

L.N. 106 of 2018

Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1800 MHz Band) Regulation

(Made by the Secretary for Commerce and Economic Development under section 32I of the Telecommunications Ordinance (Cap. 106))

1. Commencement

This Regulation comes into operation on 13 July 2018.

2. Interpretation

In this Regulation—

existing assignee (現有受配人) means a person who has been assigned, for a period ending on 29 September 2021, the use of any spectrum that falls within the following frequency bands—

- (a) 1710.5–1780.1 MHz and 1805.5–1875.1 MHz set out in Part 2 of the Schedule to the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106 sub. leg. Y);
- (b) 1780.1–1784.9 MHz and 1875.1–1879.9 MHz set out in Part 2A of that Schedule;

specified period (指明期間) means a period of 15 years beginning on 30 September 2021 and ending on 29 September 2036;

specified spectrum (指明頻譜) means any spectrum that falls within the frequency bands set out in the Schedule.

3. Application

This Regulation applies if—

- (a) the Authority makes an offer to assign to an existing assignee any specified spectrum for use by that assignee for the specified period; and
- (b) that assignee accepts the offer.

4. Determination of spectrum utilization fee

- (1) The spectrum utilization fee payable by an existing assignee for every 1 kHz of any specified spectrum assigned for the specified period is the higher of the following—
 - (a) \$54,000;
 - (b) the auction price referred to in subsection (2).
- (2) The auction price is the average spectrum utilization fee for every 1 kHz of the aggregate of the following—
 - (a) all spectrum utilization fees obtained for the spectrum auctioned under section 3(1AAE) of the Telecommunications (Determining Spectrum Utilization Fees by Auction) Regulation (Cap. 106 sub. leg. AC);
 - (b) if applicable—all spectrum utilization fees obtained for the spectrum auctioned under section 3(1AAF) of that Regulation.
- (3) However, if the spectrum utilization fee determined under subsection (1) is higher than \$70,000 for every 1 kHz, the spectrum utilization fee payable by the existing assignee for every 1 kHz of the spectrum assigned is \$70,000.
- (4) This section is subject to section 5.

5. Payment of spectrum utilization fee

- (1) The spectrum utilization fee payable under this Regulation must be paid—
 - (a) in a lump sum; or
 - (b) annually in 15 instalments in accordance with subsection (2).
 - (2) For subsection (1)(b), the spectrum utilization fee for each instalment is as follows—
 - (a) for the first instalment—an amount equal to the lump sum referred to in subsection (1)(a) divided by 15;
 - (b) for each subsequent instalment—an amount equal to the spectrum utilization fee payable in the immediately preceding instalment increased by 2.5%.
 - (3) The spectrum utilization fee is payable at the time and in the way required by the Authority.
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Schedule

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Schedule

[s. 2]

Frequency Bands

MHz	MHz
1720–1730	1815–1825
1740–1750	1835–1845
1750–1760	1845–1855
1760–1770	1855–1865

Edward YAU
Secretary for Commerce and
Economic Development

14 May 2018

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Explanatory Note
Paragraph 1

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Explanatory Note

If a person who has been assigned under the Telecommunications Ordinance (Cap. 106) the use of any spectrum that falls within the frequency bands 1710.5–1784.9 MHz and 1805.5–1879.9 MHz for a period ending on 29 September 2021 accepts an offer from the Communications Authority to be assigned any spectrum that falls within the frequency bands set out in the Schedule to this Regulation (*specified spectrum*) for a period of 15 years beginning on 30 September 2021 (*specified period*), the spectrum utilization fee payable by that person for the use of the specified spectrum for the specified period is to be determined under the Regulation.