

**Review of the Class Licence for
Offer of Telecommunications Services under
Section 8(1)(aa) of the Telecommunications Ordinance (Cap. 106)**

Consultation Paper

4 January 2019

INTRODUCTION

The Class Licence for Offer of Telecommunications Services (“CLOTS”) pursuant to section 8(1)(aa) of the Telecommunications Ordinance (Cap 106) (“TO”) was introduced in 2007 to regulate any person who offers telecommunications services to the general public without establishment, operation or maintenance of any means of telecommunications equipment. The Hong Kong telecommunications market has since undergone significant changes with the emergence of new technologies and the adoption of new business models and commercial practices by market players. To ensure that the regulatory regime of the CLOTS remains up-to-date in view of the market changes and that consumer interests will be better protected thereunder, the Communications Authority (“CA”) would like to conduct a review of the CLOTS licensing regime with a view to strengthening its administration and control through proposed variations to the conditions in the CLOTS.

2. This paper seeks views and comments from the industry and members of the public on the CA’s proposals for variation to the conditions of the CLOTS licensing regime. For the avoidance of doubt, views expressed on matters covered in this paper are for the purpose of discussion and consultation only. Nothing in this paper represents or constitutes a decision made by the CA. The consultation contemplated by this paper is without prejudice to the exercise of powers by the CA under the TO.

BACKGROUND

Class Licensing Regime

3. Class licence is commonly used by telecommunications regulators worldwide as a light-handed licensing vehicle to authorise the operation of telecommunications networks, systems, installations or services under a common set of conditions. A class licence sets out the conditions under which any person is permitted to operate and/or trade in the telecommunications

networks, systems, installations or services. Unlike individual licences which call for active application from applicants for approval by the regulator, a class licence does not require any application to be made by an individual operator or person. Any party which meets the criteria or conditions set out in the class licence would automatically be deemed as being granted the class licence and is hence subject to the conditions of the class licensee. Since only minimal licence administration by the regulator is involved, the administration of a class licence usually does not require any licence fee payment by a licensee.

Creation of the CLOTS

4. Section 8(1)(aa) and the related section 8(1A) of the TO stipulate that –

“8. Prohibition of establishment and maintenance of means of telecommunications, etc., except under licence

(1) Save under and in accordance with a licence granted by the Chief Executive in Council or with the appropriate licence granted or created by the Authority, no person shall in Hong Kong or on board any ship, aircraft or space object that is registered or licensed in Hong Kong –

(a)

*(aa) offer in the course of business a telecommunications service;
or*

(b)”

.....

(1A) For the purpose of subsection 1(aa), a person is to be regarded as offering a telecommunications services if –

(a) he makes an offer which, if accepted, would give rise to an agreement, arrangement or understanding for the provision of a telecommunications service by him or by another person with whom he has made an arrangement for the provision of the telecommunications service; or

(b) he invites a person to make an offer of the kind referred to in paragraph (a).”

5. Following two rounds of public consultation conducted in October 2004 and March 2006, the former Telecommunications Authority (“TA”)

issued a statement on 15 September 2006¹ (“TA Statement”) promulgating his decision on the full commencement of section 8(1)(aa) of the TO and the creation of the CLOTS to regulate all activities that fall under the section. After completion of the legislative process, section 8(1)(aa) and the related section 8(1A) of the TO commenced operation on 2 February 2007 and the CLOTS was created and implemented in Hong Kong to regulate the offer of any telecommunications services to the general public without establishment, operation or maintenance of any means of telecommunications. On 26 November 2010, the conditions of the CLOTS were varied by, among others, introducing a new licence condition relating to service contracts and dispute resolution. The conditions of the CLOTS currently in force are available from CA’s website² for public information.

6. Under the current CLOTS regime, any person³ meeting the criteria or conditions set out in the CLOTS licence and offering a telecommunications service is automatically deemed to be granted the CLOTS licence and authorised as a CLOTS licensee without any requirement to make a licence application to the CA. No licence fee payment is required. In addition, there is currently no restriction on the nature of services that may be offered under the CLOTS. Accordingly, offer of all kinds of public telecommunications services, including those offered in Hong Kong but to be consumed elsewhere, will be subject to the same regulatory regime.

7. In actual operation, the CLOTS regime is generally applicable to resellers who acquire wholesale services from other telecommunications licensees (i.e. wholesale service providers) and resell the services in the retail market under their own brand names. Typical examples of public telecommunications services offered under CLOTS include -

- (a) local mobile voice and/or data services operated by local mobile network operators and offered through resale of mobile telecommunications services to Hong Kong consumers by CLOTS licensees;
- (b) local fixed voice and/or broadband services operated by local fixed network operators and offered through resale of fixed telecommunications services to Hong Kong consumers by the CLOTS licensees;

¹ https://tel_archives.ofca.gov.hk/en/tas/others/ta20060915.pdf

² [https://www.coms-auth.hk/filemanager/common/licensing/Offer_of_Tele_Services_\(Eng\).pdf](https://www.coms-auth.hk/filemanager/common/licensing/Offer_of_Tele_Services_(Eng).pdf)

³ Including incorporated entities as well as unincorporated persons, such as sole proprietors or partnerships.

- (c) prepaid International Direct Dial (“IDD”) services operated by external telecommunications service (“ETS”) operators and offered through resale of ETS to Hong Kong consumers by the CLOTS licensees;
- (d) “Wi-Fi Eggs” services offered by the CLOTS licensees under their own brand names to Hong Kong consumers for use during overseas visits⁴; and
- (e) prepaid international voice/data roaming services offered by the CLOTS licensees under their own brand names to Hong Kong consumers for use during overseas visits.

8. It should be noted that agents or contractors of licensed operators who sell or promote telecommunications services for or on behalf of the operators within the scope of the respective agency agreements will generally not fall under the regulatory regime of section 8(1)(aa) of the TO. In this regard, the licensed operators remain fully responsible for the offer and provision of services by themselves or via their agents under their own licences.

9. Regulation under the CLOTS regime is a light-handed one, with licence conditions aiming at protecting consumers’ interests. At present, there is no registration requirement for CLOTS licensees. The objective of the regime is to bring resellers into the regulatory regime and subject them to the statutory provisions and licence conditions, but without placing unnecessary administrative burden on these resellers, especially for those who are small in scale and operation. Notwithstanding this, the former TA was aware of the views of the industry received at the time of the two rounds of public consultation and hence indicated in the TA Statement that he would consider if there was a need to review the registration requirement after accumulation of more operational experience of the CLOTS regime.

10. Meanwhile, if the telecommunications services concerned are to be consumed outside Hong Kong, section 8(1)(aa) of the TO will remain applicable and the act of offering such services will be caught under the CLOTS regime so long as the act is conducted in Hong Kong.

⁴ For the avoidance of doubt, “Wi-Fi Eggs” services offered as a bundle of a local mobile service and a Wi-Fi router by service providers in Hong Kong to foreign visitors for use in Hong Kong would generally fall outside the scope of the CLOTS. This is because the Wi-Fi router would be deemed as a telecommunications equipment established and/or maintained for the provision of a public telecommunications service. Therefore, providers of such services should be subject to other licences under the TO.

NEED FOR REVIEW

11. The CLOTS regime has been put into operation for over a decade. During the period, the telecommunications market in Hong Kong has undergone significant changes with the emergence of new technologies and the adoption of new business models and commercial practices by market players. Among others, the following trends in respect of the resale of telecommunications services in the market are observed -

- (a) “Brick and mortar” retail outlets are increasingly supplemented by online platforms or smartphone apps whereby resellers provide service subscription and after-sales customer support through online channels. As a result, it becomes increasingly difficult for both the CA and the general public including the customers of these resellers to contact the resellers when needed, since their up-to-date contact details may not be readily available in the public domain;
- (b) an increasing number of licensed telecommunications operators, including mobile network operators (“MNOs”), have set up entities using new brand names to resell their own services. Unlike the MNOs which are in general subject to a stringent set of conditions under the Unified Carrier Licence (“UCL”), these entities are offering similar service packages but are only subject to a much lighter regulation under the CLOTS regime and the licence conditions thereunder. Since these entities are gaining a large subscriber base, it seems that it is no longer appropriate to deem these entities as small in scale of operation;
- (c) a number of consumer complaints relating to CLOTS licensees have been received and handled by the Office of the Communications Authority (“OFCA”). In some of these cases, there were practical difficulties for OFCA to refer the complaints to the relevant CLOTS licensees for follow-up as their contact details were not be readily available; and
- (d) some CLOTS licensees such as those in the mobile market are fast gaining a sizeable market share. Failure to provide a good, efficient and continuous service at a satisfactory level (e.g. service outage, suspension and termination) will potentially have a significant impact on the consumers and may give rise to numerous complaints.

12. In view of the above developments and issues in relation to the operation of CLOTS licensees, there is a need to review whether the existing CLOTS regime is still up to date in the light of the prevailing market conditions. In the present review, the CA aims to ensure that the licence administration and control of the CLOTS remains efficient, proportionate and up-to-date to facilitate business innovation on the one hand and to ensure adequate consumer protection on the other.

PROPOSALS

13. Having reviewed the existing regulatory arrangements under the CLOTS licensing regime, the CA has formulated proposals in the ensuing paragraphs with a view to strengthening the administration and control of the CLOTS regime for soliciting views and comments from the public and the industry. The corresponding proposed amendments to the CLOTS are set out in the **Appendix**.

Registration by CLOTS Licensees

14. At present, CLOTS licensees are not required to make any application to the CA, nor to register their operations before offering any telecommunications services in the market. So long as these licensees comply with the conditions of the CLOTS, they are provided with a high level of operational flexibility to launch services any time based on their own commercial decisions, without any need to send any notification or provide any information to the CA or OFCA in advance. As such, the CA and OFCA do not have any information about the identity and contact details of the CLOTS licensees, or the type of services and the tariffs they are offering to the market. In fact, at the time of the creation of the CLOTS regime, licensees engaged in the offer of telecommunications services without establishment, operation or maintenance of any means of telecommunications were primarily small in size with small scale of operations.

15. Nevertheless, as manifested by the recent market trends as delineated in the preceding paragraphs, the operation of the CLOTS licensees may no longer be small in size, such as those currently reselling mobile services in Hong Kong. In case of service problem, both the general public and the CA will have difficulties getting in touch with the CLOTS licensees, especially when online and nomadic sales or customer services channels are increasingly being relied upon in lieu of traditional channels such as retail outlets. The CA therefore considers it necessary to require the CLOTS licensees, especially those with a sizeable customer base or offering telecommunications services for

consumption in Hong Kong, which may be of more concern from consumer protection angle, to provide their essential operational information through registration such that the CA can have more efficient communications with these CLOTS licensees for more effective regulatory oversight, compliance monitoring and handling of customer complaints.

16. It should be pointed out that the registration requirement by certain types of class licensees is not a novel arrangement. For example, under the Class Licence for Provision of Public Wireless Local Area Network Services⁵, a licensee is required to register information such as name, contact details and locations of its Wi-Fi service access points with the CA before being authorised to commence the provision of services. With the class licensees' basic information at hand, not only would the CA be able to get in touch with these licensees when circumstances warrant so, it would also facilitate end users to get to know who their Wi-Fi service providers are and where the access points of their services are located by checking the relevant information from the database available from OFCA's website⁶.

17. With the above considerations and the powers conferred under section 7B(7)(k) of the TO⁷, the CA proposes that CLOTS licensees should be required to comply with the following registration requirements with the CA—

- (a) CLOTS licensees are required to register with the CA before the commencement of offering any telecommunications services in Hong Kong. They should only do so upon written confirmation from the CA on the successful completion of the registration process;
- (b) the following information should be provided to the CA for the purpose of registration –
 - (i) name of the CLOTS licensee;
 - (ii) company registration number or the number of the business registration certificate of the CLOTS licensee;

⁵ For details, please see [https://www.coms-auth.hk/filemanager/common/licensing/Wireless_Local_Area_Network_Services_\(Eng\).pdf](https://www.coms-auth.hk/filemanager/common/licensing/Wireless_Local_Area_Network_Services_(Eng).pdf)

⁶ https://apps.ofca.gov.hk/apps/clr/content/public_search.asp?language=english

⁷ Section 7B(7)(k) of the TO provides that the CA may include in the conditions for a class licence a requirement for the person to register with the CA before the supply of the telecommunications network, system, installation or service can commence.

- (iii) customer service hotline number(s);
 - (iv) contact details;
 - (v) type(s) of telecommunications services to be offered under the CLOTS;
 - (vi) name(s) of all licensed telecommunications operators with whom the CLOTS licensee have entered into an agreement, arrangement or understanding for the provision of telecommunications services under the CLOTS; and
 - (vii) any other information as specified by the CA from time to time;
- (c) CLOTS licensees will be required to update the above information registered with the CA in the first instance of any change; and
 - (d) the registration process will be implemented through relevant amendments to the conditions of the CLOTS such that any failure or refusal to follow the registration requirements before commencement of offering any telecommunications services will constitute a breach of the conditions of the CLOTS, under which the CA may impose sanctions under the TO, including but not limited to financial penalties pursuant to section 36C of the TO.

18. The CA proposes that the new Condition 5 should be added to the draft revised CLOTS as set out in the **Appendix** to implement the proposed registration requirement. From the administration angle, the CA is open to consider whether the registration requirement should be applied to all CLOTS licensees across the board or only those providing certain telecommunications services with the customer base exceeding a certain threshold. If the registration requirement is adopted as proposed, the CA will issue relevant guidelines and/or information note to set out the implementation details and promote its awareness among industry members. To allow a smooth transition to the revised regime, existing CLOTS licensees will be allowed six months' time after the promulgation of the revised CLOTS to complete the registration process, failing which they may risk contravening the relevant conditions under the CLOTS.

Question 1: Do you have any comments on the proposed registration requirement for CLOTS licensees as set out in the new Condition 5 of CLOTS? Should the registration requirement be applied to all CLOTS licensees across the board or only those providing certain telecommunications services with the customer base exceeding a certain threshold?

19. For better regulatory oversight and licensing control, the CA may refuse registration of a person to be a CLOTS licensee (due to reasons such as the person's licence has been previously cancelled, suspended or withdrawn by the CA) by means of serving a notice to such person that he/she is not qualified to be licensed under the CLOTS. The CA proposes that a new Condition 2.3 be added to the CLOTS accordingly. Please refer to the draft revised CLOTS set out in the **Appendix** for details of the proposed amendments.

Question 2: Do you have any comments on the proposed new Condition 2.3 of the CLOTS?

Providing Updated Information by CLOTS Licensees

20. At present, all UCL and SBO licensees are obliged to provide the CA with periodic reports on their number of subscribers and other operational statistics and information in respect of the telecommunications services offered under the licences concerned. To ensure that similar information will be provided by CLOTS licensees to enable the CA to perform its functions under the TO, the CA proposes that CLOTS licensees will be required to submit regular updates on the number of subscribers and types of services provided. Furthermore, in view of the fact that the efficient and continuous operation of services offered by a CLOTS licensee are closely related to their wholesale service providers, the CA proposes that CLOTS licensees will also be obliged to provide update on the identity of the licensed telecommunications operator(s) with whom they have entered into arrangements for the resale of telecommunications services.

21. In gist, CLOTS licensees will be required to provide update of the following information to the CA on a regular basis and as necessary –

- (a) type(s) of telecommunications services provided to the public;

- (b) name(s) of all licensed telecommunications operators with whom the CLOTS licensees have entered into agreement, arrangement or understanding for the provision of telecommunications services under the CLOTS;
- (c) number of subscribers to each type of telecommunications services in (a) above; and
- (d) any other information as specified by the CA from time to time.

22. The CA proposes that the above requirement be implemented through updating the existing Condition 9 whereby the CLOTS licensees are obliged to provide relevant information related to its business (such as subscriber, financial and technical information) as the CA may reasonably require in order to perform its functions under the TO. In order to provide guidance for provision of updated information by CLOTS licensees, the CA will set out the details in the relevant guidelines to be issued in due course.

Question 3: Do you have any comments on the proposed requirement on providing updated information by the CLOTS licensees who have registered with the CA?

Amendments to the CLOTS to Align with the Licence Conditions of the UCL and SBO Licence

23. Apart from the fact that CLOTS licensees are not authorised under the CLOTS to establish, operate or maintain any means of telecommunications, they can generally offer any telecommunications services to the general public in a way similar to other facilities-based or services-based licensees such as UCL and SBO licensees. To avoid any regulatory asymmetry, it is appropriate to amend the conditions of the CLOTS to ensure that the CLOTS, UCL and SBO licensees offering similar types of telecommunications services will be subject to the same set of regulatory obligations where applicable. In addition, some outdated licence conditions (e.g. on telecommunications number translation device) will be removed. In this regard, the major changes proposed to the draft revised CLOTS as attached in the **Appendix** are set out in the following paragraphs.

Licence Condition on “Offer of Satisfactory Service”

24. Under SC 10 of the UCL and SC 1 of SBO licence, the licensee is obliged to provide its services on its published terms and conditions and at the tariff published on request of a customer where the services can reasonably be provided by the licensee to that customer. The CA considers that similar requirement should be extended to the CLOTS licensees for the benefits of the consumers such that CLOTS licensees will be required to offer the service on its published terms and conditions and tariff. Hence, the CA proposes that the new Conditions 7.2 and 7.3 be added to the draft revised CLOTS.

Licence Condition on “Inspection”

25. Under SC 10.3 and 10.4 of the SBO licence, upon the CA’s direction, the licensee is obliged to demonstrate that its services comply with the regulatory requirements imposed under the TO or any other instruments issued by the CA and for the same purpose, to provide adequate support at their own cost as reasonably required by the CA. The CA considers that a similar requirement should be imposed upon CLOTS licensees by adding the new Conditions 8.3 and 8.4 to the licence to facilitate more effective monitoring of the CLOTS licensees’ status of compliance with the regulatory requirements by the CA.

Licence Condition on “Number Portability”

26. Under SC 4 of the UCL, SC 20 of the SBO licence and the relevant directions by the CA thereunder, licensees are obliged to facilitate number portability as applicable at their own cost such that a customer can switch among service providers without necessarily changing the telecommunications number assigned to him/her.

27. For CLOTS licensees offering fixed or mobile telecommunications services to end users, it is incumbent upon them to make proper commercial and operational arrangements with their wholesale service providers to facilitate their customers’ requests for number portability, given that the CLOTS licensees would usually be the only point of contact for the customers concerned. It is therefore both fair and reasonable to subject CLOTS licensees to the same set of obligations in respect of number portability as UCL and SBO licensees. Accordingly, the CA proposes that the new Condition 14 be added to the draft revised CLOTS.

Question 4: Do you have any comments on the proposed new Conditions 7.2, 7.3, 8.3, 8.4 and 14 of the CLOTS?

INVITATION OF VIEWS AND COMMENTS

28. Pursuant to section 7C(4) of the TO, the CA would like to invite views and comments from the general public and the industry on the proposed variation of the CLOTS (with the varied terms and conditions therein) as set out in this consultation paper. The CA will take into consideration all the views and comments received before finalising its decision on the subject matter.

29. Any person wishing to respond to the public consultation should do so **on or before 1 February 2019**. **Late submission will not be considered.** The CA may publish all or part of the views and comments received, and disclose the identity of the source in such manner as the CA sees fit. Any part of the submissions considered commercially confidential should be clearly marked. The CA would take such markings into account in making the decision as to whether or not to disclose such information. Submissions should be sent to –

Office of the Communications Authority
29/F Wu Chung House
213 Queen's Road East
Wanchai, Hong Kong
Attention: Principal Regulatory Affairs Manager
(Regulatory 21)

Fax: 2803 5112
Email: consult-CLOTS@ofca.gov.hk

An electronic copy of the submission should be provided by email to the address indicated above.

Office of the Communications Authority
4 January 2019

Draft

TELECOMMUNICATIONS ORDINANCE
(Chapter 106)

CLASS LICENCE

Section 8(1)(aa) of the Telecommunications Ordinance

OFFER OF TELECOMMUNICATIONS SERVICES

The ~~Telecommunications~~ **Communications** Authority, in exercise of the powers conferred on ~~him~~ **it** by sections 7(5) and 7B(2) of the Telecommunications Ordinance (Cap 106), publishes this Licence on this []th day of [].

1. Interpretation

1.1 In this Licence

“Authority” means the ~~Telecommunications~~ **Communications** Authority⁸ ~~appointed under~~ established under section ~~5~~ **3** of the ~~Communications Authority Ordinance (Chapter 616)~~;

“Class 1 service” means an internal telecommunications service

- (a) for carrying real-time voice communications which may be integrated with other types of communications;
- (b) which is capable of allowing customers to make and receive calls to and from parties assigned with numbers from the numbering plan of Hong Kong;

⁸ ~~Pursuant to Section 27 of the Communications Authority Ordinance, the “Telecommunications Authority” referred to in this Class Licence shall be construed as the “Communications Authority”.~~

- (c) to which customers are assigned with numbers from the numbering plan of Hong Kong; and
- (d) which is not a “Class 2 service” as defined in this Licence.

“Class 2 service” means an internal telecommunications service

- (a) for carrying real-time voice communications which may be integrated with other types of communications;
- (b) which is capable of allowing customers to make or receive calls to and from parties assigned with numbers from the numbering plan of Hong Kong;
- (c) to which customers are assigned with numbers from the numbering plan of Hong Kong; and
- (d) in the provision of which –
 - (i) the Class Licensee (and where appropriate its agents, contractors and resellers) in all promoting, marketing or advertising materials concerning such service declares the service as a “Class 2 service” (where the materials are in English text), or “第二類服務” (where the materials are in Chinese text); or
 - (ii) the Class Licensee, in lieu of (i), complies with such conditions as may be specified by the Authority in a direction that may be issued by the Authority.

“Class Licensee” means a person licensed under Condition 2.1 of this Licence;

“licensed telecommunications operators” means ~~fixed telecommunications network services operators, fixed carriers, public radiocommunications service operators, mobile carriers, public non-exclusive telecommunications services operators,~~ services-based operators or any telecommunications operators licensed under the Ordinance with whom a Class Licensee has

entered into an agreement, arrangement or understanding for the provision of any telecommunications service;

“the Ordinance” means the Telecommunications Ordinance (Chapter 106).

- 1.2 Any word or expression used in this Licence shall, unless otherwise provided, have the same meaning as it has in the Ordinance or regulations made under the Ordinance.
- 1.3 For the purposes of interpreting this Licence, headings and titles shall be disregarded.

2. Grant of Licence

- 2.1 Subject to the terms and conditions of this Licence, a person is licensed to offer in the course of business a telecommunications service.
- 2.2 A person referred to in Condition 2.1 is not licensed to establish or maintain any means of telecommunications for the purpose of offering telecommunications services under this Licence.
- 2.3 Without prejudice to the generality of the Ordinance and the foregoing, a person referred to in Condition 2.1 is not qualified to be licensed under this Licence if the registration of the person under Condition 5 has been refused by the Authority or if the person has been served with a notice by the Authority to that effect.

3. General

- 3.1 This Licence shall not be construed as granting an exclusive right to the Class Licensee.
- 3.2 The grant of this Licence does not authorize the Class Licensee to do anything which infringes any exclusive right to provide telecommunications circuits or services granted under the Ordinance or other Ordinance.

3.3 This Licence shall remain in full force unless expressly revoked by the Authority.

4. Compliance

4.1 The Class Licensee shall comply with the Ordinance, regulations made under the Ordinance, licence conditions or any other instruments which may be issued by the Authority under the Ordinance and such guidelines or codes of practices which may be issued by the Authority as in ~~his~~ its opinion are suitable for the purpose of providing practical guidance on any particular aspect of any conditions of this Licence.

4.2 If the Class Licensee employs any person under contract for the purpose of the offering a telecommunications service under this Licence (a “contractor”), the Class Licensee shall continue to be responsible for compliance with the conditions of this Licence, and the performance thereof, by the contractor.

5. Registration

5.1 Subject to Condition 5.3, the Class Licensee shall register the following information with the Authority before the commencement of offering in the course of business a telecommunications service, and shall only offer services under this Licence upon written confirmation from the Authority on the successful completion of the registration:

- (a) Name of the Class Licensee;
- (b) Company registration number of the Class Licensee under the Companies Ordinance (Cap. 622) or the number of the business registration certificate issued to the Class Licensee under the Business Registration Ordinance (Cap. 310);
- (c) Customer service hotline number(s);
- (d) Contact details;

- (e) Type(s) of telecommunications services to be offered by the Class Licensee;
 - (f) Name(s) of all licensed telecommunications operators with whom the Class Licensee has entered into an agreement, arrangement or understanding for the provision of telecommunications services under the Licence; and
 - (g) Any other information as specified by the Authority from time to time.
- 5.2 If there is any change to the information provided under Condition 5.1, the Class Licensee shall update the Authority in the first instance.
- 5.3 The registration requirement or restriction imposed in Condition 5.1 may be waived in whole or in part by the Authority for specific groups of Class Licensees for a specified period.

6. Provision of Information to the Customers

- 6.1 Without prejudice to the other terms and conditions of this Licence, the Class Licensee shall provide or make available the following information to the customers when the services are offered:
- (a) Name of the Class Licensee;
 - (b) Company registration number of the Class Licensee under the Companies Ordinance (Cap 622) or the number of the business registration certificate issued to the Class Licensee under the Business Registration Ordinance (Cap 310) **or the registration number of the Class Licensee provided by the Authority upon successful completion of the registration under Condition 5.1;**
 - (c) Customer service hotline number(s);
 - (d) Where applicable, the access code(s) or number(s) (including any access password) used for obtaining the services;

- (e) Instructions on how to access the services;
- (f) The tariffs under which the services are offered; and
- (g) The duration or validity period of the services offered.

7. Offer of Satisfactory Service

7.1 The Class Licensee shall at all times and from time to time during the subsistence of this Licence offer services under this Licence in a manner satisfactory to the Authority.

7.2 The Class Licensee shall, subject to any conditions of this Licence relating to the offer of the service, arrange to offer the service on its published terms and conditions and at the tariff published in accordance with Condition 12 (as applicable) on request of a customer whether or not the customer intends the service to be available for its own use or intends to utilize the service to provide a lawful telecommunications service to third parties.

7.3 Subject to any conditions relating to the offer of the service, the Class Licensee shall comply with a customer request for the service as tariffed in accordance with Condition 12 where the service reasonably could be offered by the Class Licensee to the customer.

8. Inspection

8.1 On receiving reasonable prior written notice from the Authority, the Class Licensee shall allow the Authority and any person authorized in writing by ~~him~~ it for the Authority's own purposes to enter and inspect the offices, places and premises in Hong Kong where the Class Licensee has used in relation to the offer of services under this Licence, to verify that the Class Licensee is in compliance with the conditions of this Licence and the Ordinance.

8.2 The Class Licensee shall permit the Authority or any person authorized by ~~him~~ it in writing for the Authority's own purpose to inspect and if required to make copies of records, documents and accounts relating to the Class Licensee's

business for the purpose of enabling the Authority to perform ~~his~~ its functions under the Ordinance and this Licence and to ensure the Class Licensee's compliance with the conditions of this Licence and the Ordinance.

8.3 On giving reasonable prior written notice, the Authority may direct the Class Licensee to demonstrate that the service complies with the requirements imposed by the Ordinance or any other instruments which may be issued by the Authority under the Ordinance and the Class Licensee shall comply with such directions.

8.4 For the purpose of Condition 8.3, the Class Licensee shall provide adequate support, at its own cost, including but not limited to testing instruments and operating staff, as may be reasonably required by the Authority.

9. Requirement to Furnish Information to the Authority

9.1 The Class Licensee shall furnish to the Authority, in such manner and at such times as the Authority may request in writing, such information related to the business, including **subscriber information**, financial information, accounts, traffic information, technical configuration, circuit routing and other records or information as the Authority may reasonably require in order to perform his functions under the Ordinance and this Licence and to ensure the Class Licensee's compliance with the conditions of this Licence and the Ordinance.

9.2 Where the Authority proposes to disclose information obtained and the Authority considers that the disclosure would result in the release of information concerning the business or commercial or financial affairs of the Class Licensee which disclosure would or could reasonably be expected to adversely affect the Class Licensee's lawful business or commercial or financial affairs, the Authority will give the Class Licensee a reasonable opportunity to make representations on the proposed disclosure before the Authority makes a final decision whether to disclose the information.

9.3 Without limiting the generality of Condition 9.1, the Class Licensee shall, upon request by the Authority, supply to the Authority, at such intervals and on/before such deadlines as may be specified by ~~him~~ it in the request, copies of agreements, contracts, invoices, statements and other relevant documents as

may be specified by the Authority to show the arrangements that the Class Licensee has entered into with such person(s) and / or telecommunications operators in relation to the services offered by the Class Licensee under this Licence.

10. Confidentiality of Customer Information

- 10.1 The Class Licensee shall not disclose information of a customer except with the consent of the customer, which form of consent shall be approved by the Authority, except for the prevention or detection of crime or the apprehension or prosecution of offenders or except as may be authorized by or under any law.
- 10.2 The Class Licensee shall not use information provided by its customers or obtained in the course of offer of services to its customers other than for and in relation to the services offered by the Class Licensee under this Licence.

11. Billing or Charging Accuracy

- 11.1 The Class Licensee shall take all reasonable steps to ensure that any billing or charging equipment used in connection with the services offered under this Licence is accurate and reliable. The Class Licensee shall, in relation to the billing or charging system used for the offer of the services, keep such records and make them available for inspection by the Authority.
- 11.2 Upon written request of the Authority, the Class Licensee shall conduct or take all practicable steps to procure the tests on billing or charging equipment to assess its accuracy, reliability and conformity to the technical standards, if any, specified by the Authority. The Class Licensee shall submit the test result to the Authority within 14 days after the date of the test or such other longer period as the Authority may determine.

12. Tariffs

12.1 The Class Licensee shall publish and charge no more than the tariffs for the services offered under this Licence. The tariffs shall include the relevant terms and conditions for the offer of the services. The ~~Licensee~~ **Class Licensee** shall comply with any ~~code of practice~~ **guidelines** which may be issued by the Authority from time to time concerning the publication of tariffs and the relevant terms and conditions for the offer of the services.

~~12. Unsolicited Advertisements~~

~~12.1 The Class Licensee shall not use the services, and shall endeavour to prevent the services from being used by any user, for the transmission of unsolicited advertising information or unsolicited promotional information and shall comply with all codes of practice which may be issued by the Authority from time to time concerning unsolicited advertising information or unsolicited promotional information.~~

13. Numbering Plan and Related Matters

13.1 The Class Licensee shall conform to any numbering plan made or approved by the Authority and any code of practice or direction given by the Authority in respect of the numbering plan.

13.2 The Class Licensee shall conform to any regulatory guide, code of practice or direction relating to the use or assignment of number, access code or calling line identification issued by the Authority.

14. Number Portability

14.1 Where the Class Licensee offers services provisioned by the licensed telecommunications operators on which the Authority has directed to facilitate the portability of numbers, the Class Licensee shall make arrangements to facilitate, at its own cost, the fulfilment of the obligations of facilitating the portability of numbers from the numbering plan of Hong Kong as stipulated in Condition 13.1.

14.2 Subject to Condition 14.1, the Class Licensee shall conform to any code of practice issued by the Authority in respect of procedures for handling number portability.

14.3 For the purposes of this Condition, “portability of numbers” means the function of the network, system and service which enables a customer of the service of a unified carrier licensee, fixed carrier licensee, mobile carrier licensee, services-based operator, mobile virtual network operator or any other licensee, as the case may be, to become a customer of another unified carrier licensee, fixed carrier licensee, mobile carrier licensee, services-based operator or mobile virtual network operator or any other licensee, as the case may be, without changing the number assigned to that customer.

~~14.—Telecommunications Number Translation Device~~

~~14.1—The Class Licensee shall comply with any directions given in writing by the Authority in relation to the use of a telecommunications number translation device for access to the service.~~

~~14.2—The Class Licensee shall bear all the costs and financial losses incurred due to full compliance with the directions mentioned in Special Condition 14.1.~~

~~14.3—In this condition, “telecommunications number translation device” shall mean a device which translates a number input via the normal dialing pad into another number for access to specified destinations or services, but does not include a device which generates such a number upon input through a special function key or a combination of special function keys and the normal dialing pad. The “normal dialing pad” means the dialing pad comprising the buttons for digits 0 to 9, and for “*” and “#”.~~

15. Compliance with Codes of Practice

15.1 Without limiting or affecting in any way the Class Licensee’s obligations under any other licence condition, the Class Licensee shall comply with any code of practice or guideline which may be issued by the Authority from time

to time for the purpose of providing practical guidance to the Class Licensee in respect of:

- (a) the offer or provision of satisfactory service;
- (b) the protection of customer information; and
- (c) the protection and promotion of the interests of consumers of telecommunications goods and services.

15.2 Before issuing any code of practice or guideline referred to in Condition 15.1, the Authority shall carry out such consultation as is reasonable in all the circumstances of the case.

16. Offer of Class 1 or Class 2 Service

16.1 Where the Class Licensee offers a Class 1 or Class 2 service under this Licence, the provisions set out in the Schedule shall apply in relation to the Class 1 or Class 2 service offered.

17. Service Contracts and Dispute Resolution

17.1 The Class Licensee shall comply with all codes of practice issued by the Authority from time to time in respect of the requirements to apply in the contracting of telecommunications services to end users.

17.2 The contracting requirements referred to in Condition 17.1 may include 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 Authority; and
- (e) other terms and conditions or provisions for the protection of the interests of end users.

17.3 Before issuing any code of practice for the purposes of Condition 17.1, the Authority shall carry out such consultation as is reasonable in the circumstances.

SCHEDULE

Provisions that Apply where the Class Licensee Offers Class 1 or Class 2 Service (Condition 16)

1. Emergency Call Service

1.1 For the sole purpose of enabling Hong Kong Police Emergency Centre or other entity as directed by the Authority to respond to and (as appropriate) identify a public emergency call made by a customer of the Class

Licensee whose location is potentially nomadic, the Class Licensee shall

- (a) provide free of charge the most up-to-date location information of a customer calling the emergency service (whose location is potentially nomadic) to the Hong Kong Police Emergency Centre or other entity as directed by the Authority;
- (b) provide or make available a mechanism whereby the customers of the Class Licensee can update their location information; and
- (c) remind the customers to update their location information whenever they change the location from which the service is used.

1.2 The Authority may grant exemption to the Class Licensee for any particular obligations imposed under Clause 1.1. The Class Licensee shall comply with any conditions which may be specified by the Authority or any guideline which may be issued by the Authority for such exemption.

1.3 Where the Class Licensee is exempted by the Authority from the provision of a public emergency call service pursuant to Clause 1.1 for any particular group of customers, it shall clearly indicate the non-provision of the public emergency call service to that group of customers in all promotion, marketing or advertising materials offering service to the customers and obtain their explicit consent on the non-provision of the public emergency call service before providing service to them.”

2. Backup Power Supply

- 2.1 Unless there is backup power supply available in such manner as may be specified by the Authority to maintain continuity of the service offered by the Class Licensee without any deterioration in quality of the service during interruption of mains power supply on the customer's premises, to the network, or to any system or equipment delivering the service to the customer, the Class Licensee shall not provide the service to users whose "lifeline devices" are connected to the service.
- 2.2 Where no backup power supply is available in such manner as described in Clause 2.1, the Class Licensee is deemed to have complied with Clause 2.1 if
- (a) the customers have, before or upon subscription of service, confirmed that the service will not be used by lifeline users or connected with lifeline devices; and
 - (b) the Class Licensee has affixed a label to the wall socket panel or any equipment installed on the customers' premises or taken other reasonable steps to remind the customers that the service is not suitable for connection to lifeline devices.
- 2.3 For the purpose of Clause 2, a "lifeline device" means a medical alarm or any other device for an elderly, infirm or invalid to summon assistance in the event of an emergency without having to dial manually the telephone number of the emergency service.