

**Consultation Paper
on the Creation of a New Licence for
Services-Based Operators for the
Provision of IP Telephony Services**

Issued by the Telecommunications Authority, Hong Kong

22 August 2005

INTRODUCTION

The Telecommunications Authority (TA) issued a TA Statement entitled “Regulation of Internet Protocol (IP) Telephony” on 20 June 2005 (TA Statement) setting out the TA’s views and decisions on the regulatory framework for IP telephony services, a copy of which is available at our website at <http://www.ofta.gov.hk>. To implement the regulatory framework, the TA adopts a two-class licensing approach for IP telephony services. In summary, Class 1 services are those services that have all the attributes of the conventional telephone services and are required to fulfil the licensing conditions of fixed telecommunications network services (FTNS) or fixed carrier (FC) licences relevant to the provision of local voice telephony services. Class 2 services are those services that do not have all the attributes of the conventional telephone services and are only subject to minimal licensing conditions with the main purpose to protect consumer interests and safeguard fair competition.

2. As mentioned in paragraphs 17 and 27 of the TA Statement, the TA will create a new licence for services-based operators for the operation of Class 1 and Class 2 services and conduct a consultation with the industry to address the licensing conditions and fee structure of the new licence. The new licence will be called “Services-Based Operator Licence” (SBO Licence).

3. For the avoidance of doubt, this consultation only concerns the licensing conditions and the fee structure of the SBO Licence. In particular, the TA discusses in this consultation his preliminary views on the licensing conditions and the fee structure of the SBO Licence and has not formed any opinions or reached any decisions on the licensing conditions and the fee

structure of the SBO Licence.

SBO LICENCE

4. The draft SBO Licence, Direction to be issued under Special Condition 17 of the SBO Licence on number portability, and validity period and fee structure of the SBO Licence are attached to this consultation paper in Annex 1, 2 and 3 respectively. The details will be explained in the following sections. The TA invites all interested parties to comment on his proposed SBO Licence.

Scope of Services

5. As mentioned in paragraph 17 of the TA Statement, the SBO licensee is not entitled to facilities-based rights, and not subjected to facilities-based obligations, related to building network infrastructure such as road opening, building access, sharing of facilities, etc. as stipulated in the FTNS/FC licences. As regards the rights of obligations for service provision, these will be similar to those applicable to FTNS/FC licensees for service provision. The TA therefore proposes that the scope of service of the SBO Licence should basically be the same as that of FTNS/FC licences and cover the operation of Class 1 and Class 2 services and all other types of internal and external telecommunications services falling within the description of Schedule 1 to the SBO Licence (Annex 1). In other words, the SBO licensee is permitted to provide Class 1 and Class 2 services, as well as other telecommunications services such as Internet access services, international value-added network services (IVANS), external telecommunications services (ETS), etc that are currently permitted to be operated under FTNS/FC licences. However, as the SBO licensee is not granted facilities-based rights, it is not permitted to establish or maintain any means of telecommunications which cross public streets or unleased Government lands.

Licence Conditions

6. The licence conditions of the SBO Licence can be divided into three parts, namely,

- (a) General Conditions (GCs) 1 to 15 applicable to the provision of all types of services;
- (b) Special Conditions (SCs) 1 to 13 applicable to the provision of all types of services; and
- (c) SCs 14 to 21 applicable to the provision of Class 1 and Class 2 services.

The origins of these licence conditions are listed in the table attached as Annex 4.

GCs 1 to 15 and SCs 1 to 13 for all types of services

7. GCs 1 to 12 and 15, and SCs 1 to 6 of the SBO Licence are basically the equivalent of the licence conditions of the FTNS/FC licence but exclude those related to rollout and operation of network facilities such as road opening, building access, sharing of facilities, etc. and those not relevant to the SBO Licence.

Period of Validity and Licence Fee (GCs 13 and 14)

8. The licence conditions of period of validity and licence fee are imposed pursuant to section 7(6) of the Telecommunications Ordinance which provides that the TA may determine the period of validity and licence fees of licences other than exclusive licences and carrier licences. The period of validity and licence fee will be explained in paragraphs 21 to 25.

Universal Service Contribution (SC 6) and Interconnection Charges and Local Access Charges (SC 7)

9. Paragraph 53 of the TA Statement stated that before a review of the universal service obligation (USO) and universal service contribution (USC) is completed and the proposed modifications are implemented, the existing USO/USC scheme will apply. Under the current USO/USC scheme, licensees who provide ETS are subject to payment of USC. As SBO licensees are allowed to provide ETS, they are required to pay USC if they are engaged in ETS operation. Essentially identical licence condition is also imposed on

FTNS/FC licensees and Public Non-exclusive Telecommunications Service (PNETS) licensees for ETS.

10. Paragraph 51 of the TA Statement stated that the existing local access charge (LAC) charging principles will remain unchanged over the circuit-switched interface of interconnection gateway and the per minute LAC will continue to be calculated according to the cost of the circuit-switched network facilities invested in routing the external traffic and the volume of the external traffic involved. The SBO licensee is allowed to provide ETS, therefore the licence condition on LAC currently applicable to the PNETS licence for the provision of ETS is also applicable to the SBO Licence.

Calling Line Identification and Related Services (SC8)

11. Since the requirement for sending and receiving calling line identification (CLI) would be essential for settlement of inter-network interconnection charges (e.g., LAC), supporting the provision of calling number display (CND) and calling name display (CNAMD), and identification of the authentication of customers, the SBO licensee is required to follow any regulatory guide, code of practice or direction issued and as revised from time to time by the TA in respect of CLI and related services.

Provision of Information to Customers for Prepaid Telecommunications Services (SC 9)

12. SC 9 draws reference from the consultation paper entitled “Partial Commencement of Section 8(1)(aa) of the Telecommunications Ordinance and Creation of a Class Licence to Regulate Resale of Telecommunications Services on a Prepaid Basis” (paragraphs 29 and 42) issued by the TA on 15 October 2004. The need to require service providers to provide the specified information to customers for prepaid telecommunications services stems from the risks that some service providers would abscond after receiving customer prepayment, and leaving the customers with no recourse to trace the licensee for refund. Though the TA has not made a final decision on the proposed class licence for resale of prepaid telecommunications services, the TA considers that the licence condition requiring licensees to provide information as set out in the SC 9 should apply to services operators who offer prepaid services in general. The transparency of information will facilitate consumers

to make informed purchasing decision of prepaid telecommunications services. It also helps the consumers and the TA to identify and trace the licensees for refund and regulatory actions. If the licence condition is incorporated into the SBO Licence, the TA will extend the obligation to other public telecommunications services licences.

Inspection (SC 10), Telecommunications Number Translation Device (SC11), Unsolicited Advertising (SC 12) and Compliance with Codes of Practice (SC13)

13. The TA considers that certain licence conditions applicable to other public telecommunications network or service licences should be included in the SBO Licence including:

- ◆ power of the TA for inspection (SC 10);
- ◆ compliance with direction in relation to the use of telecommunications number translation device for access to the service (SC 11);
- ◆ unsolicited advertising (SC 12); and
- ◆ compliance with codes of practice in relation to customer protection (SC 13)

SCs 14 to 21 for Class 1 and Class 2 services

Applicability of Certain Conditions for Class 1 and Class 2 Services (SCs 14 and 15)

14. SCs 17 to 20 of the SBO Licence are licence conditions applicable to FTNS/FC licences for the provision of local voice telephony services. The SBO licensee is required to comply with them depending on whether it is a Class 1 or Class 2 service that is provided. For the avoidance of doubt, under the SBO Licence, the licensee is allowed to offer both Class 1 and Class 2 services. The licence obligations will differ depending on the “Class” of services in question.

15. The differentiation between Class 1 and Class 2 services is by means of declaration by the SBO licensee. As mentioned in paragraph 17 of the TA Statement, a licensee has the obligation of complying with the licence

conditions applicable to Class 1 services for its local voice telephony service in full unless it (and where appropriate its agents, contractors and resellers) declares in all promoting, marketing or advertising materials concerning such service as a “Class 2 service”. As long as the local voice telephony service is not declared as a “Class 2 service”, it will be regarded as a “Class 1 service”. The SBO licensee providing Class 1 services has the obligation to comply with SCs 16 to 21. Where the SBO licensee (and where appropriate its agents, contractors and resellers) declares its local voice telephony services as a “Class 2 service”, it has the obligation of complying with SCs 16 to 19 so far as the declared “Class 2 services” are concerned.

Requirements for Interconnection (SC16)

16. As stated in paragraph 42 of the TA Statement, the TA considers that both Class 1 and Class 2 services are required to fulfill the “any-to-any connectivity” principle whenever the numbers under the Numbering Plan for Telecommunications Services in Hong Kong (Hong Kong Numbering Plan) are used for call routing. Under such scenario, the SBO licensee offering Class 1 or Class 2 services is required to make interconnection with licensed operators to enable its customers to make and receive calls to and from all other users assigned with numbers from the Hong Kong Numbering Plan.

Number Portability (SC17) and Direction under SC17

17. As stated in paragraphs 40 and 41 of the TA Statement, Class 1 services providers are required to fulfil number portability requirement, whilst Class 2 services providers are not required to do so initially. The matter will be subject to review as and when necessary. In the circumstances, the licence obligation to provide number portability is equally applicable to licensees providing Class 1 and Class 2 services. The difference with regard to the need to fulfil the licence obligation is reflected and given in the Direction to be issued under SC17 (Annex 2). If the SBO licensee offering Class 2 services is required to support number portability function in future, the Direction under SC17 will be amended accordingly.

Emergency Call Service (SC18)

18. Where the customers are assigned with numbers from the Hong Kong

Numbering Plan, the SBO licensee offering Class 1 or Class 2 services is required to provide its customers with free access to public emergency services and up-to-date location information of customers to the emergency centre. Reference can be made to paragraphs 60 – 66 of the TA Statement.

Backup Power Supply (SC19)

19. The SBO licensee offering Class 1 or Class 2 services must not offer to sell and provide the local telephony services to life-lines users unless there is backup power supply available to maintain the continuity of the service during interruption of mains power supply. Reference can be made to paragraphs 67 – 73 of the TA Statement.

Directory Information and Directory Information Service (SC20) and Customer Charter (SC21)

20. The SBO licensee offering Class 1 services is required to provide a printed directory and a telephonic directory service, and a customer charter, whilst it is voluntary for the SBO licensee offering Class 2 services to provide such services. Hence SCs 20 and 21 will only apply to Class 1 services provided by the licensees. Reference can be made to paragraphs 56 – 59 and 74 of the TA Statement.

Period of Validity

21. As the SBO Licence is a services-based licence, the TA considers it appropriate for the SBO Licence to follow the period of validity applicable to service-based PNETS licence. As such, the TA proposes that the SBO Licence is valid for one year and may, at the discretion of the TA, be renewed on an annual basis. The TA's proposed period of validity for the SBO Licence is given in Annex 3.

Fee Structure

22. The TA proposes that the fee of the SBO Licence is payable on the issue and on anniversary of the issue of the licence in each year and the fee structure is a combination of fixed and variable fee. Under the cost-recovery principle, the SBO Licence fee to be collected should aim to recover the costs

of administering the SBO Licence. The TA's proposed licence fee for the SBO Licence is given in Annex 3.

Fixed Component Fee

23. Under the SBO Licence, the licensee is allowed to offer all internal and external telecommunications services (including Class 1 and Class 2 services). The SBO licensee is required to pay a fixed component fee of \$90,000 if Class 1 services are provided in its service portfolio or \$25,000 if Class 1 services are not provided in its service portfolio during the validity period of the SBO Licence. For example, if a SBO licensee offers both Class 1 and Class 2 services, the fixed component fee is \$90,000 per year.

24. The fixed component fee of the SBO Licence for Class 1 services is higher than that of non-Class 1 services. As Class 1 services have all the attributes of conventional telephone services and are subject to more licensing conditions than other types of services under the SBO Licence, for example, number porting from one operator to another, OFTA's resources deployed to the SBO Licence for Class 1 services are substantially higher.

Variable Component Fee

25. The variable component fee is based on the number of numbers assigned by the TA to the SBO licensee on a per block basis. The size of per numbering block to be assigned to the SBO licensee is subject to further consultation with the Telecommunications Numbering Advisory Committee. The variable fee is equivalent to \$7 per telephone number assigned. This proposal can serve the purpose of encouraging the SBO licensee to make more efficient use of the scarce numbering resources assigned by the TA to the licensee.

TIMING

26. The TA invites any interested parties to comment on his proposal. The consultation will last until 3 October 2005. After consideration of the comments received, the TA will finalise the terms and conditions as well as the fee structure of the SBO Licence.

INVITATION OF COMMENTS

27. Views and comments on this consultation paper should reach the Office of the Telecommunications Authority on or before 3 October 2005. Any person who submits the views and comments should be aware that the TA may publish all or any part of the views and comments received and disclose the identity of the source in such manner as the TA see fits. Any part of the submission which is considered commercially confidential should be marked. The TA would take such markings into account in making his decision as to whether or not to disclose such information. Submissions should be addressed to

Office of the Telecommunications Authority
29/F Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong
Attention: Desmond Young, Regulatory Affairs Manager
Fax: 2803 5112
E-mail: sbolicence@ofta.gov.hk

An electronic copy of the submission should be provided by e-mail to the address indicated above.

Office of the Telecommunications Authority
22 August 2005

Licence No. xxx

**TELECOMMUNICATIONS ORDINANCE
(Chapter 106)**

SERVICES-BASED OPERATOR LICENCE

DATE OF ISSUE: [Date]

[Name of Licensee]
.....

of [Address]
.....

(the “licensee”) is licensed, subject to the following conditions set out in this licence-

- (a) to provide a public telecommunications service (the “service”), the scope of which is described in Schedule 1; and
- (b) to establish and maintain a telecommunications system (the “system”) described in Schedule 2 to provide the service.

GENERAL CONDITIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 In this licence, except as hereinafter provided or unless the context otherwise requires, words or expressions shall have the meanings assigned to them in the Telecommunications Ordinance (Cap. 106) (the “Ordinance”) and, as the case may be, the Interpretation and General Clauses Ordinance (Cap. 1). For the purposes of interpreting this licence, headings and titles shall be disregarded.
- 1.2 This licence shall not be construed as granting an exclusive right to the licensee to provide the service.
- 1.3 This licence replaces any licence or any exemption from licensing, however described, which the Authority may have granted to the licensee for providing the service.
- 1.4 The grant of this licence does not authorize the licensee to do anything which infringes any exclusive licence granted under the Ordinance or any exclusive right to operate and provide telecommunications networks, systems, installations or services granted under any other Ordinance.

2. TRANSFER

- 2.1 The licensee may, only with the prior written consent of the Authority and subject to such reasonable conditions as the Authority thinks fit, transfer this licence or any permission, right or benefit under this licence. In giving his consent the Authority will have regard to such matters as he thinks fit including but not limited to the effect which the transfer will have on market structure and the financial and technical competence and viability of the transferee.

3. INTERNATIONAL CONVENTIONS

- 3.1 The licensee shall at all times perform and observe the requirements of the Constitution and Convention of the International Telecommunication Union and the regulations and recommendations annexed to it, as are stated to be applicable to Hong Kong, and any other international convention, agreement, protocol, understanding or the like to the extent that the instruments described in this General Condition 3.1 impose obligations on Hong Kong of which the Authority gives notice to the licensee, except to the extent that the Authority may in writing exempt the licensee from such compliance.
- 3.2 Where the Government has been consulted about or is involved in the preparation or negotiation of an international convention, agreement, protocol or understanding or the like or amendments thereto which are on the subject-matter of telecommunications or which relate to another subject-matter but which the Government anticipates could have a material impact on the provision of the service under this licence, the Government will, where practicable, provide the licensee with a reasonable opportunity to make a submission stating its views on the matter.

4. COMPLIANCE GENERALLY

- 4.1 The 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 his opinion are suitable for the purpose of providing practical guidance on any particular aspect of any conditions of this licence.

5. PROVISION OF SERVICE

- 5.1 The licensee shall, subject to Schedule 1 to this licence and any special conditions of this licence relating to the provision of the service, at all times during the validity period of this licence operate, maintain and provide a good, efficient and continuous service in a manner

satisfactory to the Authority. The Authority may, on application in writing by the licensee, exempt a part or parts of the service from the requirement of continuous provision.

6. CONFIDENTIALITY OF CUSTOMER INFORMATION

- 6.1 The 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.
- 6.2 The licensee shall not use information provided by its customers or obtained in the course of provision of service to its customers other than for and in relation to the provision by the licensee of the service.

7. CONTROL OF INTERFERENCE AND OBSTRUCTION

- 7.1 The licensee shall take reasonable measures to install, maintain and operate the service and the system in such a manner as not to cause any harmful interference or physical obstruction to any lawful telecommunications service, or cause any physical obstruction to the installation, maintenance, operation, adjustment, repair, alteration, removal or replacement of the facilities of any lawful telecommunications or utility service provider.
- 7.2 The licensee shall take reasonable measures to ensure that the customers of the service do not cause harmful interference to lawful telecommunications services or utility services through use of the service.
- 7.3 The Authority may give such reasonable directions as he thinks fit to avoid harmful interference or physical obstruction referred to in General Condition 7.1. The licensee shall comply with the directions.

8. COMPLIANCE

- 8.1 If the licensee employs any person under contract for the purpose of the service, or for the installation, maintenance or operation of the system (a “contractor”), the licensee shall continue to be responsible for compliance with the conditions of this licence, and the performance thereof, by any contractor.

9. SAFETY

- 9.1 The licensee shall take proper and adequate safety measures for the safeguarding of life and property in connection with all installations, equipment and apparatus operated or used, including safeguarding against exposure to any electrical or radiation hazard emanating from the installations, equipment or apparatus operated or used under this licence.
- 9.2 The licensee shall comply with the safety standards and specifications as may from time to time be prescribed by the Authority and any directions of the Authority in relation to any safety matter.

10. PROHIBITION OF CLAIMS AGAINST GOVERNMENT

- 10.1 The licensee shall have no claim against the Government in tort or in contract in respect of any disturbance or interruption to any part of the system due to works carried out by or on behalf of the Government which result in disturbance to the system.

11. INDEMNITY

- 11.1 The licensee shall indemnify the Government against any losses, claims, charges, expenses, actions, damages or demands which the Government incurs or which may be made against the Government as a result of or in relation to the activities of the licensee or any employee, agent or contractor of the licensee in relation to the provision of the

service or the installation, maintenance and operation of the system.

12. CONTRAVENTION BEYOND LICENSEE'S CONTROL

- 12.1 The licensee shall not be liable for any breach of this licence where it is able to demonstrate, to the reasonable satisfaction of the Authority, that the breach was caused by circumstances beyond its control and that it has taken all reasonable steps open to it to rectify that breach.
- 12.2 Where the circumstances referred to in General Condition 12.1 are such that there is an outage or interruption in the service affecting a significant number of the licensee's customers for a period of more than 7 days, the licensee shall provide the Authority with a full report in writing detailing the reasons for the breach and indicating when, or if, it will be able to continue to provide the service.
- 12.3 If the Authority is, after considering a report provided under General Condition 12.2, of the reasonable belief that the licensee would be able to provide the service within a reasonable period of time despite the circumstances outlined in that report, the Authority may direct that the licensee recommence the service within such reasonable period as the Authority may in writing direct. The licensee shall comply with such direction.
- 12.4 For the avoidance of doubt, General Condition 12.1 shall apply to any of the licence conditions and the Authority may at his discretion, and on such conditions as he thinks fit, extend any time period within which the obligations of the licensee under any of the licence conditions may be met.
- 12.5 In exercising his discretion under Special Condition 12.4 with respect to any of the licence conditions, the Authority shall take into account including, without limitation, whether circumstances are such that it would be unreasonable to require compliance by the licensee with the relevant licence condition.

13. PERIOD OF VALIDITY

- 13.1 This licence shall be valid for such period as determined and published by the Authority to be applicable to services-based operator licence at the time of the issue of this licence.

14. LICENCE FEES

- 14.1 The licensee shall pay the fees applicable to services-based operator licence as may from time to time be determined and published by the Authority.

15. PUBLICATION OF LICENCE

- 15.1 The licensee, or the Authority, may at their discretion make the terms and conditions of this licence, including any specific conditions, publicly available in any manner they think fit.

SPECIAL CONDITIONS

1. PROVISION OF SERVICE

- 1.1 The licensee shall, subject to Schedule 1 and any special conditions of this licence relating to the provision of the service, provide the service on its published terms and conditions and at the tariff published in accordance with Special Condition 4 (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.
- 1.2 Subject to Schedule 1 and any special conditions relating to the provision of the service, the licensee shall comply with a customer request for the service as tariffed by the licensee in accordance with Special Condition 4 where the service reasonably could be provided by the licensee to the customer.

2. NUMBERING PLAN

- 2.1 The licensee shall conform to a numbering plan made or approved by the Authority and any directions given by the Authority in respect of the numbering plan.
- 2.2 The licensee shall at the request of the Authority or otherwise consult the Authority about the arrangements for the allocation and reallocation of numbers and codes within the numbering plan.
- 2.3 Where requested by the Authority, the licensee shall prepare and furnish to the Authority proposals for developing, adding to or replacing the numbering plan relating to the service.

3. REQUIREMENT TO FURNISH INFORMATION TO THE AUTHORITY

- 3.1 The licensee shall furnish to the Authority, in such manner and at such times as the Authority may request in writing, such information related to the business run by the licensee under this licence, including financial, technical and statistical information, accounts and other records, as the Authority may reasonably require in order to perform his functions under the Ordinance and this licence.
- 3.2 Subject to Special Condition 3.3, the Authority may use and disclose information to such person as the Authority thinks fit.
- 3.3 Where the Authority proposes to disclose information obtained and the Authority considers that the disclosure would result in the release of information concerning the business or commercial or financial affairs of a licensee which disclosure would or could reasonably be expected to adversely affect the licensee's lawful business or commercial or financial affairs, the Authority will give the licensee a reasonable opportunity to make representations on the proposed disclosure before the Authority makes a final decision whether to disclose the information.

4. TARIFFS

- 4.1 The licensee shall publish and charge no more than the tariffs for the service operated under this licence. The tariffs shall include the relevant terms and conditions for the provision of the service.
- 4.2 Publication shall be effected by –
- (a) placing a copy in a publicly accessible part of the principal business place and other business premises of the licensee as advised by the Authority; and
 - (b) sending a copy to any person who may request it. The licensee shall not levy a charge greater than that is necessary to cover reasonable costs involved.

5. METERING ACCURACY

- 5.1 The licensee shall take all reasonable steps to ensure that any metering equipment used in connection with the service is accurate and reliable.
- 5.2 Upon the written request of the Authority, the licensee shall conduct tests on metering equipment to assess its accuracy, reliability and conformity to the technical standards, if any, specified by the Authority. The 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.
- 5.3 The licensee shall keep such records of any metering equipment in such form as may be specified by the Authority and shall supply such records to the Authority on the written request of the Authority.

6. UNIVERSAL SERVICE CONTRIBUTION

- 6.1 Where directed by the Authority, the licensee shall pay to PCCW-HKT Telephone Limited, or other licensees, as the case may be, its relevant share of the universal service contribution to assist PCCW-HKT Telephone Limited, or those licensees, to meet their universal service obligations, if any.
- 6.2 Any universal service contribution shall be subject to annual review by the Authority as to description and quantum and the licensee shall pay its relevant share of such universal service contribution as the Authority may direct following a review. On the completion of an annual review, the Authority will supply the licensee such information as the Authority is reasonably able to supply, and subject to any duty of confidentiality, as to the basis on which the universal service contribution is calculated.
- 6.3 For the purpose of this Special Condition 6, the following definitions shall apply:
 - (a) Basic Service means, subject to the Ordinance, the provision of

- (i) a public switched telephone service including the service connection, continued provision of connectivity, provision of a dedicated telephone number, an appropriate directory listing (except where the customer otherwise directs), a standard telephone handset without switching capacity (except where the customer elects to provide the handset), standard billing and collection services and relevant ancillary services and facilities necessarily utilized by the licensee;
- (ii) a reasonable number of public payphones including payphones located within publicly or privately owned facilities to which the public have access, whether on a 24 hours basis or restricted to certain hours or days of the week;
- (iii) a reasonable number of public payphones, designed for ease of effective use by the hearing impaired;
- (iv) a reasonable number of public payphones, designed for access by the physically disabled, including but not limited to those persons using wheelchairs;
- (v) operator provided directory enquiries, fault reporting, service difficulty and connection services;
- (vi) a tropical cyclone warning service;
- (vii) a thunderstorm and heavy rain warning service;
- (viii) a flood warning service;
- (ix) access to a number or numbers for emergency services; and
- (x) such other services, subject to the Ordinance, as the

Authority may include.

- (b) Universal service contribution is that sum calculated in accordance with a formula adopted annually by the Authority, to ensure that PCCW-HKT Telephone Limited, where it has a universal service obligation, and any other licensee with such an obligation, as the case may be, receives a fair contribution from other licensees towards the costs, net of attributable revenue, of serving customers with Basic Service whom would otherwise not be served because it is not economically viable to do so but who are required to be served under the universal service obligation.
- (c) Universal service obligation is the obligation to provide, maintain and operate the relevant network in such manner as to ensure that a good, efficient and continuous Basic Service is reasonably available, subject to the Ordinance, to all persons in Hong Kong and to provide that Basic Service in such manner.

7. INTERCONNECTION CHARGES AND LOCAL ACCESS CHARGE

- 7.1 For the delivery of outgoing and incoming external telecommunications traffic between the facilities of the licensee and the users of the service in Hong Kong, the licensee shall pay such interconnection charges and local access charges as may be determined by the Authority from time to time under section 36A of the Ordinance and the level and to the fixed carriers, fixed telecommunications network services licensees, mobile carriers or public radiocommunications service licensee specified by the Authority in the determination.
- 7.2 The licensee shall comply with any code of practice concerning technical configuration and operation of the service that may be issued by the Authority from time to time after consultation with the licensees for external telecommunications services, fixed carriers, fixed telecommunications network services licensees, mobile carriers, public radiocommunications service licensees, or services-based operator licensees for the purpose of implementing the terms under

the determination referred to in Special Condition 7.1 for interconnection charges and local access charges and the prevention of non-compliance with the determination.

8. CALLING LINE IDENTIFICATION AND RELATED SERVICES

8.1 The licensee shall conform to any regulatory guide, code of practice or direction issued by the Authority in respect of calling line identification and other calling line identification related services.

8.2 Without limiting the generality of Special Condition 8.1, the regulatory guide, code of practice or direction issued under that Special Condition may require the licensee to validate the calling line identification against the authenticated customer in order to prevent fraud and spam.

9. PROVISION OF INFORMATION TO CUSTOMERS FOR PREPAID TELECOMMUNICATIONS SERVICES

9.1 Without prejudice to the other terms and conditions of this licence, where the licensee receives prepayment for the telecommunications services offered to customers, the licensee shall provide or make available the following information to the customers when such services are offered:

- (a) Name of the licensee;
- (b) Licence number of the licensee under this licence;
- (c) Customer service hotline number(s);
- (d) Where applicable, the access code(s) or number(s) (including any access password) used for obtaining prepaid telecommunications services;

- (e) Instructions on how to access the prepaid telecommunications services;
- (f) Tariffs under which the prepaid telecommunications services are offered;
- (g) Expiry date or validity period of the prepaid telecommunications services; and
- (h) Expiry date or validity period of the prepaid telecommunications services after replenishment of the prepayment.

9.2 For the purpose of Special Condition 9.1,

“Deposit” means a payment which is:

- (a) made to the licensee by a customer in the form of security;
- (b) applied to settle outstanding charges only when the customer defaults in payment; and
- (c) refundable when the customer terminates the service.

“Prepayment” means a payment that is made to the licensee in advance of the delivery of the telecommunications services concerned. For the avoidance of doubt, Deposit is not a Prepayment and “prepaid” shall be construed accordingly.

10. INSPECTION

10.1 On receiving reasonable prior written notice from the Authority, the licensee shall allow the Authority and any person authorized in writing by him for the Authority's own purposes to enter and inspect the offices, places and premises in Hong Kong where the licensee has installed telecommunications equipment, or used for the provision of the service and if required to make copies of records, documents and accounts relating to the licensee's business for the purpose of enabling

the Authority to perform his functions under the Ordinance and ensure the licensee's compliance with the general conditions and special conditions of this licence and the Ordinance.

- 10.2 The licensee shall provide and maintain, at no less than the reasonable technical standards set by the Authority, facilities to enable the Authority to inspect, test, read or measure, as the case may be, any telecommunications installations, equipment (including, but not limited to testing instruments) or premises used or to be used for the provision of the service, and may at its option, and shall on the written request of the Authority, and subject to the provision by the Authority of reasonable prior written notice, provide a representative to be present at any such inspection, testing, reading or measurement.
- 10.3 On giving reasonable prior written notice, the Authority may direct the licensee to demonstrate that the service complies with the technical requirements imposed by the Ordinance and Regulations or any other instruments which may be issued by the Authority under the Ordinance and the licensee shall comply with such directions.
- 10.4 For the purpose of Special Condition 10.2 and 10.3, the licensee shall provide adequate testing instruments and operating staff.

11. TELECOMMUNICATIONS NUMBER TRANSLATION DEVICE

- 11.1 The licensee shall comply with any directions given in writing by the Authority in relation to the use of a telecommunications number translation device for access to the service.
- 11.2 The licensee shall bear all the costs and financial losses incurred due to full compliance with the directions mentioned in Special Condition 11.1.
- 11.3 In this condition, "telecommunications number translation device" shall mean a device which translates a number input via the normal dialling pad into another number for access to specified destinations or

services, but does not include a device which generates such a number upon input through a special function key or a combination of special function keys and the normal dialling pad. The “normal dialling pad” means the dialling pad comprising the buttons for digits 0 to 9, and for “*” and “#”.

12. UNSOLICITED ADVERTISING

- 12.1 The licensee shall not use the service, and shall endeavour to prevent the service from being used by any user, for the transmission of messages or communications comprised in any unsolicited advertising or unsolicited promotional information and comply with all codes of practice which may be issued by the Authority from time to time concerning unsolicited advertising or unsolicited promotional information.

13. COMPLIANCE WITH CODES OF PRACTICE

- 13.1 Without limiting or affecting in any way the licensee’s obligations under any other licence condition, the 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 licensee in respect of:

- (a) the 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

- 13.2 Before issuing any code of practice or guideline referred to in Special Condition 13.1, the Authority shall carry out such consultation as is reasonable in all the circumstances of the case.

SPECIAL CONDITIONS FOR CLASS 1 AND CLASS 2 SERVICES

14. APPLICABILITY OF CERTAIN SPECIAL CONDITIONS FOR CLASS 1 SERVICE

14.1 Where the licensee provides a “Class 1 service” defined in Special Condition 14.2, Special Conditions 16 to 21 shall apply.

14.2 For the purpose of this licence, “Class 1 service” means an internal telecommunications service

- (a) for carrying real-time voice communications which may integrate with other types of communications; and
- (b) not declared by the licensee (and where appropriate its agents, contractors and resellers) in all promoting, marketing or advertising materials concerning such 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).

15. APPLICABILITY OF CERTAIN SPECIAL CONDITIONS FOR CLASS 2 SERVICE

15.1 Where the licensee provides a “Class 2 service” defined in Special Condition 15.2, Special Conditions 16 to 19 shall apply.

15.2 For the purpose of this licence, “Class 2 service” means an internal telecommunications service

- (a) for carrying real-time voice communications which may integrate with other types of communications; and
- (b) declared by the licensee (and where appropriate its agents, contractors and resellers) in all promoting, marketing or advertising materials concerning such 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).

16. REQUIREMENTS FOR INTERCONNECTION

- 16.1 Where the customers to the service are assigned with numbers from the numbering plan of Hong Kong as stipulated in Special Condition 2.1, the licensee shall interconnect the service and the system with other networks and services licensed under the Ordinance in such a manner that enables the customers to the service to make and receive calls to and from all other users assigned with numbers from the said numbering plan.

17. NUMBER PORTABILITY

- 17.1 The licensee shall, in such manner as the Authority may direct, facilitate the portability of numbers assigned to any customer of any services-based operator licensee, fixed carrier licensee or fixed telecommunications network service licensee, so that any number so assigned may be used by that customer should it cease to be a customer of any such entity and become a customer of any other services-based operator licensee, fixed carrier licensee or fixed telecommunications network services licensee, as the case may be.
- 17.2 The licensee shall, in such manner as the Authority may direct, facilitate the portability of numbers assigned to any customer of any public radiocommunications services licensed under the public radiocommunications service licence or mobile carrier licence granted under the Ordinance so that any number so assigned may be used by that customer should it cease to be a customer of any such entity and become a customer of any public radiocommunications services.
- 17.3 The licensee shall make commercial arrangements with one or more fixed carrier or fixed telecommunications network services licensees to fulfil the obligations of facilitating the portability of numbers under Special Condition 17.1 and 17.2 and conform to any code of practice issued by the Authority in respect of procedures for handling number

portability.

18. EMERGENCY CALL SERVICE

18.1 Where the customers to the service are assigned with numbers from the numbering plan of Hong Kong as stipulated in Special Condition 2.1, the licensee shall provide a public emergency call service by means of which any member of the public may, at any time and without incurring any charge, by means of compatible apparatus connected to the system, communicate as quickly as practicable with the Hong Kong Police Emergency Centre or other entity as directed by the Authority to report an emergency.

18.2 Where the licensee provides a public emergency call service pursuant to Special Condition 18.1 and the location of the customer making the call is potentially nomadic, the licensee shall in such manner as may be specified by the Authority maintain the most up-to-date location information of customers and provide the relevant information relating to the location of a customer calling the emergency service described in Special Condition 18.1 for the sole purpose of responding to that call and (as appropriate) identification that the location of the customer making the call is potentially nomadic. The licensee shall provide a mechanism whereby the customers can update their location information and remind the customers to update their location information whenever they change the location from which the service is used.

19. BACKUP POWER SUPPLY

19.1 Unless there is backup power supply available in such manner as may be specified by the Authority to maintain continuity of the service 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 licensee shall not provide the service to users whose "lifeline devices" are connected to the service.

19.2 In this Special Condition, 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.

20. DIRECTORY INFORMATION AND DIRECTORY INFORMATION SERVICE

20.1 For the purposes of this Special Condition –

(a) “directory information” means information obtained by the licensee in the course of the provision of Class 1 service under this licence concerning or relating to the name, address, business and telephone numbers of each of its customers; and

(b) “raw directory information” means the licensee’s directory information held in a basic format relating to all of its customers of Class 1 service other than its customers who request that directory information about them not be disclosed.

20.2 This Special Condition applies only in respect of standard printed directories and other directory databases and services which include all of the names of a licensee’s customers listed in alphabetical order and does not apply to classified directories where customers are listed by business or trade category or to other business or specialised directories.

20.3 Subject to compliance with the Personal Data (Privacy) Ordinance (Cap. 486), General Condition 6 and any applicable law, the licensee shall

(a) unless otherwise agreed by the Authority, publish or arrange at least biennially for the publication of directory information in a printed or other form approved by the Authority, relating to all its customers of Class 1 service, other than its customers who request not to be included in a directory to be published (“the

printed directory”); and

- (b) establish, maintain and operate, or arrange for the establishment, maintenance or operation of a telecommunications service whereby customers of Class 1 service may, upon request, be provided with directory information other than that of its customers of Class 1 service who request the information not to be disclosed (“the telephonic directory service”).

20.4 The printed directory and the telephonic directory service provided under Special Condition 20.3 shall be made available free of charge to all of the licensee’s customers of Class 1 service and shall be provided in a manner satisfactory to the Authority.

20.5 The licensee shall make commercial arrangements with one or more fixed carrier or fixed telecommunications network services licensees to fulfil the obligations of providing the printed directory and the telephonic directory service under this Special Condition.

20.6 The licensee’s printed directory shall be a unified printed directory and the licensee’s telephonic directory service shall be a unified telephonic directory service and shall utilise a unified directory database, containing directory information on all customers of Class 1 service provided by services-based operator licensees, and directory information on all customers required to be included into a unified printed directory and provided under a unified telephonic directory service by fixed carrier or fixed telecommunications network services licensees pursuant to their relevant licence conditions, except for those customers who request that directory information about them not be disclosed. The licensee shall provide, and regularly update, raw directory information about its customers of Class 1 service to the fixed carrier or fixed telecommunications network services licensees with whom the licensee shall make commercial arrangements pursuant to Special Condition 20.5

21. CUSTOMER CHARTER

21.1 Unless a waiver in writing is granted by the Authority, the licensee shall prepare a customer charter which sets out the minimum standards of service to the licensee's customers and gives guidance to the employees of the licensee in their relations and dealings with customers.

SCHEDULE 1

SCOPE OF THE SERVICE

1. Subject to General Condition 3 and Clause 3 of this Schedule 1, all internal and external telecommunication services, other than telecommunication services the subject of an exclusive licence issued under the Ordinance, a Mobile Carrier Licence, a Mobile Carrier (Restricted) Licence, a Public Radiocommunications Service Licence, a Radio Paging System Licence, a Public Radiocommunications Service Licence (For Services Other Than Land Mobile Services), a Public Non-Exclusive Telecommunications Service Licence for the provision of Mobile Virtual Network Operators Services, a Public Non-Exclusive Telecommunications Service Licence for the provision of Public Radio Communications Relay Service, a service subject to licensing under any other Ordinance, or a satellite broadcasting service under a Satellite Television Uplink and Downlink Licence.

2. For the purpose of this licence,
 - an “internal” telecommunication service means a service for communications between points within the Hong Kong Special Administrative Region; and

 - an “external” telecommunication service means a service for communications
 - (a) between one or more points in the Hong Kong Special Administrative Region and one or more points outside the Hong Kong Special Administrative Region; and

 - (b) between two or more points outside the Hong Kong Special Administrative Region but routed in transit via the Hong Kong Special Administrative Region.

3. Nothing in this licence authorises the licensee to establish or maintain any means of telecommunications, including but not limited to physical facilities or telecommunications installations, which cross public streets or unleased Government lands.

SCHEDULE 2
DESCRIPTION OF SYSTEM

All such telecommunications installations established, maintained, possessed or used whether owned by the licensee, leased, or otherwise acquired by the licensee for the purpose of providing the public telecommunications services specified in Schedule 1.

()
for Telecommunications Authority

Date: [Date]

TELECOMMUNICATIONS ORDINANCE
(Chapter 106)

SERVICES-BASED OPERATOR LICENCE

DIRECTION
(Special Condition 17)

To : [] (the “Licensee”)
Date : []

1. Pursuant to Special Condition 17 of the Services-Based Operator Licence granted to [] on [], the Telecommunications Authority hereby directs the Licensee, until further notice is given in writing,

- (a) to facilitate the portability of numbers from the numbering plan of Hong Kong as stipulated in Special Condition 2.1 for customers of internal telecommunications services for carrying real-time voice communications which may integrate with other types of communications licensed under services-based operator licences, or fixed telecommunications network services licensed under the fixed telecommunications network services licences or fixed carrier licences in Hong Kong (“Operator Number Portability”) so that HKTA 2102 entitled “Procedures for Handling Number Porting by Database Solution” issued by the Telecommunications Authority and as revised from time to time by the Telecommunications Authority can be fully complied with on and after the launch of the service;

- (b) to facilitate the portability of numbers from the numbering plan of Hong Kong as stipulated in Special Condition 2.1 for customers of mobile carrier licences, public mobile radiotelephone services and personal communications services licensed under public radiocommunications service licences or mobile virtual network operators services licensed under public non-exclusive telecommunications service licences in Hong Kong (“Mobile Number Portability”) so that the Code of Practice entitled “Code of Practice related to the Implementation of Mobile Number Portability” issued by the Telecommunications Authority and as revised from time to time by the Telecommunications Authority can be fully complied with on and after the launch of the service.

2. Notwithstanding paragraph 1(a), where the Licensee provides a “Class 1 service”, nothing in this Direction requires the Licensee:

- (a) to enable the number assigned by the Licensee to the customer, to be used by that customer for a “Class 2 service” provided by any other “Class 2 service” provider should that customer cease to be a customer of the Licensee; or
- (b) to enable the number assigned to a customer of any other “Class 2 service” provider, to be used by that customer for the service provided by the Licensee.

3. Notwithstanding paragraph 1(a), where the Licensee provides a “Class 2 service”, nothing in this Direction requires the Licensee:

- (a) to enable the number assigned by the Licensee to the customer for such service, to be used by that customer for a service provided by any other fixed carrier or fixed telecommunications network services licensee, or services-based operator licensee should that customer cease to be a customer of such service; or

- (b) to enable the number assigned to a customer of any other fixed carrier or fixed telecommunications networks service licensee, or services-based operator licensee, to be used by that customer for such service.

(M. H. AU)
Telecommunications Authority

SBO LICENCE VALIDITY PERIOD

1. The SBO Licence shall be valid for one year and shall expire on the first day of the month next following the month in which it was issued and in the year next following the year in which it was issued. Subject to the discretion of the Authority, the SBO Licence may be renewed for a period of one year at a time.

SBO LICENCE FEE

1. A fee of
 - (a) \$90,000 where Class 1 services¹ are provided by the licensee during the validity period of the SBO Licence; or
 - (b) \$25,000 where Class 1 services are not provided by the licensee during the validity period of the SBO Licenceshall be payable on the issue or renewal of the SBO Licence.
2. A fee of \$7 for each number of telephone numbers in the numbering blocks assigned by the TA to the SBO licensee shall be payable on the issue or renewal of the SBO Licence.

¹ Class 1 services have the meanings prescribed in Special Condition 14 of the SBO Licence.

ORIGINS OF THE SBO LICENCE CONDITIONS

SBO LICENCE CONDITIONS		ORIGINS
GCs for all Types of Services		
GC1	Definitions and Interpretation	GC1 of FC licence
GC2	Transfer	GC2 of FC licence
GC3	International Conventions	GC3 of FC licence
GC4	Compliance Generally	GC4 of FC licence and SC1 of PNETS/ETS licence
GC5	Provision of Service	GC5 of FC licence
GC6	Confidentiality of Customer Information	GC7 of FC licence
GC7	Control of Interference and Obstruction	GC9 of FC licence
GC8	Compliance	GC11 of FC licence
GC9	Safety	GC14 of FC licence
GC10	Prohibition of Claims Against Government	GC15 of FC licence
GC11	Indemnity	GC16 of FC licence
GC12	Contravention Beyond Licensee's Control	GC17 of SC26 of FC licence
GC13	Period of Validity	Section 7(6) of the Telecommunications Ordinance
GC14	Licence Fees	Section 7(6) of the Telecommunications Ordinance
GC15	Publication of Licence	GC18 of FC licence
SCs for all Types of Services		
SC1	Provision of Service	SC2 of FC licence
SC2	Numbering Plan	SC4 of FC licence
SC3	Requirement to Furnish Information to the Authority	SC6 of FC licence
SC4	Tariffs	SC7 of FC licence
SC5	Metering Accuracy	SC11 of FC licence
SC6	Universal Service Contribution	SC25 of FC licence and SC24 of PNETS/ETS licence
SC7	Interconnection Charges and Local Access Charges	SC22 of PNETS/ETS licence
SC8	Calling Line Identification	Paragraph 45 of the TA

	and Related Services	Statement
SC9	Provision of Information to Customers for Prepaid Telecommunications Services	Paragraphs 29 and 42 of the consultation paper entitled “Partial Commencement of Section 8(1)(aa) of the Telecommunications Ordinance and Creation of a Class Licence to Regulate Resale of Telecommunications Services on a Prepaid Basis” issued on 15 October 2004
SC10	Inspection	SC4 and SC6 of PNETS/ETS licence
SC11	Telecommunications Numbering Translation Device	SC14 of PNETS/ETS licence
SC12	Unsolicited Advertising	SC11 of PNETS/ETS licence and SC22 of mobile carrier licence
SC13	Compliance with Codes of Practice	SC1 of mobile carrier licence to be issued to 2G mobile operators
SCs for Class 1 and Class 2 Services		
SC14	Applicability of Certain Special Conditions for Class 1 Service	n/a
SC15	Applicability of Certain Special Conditions for Class 2 Service	n/a
SC16	Requirements for Interconnection	Paragraph 42 of the TA Statement
SC17	Number Portability	SC4 of FC licence and paragraphs 40 and 41 of the TA Statement
SC18	Emergency Call Service	SC13 of FC licence and paragraphs 60 – 66 of the TA Statement
SC19	Backup Power Supply	Paragraphs 67 – 73 of the TA Statement
SC20	Directory Information and Directory Information Service	SC12 of FC licence and paragraphs 56 – 59 of the TA Statement
SC21	Customer Charter	GC 6 of FC licence and paragraph 74 of the TA Statement