

Introductory Notes for Applications under the Subsidy Scheme to Support Upgrading of Satellite Master Antenna Television (“SMATV”) Systems

Purpose

This notes provides information on the eligibility criteria, application procedures and application timeframe (i.e. from 27 November 2019 to 26 November 2020) concerning a subsidy scheme to support upgrading of SMATV systems operating in the 3.4 – 4.2 GHz band (commonly known as the “C-Band”) which are covered by existing SMATV licences on or before 28 March 2018.

Background

2. The Communications Authority (“CA”) announced in the statement¹ entitled “Change in the Allocation of the 3.4 – 3.7 GHz Band from Fixed Satellite Service to Mobile Service” that the allocation of radio spectrum in the 3.4 – 3.7 GHz band would be changed from fixed satellite service to mobile service with effect from 1 April 2020. As a result of the frequency re-allocation and as per outcome of a consultancy study² commissioned by the Office of the Communications Authority (“OFCA”), existing SMATV systems need to be upgraded in order to co-exist with the prospective fifth generation mobile (“5G”) systems to be rolled out on or after 1 April 2020. The baseline requirements for the upgrade are set out in the Information Note entitled “Baseline Requirements for Satellite Master Antenna Television System Operating in the 3.7 – 4.2 GHz Band”³ (“InfoNote”) issued by OFCA.

3. As promulgated in the joint statement⁴ of the CA and the Secretary for Commerce and Economic Development of 13 December 2018, the CA has decided to implement a subsidy scheme to support the upgrading of existing SMATV systems covered by existing SMATV licences on or before 28 March 2018 (the “Subsidy Scheme”). Details of the Subsidy Scheme are given in the Information Memorandum⁵ for Auction of Radio Spectrum in the 3.5 GHz Band for the Provision of Public Mobile Services. Under the Subsidy Scheme, the prospective 5G mobile network operators operating in the 3.4 - 3.6 GHz band (“MNOs”) are required to collectively set up a fund for the implementation of the Subsidy Scheme. Owners of each eligible SMATV system (“Owners”) will be given a subsidy of HK\$20,000 on a one-off basis to subsidise one count of upgrade of their SMATV system to meet the baseline requirements set out in InfoNote. Please note that this subsidy is not intended to cover recurrent expenses such as maintenance and repair. In this regard, the applicant has to submit a declaration together with its application confirming that it

¹ The CA statement is available at:
https://www.coms-auth.hk/filemanager/statement/en/upload/441/ca_statements20180328_en.pdf

² The Consultancy Study Report is available at:
https://www.ofca.gov.hk/filemanager/ofca/common/reports/consultancy/cr_201803_28_en.pdf

³ The Information Note is available at:
<https://www.coms-auth.hk/filemanager/statement/en/upload/440/i0012e.pdf>

⁴ The joint statement is available at:
https://www.coms-auth.hk/filemanager/statement/en/upload/481/joint_statement_st_062018.pdf

⁵ The Information Memorandum is available at:
https://www.ofca.gov.hk/filemanager/ofca/en/content_1168/3_5_ghz_Auction_IM.pdf

would use the subsidy to upgrade the SMATV system concerned. However, the applicant has full discretion to decide on the details of, and schedule for conducting the upgrading work.

Eligibility Criteria of Applicants

4. The eligibility criteria of applicants are set out below:
 - (a) the applicant **must be** the owner of a SMATV system; and
 - (b) the concerned SMATV system should be operated, among other frequency bands, in the C-Band; and
 - (c) the concerned SMATV system should be covered by an existing SMATV licence on or before 28 March 2018.

5. For the sake of clarity, an applicant may apply for subsidy for more than one SMATV system under its ownership. A SMATV system having multiple dish antennae as registered in the Schedule to a SMATV licence is considered as one SMATV system when applying for subsidy. If more than one person/party own different parts of a SMATV system, they must decide among themselves which one of them should apply for the subsidy. OFCA has the sole and absolute discretion in deciding the outcome of the application and on any matters incidental to the application.

How to Apply for the Subsidy

6. The applicant is required to submit an application form, together with the required supporting documents, for each SMATV system. OFCA will endeavour to send application forms together with the relevant information to owners of eligible SMATV systems by post within two weeks after the launch of the Subsidy Scheme. Applicants may also download the application form from OFCA's website⁶ or make a request to OFCA by calling OFCA at 8102 4387 to arrange the application form to be sent by post, fax or email, and we recommend applicants to do so if they feel that they are entitled to apply but have not received an application form from OFCA.

7. The applicant must complete an application form and provide supporting documents to ascertain:
 - (a) the identity of the applicant; and
 - (b) the ownership of the concerned SMATV system.

8. The required supporting documents are outlined in paragraph 9. It is the applicant's duty to redact sensitive information (such as commercial terms, price information, etc.) in supporting documents if it wishes to do so. Photocopies of supporting documents are acceptable, subject to the requirement that all pages of the photocopies should bear an official stamp and an authorised signature of the applicant.

⁶ The application form can be downloaded from:
https://www.ofca.gov.hk/en/industry_focus/broadcasting/television_broadcasting/satellite_tv/index.html

Supporting Documents for Identity of Applicant

9. An applicant is required to submit the following information and documents so that its identity can be ascertained:

- (a) Evidence of incorporation/establishment is required. The following documents should be provided:
- (i) Hong Kong entity A copy of the Certificate of Incorporation and valid Business Registration Certificate
 - (ii) Foreign companies A copy of the Certificate of Incorporation or its equivalence certified by its director or authorised person

If the aforementioned documents cannot be provided because the applicant is not an incorporated entity, the following documents should instead be provided:

- (iii) Owners' corporation A copy of certificate of registration of corporation
 - (iv) University/college A copy of the relevant ordinance or its registration with the Education Bureau
 - (v) Others Please contact OFCA at 8102 4387 for further information on the required documents
- (b) Provide details of the applicant's local contact person on the application form. The local contact person must have the delegated power to answer any questions that OFCA may have relating to the information required or supplied.
- (c) The Applicant must also declare on the Application Form that the applicant is the owner or authorised by the owner to submit the application form for the relevant SMATV system.

Supporting Documents for System Ownership of Applicant

10. To ascertain ownership of the concerned SMATV system, the applicant is required to provide:

- (a) a document clearly showing, to OFCA's satisfaction, the applicant's ownership of the concerned SMATV system at the date of application (e.g. a copy of valid SMATV contract which includes explicit provisions about ownership of SMATV system); **OR**
- (b) where a document cannot be provided pursuant to sub-paragraph 10(a) above:
 - (1) a letter of consent signed by three parties, namely (i) the SMATV contractor⁷ (ii) the appointing party (e.g. owners' corporation, sole owner, property manager) that appoints the SMATV contractor to maintain/lease the concerned SMATV system under a SMATV contract; and (iii) a representative of the owners of the building(s) which the concerned SMATV system is served, in the same form as set out in Annex 1 ("Letter of Consent"). In the Letter of Consent, the three parties should agree that the applicant is the owner of the System and hence the sole party to apply for the Subsidy for the System. They also support that OFCA should rely on the declarations and representations in the Letter of Consent in providing and administering the Subsidy Scheme; and
 - (2) a copy of the valid SMATV contract entered with the SMATV contractor regarding the maintenance/leasing of the concerned SMATV system.

11. OFCA may contact the persons/parties that appeared in the documents mentioned in paragraphs 10(a) and 10(b) to ascertain the ownership of the SMATV system and to facilitate the processing of application. In case there are competing claims made by different parties for the same SMATV system, OFCA will not process the application pending resolution made between the parties concerned and the provision of the Letter of Consent mentioned in paragraph 10(b)(1) above.

12. For the purpose of the Letter of Consent, the sole owner, the owners' corporation, the owners' committee, the mutual aid committee of the concerned building(s) or a company acting as an agent for and on behalf of owners of the concerned building(s) are qualified as an acceptable representative of owners of the concerned building(s).

13. If a SMATV system in question is not owned by a SMATV contractor (hereafter referred to as "Private-Own-System"), in order to simplify the application procedure, the Letter of Consent needs not to be signed by the SMATV contractor concerned. Applicants may check with their appointed SMATV contractor or OFCA if the concerned SMATV system falls within this category.

14. If an owners' corporation appoints a SMATV contractor to maintain the concerned SMATV system, the owners' corporation should sign the Letter of Consent in the capacities of both the appointing party and representative of the owners of the building(s).

⁷ A SMATV contractor is a holder of Satellite Master Antenna Television licence issued by the Communications Authority.

Indemnities

15. If the applicant is discovered at any point in time to actually not be an Owner, the applicant shall indemnify OFCA against any Losses suffered by OFCA arising out of or in connection with the applicant's representations with regard to the ownership of the SMATV system. "Losses" under this paragraph 15 means any and all damage, liability, demands, costs, expenses, claims, actions and proceedings, and includes all consequential, direct, indirect, special or incidental loss or punitive damages or loss, legal and other professional fees, cost and expenses, fines, penalties, interest and/or any other form of economic loss.

16. If there is any dispute or differences arising out of or in connection with the ownership of a SMATV system after the subsidy has been granted to the applicant, the applicant shall resolve the disputes or differences with the parties involved on its own. OFCA shall not under any circumstances whatsoever be obliged to provide details of the applicant to the alleged claimant or to otherwise render any assistance whatsoever to the resolution of the dispute or difference.

How to submit Applications

17. Applications with the required supporting documents should be submitted by post and sent to:

Office of the Communications Authority
29/F Wu Chung House, 213 Queen's Road East,
Wan Chai, Hong Kong
(Attn : Support Services Sub-section)

18. OFCA will send an acknowledgement to the applicant within 7 working days upon receipt of the application.

19. By submitting an application, the applicant is deemed to accept and agree to be bound by the provisions of the Introductory Notes for Applications under the Subsidy Scheme to Support Upgrading of Satellite Master Antenna Television ("SMATV") Systems in consideration for the applicant's application being considered by OFCA or the applicant actually taking part in the Subsidy Scheme, as applicable.

Application Period

20. The Subsidy Scheme opens for application from 27 November 2019 to 26 November 2020. Late applications will not be accepted.

Application Results and Receipt of Subsidy.

21. The applicant would be informed of the application result within 45 working days after the receipt of a valid application, i.e. submitted with a completed and duly signed application form together with all required supporting documents.

22. If the application is successful, the subsidy will be disbursed by a crossed cheque payable to the applicant. The cheque will be sent to the applicant by registered post and must be drawn within 60 calendar days from the day of issue.

23. As the Subsidy Scheme is funded by MNOs, a list of successful applicants will be provided to these MNOs for their information after the close of the Subsidy Scheme.

Provision of Personal Data

24. The applicant should provide sufficient information to enable OFCA to process the application. The personal data provided by the applicant will be used by OFCA for processing of its application. The personal data provided in the application form may be disclosed to the MNOs funding the Subsidy Scheme or to any parties as necessary for the processing of this application. The applicant have a right of request for access and correction with respect to personal data provided in the application form. The right of access includes the right to obtain a copy of the personal data provided in the application form, though a charge may be levied on obtaining such information. Enquiries concerning the personal data provided in the application form, including the making of request for access and correction should be submitted in writing to the Personal Data Officer, Office of the Communications Authority, 29/F Wu Chung House, 213 Queen's Road East, Wan Chai, Hong Kong; or sent by fax to 2187 3104.

Disclaimer

25. OFCA shall not be liable for:

- (a) any consequential, indirect or special losses; or
- (b) any loss of profit, loss of data, loss of use, loss of production, loss of contract, loss of opportunity, loss of savings, discount or rebate (whether actual or anticipated) or harm to reputation or loss of goodwill suffered or incurred by the applicant arising out of or in connection with the applicant submitting an application form or with the Subsidy Scheme.

Provided that this paragraph 25 does not apply to fraud or fraudulent misrepresentation or any other losses which cannot be excluded or limited by applicable law.

Enquiries

26. Any person who has enquiries relating to the Subsidy Scheme may call us at 8102 4387, send an email to support_services@ofca.gov.hk or a fax to 3155 0944.

Office of the Communications Authority
27 November 2019

Letter of Consent concerning Ownership

Subsidy Scheme to Support Upgrading of Satellite Master Antenna Television (“SMATV”) Systems

Name of Applicant : _____

Installation Address of
SMATV System : _____

The SMATV Contractor, Appointing Party and Representative of Owners (together, the "Parties") understand that the above-named Applicant will submit an application for subsidy of HK\$20,000 (the "Subsidy") under the captioned subsidy scheme to support upgrading of the SMATV system installed at the above-mentioned address (the “System”). The Parties hereby declare and represent to the Office of the Communications Authority (“OFCA”) that the Parties agree that the Applicant is the owner of the System and hence the sole party to apply for the Subsidy for the System. The Parties (apart from the Applicant) undertake not to submit the same application to OFCA or bring a claim against OFCA arising out of or in connection with any allegations that the Applicant is not the owner of the SMATV system. The Parties also support that OFCA should rely on the aforementioned declarations and representations in providing and administering the captioned subsidy scheme.

(1) SMATV Contractorⁱ

Name of SMATV Contractor : _____

Signatory’s Name	Authorised Signature	
Signatory’s Position	Date	Official Stamp

(2) Appointing Partyⁱⁱ

Name of Appointing Party : _____

Signatory’s Name	Authorised Signature	
Signatory’s Position	Date	Official Stamp

(3) Representative of Ownersⁱⁱⁱ

Name of
Representative of Owners : _____

Representative of Owners is (Please tick one) :

<input type="checkbox"/> Sole Owner of the building	<input type="checkbox"/> Mutual Aid Committee
<input type="checkbox"/> Owners’ Corporation	<input type="checkbox"/> An agent acting for and on behalf of owners of the building
<input type="checkbox"/> Owners’ Committee	

Signatory’s Name	Authorised Signature	
Signatory’s Position	Date	Official Stamp

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- i A SMATV system should be maintained by a licensed SMATV contractor. The applicant should check with its appointed SMATV contractor or OFCA if the concerned SMATV system is a Private-Own-System (please see paragraph 13 of the Introductory Note for Applications under the Subsidy Scheme to Support Upgrading of Satellite Master Antenna Television (“SMATV”) Systems). If positive, signature of the SMATV contractor is not required.
 - ii The Appointing Party is the company/organisation (e.g. owners’ corporation, property manager) that appoints the SMATV contractor to maintain the concerned SMATV system under a SMATV contract.
 - iii The Representative of Owners may be the sole owner, the owners’ corporation, the owners’ committee, the mutual aid committee of the concerned building(s) or a company acting as an agent for and on behalf of owners of the concerned building(s).