

Information Note
for Incorporated Owners and
Building Management Office of Building
Regarding Access to Buildings by Network Operators
with Section 14 Authorization
Granted by the Communications Authority
under the Telecommunications Ordinance

Purpose

This note provides information to Incorporated Owners, Building Management Offices and Owners of buildings, as the case may be, as the persons having the lawful interest in the land (collectively referred to as “IO/BMO”) on matters relating to access to buildings by the local Fixed Telecommunications Network Services operators, Fixed Carrier operators or Unified Carrier licensees (collectively referred to as “the Operators”) under section 14(1) of the Telecommunications Ordinance (Cap 106).

Right of Access for the Operators

2. Under section 14 (1) of the Telecommunications Ordinance, the Operators, who have been granted authorization by the Communications Authority, are entitled to gain access to the common parts of private buildings to install and maintain in-building telecommunications systems, which include cables and equipment, as necessary for the provision of their services to residents or occupiers of the buildings. For the name and contact of the Operators, please call In-building Access Enquiry Hotline 8102 4100 of the Office of the Communications Authority (“OFCA”) or visit OFCA web site <http://www.ofca.gov.hk>.

3. It should be emphasised that the authorization does not give the Operators any right to enter upon the buildings for the purpose of marketing and promotional activities. The Operators wishing to conduct any such activities should obtain prior permission from the IO/BMO concerned, failing which, the IO/BMO may consider to take appropriate action against the operator for unauthorized entry and/or nuisance caused.

Obligations of the Operators

4. Under section 14(2)(b) of the Telecommunications Ordinance, the Operators shall do as little damage as possible to the building in the course of installing cables and equipment in the building. Under section 14(2)(b)(i), if any person having a lawful interest in the building or land concerned suffers physical damage to any fixtures or chattels found in the building or land as a result of such installation, the Operators shall make full compensation to such person.

5. The Operators are required to bear the full costs on installation of their equipment and cabling facilities and, where applicable, the costs of interconnection with the in-building telecommunications system of the building. The Operators are also required to pay for the electricity bill for the power supply to their own equipment installed in the building unless the IO/BMO agrees to bear the cost of the electricity.

Co-ordinator for the Operators

6. At present, there are over 10 operators. Different access technologies, including wireless technology, may be used for the access network. For the provision of service in a building, there may be more than one operators who are interested to access the same building to install in-building telecommunications systems. In order to minimize the workload of the IO/BMO and to ensure the Operators will install their equipment in an effective manner, the IO/BMO may appoint one of the Operators as co-ordinator to liaise with all the interested operators and the IO/BMO. The main roles of the co-ordinator are:

- (a) to collect requirements of the other operators who wish to access the building;
- (b) to liaise with IO/BMO to arrange joint site visit and meetings;
- (c) to work out a consolidated proposal;
- (d) to co-ordinate installation work as to minimise disruption to residents or occupiers; and
- (e) to act as one contact point among OFCA, IO/BMO and the operators concerned.

Points to Note by the IO/BMO

7. Although the IO/BMO should allow the Operators to access the common parts of the building, those common parts remain the property of and, as the case may be, continue to be managed by the IO/BMO. The IO/BMO should note the following points, which are not meant to be exhaustive, in dealing with the Operators for the access to the common parts of the buildings for installing in-building telecommunications systems. However, individual IO/BMO may have its own concern. As long as the Operators' statutory right to access the common parts of the building is not curtailed or inhibited, the IO/BMO may in good faith negotiate with the Operators on technical and operational details of the access.

8. IO/BMO –

- (a) should respond promptly to the Operators' request for site visit within 14 days upon receipt of written request of the Operators. It is suggested that the IO/BMO should give at least 5 working days advanced notice to the Operators for site-visit;
- (b) should provide the relevant building drawings and layout plans, if available, of the common parts to the Operators;
- (c) should permit and assist the Operators to access the common parts of the building and the in-building telecommunications system to install equipment and cables necessary for the provision of services to the residents or occupiers in the building;
- (d) should make available space in the common parts and the in-building telecommunications system to the Operators on a non-discriminatory basis;
- (e) should obtain a consolidated proposal which contains all the requirements of the Operators who are interested to access the building in the existing co-ordination cycle;
- (f) should acknowledge receipt of the proposal and keep the co-ordinator and Operators informed of the progress from time to time;
- (g) should confirm the acceptance to the proposal promptly. The normal confirmation time for acceptance of the proposal by the IO/BMO, including clarification with the Operators, should not be more than 4 weeks upon receipt of the proposal for estate with 5 or less building blocks, 5 weeks for estate with 6 to 15 building blocks and 7 weeks for estate with 15 or more building blocks;
- (h) should give a date to the Operators for commencement of installation

- work when confirmation of acceptance to proposal is given; and
- (i) should permit the relevant operator to commence its installation work if only its part of the consolidated proposals is accepted. Reasons should be given in writing for the parts not acceptable.

9. In reviewing the proposal submitted by the Operators, the IO/BMO may consider the following:-

- (a) detailed arrangement including date and time to carry out the installation work, and the arrangement for workmen to access the building;
- (b) the installation method and location of equipment including the antenna at roof top, transmission equipment, cable, routing, etc;
- (c) detailed arrangement for operation and maintenance of equipment in future, e.g. settlement of bills charged on electricity consumed by the Operators;
- (d) arrangement for remedial building work to be carried out in future on space to be occupied by the Operators;
- (e) whether the Operators can use the existing in-building telecommunications systems or lay their own cables. If the Operators wish to lay their own cables, the IO/BMO may negotiate with the Operators with a view to keeping the aesthetic of the building intact as much as possible; and
- (f) whether the installation will comply with all relevant Ordinances, Regulations, guidelines and code of practice in Hong Kong.

10. IO/BMO –

- (a) should not impose any fees, deposit, access charge, administrative charge, escort charge or rental charge on the Operators for the access of the building, the use of the common parts of the building or the use of the in-building telecommunications system of the building for the provision of services to residents or occupiers of the building
- (b) should not enter into any commercial contract which will unreasonably restrict the right of a resident or occupier or deprives a resident or occupier of the right, to have access to the public telecommunications services of his choice. Any such agreement is void to the extent that it imposes such restriction;

- (c) should not appoint any person not being an authorized operator, which is interested in accessing the building to act as the co-ordinator;
- (d) should not delay to process the access request submitted by the Operators;
- (e) should not limit the choice of technology to be used or predetermine the access method of the Operators (e.g. to share use of cable, trunk and facilities, or to install separate set of cable, trunk and facilities);
- (f) should not instruct or cause the Operators to employ an Authorized Person (with the same meaning as defined in the Buildings Ordinance (Cap 123)) to endorse the installation proposal
- (g) should not demand the Operators to share costs for maintenance of the building;
- (h) should not demand the Operators to employ the contractor or company nominated by the IO/BMO to install the Operators' antenna, cable and/or equipment; and
- (i) should not restrict the Operators to install the antenna, cable and equipment at locations where practically feasible.

Assistance to be Provided by OFCA

11. IO/BMO should try to respond to the request of the co-ordinator and/or the Operators within reasonable time. If access arrangement cannot be satisfactorily agreed upon between the IO/BMO and the co-ordinator (or Operators), both parties may approach this office for assistance.

12. For any enquiry about this note, please call OFCA In-building Access Enquiry Hotline 8102 4100, or contact us by fax to 2116 0136 or email to in-bldg@ofca.gov.hk.

Note: In the event of any inconsistency or conflict between this Information Note and the provisions of the Telecommunications Ordinance, the provisions in the Telecommunications Ordinance shall prevail over those in this Information Note. The Operators, IO/BMO and readers of this Information Note are advised to consult their own legal advisers on any matters to which information provided herein may be relevant.