

**GUIDELINES FOR
SUBMISSION OF APPLICATIONS
FOR SECOND ROUND ASSIGNMENT OF
SPECTRUM
IN THE 26 GHz AND 28 GHz BANDS
FOR PROVISION OF LARGE SCALE
PUBLIC MOBILE SERVICES**

**Office of the Communications Authority
29 February 2024**

Disclaimer

These Guidelines indicate the manner in which the Communications Authority (“CA”) proposes to perform its function of determining applications for assignment of spectrum in the 26 GHz and 28 GHz bands for provision of large scale public mobile services under a unified carrier licence. These Guidelines are designed to assist interested parties in formulating their proposals, and should be read in conjunction with the relevant CA Statements, and other policies and regulatory documents hereafter referred to.

These Guidelines are not intended to form any part of the basis of any investment decision or other evaluation and should not be considered as a recommendation by the CA, the Office of the Communications Authority (“OFCA”) or any of their advisers to any reader of these Guidelines. Each reader must make his/her own independent assessment of the potential value of an assignment of the relevant spectrum in the 26 GHz and 28 GHz bands for the provision of large scale public mobile services in order to determine whether to apply for the spectrum. All information contained in these Guidelines may be updated, modified or amended at any time by the CA.

While OFCA endeavours to ensure that the information contained in these Guidelines is accurate as at the time of publication, none of the CA, OFCA or any of their advisers or any of their respective directors, partners, officers, employees, or agents make any representation or warranty (express or implied) or accept or will accept any responsibility or liability in relation to the accuracy or completeness of the information contained in these Guidelines or any other written or oral information made available to any interested party or its advisers. Any responsibility or liability in respect of any such information or any inaccuracy in these Guidelines or omission from these Guidelines is expressly disclaimed. In particular, but without prejudice to the generality of the foregoing, no representation or warranty is given as to the achievement or reasonableness of any future projections, estimates, prospects or returns contained in these Guidelines.

These Guidelines do not constitute an offer of spectrum assignment, nor do they constitute the basis of any contract which may be concluded in relation to this invitation for application for spectrum assignment or in respect of any assignment of the relevant spectrum.

Readers should not construe the content of these Guidelines, or any other communications by or on behalf of the CA, OFCA or any of their advisers as financial, legal, tax or other advice. Accordingly, each reader of these Guidelines should consult his/her own professional advisers as to financial, legal, tax and other matters concerning any potential application for spectrum assignment or any assignment of the relevant spectrum for the provision of large scale public mobile services.

CONTENTS

<u>Section</u>	<u>Page</u>
I Introduction	1 - 4
II Regulatory Framework for Provision of Public Mobile Services	5
III Second Round Assignment of Non-shared Spectrum in the 26/28 GHz Bands	6 - 16
IV Licensing Arrangements	17 - 25
V Information to be Provided in Submitting the Application	26 - 32
VI Pre-qualification and Broad Licensing Criteria	33 - 34

<u>Annex</u>	<u>Page</u>
A Bank Accounts of the Communications Authority	A1
B Letter of Credit for Payment of Deposit	B1 - B4
C Connected Company	C1 - C5

Section I – Introduction

- 1.1 The Communications Authority (“CA”) and the Secretary for Commerce and Economic Development (“SCED”) jointly published a statement on 13 December 2018 to promulgate the decisions of the CA on allocation of the 4 100 MHz of spectrum in the 26 GHz band (24.25 – 27.5 GHz) and the 28 GHz (27.5 – 28.35 GHz) band (collectively referred to as the “26/28 GHz bands”) to mobile service and the associated arrangements for spectrum assignment, and the decision of SCED on arrangements for the related spectrum utilisation fee (“SUF”) (“Statement”)¹.
- 1.2 The CA has adopted an administrative approach to assign the 4 100 MHz of spectrum in the 26/28 GHz bands, among which 3 700 MHz of spectrum (“Non-shared Spectrum”) is set aside for the provision of conventional large scale public mobile services in any location of the territory (“large scale public mobile services”), and the remaining 400 MHz of spectrum (“Shared Spectrum”) for the provision of small scale localised wireless services (including fixed services) in specified locations of the territory (“localised wireless services”). Following the issue of the Statement, the CA conducted an assignment exercise of the Non-shared Spectrum pursuant to the *“Guidelines for Submission of Applications for Assignment of Spectrum in the 26 GHz and 28 GHz Bands for Provision of Large Scale Public Mobile Services”* issued on 21 December 2018 and subsequently amended by a notice of modification on 31 January 2019 (“First Round Assignment Guidelines”), and assigned a total of 1 200 MHz of Non-shared Spectrum to three mobile network operators (“Incumbent MNOs”)² in April 2019 (“First Round Assignment”). The present Guidelines (“Guidelines”) provide the guidance for submitting applications for assignment of the remaining 2 500 MHz of Non-shared Spectrum (“Second Round Assignment”) and replace the First Round Assignment Guidelines.
- 1.3 These Guidelines are issued under section 6D(2)(a) of the Telecommunications Ordinance (Cap. 106) (“TO”). They indicate the

¹ The Statement is available at:
http://www.coms-auth.hk/filemanager/statement/en/upload/480/joint_statement_st_052018.pdf.

² The Incumbent MNOs are China Mobile Hong Kong Company Limited, Hong Kong Telecommunications (HKT) Limited and SmarTone Mobile Communications Limited.

manner in which the CA proposes to perform its function of determining applications for assignment of spectrum in the 26/28 GHz bands for provision of large scale public mobile services under a unified carrier licence (“UCL”). Parties interested in the assignment of the Non-shared Spectrum in the 26/28 GHz bands are invited to submit applications to the CA in accordance with these Guidelines, which should be read in conjunction with the Statement as well as other policies and regulatory documents hereafter referred to. The CA will announce the spectrum assignment results of the Second Round Assignment around mid 2024. Each of the successful applicants will be granted a UCL to effect the spectrum assignment (“Licensee”).

- 1.4 All applications received will be subject to a pre-qualification exercise for participation in the administrative spectrum assignment process, followed by an assessment having regard to the information provided as required in Section V and the broad licensing criteria outlined in Section VI of these Guidelines.
- 1.5 Applicants should ensure that all information contained in their applications and any other subsequent submissions and representations are up-to-date, correct and accurate in all respects, in reliance upon which the CA will consider the applications. The CA may cancel, withdraw or suspend the UCL granted and/or the frequency assignment if any information (including, without limitation, in an application) submitted by the applicant is false or misleading.
- 1.6 Applications for assignment of the Non-shared Spectrum should be **submitted in English in triplicate**, sealed in a non-transparent envelop with confidential stamp, and marked “**Application for Second Round Assignment of Non-shared Spectrum in the 26/28 GHz Bands**” on the envelope. An electronic copy of the application form and the supporting documents should also be provided and sent to the following email address. All applications must be delivered by hand to the Office of the Communications Authority (“OFCA”) at the following address not later than **5:30 pm on 28 March 2024**. **Late submissions will not be accepted.**

Office of the Communications Authority
29th Floor, Wu Chung House
213 Queen's Road East
Wan Chai
Hong Kong
(Attention: Head, Regulatory 2)

Email: apply-26-28GHz-non-shared@ofca.gov.hk

- 1.7 If a tropical cyclone warning signal no. 8 or above, or a “black” rainstorm warning signal is in force in Hong Kong on 28 March 2024, the applications must reach OFCA at the address as stated in paragraph 1.6 above not later than 5:30 pm on the next business day³ on which none of the signals remains in force.
- 1.8 Applicants will receive acknowledgement of receipt of applications. The CA may request the applicants to provide additional information to clarify or supplement the applications submitted. Response to such request must be made on or before the deadline, and in the format, specified by the CA or otherwise it will not be considered.
- 1.9 The CA reserves the right to disclose the names and composition of the parties who have submitted applications. All other information received will be treated in confidence. Where the CA proposes to disclose any information in the applications which may be considered as commercially sensitive information, the CA will give the applicant an opportunity to make representations on the proposed disclosure before the CA makes a final decision on whether or not to disclose the information.
- 1.10 Any enquiries relating to these Guidelines should be addressed in writing and sent to the CA by post or email to the addresses as stated in paragraph 1.6 above on or before 7 March 2024. All questions should be marked **“Question(s) on Application for Second Round Assignment of Non-shared Spectrum in 26/28 GHz Bands”**. The person asking the question must be identified and the organisation that the person represents must be stated. Contact details in the forms of email address, postal address and telephone number must be provided.

³ For the purpose of the current spectrum assignment exercise, “Business Day” means a full day other than a Saturday or a Sunday on which banks in Hong Kong are open for general business.

- 1.11 The CA has the discretion to publish further information and/or questions raised and answers provided. It may also exercise the discretion not to publish a particular question and the related answer, in whole or in part; and will also reserve the right not to respond to any question. The identity of the person asking the questions will not be published without his/her permission.
- 1.12 Nothing in these Guidelines should be taken to bind the CA on the granting of any spectrum assignment and licence, the terms of any licence to be granted, or any particular course of action in relation to the handling of applications received. The CA reserves the right not to accept any application submitted.

Section II – Regulatory Framework for Provision of Public Mobile Services

Unified Carrier Licensing Regime

- 2.1 The unified carrier licensing regime has been implemented since 1 August 2008 for regulating the establishment and maintenance of means of telecommunications, including telecommunications networks and facilities in Hong Kong for the provision of public telecommunications services. At present, the UCL is the only type of carrier licence that the CA will issue for the provision of fixed, mobile and/or converged services.
- 2.2 The Non-shared Spectrum in the 26/28 GHz bands will be licensed under a UCL. Applicants applying for assignment of the Non-shared Spectrum are deemed to apply at the same time for the grant of a UCL to effect the spectrum assignment if it is approved by the CA. Therefore, applicants are advised to also refer to the “*Guidelines for Submission of Applications for Unified Carrier Licence*” (“UCL Guidelines”)⁴ for information on the UCL and the regulatory environment for provision of telecommunications services in general. These Guidelines focus on matters which are directly related to the application for assignment of the Non-shared Spectrum for provision of large scale public mobile services, and key obligations to be observed by the Licensees. Applicants intending to also provide fixed and/or converged fixed/mobile services under the UCL must refer to the UCL Guidelines.
- 2.3 For the avoidance of doubt, UCLs will only be granted to parties for the provision of public telecommunications services, i.e. to make the services provided under the UCL available to the public at the wholesale and/or retail level. UCLs will not be granted for offering services only to the Licensee itself or to its affiliated companies or entities, which are not qualified as offering services to the public.
- 2.4 Applicants should refer to Section II of the UCL Guidelines (see Footnote 4) for details on the regulatory framework under the unified carrier licensing regime.

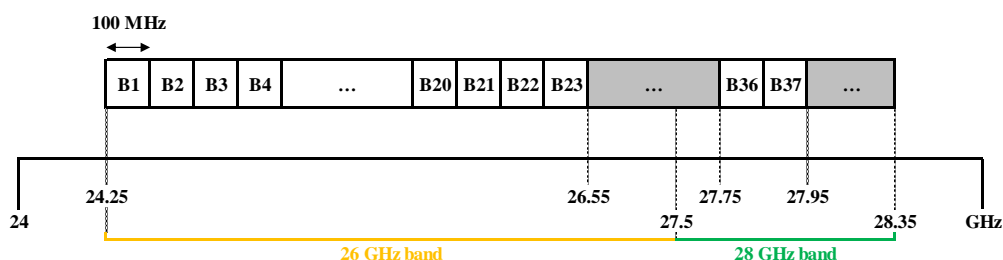
⁴ The UCL Guidelines are available at:
<https://www.coms-auth.hk/filemanager/en/share/guidelines/UCLguidelines.pdf>.

Section III – Second Round Assignment of Non-shared Spectrum in the 26/28 GHz Bands

Spectrum Available for Application and Spectrum Cap

- 3.1 The CA has made available 3 700 MHz of Non-shared Spectrum in the 26/28 GHz bands for provision of large scale public mobile services. The Non-shared Spectrum falls within the 37 frequency slots of 100 MHz each in the band plan depicted in Figure 1 below, of which 1 200 MHz (i.e. slots B24 – B35) has been assigned pursuant to the First Round Assignment. In this invitation for the Second Round Assignment, a total of 2 500 MHz of the remaining Non-shared Spectrum, or 25 frequency slots each with a block size of 100 MHz (i.e. B1 – B23 and B36 – B37), are available for application.

Figure 1: Band Plan for the 26/28 GHz Bands



- 3.2 Subject to an aggregate spectrum cap of 800 MHz for the amount of Non-shared Spectrum that may be held by each assignee (“Spectrum Cap”), interested parties may submit applications for assignment of the spectrum required for provision of large scale public mobile services to the general public. The Spectrum Cap will be applied on an aggregate basis to the holding of spectrum by all connected companies of each assignee in both the 26 GHz and 28 GHz bands in the First Round Assignment and the Second Round Assignment. Applicants may refer to paragraphs 3.6 – 3.12 below for information relating to “connected companies”.

Submission of Application

- 3.3 Applications must be received by the CA by the deadline of submission on **28 March 2024**. Applications must be delivered by hand to OFCA **on or before 5:30 pm of the date. Late applications will not be considered.** Upon the close of the application, the CA will publish a notice to announce the identities of the parties who have submitted applications.

Pre-qualification of Applicants

- 3.4 For each application received, a pre-qualification exercise will be conducted having regard to the criteria set out in Section VI to determine whether the applicant is qualified for participation in the administrative spectrum assignment process. In the pre-qualification, the CA will take into account the following information provided in the application form: (a) the types of services the applicant plans to provide; (b) the amount of Non-shared Spectrum applied for and the related justifications; and (c) technical, organisational and financial capabilities of the applicant to timely provide the services in fulfilment of the licensing obligations to the satisfaction of the CA, and other relevant supporting information. Among other things, the CA will examine the implementation plan proposed by the applicant, including the proposal to comply with the network and service rollout obligations and to implement a network capable of providing large scale public mobile services to the general public. Furthermore, the CA will examine the corporate and shareholding structure of the applicants to identify any connected companies among applicants. In addition, the applicant is required to put in a deposit in the form of cash⁵ or a letter of credit in the same

⁵ Payment of the deposit in cash shall be made by telegraphic transfer to the CA's bank account with the funds cleared by 4:00 pm on the application deadline of 28 March 2024, with accompanying information which identifies the relevant applicant. Details of the CA's bank accounts for receiving the deposit are provided at **Annex A**.

format as set out in **Annex B** issued by a qualifying bank⁶ based on the amount of spectrum it applies for and at the rate of HK\$1 million per MHz of spectrum under application, before it can be determined as qualified (“Qualified Applicant”).

- 3.5 The CA will inform applicants whether they are determined to be Qualified Applicants by 30 April 2024 and publish on its website a list of Qualified Applicants.

Connected Companies

- 3.6 For the purpose of the current spectrum assignment exercise, a company (Company A) is a connected company of another company (Company B) if, amongst other things, Company A holds a material interest in Company B (which includes Company A holding or possessing, directly or indirectly, 25% or more of the issued share capital or voting power in respect of 25% or more of the issued share capital of Company B). More information on connected companies may be found in **Annex C**.
- 3.7 The Spectrum Cap of 800 MHz for the holding of the Non-shared Spectrum by an assignee will be applied on an aggregate basis to the holdings by all connected companies of that assignee in both the 26 GHz and 28 GHz bands in the First and Second Round Assignments. Applicants must declare whether they are aware of submission or potential submission of applications for assignment of the Non-shared Spectrum by their connected companies and whether any of the Incumbent MNOs are their connected companies. They are also required to provide information on their corporate and shareholding structure (as at the date of the application) in the application form and to give consent to the disclosure of such information in order to assist the CA and other applicants to assess whether an applicant is a connected company in relation to another applicant.

⁶ “Qualifying Bank” means an institution holding a full banking licence under the Banking Ordinance (Cap. 155) whose long term issuer rating is no less than:

(a) one or more of the following:

- (i) Moody’s A2;
- (ii) Standard & Poor’s A;
- (iii) Fitch Rating’s A; or

(b) a rating of a body other than a body listed in (a) above which the CA confirms in writing that it considers to be no less than one or more of the ratings in (a).

- 3.8 The CA will provide applicants with information by 2 April 2024 on the corporate and shareholding structure of the other applicants as collated from the applications received, to facilitate their identification of any connected company involved. Each applicant must, based on the information provided by the CA and/or any other information known to them, notify the CA whether or not it is a connected company in relation to another applicant and/or the Incumbent MNOs by submitting a statutory declaration on connected company in the form as provided in **Annex C** by 11 April 2024.
- 3.9 If the CA is of the view that an applicant, any other applicant(s) and/or any Incumbent MNO(s) are connected companies (collectively “connected companies”) and the amount of Non-shared Spectrum they apply for and already held taken together exceeds the Spectrum Cap, it will request the connected companies concerned to resolve the problem of connection among themselves. The connected companies concerned must, on or before a date specified by the CA: (a) make all arrangements as may be necessary to satisfy the CA that they either cease to be connected in relation to each other, or the aggregate amount of Non-shared Spectrum they intend to hold (including those already held) does not exceed the Spectrum Cap; and (b) jointly submit to the CA a notification with documentary proof of the arrangements they have made. Applicant failing to satisfy the CA that it has fulfilled this requirement will not be eligible as a Qualified Applicant.
- 3.10 The arrangements which may be taken by the connected companies under paragraph 3.9 above may include one of the following: (a) reorganise themselves so that they cease to be connected; (b) agree among themselves on the amount of spectrum each of them intend to hold and continue to hold so that the aggregate amount of spectrum will not exceed the Spectrum Cap; or (c) indicate not to proceed further with the relevant application(s) such that the aggregate holding by the remaining connected companies including the connected applicant(s) will not exceed the Spectrum Cap. Once the CA is satisfied that any connection among the connected companies concerned has been resolved or the requirement of Spectrum Cap has been met, it will conduct a detailed assessment of the applications submitted by the Qualified Applicants.

- 3.11 After submission of the statutory declaration mentioned in paragraph 3.8 above, the applicant should keep the CA informed of any change of the status on connected companies (which would result in the aggregate amount of the Non-shared Spectrum being applied for and held by them exceeding the Spectrum Cap) and shall cease to participate in the administrative spectrum assignment process upon such change unless and until the problem of connection is resolved in accordance with the applicable procedures described in paragraphs 3.9 and 3.10 above to the satisfaction of the CA.
- 3.12 The CA reserves the right to withdraw the spectrum assigned to any successful applicant if it is subsequently established that the successful applicant is connected with any other applicant(s) and/or Incumbent MNO(s) (with aggregate amount of the Non-shared Spectrum applied for and held by them exceeding the Spectrum Cap).

Spectrum Demand

- 3.13 Each applicant will need to specify the amount of Non-shared Spectrum it applies for, without the need of indicating the preferred location of the frequency slots for assignment in the application.
- 3.14 The CA aims to meet the demand of each applicant in a fair and equitable manner as well as promoting efficient use of the spectrum by the Licensees as far as possible. For the avoidance of doubt, subject to paragraphs 3.15 - 3.18 below, the CA has full discretion in applying an appropriate mechanism and determining the specific frequency slot(s) to be assigned to a successful applicant.

Mechanism which may be used by the CA in Determining Offer of Assignment of Spectrum to Qualified Applicants

- 3.15 If the total demand for Non-shared spectrum is equal to or less than the amount of spectrum available, each Qualified Applicant will likely be assigned the full amount of spectrum it applies for. In the situation where the total spectrum demand exceeds the available supply, the CA may apply a two-stage spectrum distribution mechanism as described in paragraph 3.16 below to determine the amount of spectrum which could

be offered for assignment to the Qualified Applicants. For the avoidance of doubt, the CA reserves the right to deviate from the distribution mechanism indicated in these Guidelines.

Two-Stage Spectrum Distribution Mechanism

3.16 A two-stage spectrum distribution mechanism can be applied when excess demand occurs. It is depicted as follows -

First stage

- When there is excess demand, each Qualified Applicant will be provided with one frequency slot by turn for each round of distribution (i.e. x frequency slots will be distributed for x number of Qualified Applicants in a single round);
- The above process will repeat and the Qualified Applicant whose demand is fully satisfied in a round of distribution will be excluded from the next round of distribution; and
- The distribution process will stop when the number of frequency slots available for distribution in the next round is less than the number of remaining Qualified Applicants. There will then be a second stage distribution.

Second Stage

- The remaining frequency slots in the frequency band(s) being considered will be distributed to the remaining Qualified Applicants by drawing lots which will be administered by OFCA.

Notification of Provisional Offer of Spectrum Assignment

3.17 Having decided on the amount of Non-shared Spectrum potentially to be assigned to each of the Qualified Applicants, they will be notified about the amount of spectrum in the 26/28 GHz bands offered for assignment to them on a provisional basis (“Provisional Successful Applicants”), together with the terms and conditions for use of the spectrum concerned (“Provisional Offer”). The working target is to notify the Provisional

Successful Applicants of the Provisional Offer by 7 May 2024. The notification will include a list of Provisional Successful Applicants and the amount of Non-shared Spectrum proposed to be offered for assignment to each of them. If a Provisional Successful Applicant decides not to accept the Provisional offer, it shall notify the CA in writing within seven calendar days upon receipt of the Provisional Offer. For those Provisional Successful Applicants who accept the Provisional Offer, they shall notify the CA in writing within seven calendar days upon receipt of the Provisional Offer, and if they are able to reach agreement on the preferred location of frequency assignments (including any swapping of any existing assignments to the Incumbent MNOs), they may make an application to the CA for consideration within seven calendar days upon receipt of the Provisional Offer.

Location of Frequency Assignments

- 3.18 The CA will determine the location of frequency assignments for offer to the Provisional Successful Applicants who accept the Provisional Offer based on the principle of fairness and efficient spectrum utilisation, taking into account any submission made by them regarding their preferred location of frequency assignments mentioned in paragraph 3.17 above. This will take place after the problem of connection between the Provisional Successful Applicants who accept the Provisional Offer and connected companies referred to in paragraph 3.9 above in relation to the requirement of the Spectrum Cap, if any, has been resolved; or the connected Provisional Successful Applicants who accept the Provisional Offer have arranged among themselves to meet the Spectrum Cap requirement for the aggregate amount of spectrum they apply for and already held, if applicable, in the manner described in paragraph 3.10 above. The target is to form contiguous frequency blocks as far as possible in order to enhance the efficiency in spectrum utilisation and to provide fair opportunity for individual Provisional Successful Applicants who accept the Provisional Offer to acquire the spectrum they apply for and use it efficiently. To avoid the existence of vacant frequency slots in between the assigned slots as far as practical, frequency slots will be assigned orderly starting from blocks adjacent to the existing frequency assignments at the discretion of the CA.

Notification of Offer of Spectrum Assignment

- 3.19 Once the exact frequency slots to be assigned to each of the Provisional Successful Applicants who accept the Provisional Offer is determined, the applicants will be notified accordingly with the terms and conditions for use of the Non-shared Spectrum offered for assignment to each of them in the 26/28 GHz bands (“Successful Applicants”). Since the spectrum assignments are made in accordance with the amount applied by the applicant in its application, failure by the Provisional Successful Applicants who accept the Provisional offer to take up all or part of the assigned frequency slots will be subject to a penalty based on the amount of spectrum not taken up and the relevant deposit lodged. Please see paragraph 3.24 below on forfeiture of deposit.
- 3.20 The working target is to notify the Successful Applicants by the week of 21 May 2024, after the connection among the Provisional Successful Applicants who accept the Provisional Offer, if any, can be timely resolved. The CA will also publish on its website the list of Successful Applicants and the amounts and frequency ranges of the Non-shared Spectrum offered for assignment to each of them.

Period of Assignment

- 3.21 The CA will make available the remaining 2 500 MHz of Non-shared Spectrum for assignment for a period of about 10 years from the date of assignment to 24 April 2034 (which is coterminous with the end of the assignment period for the First Round Assignment⁷). It should be noted that the end of the assignment period will remain at 24 April 2034 even if the validity period of the UCL containing the assignment of the spectrum is beyond that date. The expiry of the Non-shared Spectrum in the First and Second Round Assignments on the same date is to enable better spectrum management for the 26/28 GHz bands and avoid spectrum fragmentation when the Non-shared Spectrum is to be re-assigned after the expiry of the First and Second Round Assignments. This assignment of frequency spectrum shall not prejudice the generality of the power exercisable by the CA under the TO including section 32H. For the avoidance of doubt, there is no legitimate expectation of any

⁷ The Non-shared Spectrum in the First Round Assignment was assigned to the Incumbent MNOs on 25 April 2019 and will expire on 24 April 2034.

right of renewal or right of first refusal upon expiry of the spectrum assignments.

Return of Deposit

3.22 The deposit paid by an applicant will be returned to the applicant if one of the following events occurs -

- (a) when the applicant fails to be qualified;
- (b) when the applicant is disqualified;
- (c) if the applicant is qualified but has not become the Provisional Successful Applicant after the CA's detailed assessment;
- (d) if the Provisional Successful Applicant does not accept the Provisional Offer by notifying the CA in writing within seven calendar days upon receipt of the Provisional Offer; or
- (e) when the applicant has become the Successful Applicant and subject to paragraph 4.11 below, provided to the CA a performance bond to guarantee fulfilment of the network and service rollout obligations.

3.23 Where the deposit is in cash, it will earn interest at the rate available to the CA from the bank in which the cash is deposited. Interest earned on a cash deposit will be returned to applicants with the deposit.

3.24 For the avoidance of doubt, the CA may at its discretion forfeit an amount up to the full amount of the applicant's deposit by way of penalty or make a claim under the letter of credit in but not limited to the following circumstances: (a) if a Qualified Applicant withdraws from the application process at any time without valid justification; (b) if the Provisional Successful Applicant who accepts the Provisional Offer fails to meet the requirements for resolving the issue of connected companies in relation to the Spectrum Cap, where applicable; or (c) if the Successful Applicant having been offered for assignment an amount of the Non-shared Spectrum in the 26/28 GHz bands but it fails to take up all or part of the assigned frequency slots or to fulfil the other requirements listed in paragraph 4.4 below for the grant of licence.

Unassigned Non-shared Spectrum after the Second Round Assignment

- 3.25 If any amount of the Non-shared Spectrum is left unassigned after the Second Round Assignment, the unassigned spectrum will be put on reserve. Subject to the available amount of Non-shared Spectrum leftover after completion of the Second Round Assignment, any such spectrum or part thereof in the reserve may be assigned for Government use.
- 3.26 Any further assignment of the unassigned spectrum for provision of large scale public mobile service will be subject to the discretion of the CA.

Indicative Timetable

- 3.27 Table 1 below sets out the indicative dates of major events of the application process for this spectrum assignment exercise. Please note that the timetable is for reference only and is not intended to set any deadlines to which the CA has to adhere.

Table 1: Indicative timetable

Activity	Date
Publication of Application Guidelines	29 February 2024
Deadline for submission of questions	7 March 2024
Deadline for application	28 March 2024
Publication of Notice to announce the identities of applicants	28 March 2024
Deadline for submission of statutory declaration on connected company by applicants	11 April 2024
Issue of notification of Provisional Successful Applicants with Provisional	7 May 2024

Activity	Date
Offer of assignment of spectrum to each of them	
Deadline for submission of acceptance of the Provisional Offer by the Provisional Successful Bidders (within seven calendar days after notification of the Provisional Successful Applicants with Provisional Offer)	14 May 2024
Publication of Notice to announce the identities of Successful Applicants and offer of assignment of spectrum to each of them	21 May 2024
Submission of acceptance of offer and terms and conditions of assignment of spectrum, performance bond and licence fee by the Successful Applicants	25 June 2024
Issue of UCL to effect the assignment of spectrum to the Successful Applicants	9 July 2024

Section IV – Licensing Arrangements

Licence for Assignment of the Non-shared Spectrum

- 4.1 Each Successful Applicant will be issued a UCL to effect the spectrum assignment. If the Successful Applicant is an existing licensee, it may request to merge its existing UCL with the new UCL issued for the assignment of the Non-shared Spectrum in the 26/28 GHz bands.

Terms and Conditions of the Licence

- 4.2 The UCL to be issued to each Successful Applicant will be valid for 15 years, with the term of assignment of the Non-shared Spectrum in the 26/28 GHz bands up to 24 April 2034.
- 4.3 The UCL will contain the General and Special Conditions substantially in the form set out in the sample licence⁸. The General Conditions are prescribed in the Telecommunications (Carrier Licences) Regulation (Cap. 106V) whereas the Special Conditions are specified by the CA for the imposition of those licence conditions specific to the Licensee in the provision of public telecommunications services. For the avoidance of doubt, the CA reserves the right to amend the Conditions as appropriate or necessary prior to formal grant of the UCL.

Grant of Licence

- 4.4 Successful Applicants are required to: (a) confirm their acceptance of the CA's offer to assign the relevant part of the Non-shared Spectrum to them; (b) confirm their acceptance of the terms and conditions of spectrum assignment; (c) provide to the CA a performance bond guaranteeing compliance with the network and service rollout obligations as specified below; and (d) pay the required provisional licence fee as elaborated below, before a UCL could be issued to them to effect the relevant spectrum assignment.

⁸ The sample UCL licence is available at:
https://www.coms-auth.hk/filemanager/common/licensing/sample_ucl_license.pdf.

Permitted Service and Technical Standard to be Adopted

- 4.5 The Non-shared Spectrum assigned shall be used for the provision of large scale public mobile and/or wireless fixed services. For the avoidance of doubt, the UCL authorises the Licensee to only provide services licensable under the TO. Nothing in the UCL authorises the Licensee to provide any service subject to licensing, permission, approval or other kinds of authorisation under any other ordinance.
- 4.6 The Licensee will be free to adopt any widely recognised standards for the provision of public mobile services using the assigned frequency blocks.
- 4.7 Notwithstanding the technology neutrality principle, the Licensee must comply with all the relevant technical specifications, if any, which may be prescribed from time to time by the CA under section 32D of the TO.

Network and Service Rollout Obligations

- 4.8 Each assignee of the Non-shared Spectrum in the Second Round Assignment other than the Incumbent MNOs (“New Assignee”) is required to install and put into use a minimum number of radio units within the first five years following spectrum assignment and such requirement is proportional to the amount of spectrum assigned up to 400 MHz. Specifically, if a New Assignee is assigned with 400 MHz or more of Non-shared Spectrum, a minimum of 2 500 radio units will be required to be installed and put into use within the first five years following spectrum assignment. The rollout obligations will be reduced proportionately for Licensees assigned with a smaller amount of spectrum. For example, the minimum network and service rollout obligations of a New Assignee of 200 MHz of Non-shared Spectrum will be 1 250 radio units within the first five years following spectrum assignment. The commitment of the applicant to implement a network capable of providing large scale public mobile services to the general public will be an essential criterion in the pre-qualification exercise to determine whether an applicant should be a Qualified Applicant. For the avoidance of doubt, the Incumbent MNOs (each of which has been assigned with 400 MHz of Non-shared Spectrum in the First Round

Assignment) will not be subject to additional network and service rollout obligations if they acquire additional spectrum in the Second Round Assignment.

- 4.9 For the purpose of these Guidelines, “radio units” refer to active antenna unit, antenna integrated radio, or remote radio head/unit installed at the registered address of a radio base station. For example, if three radio units are connected to the baseband unit of a radio base station, this will be counted as three radio units for the purpose of meeting the minimum requirement. Applicants are required to specify in their applications their planned distribution of radio units (both outdoor and indoor radio units) in different locations of the territory in order to meet the network and service rollout obligations. To facilitate the CA in monitoring whether the rollout obligations have been met, Licensees assigned with the relevant spectrum in the 26/28 GHz bands should state clearly the exact number of radio units which will be installed at the registered address of each radio base station when they apply to the CA for approval of installation of radio base stations.
- 4.10 The radio units specified under the network and service rollout obligations for the New Assignee are required to be installed in three phases within the first five years following spectrum assignment according to the following schedule: 20% within the first three years following spectrum assignment; an addition of 30% within the next one year; and an addition of the remaining 50% by the end of the fifth year.

Performance Bond

- 4.11 New Assignees of the Non-shared Spectrum are required to provide performance bonds proportionate to the amount of spectrum assigned. The size of the performance bond is set at HK\$1 million per MHz of spectrum assigned up to 400 MHz. For example, an assignee is required to submit a bond of HK\$200 million if it is assigned with 200 MHz of spectrum, or a bond of HK\$400 million if it is assigned with 400 MHz or more of spectrum. The performance bond lodged with the CA must be issued by a qualifying bank⁹ in the form as provided in Schedule 9 of the sample UCL (see Footnote 8), and reached the CA on

⁹ Please see Footnote 6 for definition of “qualifying bank”.

or before 25 June 2024. For the Incumbent MNOs (each of which has provided a performance bond for assignment of 400 MHz of Non-shared Spectrum in the First Round Assignment), they will not be required to provide an additional performance bond if they acquire additional spectrum in the Second Round Assignment. For the avoidance of doubt, nothing in these Guidelines shall prejudice the validity of the performance bond submitted pursuant to the First Round Assignment.

- 4.12 The bond will be released to the Licensees in three phases on equal portions and in accordance with their fulfilment of the three milestones specified in paragraph 4.10 above. The liability under the performance bond will cease when the CA is satisfied that the Licensee has fully complied with its network and service rollout obligations. If the Licensee fails to fulfil any of the milestones as required, the relevant part of the bond will be forfeited.

Frequency Swap

- 4.13 To facilitate the formation of contiguous frequency blocks by the assignees after spectrum assignments, the CA will consider favourably applications for frequency swap from the Successful Applicants taking into account the assignments already granted to the Incumbent MNOs in the First Round Assignment. After issue of the UCLs to the assignees, should developments in technology and/or equipment in future warrant re-organisation of frequency assignments among Licensees so as to enhance the efficiency in spectrum utilisation, the CA will consider applications for frequency swap from individual assignees of the Non-shared Spectrum on a case-by-case basis. For the avoidance of doubt, any spectrum swap or equivalent request submitted will be considered by the CA based on the merits of each case and its approval or otherwise, and the imposition of conditions, if any, will be at the CA's sole discretion.

Payment of Spectrum Utilisation Fee

- 4.14 In paragraphs 49 and 50 of the Statement (see Footnote 1 for details), SCED has decided to adopt the SUF charging scheme for spectrum assigned administratively for charging SUF in the 26/28 GHz bands.

That is to say, SUF will not be charged so long as less than 75% of the spectrum in the 26/28 GHz bands is assigned or occupied. SUF will only be charged if the frequency bands become congested (i.e. 75% or more occupied) and are anticipated to become more congested in the future¹⁰. SCED has also decided to set the level of SUF for Non-shared Spectrum at \$21,600 per MHz per annum. To effect the SUF charging if the situation warrants, the CA has designated the 26/28 GHz bands in which the use of spectrum is subject to the payment of SUF by the users of the spectrum in the Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106Y)¹¹. Correspondingly, SCED has specified the level of SUF applicable to the 26/28 GHz bands in the Telecommunications (Level of Spectrum Utilization Fee) Regulation (Administratively Assigned Spectrum) (Cap. 106AH) (“Regulation”)¹² with the effective day to be appointed by him by notice published in the Gazette.

- 4.15 Currently, 1 600 MHz of spectrum in the 26/28 GHz bands has been assigned (i.e. 1 200 MHz of the Non-shared Spectrum and 400 MHz of the Shared Spectrum) and the current utilisation of the bands is about 39% which is way below the 75% threshold. If the additional amount of spectrum assigned through the Second Round Assignment and to the Government after the Second Round Assignment reaches 1 475 MHz (i.e. 4 100 MHz x 75% - 1 600 MHz), SCED will appoint a date for the Regulation to come into operation.
- 4.16 The level of SUF payable for the 26/28 GHz bands (irrespective of whether the two frequency bands are regarded as congested at the initial stage) will be reviewed together with the review of the levels of SUF payable for other administratively-assigned spectrum, which is conducted every five years. With the latest review concluded in 2023,

¹⁰ The criteria used to identify the frequency bands that are subject to SUF remain the same as re-affirmed in paragraph 28(a) of the statement of the CA and SCED entitled “Review of Charging Scheme for Spectrum Utilization Fee for Spectrum Assigned Administratively” issued on 8 December 2023 which is available at:
https://www.cedb.gov.hk/assets/resources/cedb/consultations-and-publications/Joint_Statement_of_CA_and_SCED.pdf.

¹¹ The Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) Order (Cap. 106Y) is available at:
<https://www.elegislation.gov.hk/hk/cap106Y>.

¹² The Regulation has not yet come into operation. To see the contents, please refer to L.N. 61 of 2021 in the Government of the Hong Kong SAR Gazette as available at:
<https://www.gld.gov.hk/egazette/pdf/20212518/es22021251861.pdf>.

the next review is expected to be held in about 2028 (see Footnote 10 above for details).

Payment of Licence Fee

- 4.17 Licensees are required to pay annual licence fees which are stipulated in Schedule 3 to the Telecommunications (Carrier Licences) Regulation (Cap. 106V). In line with the cost recovery principle, the licence fees will be set and reviewed from time to time so that the expenses incurred in the provision of the services and financing liabilities of the OFCA Trading Fund are met by the income paid to the Trading Fund.
- 4.18 The current annual licence fee payable on the issue and on each anniversary of the issue of a UCL in each year while the licence remains in force will be the sum of the items set out in Part 6 of Schedule 3 to the Telecommunications (Carrier Licences) Regulation (Cap. 106V) and the related document issued by the CA¹³.
- 4.19 For the purpose of determining the licence fees payable, the quantity of customer connections, Wireless Internet of Things devices, subscriber numbers, base stations and frequencies assigned will be those authorised or in service at the time when the UCL concerned is issued or on each anniversary of the issue date.

Control of Interference

- 4.20 Licensees are required to take all reasonable measures to install, maintain and operate the network and the service in such a manner as not to cause any harmful interference to any lawful telecommunications services within or outside Hong Kong. If necessary, the CA may issue relevant directions requiring the Licensee to take such measures as may be necessary to prevent interference. The Licensee shall comply with the directions.

¹³ Circular letter issued by the CA on 28 April 2020 on Reporting of the Number of Customer Connections, Mobile Stations and Base Stations is available at:
https://www.coms-auth.hk/filemanager/common/licensing/circular_20200428_2.pdf.

- 4.21 Licensees must also coordinate and agree with other licensees on the technical measures to be taken to minimise any mutual interference between them.
- 4.22 Licensees must at all times ensure that no harmful interference should be caused to users of the spectrum in the Mainland. The CA will have ongoing discussions with the relevant Mainland authorities to coordinate the use of frequencies in the boundary areas between Hong Kong and the Mainland. Licensees must comply with such requirements as may be imposed by the CA as a result of the frequency coordination from time to time.

Revocation of Licence

- 4.23 Under section 34(4) of the TO, the CA may cancel or withdraw a licence, or suspend a licence for a period not exceeding 12 months, in the event of any contravention of the licence, the TO, or any condition to which the licensee is subject. In exercising such a power, the CA will give the licensee a reasonable opportunity to make representations. The exercise of this power must be proportionate and reasonable in relation to the contravention concerned.
- 4.24 The Chief Executive in Council (“CE-in-C”) may, under section 34(4) of the TO, cancel or suspend a licence at any time if the CE-in-C considers that the public interest so requires.

Transfer and Assignment of the Licence

- 4.25 A Licensee may, only with the prior written consent of the CA, and subject to such reasonable conditions as the CA thinks fit, transfer the UCL or any permission, right and/or benefit thereunder. In giving its consent, the CA will have regard to such matters as it thinks fit including but not limited to the effect which the transfer will have on market structure and the financial and technical competence and viability of the transferee.

Change of Ownership

4.26 There is no requirement to notify the CA of a merger falling within the merger rule under the CO. However, in order to assist merging parties and their advisers when planning mergers involving one or more undertakings that holds a UCL under the TO, or directly or indirectly, controls an undertaking that holds such a licence, the CA is willing to provide informal advice on a proposed merger on a confidential basis. For details of the merger rule and how the CA intends to interpret and give effect to the merger rule, please refer to schedule 7 of the CO and the Guideline on the Merger Rule jointly issued by the CA and the Competition Commission¹⁴.

Service Contracts and Dispute Resolution

4.27 Licensees shall comply with all codes of practice issued by the CA from time to time in respect of the requirements to apply in the contracting of telecommunications services to end users.

4.28 The contracting requirements referred to in paragraph 4.27 above may include but not limited to the following:

- (a) the style, format and structure of service contract documentation;
- (b) the manner of entering into and terminating service contracts;
- (c) the information to be included in or in connection with service contracts and the performance of the services;
- (d) the submission of disputes between end users and the providers of telecommunications services to independent dispute resolution, pursuant to a scheme approved by the CA; and
- (e) other terms and conditions or provisions for the protection of the interests of end users.

¹⁴ The Guideline is available at:
https://www.coms-auth.hk/filemanager/en/content_923/comp_guide3_en.pdf.

- 4.29 Before issuing any such codes of practice, the CA will carry out such consultation as is reasonable in the circumstances.

Section V – Information to be Provided in Submitting the Application

Scope of Proposed Services

- 5.1 Applicants should specify the scope of services proposed to be provided using the Non-shared Spectrum under application, and indicate their assessment of the potential demand for such services. The application should contain an Executive Summary summarising in a concise manner the significant and salient points of the proposals. The CA will only consider applications whose scope of services includes the provision of large scale public mobile services available to the general public in Hong Kong.
- 5.2 The application should include a detailed description of all services to be provided, target customers, intended coverage areas upon the commissioning of the facilities, expected service launch date, implementation schedule if the proposed services are to be introduced in phases and plans for the introduction of new services. The application should also include detailed description of the arrangements for offering wholesale and/or retail services to the public, and an explanation on how the applicant is not primarily relying on the interconnection and wholesale services of other operators' infrastructure to roll out its network or to provide its services.
- 5.3 Successful Applicants should be committed to the provision of the proposed services in Hong Kong as detailed in their applications, submissions and representations.

Application for Spectrum Assignment

- 5.4 Applicants should specify the amount of Non-shared Spectrum applied for.

Company Structure

- 5.5 Holders of a UCL must be registered in Hong Kong under the Companies Ordinance (Cap. 622). The application proposal should

contain details of the company intended to be the assignee of the Non-shared Spectrum, including -

- (a) photocopies of the Certificate of Incorporation and the Business Registration Certificate of the company;
- (b) detailed information on corporate and shareholding structure, including relationships with holding or related companies, and consent to the disclosure of such information so as to assist the CA and other applicants to assess whether an applicant is a connected company in relation to another applicant;
- (c) a certified copy of Articles of Association of the company;
- (d) details on the composition of the company's Board of Directors and key officers.

Financial Capability

5.6 If the applicant is an established company, the proposal should include copies of audited annual financial statements, including the auditor reports, for each of the last three full financial years, together with the most recent interim results (if applicable).

5.7 If the applicant is a newly-formed company, the proposal should include -

- (a) the directors' certificate of the amount of issued and paid-up share capital;
- (b) bankers' confirmation of the amount of its deposits and/or available credit facilities; and
- (c) copies of audited financial statements, including the auditor reports, for each of the last three full financial years, together with the most recent interim results, of each of the company's shareholders that is an established company (if applicable).

- 5.8 The application should include a detailed financial plan (with inflation assumptions) for the proposed services and network for the first ten years of operation including -
- (a) a breakdown of the planned capital expenditure (“CAPEX”) and of working capital requirements for the first ten years of operation;
 - (b) projected profit and loss account including details of revenue, fixed and variable costs, balance sheet and budgeted cash flow statements, showing the amount of capital to be invested on an annual basis for ten years;
 - (c) method of depreciation of assets;
 - (d) projected volume of business and market share for the first ten years of operation;
 - (e) the forecast internal rate of return and payback period of the project;
 - (f) details of proposed financing structure, debt equity ratio of the project, credit facilities, repayment terms and schedule for loans and bonds, timing or injection of funding, and the level of shareholders’ support to satisfy the CA that the applicant has sound financial backing to carry out the project; and
 - (g) sensitivity tests on the business plan showing the worst case scenario (the worst case being one beyond which the company would not wish to invest) and a scenario in which the projected revenue level falls to 80% of the basic assumptions, details of contingency financial arrangements, balance sheet, profit and loss account, cash flow statements, capital investment plan, internal rate of return and payback period of the project.
- 5.9 For existing carrier licensees authorised to provide public mobile services which have already submitted the above information for granting of the existing UCLs, they should provide supplementary financial information by making reference to the above items as appropriate to demonstrate their financial capability of providing large scale public mobile services using the Non-shared Spectrum assigned to them.

Technical Details of the Facilities

5.10 Applicants should give a detailed description of the proposed facilities. This description should cover -

- (a) technical configuration including network infrastructure and components with the aid of diagram, the technology to be employed, the likely choice of equipment, system design, capacity, how the network and its ancillary equipment and facilities are planned to meet the proposed capacity, connectivity to destinations outside Hong Kong, if applicable, and other technological characteristics;
- (b) the facilities upon launch of service and the facilities expansion plan for the first ten years of operation;
- (c) the planned location of equipment to be installed;
- (d) the planned facilities and traffic management, signalling, metering and billing arrangements, and number porting arrangements (where applicable) to be adopted;
- (e) specification(s) to which the equipment comply with. The specification(s) should be widely recognised standard(s) covering functional specification(s), modulation, transmitting power, out-of-band and spurious emissions, antenna characteristics, etc., where applicable; and
- (f) proposed interface for interconnection with other networks.

Applicants should illustrate how the proposed facilities are designed and implemented to ensure provision of good, efficient and continuous services.

5.11 Applicants should provide technical proposals for interconnection with other telecommunications networks in Hong Kong.

5.12 For existing carrier licensees authorised to provide public mobile services which have already submitted the above information for

granting of the existing UCLs, they should provide supplementary technical information by making reference to the above items as appropriate to demonstrate their technical capability of providing large scale public mobile services using the Non-shared Spectrum assigned to them, including in particular information about technical specification(s) requested under paragraph 5.10 (e) above.

Technical Support

- 5.13 The application should include details of technical support facilities and maintenance centres which the applicants have or intend to set up in Hong Kong, including a description of the technical personnel including key management/engineering personnel, staffing levels and any principal contractors responsible for the design, construction, day-to-day operation, maintenance of the facilities and the routine maintenance schedule/procedure.

Contingency Plan

- 5.14 To ensure sustainability of service delivery, the applicant should provide the contingency plan for its proposed services in response to major breakdown or network/service outage. It should include -
- (a) a brief description of the contingency plan and arrangement;
 - (b) the designed level of resilience in terms of percentage of affected services recovered and the time within which the recovery will be completed;
 - (c) the amount of backup capacity (relative to the capacity level required for normal operation) and the spare resources such as backhaul equipment for contingency connection;
 - (d) prior and post arrangements for re-allocating resources, re-routing the affected traffic and acquisition of additional bandwidth to recover the affected services;

- (e) internal procedures for monitoring and reporting critical network outage, composition of the team responsible for handling the major incidents and the responsibility of the respective major team members; and
- (f) brief description of the action and procedures to (i) assess the impact of major incident; and (ii) disseminate the information to the management, OFCA and the customers.

Previous Relevant Experience

- 5.15 Details on the technical knowhow and any previous experience of the applicant, its shareholders and key personnel in establishing and running the proposed telecommunications networks and services, as well as information on the current status of these networks and services, should be given.
- 5.16 Information should also be provided on the applicant and its shareholders' experience in running other relevant businesses in Hong Kong or overseas.

Implementation Plan

- 5.17 The CA would like to see early availability of mobile services supported by spectrum in the 26/28 GHz bands. As such, applications should include an implementation plan for deployment of the Non-shared Spectrum assigned, stating the key milestones of implementation for the first five years starting from the date of spectrum assignment which should include (a) the plan for installation of radio units in different locations of the territory; (b) placing of order for equipment; (c) delivery of equipment; (d) acquisition of sites; (e) securing access to buildings; and where applicable (f) construction of equipment buildings/rooms, earth stations or cable landing stations; (g) conclusion of cable construction and maintenance of agreements; (h) laying of cables; (i) negotiations on interconnection arrangements; (j) installation of equipment; and (k) testing. The applicant will be required to adhere to this plan if the Non-shared Spectrum is subsequently assigned.

Other Information

- 5.18 Applicants may submit any other information not specified above which they consider helpful to their applications.

Information of Incumbent MNOs

- 5.19 For provision of information in relation to paragraphs 5.6 – 5.17 above, Incumbent MNOs are only required to provide latest updates to their applications submitted for the First Round Assignment in regard to company structure, financial information, technical details of facilities and details of technical support; as well as their latest network and service rollout positions in using the Non-shared Spectrum assigned in the First Round Assignment and plans for deployment of all the Non-shared Spectrum under application for the Second Round Assignment, to enable assessment that they are qualified for the additional spectrum assignment.

Section VI – Pre-qualification and Broad Licensing Criteria

- 6.1 The basis for pre-qualification and assessment of applications will be the information supplied by the applicants according to the requirements set out in Section V of these Guidelines. The CA reserves all rights not to accept applications which are substantially incomplete in this respect.

Pre-qualification Criteria

- 6.2 The CA will consider the following in determining whether a party submitting an application can be qualified –

- (a) Types of services which the applicant plans to provide

The applicant should commit to provide large scale public mobile services capable of meeting the minimum rollout obligations and intend to provide a network coverage which is comparable to existing mobile services;

- (b) Amount of Non-shared Spectrum applied for and the related justifications

The applicant should provide sufficient justifications (including quantitative information and calculations) for the amount of Non-shared Spectrum applied for, which should not exceed the Spectrum Cap;

- (c) Technical, organisational and financial capabilities of the applicant

The applicant should provide sufficient information to demonstrate its technical, financial and operational competence capable of providing a good, efficient and continuous public mobile service generally available in the territory;

- (d) Payment of deposits in the form of cash or a letter of credit based on the amount of spectrum applied for; and

- (e) Provision of information to satisfy the CA that it is not connected with other applicant(s) and/or the Incumbent MNOs.

Broad Licensing Criteria

- 6.3 In considering the granting of a UCL to an applicant for assignment of the Non-shared Spectrum, the CA will consider the benefit of the proposed network to the community. Specifically, the type of services to be offered and the intended coverage areas, the reasonableness of the business plan and the applicant's financial capability to fulfil the CAPEX requirement. For details of other broad licensing criteria, please refer to paragraphs 9.2 – 9.3 of the UCL Guidelines.

Office of the Communications Authority

29 February 2024

Bank Accounts of the Communications Authority

(a) **Bank** : Bank of China, Hong Kong Branch
Ground Floor, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong
Account Name : Office of the Communications Authority
Account Number : 012-899-1-003883-3

(b) **Bank** : The Hongkong and Shanghai Banking
Corporation Limited
Head Office
1 Queen's Road Central
Central
Hong Kong
Account Name : Office of the Communications Authority
Account Number : 004-048-203558-292

Letter of Credit for Payment of Deposit

LETTER OF CREDIT

TO : The Communications Authority (the “**Beneficiary**”)
The Office of the Communications Authority
29th Floor, Wu Chung House
213 Queen’s Road East
Wan Chai
Hong Kong

FROM : *[Name and address of issuing bank]* (the “**Issuing Bank**”)

DATE : []

The Issuing Bank issues this irrevocable standby letter of credit in favour of the Beneficiary on the following terms on the application and request of [***Name of the Applicant***] pursuant to the “*Guidelines for Submission of Applications for Second Round Assignment of Spectrum in the 26 GHz and 28 GHz Bands for Provision of Large Scale Public Mobile Services*” (“**Guidelines**”) issued by the Communications Authority (“CA”) on 29 February 2024 in exercise of the powers conferred by section 7 and section 32H of the Telecommunications Ordinance (Cap. 106) and all other powers enabling the CA to consider applications for issue of Unified Carrier Licence and assignment of frequencies for provision of public mobile services.

IRREVOCABLE STANDBY LETTER OF CREDIT NO. []
DATED []

BENEFICIARY The Communications Authority

EXPIRY DATE 31 July 2024

AMOUNT OF HK\$[] million (Reference: HK\$1 million per
STANDBY LETTER MHz of spectrum apply for)
OF CREDIT

AVAILABLE Subject to the Additional Conditions below, within three (3) Business Days¹⁵ of receipt by the Issuing Bank of the Beneficiary's certificate in the form set out below

BY Payment into the account specified by the Beneficiary

BENEFICIARY'S CERTIFICATE

TO : [] (the "Issuing Bank")

FROM : The Communications Authority (the "Beneficiary")
The Office of the Communications Authority
29th Floor, Wu Chung House
213 Queen's Road East
Wan Chai
Hong Kong

DATE : []

Irrevocable Standby Letter of Credit No. [] dated []
(the "Standby Letter of Credit")

1. We claim HK\$ [] under the Standby Letter of Credit.
2. This amount has become due and payable to us by the operation of the terms and conditions of the Guidelines.
3. We request payment from the Issuing Bank of the amount specified in paragraph 1 within three (3) Business Days after the date of this certificate to [*details of the Beneficiary's account*] in our favour.

¹⁵ For the purposes of this Standby Letter of Credit, "Business Day" means a full day other than a Saturday or a Sunday on which banks in Hong Kong are open for general business.

SIGNED BY

.....

(name and title)

for the Beneficiary

ADDITIONAL CONDITIONS

1. The Beneficiary may make any number of demands for payment up to the Amount of this Standby Letter of Credit as reduced from time to time by the payments made by the Issuing Bank before the Expiry Date.
2. The Issuing Bank shall not be required to investigate the authenticity of any certificate presented by the Beneficiary or the Beneficiary's capacity or entitlement to make any certificate and each certificate issued by the Beneficiary of sums due shall be conclusive, save for manifest error.
3. All payments under this Standby Letter of Credit shall be made in full to the Beneficiary without any deduction or withholding (whether in respect of set off, counterclaim, duties, present or future taxes, charges or otherwise) and shall not be withheld for whatever reason. Nothing in any agreement between the Issuing Bank and any third party shall prejudice the operation of this Standby Letter of Credit.
4. The Issuing Bank may not assign or transfer all or any of its rights and obligations under this Standby Letter of Credit to another person without the prior written consent of the Beneficiary.
5. This Standby Letter of Credit is subject to the International Standby Practices 1998 (to the extent not inconsistent with the terms of this Standby Letter of Credit) and is governed by, and shall be construed in accordance with, Hong Kong Law.

SIGNED BY:

.....
(Insert name and title of first representative of the Issuing Bank)
For (name of the Issuing Bank)

SIGNED BY:

.....
(Insert name and title of second representative of the Issuing Bank)
For (name of the Issuing Bank)

[COMPANY SEAL / CHOP OF ISSUING BANK AFFIXED:] *[If required]*

(Note: For verification of the above execution, please provide a certified true copy of the relevant board resolutions, power of attorney or the equivalent of the Issuing Bank.)

Connected Company

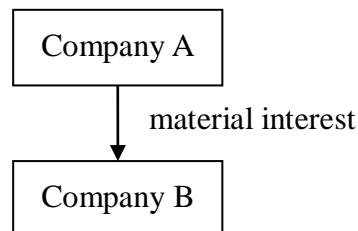
Connected Companies for Application of the Spectrum Cap

1. A connected company refers to an applicant that has a connection to another applicant and/or any of the Incumbent MNOs.

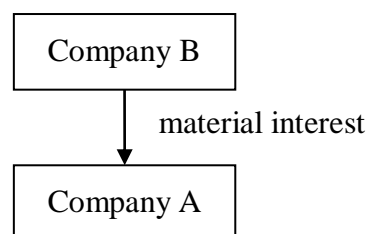
Definition of Connection

2. Connection has, for the current spectrum assignment exercise and these Guidelines, the following meaning. A company (Company A) has a connection to another company (Company B) if:

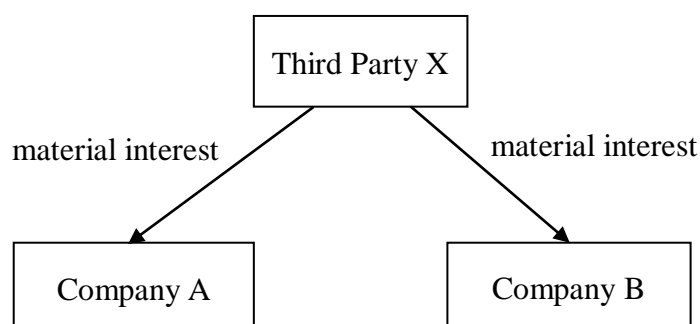
- (a) Company A holds a “material interest” in Company B; or



- (b) Company B holds a “material interest” in Company A; or

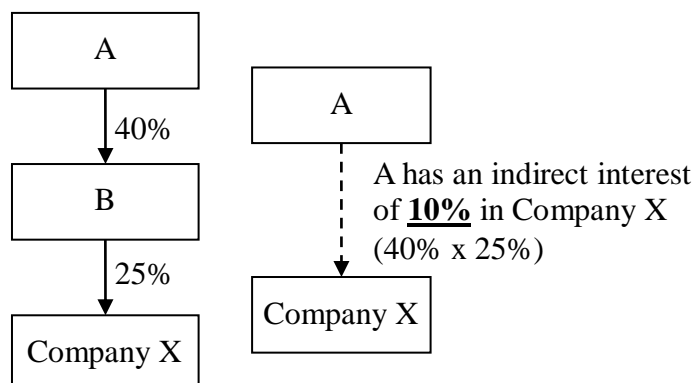


- (c) Company A and Company B are under common ownership of a third party who holds a “material interest” in both Company A and Company B.



3. A “material interest” refers to a direct or indirect interest of one of the following:
- (a) a holding of or a right to acquire or subscribe for 25% or more of the issued share capital of the body corporate;
 - (b) a holding of or a right to acquire voting power in respect of 25% or more of the issued share capital of the body corporate;
 - (c) control of the body corporate through holding of, a right to acquire or having voting power of 50% or more of the issued share capital of the body corporate, or through other means by which the affairs of the body corporate are conducted according to the wishes of the holding party.
4. Applicants should note that, indirect interest (e.g. interest held through nominees or custodians) and conditional entitlement (e.g. interest conditional on terms of a loan agreement) shall be taken into account.
5. In determining whether a person has a material interest indirectly in a body corporate, the extent of the interest of the person in the body corporate will be calculated as follows:
- (a) If there is one interposed person, the percentage is arrived at by multiplying the percentage representing the extent of the interest of the person in the interposed person by the percentage representing the extent of interest of the interposed person in the body corporate.

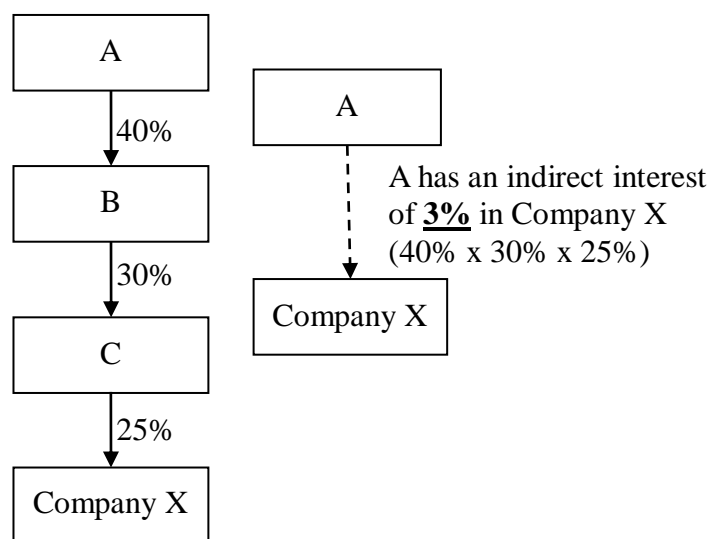
Example:



(b) If there is a series of interposed persons, the percentage is arrived at by multiplying the percentage representing the extent of the interest of the person in the first interposed person in the series by:

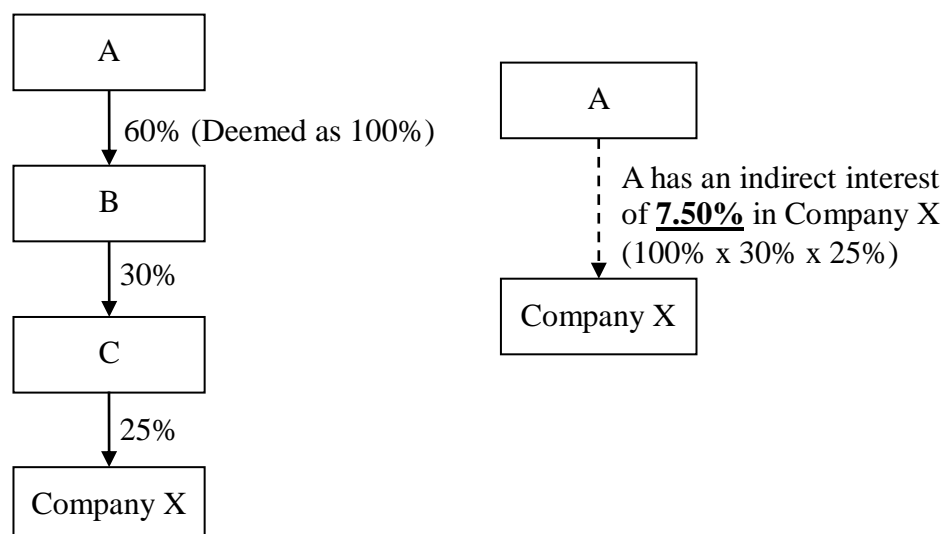
- (i) the percentage representing the extent of interest of each interposed person (other than the last interposed person) in the series in the next interposed person in the series; and
- (ii) the percentage representing the extent of the interest of the last interposed person in the series in the body corporate.

Example:



6. For any interposing interest described in paragraph 5(a)-(b) above, where such interest exceeds 50%, it shall be deemed as 100%.

Example:



STATUTORY DECLARATION ON CONNECTED COMPANY

(Note 1: The statutory declaration on connected company is to be completed by the applicant after reviewing information on the corporate and shareholding structure of other applicant(s) and/or the Incumbent MNOs as received from the CA and/or known to the applicant.)

(Note 2: After submission of the statutory declaration, the applicant should keep the CA informed of any change of the status on connected companies (which would result in the aggregate amount of the Non-shared Spectrum being applied for and held by them exceeding the Spectrum Cap) and shall cease to participate in the administrative spectrum assignment process upon such change unless the problem of connection is resolved in accordance with the applicable procedures described in paragraphs 3.9 and 3.10 of the Guidelines to the satisfaction of the CA.)

I/We, [] of [] being
[] of [] (the “Applicant”)
refer to the Guidelines dated 29 February 2024 issued by the CA in exercise of the powers conferred by section 7 and section 32H of the TO and all other powers enabling it to consider applications for issue of UCL and assignment of frequencies for provision of public mobile services.

I/We do solemnly and sincerely declare that, to the best of my/our knowledge, information and belief, having made all due enquiries of any person:

- (a) who holds a material interest in the Applicant,
- (b) in whom the Applicant holds a material interest, and
- (c) in whom another person who has a material interest in the Applicant also holds a material interest;

and having informed them of the relevant provisions of the TO and the Guidelines, **there is no other applicant / Provisional Successful Applicant / Incumbent MNO* which is a connected company in relation to the Applicant other than as set out below nor has the Applicant nor any of the persons specified in (a) to (c) above taken any steps deliberately to arrange for, or assist in arranging, any other applicant / Provisional Successful Applicant / Incumbent MNO* to be a connected company in relation to the Applicant.**

(* Please delete as appropriate.)

Connected Company

Name : []

Address/Registered office : []

Unless otherwise stated or the context otherwise requires, words and expressions used in this statutory declaration have the same meaning as that given to them in the Guidelines.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the Oaths and Declarations Ordinance (Cap. 11, Laws of Hong Kong).

DECLARED at

Dated

Before me

(Signature and designation

i.e. Justice of the Peace/Notary Public/

Commissioner of Oaths/Solicitor)