

Licensing Framework for Unified Carrier Licence

A Consultation Paper by the Telecommunications Authority 21 December 2007

EXECUTIVE SUMMARY

Introduction

The Secretary for Commerce and Economic Development published a consultation paper on 21 December 2007 to set out his proposals on the making of regulation to create the Unified Carrier Licence (“UCL”), and the proposals cover the general conditions (“GCs”), period of validity and licence fees of UCL. This consultation paper sets out the proposals of the Telecommunications Authority (“TA”) on the new licensing framework, including the special conditions (“SCs”) to be attached to the UCL, the general approach for granting a UCL under different scenarios and the arrangement for migration of existing carrier licences to UCLs. The two papers aim to provide a full picture of the proposed licensing regime of UCL to the industry.

Rights and Obligations under the UCL

2. A unified carrier may be granted with rights commensurate with its scope of service, including the right for use of radio spectrum, use of telecommunications numbers, road opening and building access. A unified carrier may acquire spectrum right through participation in an open, competitive bidding or tendering process for spectrum with competing commercial demand, or it may make application to the TA for assignment of spectrum where there is no competing commercial demand. A unified carrier may also apply for allocation of telecommunications numbers by the TA according to the existing practice which applies to fixed and mobile carriers. The right of road opening may be granted on a case-by-case basis to a unified carrier depending on the need to roll out public wireline-based services. The right of building access may be granted on a case-by-case basis to a unified carrier subject to the technology it uses for an installation in a building and whether the installation is for serving the residents and occupants of that building.

3. A set of SCs is proposed as the common obligations for all unified carrier licensees. These SCs are basically modelled on SCs in existing fixed /

mobile carrier licences with alignments of certain obligations for fixed and mobile services under the UCL.

4. The TA may impose other SCs on an individual licensee depending on the specific circumstances applicable to the licensee. For an existing carrier licensee who is issued a UCL for conversion or replacement of its existing carrier licence, other SCs may be included because of the need to retain certain special obligations under the original carrier licence in the new UCL.

Interconnection Regime

5. Basically, unified carriers will follow the prevailing interconnection arrangements for carrier-to-carrier interconnection depending on whether they provide fixed or mobile services under the UCL. For converged service provided under the UCL, the TA will decide on a case-by-case basis whether the service is primarily a fixed or a mobile service should the TA consider it necessary to intervene in interconnection matters between a unified carrier and other carriers. The present regulatory guidance for fixed mobile interconnection charge (“FMIC”) and interconnection links will be withdrawn subject to a 2-year transition period commencing from 27 April 2007, and the TA will not replace it with any new guidance unless there are market changes that warrant his re-consideration.

Migration to the Unified Carrier Licensing Regime

6. There are four scenarios of granting a UCL, namely (1) new application, (2) replacement of an existing carrier licence upon its expiry, (3) conversion of an existing carrier licence with no change of scope, and (4) conversion of existing carrier licence(s) for other cases. Other than the common rights and obligations under the UCL, there may be a need to transplant certain existing rights and obligations in the original carrier licence(s) to the UCLs for cases (2) to (4).

Replacement of Four Fixed Carrier Licences issued in 1995

7. The TA will be prepared to grant UCLs to replace the four fixed telecommunications network service / fixed carrier licences issued in 1995 when they expire in 2010. While the existing rights for use of radio spectrum, use of numbers, road opening and building access will basically be preserved under the replacement licences, certain existing obligations which are still applicable to individual licensees will be retained under the replacement licences. In

particular, for PCCW-HKT Telephone Limited (“PCCW”), the policy intention is to require PCCW under section 35B of the Telecommunications Ordinance to continue to have a universal service obligation (“USO”) under the UCL which may be granted to replace its existing fixed carrier licence (“FCL”) when it expires in June 2010. Apart from the USO, the TA is of the preliminary view that two special obligations under PCCW’s existing FCL, i.e. the *ex ante* tariff approval requirement for certain interconnection services provided by PCCW and the notification requirement for discounts under the *ex post* tariff regulation regime should be preserved in its replacement UCL.

Conversion of Mobile Carrier Licences

8. For conversion of the existing mobile carrier licences, which will be entirely on a voluntary basis, all existing spectrum assignments and number allocations under the original licences would continue to be applicable under the UCLs during the remaining terms of the original licences, while the rights of opening and building access would remain inapplicable as the licensees provide mobile services only. Legacy obligations such as the payment of spectrum utilization fee and performance bond would be transplanted to the new licences.

Invitation for Comments

9. The industry and other interested parties are invited to give their views to the proposals in the consultation paper. Submissions, preferably in electronic format, should be sent to the following address on or before 20 February 2008:

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