

Proposed Incorporation of New Standard Special Conditions into Unified Carrier Licence in relation to Fit and Proper Person Requirements, Testing and Monitoring of Telecommunications Services and Emergency Alert System

Telecommunications Regulatory Affairs Advisory Committee

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BACKGROUND

- **A robust and secure telecommunications infrastructure** is essential –
 - For delivery of round-the-clock connectivity;
 - A lot of customer information and data are generated and stored in the telecommunications networks; and
 - 5G creates a more powerful generation of telecommunications networks and services
- Recent auction conducted in October 2021 for the assignment / re-assignment of spectrum in the low and mid frequency bands
- **Three new special conditions** included in the sample Unified Carrier Licence (UCL) attached to the Information Memorandum for the auction

NEW SPECIAL CONDITIONS

- The three new special conditions (New SCs) –
 - (a) **Fit and Proper Person (FAPP);**
 - (b) **Testing and Monitoring of Telecommunications Services; and**
 - (c) **Emergency Alert System (EAS)**
- New SCs to be incorporated into the UCLs to be granted to successful bidders of spectrum in the 600 MHz, 700 MHz, 850 MHz, 2.5/2.6 GHz and 4.9 GHz bands

PROPOSAL

- New SCs to be extended to the sample UCL as **standard SCs** for the provision of telecommunications services in general for consistency of regulation

- New SCs to be applicable to all new UCLs to be granted
- For existing UCL licensees, New SCs to be imposed upon licence renewal or, subject to consent, before renewal

FIT AND PROPER PERSON (FAPP)

➤ Rationale –



- Integrity of telecommunications network has become more important than ever
- Any network failure or security breach may result in:
 - (a) Suspension or malfunctioning of telecommunications services; and
 - (b) Interruption to operation of entities relying on the networks
- Networks should be managed by reliable and trustworthy persons
- In the public interest to enhance the integrity of all networks by imposing an on-going FAPP licence obligation



FIT AND PROPER PERSON (cont'd)

➤ Requirement –



- Applicable to:
 - (a) The licensee; and
 - (b) Any person exercising control over the licensee
- They shall be and remain FAPP throughout the validity period of the UCL

FIT AND PROPER PERSON (cont'd)

➤ Meaning of persons exercising control –



- (a) Director or principal officer of the licensee;
- (b) Beneficial owner of more than 15% of the voting shares in the licensee;
- (c) Voting controller of more than 15% of the voting shares in the licensee; or
- (d) Person who has the power by any relevant instrument to ensure the affairs of the licensee are conducted in accordance with his wishes

FIT AND PROPER PERSON (cont'd)

➤ Factors for determining FAPP –



- (a) Business record of the licensee or person;
- (b) Record of the licensee or person in situations requiring trust and candour;
- (c) Criminal record in Hong Kong involving bribery, false accounting, corruption or dishonesty; and
- (d) Criminal record outside Hong Kong involving matters mentioned in (c) above



FIT AND PROPER PERSON (cont'd)

➤ Statutory declaration on FAPP –

- To confirm that the licensee and the persons exercising control of it are FAPP
- To be made by an authorized director, a secretary or a principal officer of the licensee
- To be submitted upon licence application
- To be submitted if requested by the CA

TESTING AND MONITORING

➤ Rationale –



- General Condition 5 of the UCL requires provision of good, efficient and continuous telecommunications services in satisfactory manner at all times
- Potential significant impact on society due to disruption or unsatisfactory provision of telecommunications services
- Increasing need to enhance regulatory oversight through monitoring and testing of telecommunications networks, systems and services



TESTING AND MONITORING (cont'd)

➤ Requirement –

- Licensee may be required to provide at its own expense customer connections to the CA for performing testing and monitoring
 - Mobile services: Provision of SIM card; and
 - Fixed services: Installation of a fixed line connection to OFCA's office
- Licensee may be required to provide relevant services free of charge to the CA for testing and monitoring
 - Continuous services of same types and levels as offered to customers
- Applicable to both wholesale and retail telecommunications services

EMERGENCY ALERT SYSTEM (EAS)

➤ Existing arrangements –

- As an initiative under the Anti-epidemic Fund, four mobile network operators (MNOs) were engaged to set up an EAS
- For Government to disseminate time critical public announcements to public during emergency situations
- EAS employs cell broadcast service technology
- According to the commercial agreements, the four MNOs are required to provide EAS services for a specified period

EMERGENCY ALERT SYSTEM (cont'd)

➤ Rationale –



- New SC on EAS as an on-going obligation to ensure the continued availability of the EAS after expiry of the specified period in the commercial agreements
- To ensure that the EAS could effectively support dissemination of time-critical messages to all mobile customers by the Government in future



EMERGENCY ALERT SYSTEM (cont'd)

➤ Requirement –

- MNO will be required at its own expense to establish, maintain and operate the EAS, unless otherwise directed by the CA
- EAS shall be based on cell broadcast service technology and in compliance with relevant standards or requirements specified by the CA
- MNO shall comply with guidelines issued by the CA in relation to the establishment, maintenance, operation and testing of the EAS and other related tasks

WAY FORWARD

Views and comments from Members on the proposal welcomed



CA's approval of the proposal to be sought



Sample UCL on CA's website to be updated



Thank You

