

Telecommunications Regulatory Affairs Advisory Committee

Proposal on the Implementation of Review of the Number of Public Payphones under Universal Service Obligation

Purpose

This paper briefs Members on the proposal of the Office of the Communications Authority (“OFCA”) on the implementation of the review of the number of public payphones (“PPs”) under universal service obligation (“USO”).

Background

2. Pursuant to section 35B of the Telecommunications Ordinance (Cap 106) (“TO”), the Communications Authority (“CA”) may require a fixed carrier licensee to have a USO to ensure that *“a good, efficient and continuous basic service is, in the [CA]’s opinion, reasonably available to all persons within the areas of Hong Kong covered by that obligation”*. The term “basic service” is defined in section 2 of the TO to cover, among others, *“a reasonable number of public payphones including payphones located within publicly or privately owned facilities to which the public have access (including intermittent access)”*. Section 35B further provides that the CA may establish a system for licensees prescribed by it to meet a reasonable contribution to the cost of providing the USO.

3. PCCW-HKT Telephone Limited and Hong Kong Telecommunications (HKT) Limited, as joint holders of unified carrier licence (No. 25), is the only universal service provider (“USP”) imposed with the USO to supply the basic service. The USP is compensated under the universal service contribution (“USC”) scheme set up pursuant to section 35B of the TO for the cost of meeting the USO. Under the scheme at present, the cost of providing the USO is contributed and shared by fixed and mobile service providers (i.e. the “USC Contributing

Parties”) on the basis of the quantity of telephone numbers held by them for the provision of fixed and mobile telephone services.

4. At the last meeting on 8 December 2016, a presentation was given to Members on the need to review the number of PPs under the USO and the practices adopted overseas on PP removal¹. Members provided comments at and after the meeting. Having regard to Members’ comments, the overseas practices and the views of the USP, OFCA has come up with a proposal on how to conduct the review as discussed below.

Public Payphone Information

5. As of 31 December 2016, there were around 3,400 public phones eligible for USC, of which 44% were in-building type (“IB”) PPs located in public facilities and government offices, 46% were kiosk type (“Kiosk”) PPs located on public streets, and the remaining 10% were emergency helplines mainly located in country parks.

6. With high level of mobile phone penetration² in Hong Kong and more and more people preferring to use mobile phones for making calls or sending instant messages, PPs have been seldom used by the public in recent years and almost all of them were unprofitable. According to the data provided by the USP, over half of the PPs (56%) generated nil or low revenue in 2014 and 2015. Low revenue means an average revenue of not more than \$7 per week or \$1 per day. We note the following spread of revenue among IB and Kiosk PPs:

- (a) 29% had nil revenue;
- (b) 27% had low revenue; and
- (c) 44% had an average revenue more than \$7 per week.

¹ For details, please refer to TRAAC Paper No. 8/2016, available at: http://www.ofca.gov.hk/en/about_us/advisory_committees/TRAAC/papers/index.html.

² The penetration rate of mobile services exceeded 220% as at March 2016.

7. When looking at each type of PPs, we further note that 40% of IB PPs had nil revenue and 29% had low revenue in 2014 and 2015. As for Kiosk PPs, 18% had nil revenue and 26% had low revenue during the same period.

The Review

Objective

8. In view of the fact that 69% of the IB PPs and 44% of the Kiosk PPs eligible for USC had little demand from the general public as reflected by the nil or low revenue collected, the objective of the review is to reduce the number of PPs under the USO to a reasonable level, and to minimise the level of USC borne by the USC Contributing Parties and ultimately members of the public who are subscribers of fixed and mobile telecommunications services at large.

Scope

9. The review will cover only IB PPs and Kiosk PPs, but not emergency helplines which are mainly located in country parks for use by the general public free-of-charge during emergency. The review will focus on the exclusion of PPs that are no longer reasonably needed by the public from the USC, rather than the inclusion of additional PPs³.

Guiding Principles

10. For the review to be conducted in a transparent, objective and consistent manner, a set of guiding principles has been developed as the objective criteria to initiate discussions with the relevant stakeholders,

³ For the avoidance of doubt, the review will not affect the existing administrative measure that there will be no USC for PPs in areas where there is competitive and alternative service in the vicinity. Such an administrative measure will continue to be adopted independent of the review. Please refer to the Statement of the former Telecommunications Authority entitled “Review of the Regulatory Framework for Universal Service Arrangements” issued on 8 June 2007.

namely site owners for IB PPs and District Councils for Kiosk PPs, to facilitate determination of the specific PPs that should not be eligible for USC. In developing these guiding principles, OFCA has discussed with the USP to ascertain their feasibility, taken into account the views expressed by Members about the review⁴, as well as reviewed the similar practices adopted in Australia, Ireland and the United Kingdom to remove PPs.

11. The eight guiding principles with elaboration on their application are set out below:-

(a) Principle 1 - General Exclusion Principle

IB PPs and Kiosk PPs with nil or low revenue in 2014 and 2015 are the subject of discussion with the relevant stakeholders regarding exclusion of these PPs from USC compensation.

Principle 1 aims at excluding from the USC PPs which are no longer reasonably required by the public, whilst PPs that are relatively used more frequently will continue to be eligible for the USC. In our view, PPs that generated nil revenue, or an average revenue of not more than \$7 per week or \$1 per day for a period of two years would suggest a very low level of demand from the general public on a long term basis. Reference to the usage level of PPs to determine exclusion is also on par with the international practices.

(b) Principle 2 – Exceptions to General Exclusion Principle

There are two exceptions to Principle 1:-

⁴ At and after the TRAAC Meeting on 8 December 2016, Members generally welcomed OFCA's initiative to conduct the review and made the following comments:-

- (a) historical data should be used to analyse PP usage as they were less likely to be manipulated;
- (b) local conditions should be taken into account to decide the exclusion of a particular PP from the USC; and
- (c) PPs should not be removed simply because they were used infrequently and uneconomic without considering the societal aspect.

- (i) IB PPs – where all existing IB PPs within a location (e.g. a block within a hospital) have nil or low revenue, one IB PP will be retained so as to ensure that there is PP service in that location; and
- (ii) Kiosk PPs – where a nil or low revenue Kiosk PP is located in an area without mobile network coverage and there is no alternative Kiosk PP available within a certain walking distance (tentatively 100 metres, subject to physical landscape and discussion with the relevant stakeholders), that Kiosk PP will be retained. This is to ensure that areas with no mobile service coverage will continue to be reasonably served by Kiosk PPs.

It is recognised that the frequency of use should not be the **only** factor to decide whether a PP should be excluded from the USC. There is a need to take into account the societal aspect of PP service before deciding whether a PP should be excluded from the USC.

(c) Principle 3 – Engagement with Relevant Stakeholders

As an open and transparent process, all the relevant stakeholders will be engaged separately to consult their views on exclusion of PPs from the USC before a decision is made to exclude specific PPs. The rationale is that the stakeholders are the appropriate parties to bring to OFCA's attention any societal or local considerations specific to the locations or districts in questions. The relevant stakeholders include site owners for IB PPs (e.g. Hospital Authority, Department of Health, Leisure and Cultural Services Department, etc.) and District Councils for Kiosk PPs.

(d) Principle 4 – Grace Period for Exclusion of PPs from the USC

After a decision is made to exclude a particular PP from the USC, the USP or the site owner concerned has the discretion whether to retain the PP at its own costs (see Principle 6). If the PP will not be retained by the USP or the site owner, the exclusion of the PP from the USC will take effect at the expiry of a grace period to allow the USP to arrange removal of the PP. Having regard to the USP's past experience in removing PPs, the respective grace periods applicable to IB PPs and Kiosk PPs will be one month and 12 months respectively.

The grace period will start when the engagement process with a site owner or the District Council is completed, including that a reasonable arrangement for the removal of PPs is worked out. If a PP cannot be removed within the grace period due to reasons beyond the USP's reasonable control, the grace period may be extended upon the USP's request with explanation and documentary proof to OFCA's satisfaction.

(e) Principle 5 – Exclusion from USC of PPs not Removed

After a PP is decided to be excluded from the USC, and where the USP or the site owner will not keep the PP at its own costs, the USP should liaise with the parties concerned (such as the site owner and contractors) to carry out the removal works as soon as possible. However, if the PP concerned cannot be removed for certain reasons (e.g. the site owner refuses to allow the USP to carry out the removal works of IB PPs), that PP will be excluded from the USC despite the fact that it is not physically removed. In such circumstances, the USP may stop service provision to that PP.

(f) Principle 6 – Retention of Excluded PPs at the Costs of Relevant Stakeholders

For a PP decided to be excluded from the USC, the USP or the site owner concerned may retain the PP but such retention should be at its own costs. The exclusion of the PP from the USC will take immediate effect after the decision of exclusion is made. Moreover, if a Kiosk PP used for providing other telecommunications services (e.g. public Wi-Fi service) is excluded from the USC but is retained by the USP due to its commercial decision, the USP should, in addition to keeping the Kiosk PP at its own costs, pay a rental fee (currently at a provisional rate of \$204 per kiosk per month for Wi-Fi service)⁵ as contribution to the USC.

(g) Principle 7 – Reimbursement of Removal and Reinstatement Costs to the USP

For a PP decided to be excluded from the USC and not retained by the USP or site owner at its own costs, the costs of removing the PP and reinstating the site following removal will be reimbursed to the USP under the USC. For a PP retained by the USP or the site owner at its own costs, any costs of future removal of the PP and reinstatement of site will be borne by the USP or the site owner as appropriate.

(h) Principle 8 – Records to be Kept by the USP

The USP shall keep proper records for removal or retention of the PPs and report to OFCA in every six months, or at other intervals as agreed between OFCA and the USP.

12. The guiding principles proposed above are to ensure that the needs of the general public for PP services will not be adversely affected

⁵ See paragraph 13 of the CA Statement entitled “Universal Service Contribution – Confirmed Level for 2014 and Provisional Level from 1 January 2015”, issued on 27 September 2016.

by the outcome of the review. In fact, only those PPs that are demonstrably not used or needed by the public, by reference to the nil or low revenue received, will be excluded from the USC after consultation with the stakeholders of the locations or districts concerned. Through identifying the redundant PPs that are no longer required by the public in view of the high penetration of mobile telecommunications services, the level of USC will be minimised to reduce the burden of the USC Contributing Parties, which will in turn benefit the general public, who are mostly subscribers of telecommunications services in Hong Kong.

Possible Outcome of Review

13. By applying Principles 1 and 2, the number of IB PPs and Kiosk PPs that may be excluded from the USC are given in Table 1 below. The final number of PPs to be excluded will be determined after consulting the relevant stakeholders.

Table 1 – Possible Outcome after applying Principles 1 and 2

	Number of IB PPs	Number of Kiosk PPs	Total
Total Existing PPs eligible for USC (approximate figures)	1,500	1,600	3,100
Possible number of PPs that may be <u>excluded</u> from USC after applying Principles 1 and 2 (approximate figures)	600 (~40%)	<700 (~40%) (note)	<1,300 (~40%)
Possible number of PPs <u>remain</u> eligible for USC after applying Principles 1 and 2 (approximate figures)	900	900	1,800

Note: It should be noted that the number of possible exclusion of Kiosk PPs is subject to the availability of mobile service coverage and alternative Kiosk PPs in the vicinity.

Way Forward

14. While the proposed review will be subject to the consideration by the CA, views from Members are sought. Having had the approval of the CA, OFCA will start implementing the review and approaching the relevant stakeholders. The engagement exercise will be conducted by phases, starting with IB PPs followed by Kiosk PPs. It is our estimation that the entire review will be completed in three years.

15. Whilst all the site owners and District Councils will be approached individually for comment, the exclusion of a particular PP, or a batch of PPs, from the USC will not wait until the completion of the entire review. Rather, the exclusion will take effect following a decision made to exclude the PPs concerned.

**Office of the Communications Authority
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