

**BACKUP POWER SUPPLY FOR
LOCAL FIXED TELEPHONY SERVICE
DURING FAILURE OF PUBLIC ELECTRICITY SUPPLY**

**Statement
of the Telecommunications Authority**

19 April 2006

Introduction

On 31 October 2005, the Office of the Telecommunications Authority (“OFTA”) initiated an industry consultation (“the Consultation”) to invite views and comments on a proposal to revise the “Code of Practice for the Provision of Backup Power Supply to Network Equipment of Fixed Telecommunications Network Services” (“CoP”), which the Telecommunications Authority (“TA”) issued on 26 September 2003. The revision was considered necessary in view of the implementation experience which OFTA and the industry have gained since 2003 and in view of the recent introduction of a two-class framework (Class 1 and Class 2) to regulate fixed telephony services.

2. By the deadline for comments on 28 November 2005, OFTA received a total of 3 submissions. The submissions may be downloaded from OFTA’s website at www.ofta.gov.hk. The respondents are:

- Hong Kong Broadband Network Limited (“HKBN”)
- PCCW-HKT Telephone Limited (“PCCW”)
- Wharf T&T Limited (“WT&T”)

3. Having considered the submitted views and taking into account the decisions made by him in his Statement on Services-Based Operator (SBO) Licence issued on 6 January 2006 (the “SBO Statement”), the TA sets out in this Statement his views and decisions on the issues raised in the Consultation.

Proposals on the revision of the Code of Practice

Proposal (a) of the Consultation

Operators to be exempted from provision of backup power in case the physical environment renders the provision of backup power hazardous or technically not practical, provided that customers are duly informed

Industry Submissions

4. HKBN welcomes TA's proposal to tackle the problem of physical constraints by duly informing and alerting existing and potential customers.

5. PCCW considers the TA's proposal as appropriate and reasonable but suggests that service without backup power cannot be named or marketed as "basic telephone line service", "fixed telephone service" or "Class 1 IP telephony service" and the operators should cease to provide such service as "telephone service". PCCW considers that it is the common attribute of "basic telephone line service" (the term used in the original CoP) that it is able to function without mains power for at least one hour.

TA's Responses and Considerations

6. As marketing activities of the licensees are already subject to the provisions in the Telecommunications Ordinance and the licences, including in particular section 7M which prohibits misleading or deceptive conduct, the TA does not consider it necessary to impose further obligation in the CoP in relation to marketing or naming of service. The revised CoP has included enhanced requirements to inform customers adequately of the limitations of services supplied.

7. The CoP is duly revised to incorporate Proposal (a) as it has received general industry support.

Proposal (b) of the Consultation

Licensees to ensure lifeline users are provided with backup power

Industry Submissions

8. PCCW agrees that lifeline service must be provided with backup power and suggests that lifeline devices should be provided and operated by lifeline service provider rather than by a telecommunications operator, as the operator cannot guarantee backup power is provided to lifeline devices.

TA's Responses and Considerations

9. For lifeline devices, the TA understands that it is already the current practice that they are supplied by third parties and these devices are equipped with backup power. The TA agrees that telecommunications licensees, in providing service to customers who are lifeline device users with the device provided by a third party, are only required to make available backup power supply to the relevant telecommunications equipment, which includes the network equipment as well as the network termination equipment on the customer premises supplied by the licensees. They are not required to provide backup power to the lifeline devices which are not supplied by the licensees. The CoP is duly revised to incorporate Proposal (b).

Proposal (c) of the Consultation

Scope of CoP to be extended to IP telephony service providers

Industry Submissions

10. HKBN supports TA's proposal to extend the coverage of the CoP and requests the TA to clarify the kind of IP telephony service to be covered. PCCW suggests that any service resembles the definition and is marketed as fixed telephone line service should observe the CoP. Otherwise, it should not be marketed as "basic telephone line service".

TA's Responses and Considerations

11. Licensees have to observe the provisions in the Telecommunications Ordinance and the licences regulating marketing activities, including section 7M. The amended CoP has included requirements to inform customers adequately of the limitations of services supplied. Therefore it is not

necessary for the TA to impose additional restrictions on the marketing or naming of services. As the proposal receives general support, the CoP is duly amended to make it clear that it applies to all SBO licensees as well, whether they provide Class 1 or Class 2 service.

Specific comments on draft revised CoP

(i) Definition of “fixed telecommunications licensee”

Industry Submissions

12. PCCW suggests “IP telephony service providers” be replaced with “SBO licensee” and to append “irrespective of which technology is being or to be deployed for provision of such fixed single-line telephone service”.

TA’s Responses and Considerations

13. As the licensing regime for the SBO Licence has been finalized, the TA agrees with PCCW’s suggestion replacing “IP telephony service providers” with “SBO licensees”. The suggestion to append the definition is not necessary as reference has not been made in any of the relevant licences to the use of any specific technology.

(ii) Provision of backup power by Fixed Telecommunications Network Services (FTNS) and Fixed Carrier (FC) Licensees

Industry Submissions

14. WT&T is of the view that there are requirements for FTNS/FC licensees to have backup power but no similar requirement for IP telephony service providers. This will create a non-level playing field for the industry players.

TA’s Responses and Considerations

15. The revised CoP shall apply equally to FTNS/FC licensees and SBO licensees. This addresses the level playing field issue raised by WT&T.

(iii) Provision of backup power by IP Telephony Service Providers

Industry Submissions

16. HKBN agrees to TA's proposal. WT&T suggests adding a paragraph that both Class 1 and 2 licensees have to make sure that the network equipment of their facility providers are also supported by backup power or to duly inform their customers the power outage problem and limitation.

TA's Responses and Considerations

17. WT&T's suggestion is agreed. The CoP is duly revised to reflect the point.

(iv) Exemption because of physical constraints etc.

Industry Submissions

18. HKBN welcomes TA's approach but suggests the TA to expand the meaning of "hazardous", "technically not practicable" or "reasons beyond the control of the fixed telecommunications licensee" and to provide a list of examples.

19. PCCW does not agree to the TA for establishing an explicit escape path for operators to exempt from the requirement to provide backup power supply in the provision of "basic telephone line service". Operators who are not able to observe the CoP should not continue to provide "basic telephone line service" but to provide "IP voice service".

TA's Responses and Considerations

20. The TA considers it is a fact of life that there exist limitations and physical constraints in certain buildings and hence there is a need to adopt a more pragmatic approach on the provision of backup power. However, it is not possible to compile an exhaustive list of criteria which would justify exemption. The TA decides to adhere to the original proposal and will examine each and every claim of exemption under paragraph 8 of the CoP on a case-by-case basis.

(v) Information to customers

Industry Submissions

21. HKBN is of the view that the TA should provide guidance on the standard of notifications to customers.

TA's Responses and Considerations

22. The TA considers that a unified standard of notifications is not necessary as there are various forms of communication which may be equally effective. To make the CoP more concise, the original paragraph on Information to Customers has been subsumed in the paragraph on Customers' Awareness of the CoP.

(vi) Service to lifeline device users

Industry Submissions

23. PCCW supports TA's proposal. HKBN agrees that FTNS and FC licensees shall take steps to ensure that only telephone service with network equipment fully supported by backup power will be provided to lifeline device users, and that if an IP telephony service provider opts to provide such service, it has to ensure that adequate backup power supply is available for the network equipment and "broadband equipment". On the other hand, if customers are well informed of the service limitations and have agreed to subscribe to telephone service provided by an IP telephony service provider without backup power supply at the customer's premises, network equipment and/or broadband connection, then the choice should be open to the lifeline device users as to whether they would like to subscribe to such an IP telephony service.

24. WT&T is of the opinion that operators cannot control whether the customer has used the services provided for lifeline device. Operators can only inform or advise customers not to use the service with lifeline device when not supported by backup power.

TA's Responses and Considerations

25. The TA is of the view that provision of backup power to maintain telephone line service during power outage is of vital importance for safety of life and consumer protection. However, he concurs that licensees offering services without backup power may have practical difficulty in knowing whether their customers will use their services for lifeline purposes on an on-going basis. Therefore, he has made clear in the SBO Statement (paragraph 53 of that statement) that where backup power supply is not available, service to lifeline users cannot be provided. Under such circumstances, licensees should consider requiring confirmation from the customers that their service will not be used by lifeline users or connected with lifeline devices. Details are specified in SC19.3 of the SBO licence as well as paragraph 10 of the revised CoP.

(vii) Para. 15 – Customers' Awareness

Industry Submissions

26. PCCW supports TA's proposal. HKBN considers that it is not feasible to stick labels at wall sockets. On the other hand, it supports to inform customers the limitation instead. WT&T considers that there are operational difficulties to affix label or stickers to the wall sockets or CPE. It suggests adding a remark on the monthly statement either in the form of paper or electronic means to alert the customer.

TA's Responses and Considerations

27. Paragraph 10 of the CoP has been amended to make it clear that the TA will also accept other suitable alternative means of raising customers' awareness.

(viii) Reports on Provision of Backup Power

Industry Submissions

28. HKBN points out that there is no detail about regular reports and frequency for submission. PCCW suggests that it is not necessary for all operators to report to OFTA. Only those without backup power and have

record of not complying should report on a monthly basis for 12 months from the occurrence. Operators should not be required to report after this period if they continue to comply with the CoP.

TA's Responses and Considerations

29. The TA agrees that licensees should not be required to provide reports if backup power can be provided to all their customers. For those licensees not meeting the requirement on provision of backup power, the TA considers that they should be required to provide *half-yearly* reports regarding the status of compliance. General requirements of the reports are specified in the revised CoP.

Issue of the Code of Practice

30. Having considered all the submissions from the industry regarding the revised CoP, the TA in exercise of his powers conferred upon him under the Telecommunications Ordinance issues the revised CoP as attached in the Appendix of this Statement to replace the existing CoP issued on 26 September 2003. The existing CoP will remain in force until 18 May 2006, and will be replaced by the revised CoP with effect from 19 May 2006 to allow necessary preparation work for implementation of the new requirements under the revised CoP.

Office of the Telecommunications Authority

19 April 2006

**Code of Practice
for
the Provision of Backup Power Supply for
Local Fixed Telephony Service**

19 April 2006

Introduction

This Code of Practice is issued under section 6A(1) of the Telecommunications Ordinance.

2. The background to the issue of this Code of Practice is given in the TA Statement entitled “Backup Power Supply for Local Fixed Telephony Services During Failure of Public Electricity Supply” issued on 19 April 2006. This Code of Practice will be effective on 19 May 2006 and will replace the “Code of Practice for the Provision of Backup Power Supply to Network Equipment of Fixed Telecommunications Network Services” issued by the TA on 26 September 2003.

3. This Code of Practice should be observed by Fixed Telecommunications Network Services (FTNS) licensees, Fixed Carrier (FC) licensees and Services-Based Operators (SBO) licensees who offer Class 1 and/or Class 2 services. For the avoidance of doubt, nothing in this Code of Practice shall absolve or derogate the licensees from operating in accordance with the terms of their licences and the legislation currently in force in Hong Kong.

4. In this Code of Practice

‘basic telephone line service’ means a type of local fixed telephony services providing a fixed single-line telephone line usable with a telephone set which is powered from the telephone line or a network termination equipment not relying on mains power supply from the customer premises, and which enables the user to use the basic telephone line service without reliance on the mains power supply from the customer premises;

‘Class 1 service’ and ‘Class 2 service’ have the same meaning as assigned to them in the Services-Based Operator licence;

‘Licensee’ means any Fixed Telecommunications Network Services (FTNS) licensee, Fixed Carrier licensee or Services-Based Operator (SBO) licensee who offers Class 1 and/or Class 2 services;

‘local fixed telephony service’ means a real-time voice communications service using the numbers for local fixed telecommunications service allocated by the TA;

‘network termination equipment’ means any telecommunications equipment supplied by the Licensee and installed on the premises of individual customer for the provision of a network termination point to which customer premises equipment is connected;

‘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;

‘network equipment’ means all equipment operated by the Licensee for the provision of local fixed telephony service.

Provision of Backup Power

5. All network equipment and network termination equipment involved in the provision of basic telephone line service should be supported by backup power supply systems in the manner stated in paragraphs 6 and 7.

6. For network equipment installed at the telephone exchanges and network switching centres, the backup power supply systems should be connected to alternate emergency electricity power such as diesel generators to ensure continuity of service, including emergency call service, during prolonged outage of the public electricity supply.

7. For network equipment installed in customer buildings, the

backup power supply systems should have a capacity of *at least one hour* endurance during outage of public electricity supply to ensure the proper operation of the network equipment as well as the provision of line powering to the network termination equipment (if any) and telephone sets connected with and powered by the network equipment. The backup power supply systems should also be connected, where practicable, to alternate emergency electricity supply such as diesel generators in the buildings.

Physical Constraints, etc.

8. In case the physical environment in customer buildings renders the provision of backup power hazardous or technically not practicable (or for other reasons beyond the control of the Licensee), the Licensee may be exempt from the requirement to provide backup power supply provided that (i) it has duly informed its customers of the power outage problem and limitation in accordance with paragraph 10 and (ii) it reports to the TA in accordance with the requirement as specified in paragraph 12. The Licensee shall also observe the requirements in paragraph 9 with regard to service to lifeline device users.

Service to Lifeline Device Users

9. Notwithstanding paragraph 8, the Licensee shall ensure that only service fully supported by backup power for both network equipment as well as network termination equipment will be provided to lifeline device users. For SBO licensees who provide service to lifeline devices users, they shall ensure that the FTNS/FC licensee who provides the relevant network connection should provide backup power supply in conformance with paragraph 5 to 7 of this Code of Practice. For avoidance of doubt, where the lifeline device of the lifeline user is provided by a third party, the Licensee is only required to make available backup power supply to the relevant telecommunications equipment which include network equipment as well as the network termination equipment supplied or operated by the Licensee. The Licensee is not required to provide backup power to the lifeline devices which are supplied by third parties.

Customers' Awareness

10. For those customer buildings where backup power is not available, and for those services where backup power to network equipment or network termination equipment is not available, in order to alert customers to the fact that the service will be suspended during power failure, the Licensee should take necessary steps to inform the customers. The TA will regard a customer as being duly informed if

- (a) the customers have, before or upon subscription of service, confirmed that the service will not be used by lifeline user or connected with lifeline devices; and
- (b) the Licensee has affixed a label or sticker to the wall socket panel or any equipment installed on the customers' premises or taken other reasonable steps (such as regular bill inserts in the monthly statements) to alert the customers the power outage problem and limitation and remind the customers that the service is not suitable for connection to lifeline devices.

11. For existing customers as of the date of issue of this Code, paragraph 10(a) is not applicable and the requirement under paragraph 10(b) shall come into force six months after the issue of this Code.

Filing of Reports to the TA

12. Any Licensee not meeting the requirement as specified in paragraph 7 of this Code, shall provide *half-yearly* reports to the Telecommunications Authority. The reports should include information concerning the names and locations of the customer buildings that do not have backup power supply, feasibility for making backup power available to these buildings, progress of works being carried out, target dates of completion and confirmation that customers have been duly informed of the power outage problem and limitation.

Office of the Telecommunications Authority

19 April 2006