(s) of all licensed telecommunications operators with whom the Class Licensee has entered into an agreement, arrangement or understanding for the provision of telecommunications services under the Licence; and
- (g) any other information as specified by the Authority from time to time.

- 5.2 If there is any change to the information provided under Condition 5.1, the Class Licensee shall update the Authority in the first instance.
- 5.3 The registration requirement or restriction imposed in Condition 5.1 may be waived in whole or in part by the Authority for specific group(s) of Class Licensees for a specified period⁵.

6. Provision of Information to the Customers

- 6.1 Without prejudice to the other terms and conditions of this Licence, the Class Licensee shall provide or make available the following information to the customers when the services are offered -
- (a) name of the Class Licensee;
 - (b) company registration number of the Class Licensee under the Companies Ordinance (Cap 622), business registration certificate number issued to the Class Licensee under the Business Registration Ordinance (Cap 310), or the registration number of the Class Licensee provided by the Authority upon successful completion of the registration under Condition 5.1;
 - (c) customer service hotline number(s);
 - (d) where applicable, the access code(s) or number(s) (including any access password) used for obtaining the services;
 - (e) instructions on how to access the services;
 - (f) the tariffs under which the services are offered; and
 - (g) the duration or validity period of the services offered.

⁵ For details, please see the Guidelines for Offer of Telecommunications Services under Class Licence, which will be available by the effective date of this Licence.

7. Offer of Satisfactory Service

- 7.1 The Class Licensee shall at all times and from time to time during the subsistence of this Licence offer services under this Licence in a manner satisfactory to the Authority.
- 7.2 The Class Licensee shall, subject to any conditions of this Licence relating to the offer of the service, arrange to offer the service on its published terms and conditions and at the tariff published in accordance with Condition 12 (as applicable) on request of a customer whether or not the customer intends the service to be available for its own use or intends to utilize the service to provide a lawful telecommunications service to third parties.
- 7.3 Subject to any conditions relating to the offer of the service, the Class Licensee shall comply with a customer request for the service as tariffed in accordance with Condition 12 where the service could reasonably be offered by the Class Licensee to the customer.

8. Inspection

- 8.1 On receiving reasonable prior written notice from the Authority, the Class Licensee shall allow the Authority, and any person authorized by the Authority in writing, for the Authority's own purposes to enter and inspect the offices, places and premises in Hong Kong where the Class Licensee has used in relation to the offer of services under this Licence, to verify that the Class Licensee is in compliance with the conditions of this Licence and the Ordinance.
- 8.2 The Class Licensee shall permit the Authority, or any person authorized by the Authority in writing, for the Authority's own purposes to inspect and if required to make copies of records, documents and accounts relating to the Class Licensee's business for the purpose of enabling the Authority to perform its functions under the Ordinance and this Licence and to ensure the Class Licensee's compliance with the conditions of this Licence and the Ordinance.
- 8.3 On giving a reasonable prior written notice, the Authority may direct the Class Licensee to demonstrate that the service complies with the requirements imposed by the Ordinance or any other instruments which may be issued by the

Authority under the Ordinance and that the Class Licensee shall comply with such directions.

- 8.4 For the purpose of Condition 8.3, the Class Licensee shall provide adequate support at its own cost, including but not limited to testing instruments and operating staff, as may be reasonably required by the Authority.

9. Requirement to Furnish Information to the Authority

- 9.1 The Class Licensee shall furnish to the Authority, in such manner and at such times as the Authority may request in writing, such information as related to the business, including subscriber information, financial information, accounts, traffic information, technical configuration, circuit routing and other records or information as the Authority may reasonably require in order to perform its functions under the Ordinance and this Licence and to ensure the Class Licensee's compliance with the conditions of this Licence and the Ordinance.
- 9.2 Where the Authority proposes to disclose information obtained and the disclosure of which may adversely affect the Class Licensee's lawful business or commercial or financial affairs, the Authority will give the Class Licensee a reasonable opportunity to make representations on the proposed disclosure before the Authority makes a final decision whether or not to disclose the information.
- 9.3 Without limiting the generality of Condition 9.1, the Class Licensee shall, upon request by the Authority, supply to the Authority at such intervals and on/before such deadlines as may be specified by it in the request, copies of agreements, contracts, invoices, statements and other relevant documents as may be specified by the Authority to show the arrangements that the Class Licensee has entered into with such person(s) and / or telecommunications operators in relation to the services offered by the Class Licensee under this Licence.

10. Confidentiality of Customer Information

- 10.1 The Class Licensee shall not disclose information of a customer except with the consent of the customer, which form of consent shall be approved by the Authority, except for the prevention or detection of crime or the apprehension or prosecution of offenders or except as may be authorized by or under any law.
- 10.2 The Class Licensee shall not use information provided by its customers or obtained in the course of offer of services to its customers other than for and in relation to the services offered by the Class Licensee under this Licence.

11. Billing or Charging Accuracy

- 11.1 The Class Licensee shall take all reasonable steps to ensure that any billing or charging equipment used in connection with the services offered under this Licence is accurate and reliable. The Class Licensee shall, in relation to the billing or charging system used for the offer of the services, keep such records and make them available for inspection by the Authority.
- 11.2 Upon written request of the Authority, the Class Licensee shall conduct or take all practicable steps to procure the tests on billing or charging equipment to assess its accuracy, reliability and conformity to the technical standards, if any, specified by the Authority. The Class Licensee shall submit the test result to the Authority within 14 days after the date of the test or such other longer period as the Authority may determine.

12. Tariffs

- 12.1 The Class Licensee shall publish and charge no more than the tariffs for the services offered under this Licence. The tariffs shall include the relevant terms and conditions for the offer of the services. The Class Licensee shall comply with any guidelines which may be issued by the Authority from time to time concerning the publication of tariffs and the relevant terms and conditions for the offer of the services.

13. Numbering Plan and Related Matters

- 13.1 The Class Licensee shall conform to any numbering plan made or approved by the Authority and any code of practice or direction given by the Authority in respect of the numbering plan.
- 13.2 The Class Licensee shall conform to any regulatory guide, code of practice or direction relating to the use or assignment of number, access code or calling line identification issued by the Authority.

14. Number Portability

- 14.1 Where the Class Licensee offers services provisioned by the licensed telecommunications operators on which the Authority has directed to facilitate the portability of numbers, the Class Licensee shall make arrangements to facilitate, at its own cost, the fulfilment of the obligations of facilitating the portability of numbers from the numbering plan of Hong Kong as stipulated in Condition 13.1.
- 14.2 Subject to Condition 14.1, the Class Licensee shall conform to any code of practice issued by the Authority in respect of procedures for handling number portability.
- 14.3 For the purpose of this Condition, “portability of numbers” means the function of the network, system and service which enables a customer of the service of a unified carrier licensee, mobile carrier licensee, services-based operator, mobile virtual network operator or any other licensee, as the case may be, to become a customer of another unified carrier licensee, mobile carrier licensee, services-based operator or mobile virtual network operator or any other licensee, as the case may be, without changing the number assigned to that customer.

15. Compliance with Codes of Practice

- 15.1 Without limiting or affecting in any way the Class Licensee’s obligations under any other licence condition, the Class Licensee shall comply with any code of practice or guideline which may be issued by the Authority from time

to time for the purpose of providing practical guidance to the Class Licensee in respect of -

- (a) the offer or provision of satisfactory service;
- (b) the protection of customer information; and
- (c) the protection and promotion of the interests of consumers of telecommunications goods and services.

15.2 Before issuing any code of practice or guideline referred to in Condition 15.1, the Authority shall carry out such consultation as is reasonable in all the circumstances of the case.

16. Offer of Class 1 or Class 2 Service

16.1 Where the Class Licensee offers a Class 1 or Class 2 service under this Licence, the provisions set out in the Schedule shall apply in relation to the Class 1 or Class 2 service offered.

17. Service Contracts and Dispute Resolution

17.1 The Class Licensee shall comply with all codes of practice issued by the Authority from time to time in respect of the requirements to apply in the contracting of telecommunications services to end users.

17.2 The contracting requirements referred to in Condition 17.1 may include the following –

- (a) the style, format and structure of service contract documentation;
- (b) the manner of entering into and terminating service contracts;
- (c) the information to be included in or in connection with service contracts and the performance of the services;

- (d) the submission of disputes between end users and the providers of telecommunications services to independent dispute resolution, pursuant to a scheme approved by the Authority; and
- (e) other terms and conditions or provisions for the protection of the interests of end users.

17.3 Before issuing any code of practice for the purposes of Condition 17.1, the Authority shall carry out such consultation as is reasonable in the circumstances.

SCHEDULE

Provisions that Apply where the Class Licensee Offers Class 1 or Class 2 Service (Condition 16)

1. Emergency Call Service

1.1 For the sole purpose of enabling Hong Kong Police Emergency Centre or other entity as directed by the Authority to respond to and (as appropriate) identify a public emergency call made by a customer of the Class Licensee whose location is potentially nomadic, the Class Licensee shall

- (a) provide free of charge the most up-to-date location information of a customer calling the emergency service (whose location is potentially nomadic) to the Hong Kong Police Emergency Centre or other entity as directed by the Authority;
- (b) provide or make available a mechanism whereby the customers of the Class Licensee can update their location information; and
- (c) remind the customers to update their location information whenever they change the location from which the service is used.

1.2 The Authority may grant exemption to the Class Licensee for any particular obligations imposed under Clause 1.1. The Class Licensee shall comply with any conditions which may be specified by the Authority or any guideline which may be issued by the Authority for such exemption.

1.3 Where the Class Licensee is exempted by the Authority from the provision of a public emergency call service pursuant to Clause 1.1 for any particular group of customers, it shall clearly indicate the non-provision of the public emergency call service to that group of customers in all promotion, marketing or advertising materials offering service to the customers and obtain their explicit consent on the non-provision of the public emergency call service before providing service to them.”

2. Backup Power Supply

- 2.1 Unless there is backup power supply available in such manner as may be specified by the Authority to maintain continuity of the service offered by the Class Licensee without any deterioration in quality of the service during interruption of mains power supply on the customer's premises, to the network, or to any system or equipment delivering the service to the customer, the Class Licensee shall not provide the service to users whose "lifeline devices" are connected to the service.
- 2.2 Where no backup power supply is available in such manner as described in Clause 2.1, the Class Licensee is deemed to have complied with Clause 2.1 if
- (a) the customers have, before or upon subscription of service, confirmed that the service will not be used by lifeline users or connected with lifeline devices; and
 - (b) the Class Licensee has affixed a label to the wall socket panel or any equipment installed on the customers' premises or taken other reasonable steps to remind the customers that the service is not suitable for connection to lifeline devices.
- 2.3 For the purpose of Clause 2, a "lifeline device" means a medical alarm or any other device for an elderly, infirm or invalid to summon assistance in the event of an emergency without having to dial manually the telephone number of the emergency service.