

Guidelines on the Use of Public Payphone Kiosks for the Installation of Radio Base Stations for Provision of Public Mobile Services

1. Purpose

1.1 The guidelines set out in this document are issued pursuant to Special Condition 48 of the Unified Carrier Licence (“UCL”) for the purpose of providing practical guidance in respect of the use of public payphone kiosks (“Kiosks”) installed on public streets or unleased Government land for provision of public mobile services. They set out the general principles, requirements and procedures for submission of applications by mobile network operators (“MNOs”) for the installation of radio base stations (“RBSs”) at these Kiosks.

1.2 At present, individual local fixed network operators (“Kiosk Owners”)¹ have installed and maintained on public streets or unleased Government land under their respective block licences issued by the Director of Lands a number of Kiosks for provision of public payphone services². MNOs who intend to install RBSs at such Kiosks for provision of public mobile services may seek agreements from the respective Kiosk Owners to do so on a commercial basis and in compliance with the guidelines set out in this document.

1.3 Without limiting or affecting in any way the obligations of Kiosk Owners or MNOs under their respective licences, they shall observe, follow and comply with the principles, requirements and procedures stated in this document.

2. General Principles

2.1 Kiosk Owners who intend to open up their Kiosks for applications by MNOs for the installation of RBSs shall obtain prior approval from the Lands Department and the Communications Authority (“CA”) and, where necessary, have their block licences and UCLs amended accordingly, before proceeding to

¹ They are PCCW-HKT Telephone Limited and Hong Kong Telecommunications (HKT) Limited (collectively referred to as “HKT”), and HGC Global Communications Limited.

² Some of the Kiosks are also used for provision of public Wi-Fi services.

make commercial agreements with MNOs on the use of the Kiosks for the purpose. Likewise, interested MNOs who wish to use these Kiosks for the installation of RBSs shall obtain prior approval from the CA and, where necessary, have their UCLs amended accordingly before making applications to the Kiosk Owners direct (see paragraphs 3.1 to 3.5 below).

2.2 A Kiosk Owner shall provide to the CA, in such manner and at such times as the CA may request, a list of Kiosks together with the number of slots³ which are available for the installation of RBS equipment (“the List”) as well as the technical information of each of the Kiosks including the layout plan, structural design, dimensions of the slots and types and availability of ancillary facilities such as electricity supply and backhaul links. In the event of any change in the List and the technical information of the Kiosks, the Kiosk Owner concerned shall inform and provide the CA with the updated details within 10 business days. The Office of the Communications Authority (“OFCA”) will inform the MNOs upon receipt of the relevant technical information and Kiosk Owner shall provide such information including updates of the information to the MNOs upon requests.

2.3 To facilitate MNOs’ selection of suitable Kiosks for the installation of RBSs, the List of each Kiosk Owner as endorsed by OFCA will be published on OFCA’s website⁴ and may be updated from time to time.

2.4 For the sake of fairness and more effective use of the Kiosks, an MNO shall only be allowed to use at most one slot of each Kiosk for the installation of its RBS and the minimum separation between any two Kiosks installed with its RBSs shall not be less than 50 metres or another separation distance as may be mutually agreed by the MNOs concerned.

2.5 Kiosk Owners shall use all reasonable endeavours to ensure that MNOs’ access to facilities such as space, backhaul links and electricity supply at their Kiosks is provided promptly and efficiently, and at fair charges to MNOs for compensation of relevant costs incurred by the Kiosks Owners for the provision of the relevant facilities and services.

³ For the purpose of this document, slot refers to the space and supporting facilities at a Kiosk available for the installation of RBSs. Each Kiosk may have more than one slot available for housing RBSs.

⁴ The List is available at https://www.ofca.gov.hk/filemanager/ofca/common/media/data_stat/payphone_rbs.pdf.

2.6 In relation to the provision of access to facilities such as space, backhaul links, and electricity supply at the Kiosks, Kiosk Owners shall facilitate in a fair and equitable manner and not discriminate against any MNOs in the terms or conditions of such access. The Kiosk Owners shall make available their standard terms and fees/charges to all the MNOs for the works and services stated in paragraph 2.8 below. All the fees/charges imposed by the Kiosk Owners on the MNOs shall be cost-based only. They shall also negotiate in good faith and use all reasonable endeavours with a view to reaching agreement with the MNOs. In case a Kiosk Owner and an MNO are unable to agree within a reasonable time on the relevant terms and conditions for use of the Kiosks including such terms and the fees/charges for the relevant works and services, either party may request for assistance from OFCA to resolve the matter in the first instance (e.g. mediation), failing which either party may request for determination by the CA.

2.7 For the avoidance of doubt, in addition to the arrangement given in paragraphs 3.1 to 3.5 below, MNOs are required to follow the prevailing procedures and requirements to apply to the CA for approval in accordance with the licence conditions before bringing their RBSs into operation. The aggregate transmitting power per antenna⁵ at each Kiosk shall not exceed 2 Watts equivalent isotropically radiated power (eirp).

2.8 Subject to commercial agreement between MNOs and Kiosk Owners, an MNO should pay a Kiosk Owner reasonable and appropriate fees/charges to compensate for any relevant costs incurred by the Kiosk Owner for –

- (a) the works and/or provision of services in connection with the installation, operation, maintenance or removal of RBSs at its Kiosks at the request of that MNO; and
- (b) electricity and backhaul links, as the case may be, supplied by the Kiosk Owner for MNO's RBSs at its Kiosks (see paragraphs 5.1 to 5.2 below).

2.9 In addition, the MNO is required to pay a fee to reduce the level of universal service contribution ("USC") in respect of each Kiosk for installation of RBS to provide public mobile services. The level of the fee is determined by the CA and will be reviewed and revised as and when necessary (see paragraphs 6.1 to 6.2 below).

⁵ For the purpose of this document, antenna refers to a physical antenna unit operated by MNOs for the provision of public mobile services.

3. Requirements and Procedures for Submission of Applications

General Requirements and Application Procedures

3.1 An MNO who wishes to make use of the Kiosk(s) for the installation of RBS(s) shall submit an application to the Kiosk Owner concerned (with contact information given at **Appendix**) and copy the same to OFCA (see paragraph 8.1).

3.2 The application submitted by the MNO shall include the following information –

- (a) location of each interested Kiosk within the List referred to in paragraph 2.2;
- (b) technical details of proposed RBS at each interested Kiosk including technical standards (e.g. 4G and/or 5G), transmitting and receiving frequency bands, aggregate transmitting power of each antenna (eirp) and electricity requirement;
- (c) proposed structural design of RBS equipment at each interested Kiosk including drawings showing the dimensions of RBS equipment (including cables, supporting structures, mounting brackets, etc.), their total weight, and proposed installation methods; and
- (d) proposed implementation schedule.

3.3 The Kiosk Owner shall acknowledge receipt of the application within three business days after it has received the application. The Kiosk Owner shall also check whether there are competing demands for the available slot(s) of each Kiosk under application (i.e. whether MNOs' applications for the use of the Kiosk are more than the number of slots available at the Kiosk for the installation of RBSs)⁶. Should there be competing demands for such Kiosk(s), the Kiosk Owner shall inform the applicants concerned and they are encouraged to coordinate among themselves with a view to working out a technically feasible solution for the shared use of each such Kiosk for the installation of RBSs.

3.4 Where there are competing demands for a particular Kiosk and the matter cannot be resolved by the applicants concerned within a reasonable time

⁶ For the avoidance of doubt, the available slots of each Kiosk under application shall not be regarded as assigned or unavailable until OFCA has duly informed the parties concerned in accordance with paragraph 3.5. The Kiosk Owner shall in accordance with paragraphs 3.3 and 3.4 handle competing demands for those available slots received from the other MNOs before the Notification Date.

or it is considered that the matter should be better dealt with by OFCA, either party may request for assistance from OFCA. OFCA will endeavour to resolve the matter, including selection of successful applicant(s) by way of ballot or any other method as OFCA may think fit. The selection decision made by OFCA shall be final.

3.5 As soon as a Kiosk Owner and an MNO have entered into a commercial agreement, they shall jointly inform OFCA and submit to OFCA a list of Kiosk(s) that will be used by that MNO within 10 business days from the date of the commercial agreement. OFCA will follow up with the parties concerned, check whether the arrangement meets the requirements stated in this document, and inform them of the result in writing within 10 business days from the date of submission (“Notification Date”).

4. Installation and Maintenance of RBSs at Kiosks

4.1 Each Kiosk Owner should develop a set of procedures and requirements for MNOs to follow in their applications for the installation, operation, maintenance and removal of RBSs at the Kiosks. Such procedures and requirements should be reasonable and practicable to facilitate MNOs’ preparation and submission of applications.

4.2 MNOs should follow the reasonable procedures and requirements of the Kiosk Owners for the installation, operation, maintenance and removal of their RBSs at the Kiosks such that the normal operations of the public payphone services, public Wi-Fi services and other services provided at the Kiosks will not be adversely affected. MNOs shall also ensure that the installation, operation, maintenance or removal of their RBSs at the Kiosks will not cause damage to the Kiosks, payphones and other equipment and facilities at the Kiosks including equipment and facilities installed by other parties.

4.3 Upon notice by the relevant Government department or authority in writing that the authorisation of an MNO’s installation of RBS at a Kiosk is revoked, the MNO concerned shall remove its RBS and ancillary facilities from the Kiosk at its own expense and to the satisfaction of the Government department or authority concerned within one month or another date as specified by the Government department or authority concerned.

5. Charges payable to Kiosk Owners

5.1 Subject to commercial agreement between MNOs and Kiosk Owners, an MNO may, at its own commercial decision and being not inconsistent with the guidelines as set out in this document, entrust the Kiosk Owners with the works and services (including electricity) related to the installation, operation, maintenance or removal of the RBSs at the Kiosks concerned and/or lease backhaul links from the Kiosk Owners with payment to the Kiosk Owners reasonable and appropriate charges to compensate for the relevant costs incurred by the Kiosk Owners for the works so entrusted and services provided. Other than these and the fee mentioned in paragraphs 6.1 and 6.2 below, no other fees/charges shall be payable by an MNO to the Kiosk Owners or the Universal Service Provider (“USP”, i.e. HKT), as the case may be, for the use of the Kiosks.

5.2 For the avoidance of doubt, and subject to paragraphs 2.8 and 5.1 above, the Kiosk Owners shall not make use of the Kiosks to gain any commercial benefit from the MNOs for the installation, operation, maintenance or removal of RBSs at their Kiosks.

6. Fee for USC

6.1 According to the Statements of the former Telecommunications Authority entitled “Review of the Regulatory Framework for Universal Service Arrangements”⁷ and “Use of Public Payphone Kiosks on Public Streets and Unleased Government Lands for the Provision of Public Wi-Fi Service”, any revenue generated or an amount deemed to reflect the fair market value of non-cash benefits derived from using a Kiosk for activities other than payphone service is subject to a fee for reducing the level of USC. Accordingly, an MNO is required to pay the fee in order to reflect the commercial benefits derived from using a Kiosk for the installation of an RBS to provide public mobile services. The fee of using a Kiosk for the installation of an RBS to provide public mobile services shall be set and reviewed by the CA as and when necessary in accordance with the fair market rate⁸.

⁷ The Statement is available at https://www.ofca.gov.hk/filemanager/ofca/en/content_377/TA_Statement.pdf.

⁸ The fee of using a Kiosk for the installation of an RBS is set at two times of the fee of using a Kiosk for the installation of Wi-Fi equipment. The fee is subject to change with reference to the fluctuations in Private Retail Rental Index published by the Rating and Valuation Department. The fee of using a Kiosk for the installation of Wi-Fi equipment can be found in the statements of the CA on the level of USC at https://www.ofca.gov.hk/en/industry_focus/industry_focus/obligation/level/index.html.

6.2 An MNO shall start paying the fee for reducing the level of USC on the Notification Date mentioned in paragraph 3.5 above. The fee payable for an incomplete month will be calculated on a pro-rata basis by reference to the rate adopted by the CA. It shall pay the fee to the USP direct and the USP will report annually to OFCA the total amount of fees collected in each calendar year period.

7. Information Update to OFCA

7.1 An MNO should use its best endeavours to complete the installation of its RBSs and bring them into operation at the relevant Kiosks within six months or another mutually agreed period after it has reached a commercial agreement with the Kiosk Owner. If the MNO fails to do so without reasonable justification (such as any issue beyond the control of the MNO concerned), the Kiosk Owner or the MNO concerned may, subject to the terms and conditions of their agreement, terminate the agreement for the installation of RBSs at the relevant Kiosks and the terminating party shall provide a written notice to the other party with a copy to OFCA.

7.2 An MNO shall notify OFCA of the Installation Completion Date⁹ and the Launch Date¹⁰ of each of its RBSs within 10 business days after the RBS has been brought into operation at the Kiosk concerned.

⁹ “Installation Completion Date” refers to the date on which the installation works for the RBS of the MNO at the Kiosk are completed.

¹⁰ “Launch Date” refers to the date since which the RBS of the MNO at the Kiosk has been brought into operation.

8. Enquiries

8.1 Any enquiries on this document should be made to –

Senior Controller of Telecommunications (M21)
Office of the Communications Authority
36/F, Wu Chung House
213 Queen's Road East
Wan Chai
Hong Kong
Telephone No.: 2961 6791
Fax No.: 2123 2187

The Communications Authority
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Contact Information of Relevant Kiosk Owner

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