

Proposed Review of the Class Licence for Offer of Telecommunications Services under Section 8(1)(aa) of the Telecommunications Ordinance (Cap. 106)



7 December 2018

The Offer of Telecommunications Services

- Under section 8(1)(aa) of the Telecommunications Ordinance (“TO”), save under and in accordance with the appropriate licence granted or created by the Communications Authority (“CA”), no person shall in Hong Kong or on board any ship, aircraft or space object that is registered or licensed in Hong Kong **offer** in the course of business a telecommunications service.
- Section 8(1A) provides that a person is to be regarded as **offering** a telecommunications services if –
 - a) he makes an **offer** which, if accepted, would give rise to an agreement, arrangement or understanding for the provision of a telecommunications service by him or by another person with whom he has made an arrangement for the provision of the telecommunications service; or
 - b) he invites a person to make an **offer** of the kind referred to in paragraph (a).



Background

- **Class Licence for Offer of Telecommunications Services (“CLOTS”)**
 - The former Telecommunications Authority issued a statement on 15 Sept 2006 promulgating his decision on the full commencement of section 8(1)(aa) of the TO and creation of CLOTS to regulate all activities that fall under the section
 - Sections 8(1)(aa) and 8(1A) commenced operation on 2 Feb 2007, and the CLOTS was created.

Salient Features of the CLOTS

1

- CLOTS covers any person, incorporated or unincorporated, who offers telecommunications services without establishing or maintaining any means of telecommunications

2

- Any person offering a telecommunications service is automatically deemed to be a CLOTS licensee without any requirement for prior application with the CA

3

- CLOTS regulates all activities under section 8(1)(aa) of the TO without restriction on the nature of services under offered. This includes services offered locally but to be consumed outside Hong Kong

4

- No need to pay licence fee

5

- Agents or contractors of licensed operators who sell or promote telecommunications services for and on behalf of the latter within the scope of the respective agency agreements are outside the scope of section 8(1)(aa)

Examples of Services Offered under CLOTS (1)

1. **Local mobile voice and/or data services** - offered under CLOTS licensees' own brand names through resale of mobile telecommunications services operated by local mobile network operators



2. **Local fixed voice and/or broadband services** - offered under CLOTS licensees' own brand names through resale of fixed telecommunications services operated by local fixed network operators



Examples of Services Offered under CLOTS (2)

- 3. Prepaid International Direct Dial services** - offered under CLOTS licensees' own brand names through resale of external telecommunications services ("ETS") operated by ETS operators
- 4. "Wi-Fi Eggs" services** - offered by the CLOTS licensees under their own brand names to Hong Kong consumers for use during overseas visits
- 5. Prepaid international voice/data roaming services** - offered by the CLOTS licensees under their own brand names to Hong Kong consumers for use during overseas visits



Market Developments and Potential Issues (1)

1. Proliferation of Online Retail Outlets

- Trend of more online channels (e.g. mobile Apps) in addition to, or taking over, traditional sales and customer support channels (e.g. hotline and face-to-face sales points)
- Harder to contact the resellers when needed

2. Licensees Establishing New Entities and Brand Names for Reselling Their Own Services

- New entities gaining larger subscriber base but subject to less stringent regulation compared with existing licensees (such as holders of the Unified Carrier Licence (“UCL”) or Services-Based Operator (“SBO”) Licence) offering similar services



Market Developments and Potential Issues (2)

3. Difficulties in Handling Consumer Complaints concerning CLOTS

- The Office of the Communications Authority (“OFCA”) has received and handled an increasing number of consumer complaints relating to the CLOTS licensees than before
- There are practical difficulties for OFCA to refer the complaints to them for follow-up

4. Potential Adverse Impact to the Public in case of Service Failures of CLOTS licensees

- CLOTS licensees (such as those in the mobile market) are offering telecommunications services to a large number of customers
- Any service outage, suspension or termination, etc. of CLOTS licensees may potentially have a significant impact on the general public and give rise to complaints



Need for Review of the CLOTS

- To consider whether the existing light-handed CLOTS regime remains relevant and appropriate to the existing market conditions
- To review the licence administration and control of the CLOTS
- To ensure general consistency of regulatory obligations among different licences (UCL and SBO Licence vs CLOTS) for offering similar services and that the CLOTS remains up-to-date in view of the latest market and industry developments



Scope of Review

1

Registration by CLOTS licensees before being authorized to offer services in the market

2

Annual update of information by CLOTS licensees

3

Amendments to the CLOTS to align with the licence conditions of the UCL and SBO Licence

4

Applicability of certain existing codes of practice or guidelines issued by the CA on the CLOTS licensees

Way Forward

- The CA plans to issue a public consultation paper to set out details of its proposed variation to the CLOTS
- Views and comments received from the industry and the public will be considered by the CA before it makes a decision on the subject matter
- Members are invited to note the scope of the proposed review and offer any initial views on the subject matter



Thank You

