

Telecommunications Regulatory Affairs Advisory Committee

Proposal to Streamline Regulatory Arrangements for Filing and Publication of Tariffs

PURPOSE

This paper seeks Members' views on the proposal to streamline the existing arrangements for the filing and publication of tariffs under relevant licences.

BACKGROUND

2. Pursuant to section 7F(1) of the Telecommunications Ordinance ("TO"), a licensee is required to publish its tariffs in accordance with the requirements of its licence or directions issued by the Communications Authority ("CA"). Section 7F(2) of the TO further requires that the terms on which the telecommunications service is provided shall be included in the published tariffs (see **Annex A** for a full text of section 7F).

3. The requirements on filing and publication of tariffs (including discount notification) have been in place since the deregulation of the local fixed telecommunications market in 1995¹. When the unified carrier licensing regime was introduced in 2008, the former Telecommunications Authority ("TA") decided to harmonise the requirements on filing and publication of tariffs and notification of discounts as parts of the standard special conditions ("SCs") under the Unified Carrier Licence ("UCL") (i.e. SC 7 and SC 8 extracted at **Annex B**)² for carrier licensees providing different types of

¹ The then incumbent operator, Hong Kong Telephone Company Limited, was subject to more stringent requirements of requiring approval of the former Telecommunications Authority ("TA") before launching any tariff, discount or similar price promotion.

² See TA statement "Licensing framework for Unified Carrier Licence" issued on 9 May 2008: https://tel_archives.ofca.gov.hk/en/tas/others/ta20080509.pdf.

telecommunications services, with a view to promoting consumer protection and facilitating market developments.

RECENT DEVELOPMENT

4. In November 2018, the Government conducted a public consultation³ to solicit views and comments of the industry and other interested parties on its legislative proposals pertaining to the improvement of the telecommunications regulatory framework under the TO to keep pace with the advancement in telecommunications technologies. Apart from responding to the Government's proposals, stakeholders also submitted their views on the other aspects of the telecommunications regulatory framework. Among others, there was feedback from some telecommunications operators and business organisations that the statutory requirements for the filing and publication of tariffs should be removed or streamlined, as nowadays consumers could already browse and compare different services and prices offered by telecommunications operators through a variety of channels.

5. The Office of the Communications Authority ("OFCA") also received views on the subject from some major operators in the context of the public consultation on licence fee reduction conducted in June 2018⁴ as well as from other fora from time to time. Industry members have expressed the view that as customers today could gain access to the pricing information and promotional packages of service providers through their websites and other channels, the requirements on filing and publication of tariffs could be waived or streamlined in order to save the compliance cost of the industry.

6. Having regard to the recent industry feedback on the regulation of tariffs, and considering the market developments since 2008, OFCA considers that it is opportune to review and streamline the requirements for filing and publication of tariffs under the existing

³ The consultation paper on review of the telecommunications regulatory framework is available at: [https://www.cedb.gov.hk/ccib/eng/paper/pdf/BOTOREview_2\(eng\).pdf](https://www.cedb.gov.hk/ccib/eng/paper/pdf/BOTOREview_2(eng).pdf).

⁴ The consultation paper on review of licence fee reduction is available at: https://www.cedb.gov.hk/ccib/eng/paper/pdf/2018_licence_fee_eng.pdf.

licence regime, with a view to striking a balance between safeguarding consumer interests through provision of transparent market information on the one hand, and minimising the compliance cost of licensees on the other.

THE PROPOSAL

7. The proposal focuses on the streamlining the requirements under UCL, and similar arrangement would also be applied to other licences⁵ for provision of public telecommunications services with similar licence obligation.

Retaining SC 7.1 and SC 7.2(a) of UCL

8. Under SC 7.1 of UCL, the licensee shall publish and charge no more than the tariffs for the service operated under the licence. The tariffs shall include the terms for the provision of service, such as description of the service, discounts, rebates, etc. as mentioned in section 7F(2) of the TO. SC 7.2 of UCL requires that such tariff information should be published or communicated to customers by a number of channels, including publication in the website of the licensee, providing a copy to the CA (which may arrange for publication in appropriate manner), making available tariff information for access by customers at the licensee's business premises and supplying a copy to customers on request basis.

9. The general requirement under SC 7.1 protects customers' interests, requiring licensees not only to publish their tariffs as per section 7F(1) of the TO, but also to charge no more than the tariffs published. SC 7.2 provides for the accessible channels for customers to obtain tariff information. Today, among the various channels of publication specified under the licence condition, operators' websites should be the most convenient and commonly used channel for customers to seek

⁵ The other licences with similar licence conditions include the Mobile Carrier licence ("MCL"), Public Radiocommunications Service ("PRS") Licence, Services-based Operator ("SBO") Licence, Localised Wireless Broadband Service ("LWBS") Licence, Wireless Internet of Things ("WIoT") Licence and Class Licence for Offer of Telecommunications Services ("CLOTS").

relevant service (including tariff) information. They can search through various operators' websites with ease to compare service offers and make informed decisions before service subscription. Therefore, while we consider that there is a need to maintain the general tariff publication obligation under SC 7.1 by licensees to safeguard consumers' interest, the channel of publication on licensees' websites under SC 7.2(a) would need to be retained.

Removal of SC 7.2(b), SC 7.2(c) and SC 7.2(d) of UCL

10. As long as the updated tariff information is available from licensees' websites, other channels for access to tariff information by means of supplying a copy of the tariff to the CA, placing a copy of the tariff in the business premises of the licensees and supplying a copy of tariff to any person who may request it under the existing SC 7.2 are considered ancillary. Apart from obtaining tariff information from licensees' websites, customers may also ask for relevant details from an operator if necessary before making subscription to its service. On the other hand, the CA may also require a licensee to provide tariff information on a case by case basis. We therefore propose removing SC 7.2(b), SC 7.2(c) and SC 7.2(d) of UCL for streamlining purpose.

Removal of SC 8 of UCL

11. At present, under SC 8, all holders of UCL (except PCCW-HKT) are exempted from notifying the CA of discount to tariffs for the provision of services authorised under their licences, while PCCW-HKT is not so exempted other than in relation to external telecommunications services. The relevant exemptions for all holders of UCL are set out in Schedule 6 of their respective UCLs (see **Annex C**).

12. In view of the keenly competitive telecommunications market environment in Hong Kong today, we consider that prior notification of discounts by any licensee is no longer necessary. We therefore propose removing SC 8 together with Schedule 5⁶ and

⁶ Schedule 5 prescribes the information on the discount that the CA shall be notified of pursuant to SC 8.

Schedule 6 under all UCLs.

Updates on the Guidelines

13. Subject to the removal of the filing and publication requirements concerning tariffs proposed in the above, the *Guidelines on Publication and Filing of Tariff*⁷ (“Guidelines”) will be revised accordingly.

14. In particular, as mentioned in paragraph 9 above, as operators’ websites has become an important information channel for customers, licensees should ensure that tariff information published on their websites is up-to-date at all times. In respect of the prices of telecommunications services, licensees are encouraged to publish the updated market prices as far as possible. Further, tariff information should be presented in a clear, legible and well-organised manner, and can be easily located by customers. Licensees should also make available the information on web pages which are printer-friendly. The relevant administrative guidance will be reflected in the updated Guidelines.

WAY FORWARD

15. OFCA will take into consideration all the views and comments received from Members before finalising the updated arrangements for filing and publication of tariffs under the UCL for approval by the CA.

16. Subject to the approval of the CA, the amended SCs, schedules and consequential amendments will be incorporated into the sample UCL published on the CA’s website and apply to all new UCLs granted thereafter. The same arrangement will apply to other licences including the MCL, PRS Licence, SBO Licence, LWBS Licence and

⁷ The guidelines are available at:
<https://www.coms-auth.hk/filemanager/statement/en/upload/187/gn201307e.pdf>.

WIoT Licence (“Other Licences”). As for existing holders of UCL and Other Licences, corresponding licence amendments will be offered to them for acceptance.

17. In line with the above amendments to the UCL and Other Licences, the Guidelines will be updated for application to all the relevant licensees after carrying out the necessary consultation with the licensees and seeking the CA’s approval.

VIEWS SOUGHT

18. Members are invited to give their views and comments on the proposals given in this paper.

**Office of the Communications Authority
June 2020**

Annex A

Section 7F of TO

7F. Tariffs

- (1) A licensee shall publish its tariffs in accordance with the requirements of its licence or directions issued in writing by the Authority.
- (2) A licensee shall include in the published tariffs the terms on which the telecommunications service is provided including—
 - (a) a description of the service;
 - (b) discounts, allowances, rebates or credits given or allowed on the supply of the service;
 - (c) the supply of goods or other services related to the service;
 - (d) the payment for goods or other services related to the service; and
 - (e) any other relevant information that the Authority considers necessary as a part of the terms and conditions.
- (3) A carrier licensee shall not, without the Authority's prior written consent, combine a number of telecommunications services into a single tariff without offering to its customers the services separately at individual tariffs.
- (4) The Authority may require a carrier licensee to provide a telecommunications service, which the licensee includes in a tariff for a combination of a number of telecommunications services, separately at a specified single tariff.

(Added 36 of 2000 s. 4)

Annex B

Special Condition 7 of UCL

7. TARIFFS

7.1 The licensee shall publish and charge no more than the tariffs for the service operated under this licence. The tariffs shall include the terms, as defined under section 7F(2) of the Ordinance, for the provision of the service.

7.2 Publication of a tariff shall be effected by –

- (a) publication in the website of the licensee on or before the date on which the tariff becomes effective;
- (b) the Authority receiving a copy of the tariff on or before the date as specified by the Authority;
- (c) placing a copy of the tariff in a publicly accessible part of the principal place of business and other business premises of the licensee as specified by the Authority; and
- (d) supplying a copy of the relevant details to any person who may request it, at a charge no greater than is necessary to recover reasonable costs of making and supplying the copy.

7.3 The Authority may by direction in writing, for such period and on such conditions as the Authority may determine, direct that either one or any combination of Special Conditions 7.2(a), (b), (c), and (d), either completely or as to particular obligations imposed under them, shall not apply to the licensee.

Special Condition 8 of UCL

8. NOTIFICATION OF DISCOUNTS

- 8.1 The licensee shall notify the Authority of any discount to its published tariffs offered for any of the services operated under this licence, other than those services listed in Schedule 6.
- 8.2 Notification of a discount shall be effected upon the Authority's receipt of a copy of the discount to a tariff, including such information prescribed in Schedule 5, at least one day before the discount becomes effective.
- 8.3 The Authority may publish any discount that the licensee notifies under Special Condition 8.1 after the discount becomes effective, if the Authority considers that it is in the public interest to do so.
- 8.4 For the purposes of this Special Condition, "discount" means the amount of any payment, credit, rebate, waiver, allowance, gift, or other benefit, directed to a customer, other than –
- (a) an amount in repayment of an amount overpaid to the licensee by that customer;
 - (b) an amount in settlement of a disputed amount billed to that customer by the licensee;
 - (c) an amount payable pursuant to a service level or service quality obligation of the licensee to the customer; or
 - (d) the amount payable by a customer upon termination of service to that customer.

Schedule 6 of UCL

**EXEMPTION FROM NOTIFICATION OF DISCOUNTS UNDER
SPECIAL CONDITION 8.1**

All holders of UCL, except PCCW-HKT

1. The service, the scope of which is described in Schedule 1.

PCCW-HKT

1. External telecommunications services for the provision of call services, which include International Simple Resale services for fax and data and International Virtual Private Network services.
2. External telecommunications services for the provision of bandwidth services (“External Bandwidth Services”), which are services providing external transmission capacity, except services which may be provided by satellite circuits only for transmission on a point-to-multipoint or broadcasting basis, between the point of interconnection with the local networks in the Hong Kong Special Administrative Region (or commonly known as the ‘external gateway’ or ‘Point-of-Presence’) and the overseas destinations. External Bandwidth Services shall not include the local connectivity (domestic tails), which means a connection service between the customers’ premises and the point of interconnection with the local networks in the Hong Kong Special Administrative Region.
3. For the purpose of this schedule, an “external” telecommunications service has the same meaning as in Schedule 1.
