

APEC TEL 40
Update¹ on Regulatory and Policy Developments
Hong Kong, China
(Position as at 24 September 2009)

A. Fixed-Mobile Number portability (FMNP)

The Telecommunications Authority (“TA”) issued a TA Statement in July 2009 to conclude his views that FMNP should be implemented on a voluntary basis. The TA made his decision after considering the views and comments submitted by stakeholders in response to a consultation paper entitled “Fixed Mobile Number Portability” (“the Consultation Paper”) which, issued by the TA earlier, outlined the proposal of voluntary FMNP implementation.

The TA put forward the proposal of voluntary implementation of FNMP in the Consultation Paper after taking into account the result of a market survey on the demand of FMNP, relevant overseas experiences and government’s pro-consumer and pro-competition policy.

The voluntary FMNP scheme will not impose any unnecessary burden on the operators who do not wish to implement or support FMNP, but will allow interested operators the flexibility to provide cross-platform number portability service based on their own business decisions.

Fixed Network Operators (FNOs), Mobile Network Operators (MNOs), Service-Based Operator (“SBO”) Class 1 licensees, Mobile Virtual Network Operators (“MVNOs”), and Unified Carrier licensees may participate in the voluntary FMNP scheme. Operators who wish to implement FMNP may collaborate with one another and negotiate the terms and conditions for collaboration on a commercial basis.

To protect consumer interest and to ensure the orderly implementation of FMNP, interested operators should submit to the TA proposals that will address adequately and efficiently the pertinent concerns raised by the

¹ The web sites of the Communications and Technology Branch of Commerce and Economic Development Bureau (CEDB) and the Office of the Telecommunications Authority (OFTA) provide more information on all the subjects covered in this Update. Their web addresses are www.cedb.gov.hk/ctb and www.ofta.gov.hk respectively.

industry and the public during the consultation exercise. The proposal is required to observe the guiding principles set out in the TA Statement. If necessary, the TA will convene working groups to iron out the details before allowing interested parties to proceed with the actual implementation of FMNP.

Please refer to <http://www.ofta.gov.hk/en/tas/numbering/tas20090710.pdf> for details of the TA statement.

B. Broadcast-type Mobile TV Services

As a result of two rounds of public consultation conducted in January 2007 and January 2008, the government has mapped out an implementation framework for the deployment of broadcast-type mobile TV services in Hong Kong.

An auction of spectrum in the UHF Band (i.e. 678MHz – 686MHz) and Band III (216.160MHz – 217.696MHz and 217.872MHz – 219.408MHz) will be conducted by end 2009 to introduce the new service. It would be a requirement that at least 50% of the allocated spectrum should be deployed primarily for the provision of mobile TV services. The operators may harness the remaining capacity of their mobile TV networks for delivery of other services such as digital audio radio (DAB) and datacasting services.

To enhance the variety of services in the mobile TV market, the frequency spectrum is to be auctioned in two separate packages, and an individual party will not be allowed to acquire more than one package from the auction. An operator has to obtain a unified carrier licence before it is permitted to provide mobile TV services on its network. In case that the successful bidder rents out its transmission capacity to another mobile TV service provider, the latter is required to obtain a public non-exclusive telecommunications services licence for the provision of mobile TV services and other permitted telecommunications services to the public.

Regarding the regulation of mobile TV programming, the content of mobile TV, either local broadcast-type or streaming-type, should be subject to regulation by general laws but not the Broadcasting Ordinance (Cap. 562). To enable self-regulation, the industry will be required to develop codes of practice on provision of mobile TV services before service commencement. The codes should include, among others, the

requirement of conditional access with a view to protecting public morals and children.

To facilitate the rollout of services, the government supports the prospective mobile TV service operators to set up transmitting stations by sharing the hilltop broadcasting sites and facilities of existing terrestrial television broadcasters. The successful bidders may be required to roll out their services to cover 50% of the population within 18 months from the grant of unified carrier licence. Coverage in tunnels as well as the mass transit railway network will not be mandatory. Mobile TV service operators may negotiate with the railway company and tunnel operators for coverage based on commercial consideration.

As to the technical standards, the government will adopt a market-led and technology-neutral approach by leaving the market to select the technical standards for broadcast-type mobile TV services.

Please refer to <http://www.cedb.gov.hk/ctb/eng/legco/pdf/framework.pdf> for details of the implementation framework for mobile TV.

C. Review of PNETS and SBO Licensing regimes

On 10 March 2009, the Government issued a consultation paper to review the existing Public Non-Exclusive Telecommunications Services (“PNETS”) and Service-Based Operator (“SBO”) licences used for licensing of service-based operation of public telecommunications services in Hong Kong.

The PNETS licensing regime was introduced in the 1980s when local and external telecommunications services in Hong Kong were provided under exclusive franchises. The SBO licensing regime was more recently introduced in January 2006 under which licensees may operate local voice telephony service by employing various technologies, including Internet Protocol (“IP”) based technologies, in addition to most services covered by the PNETS Licence (except for those services related to mobile communications).

For streamlining of the two similar licensing regimes, the Government proposes to merge the PNETS regime under the SBO regime by creating a

new type of Class 3 service under the SBO licence to cover all existing types of PNETS. Under the modified SBO licence, a single, harmonised set of licence conditions will be adopted. Moreover, licensees authorised to provide IP telephony services will enjoy a fee reduction as well as more flexibility of providing service to mobile customers in addition to fixed customers.

The consultation paper is available for public access at OFTA's website (<http://www.ofta.gov.hk/en/report-paper-guide/paper/consultation/20090311.pdf>). The consultation lasted for two months ending on 10 May 2009. The TA will finalise the new SBO licensing framework after consideration of all the views and comments received from the consultation. It is targeted to implement the new licensing regime by end 2009 and have all PNETS licences replaced by the SBO licence by end 2010.

D. Consultation on the creation of class licence for UWB devices

In anticipation of the growing interest in UWB applications, the Telecommunications Authority (the "TA") proposed to create a class licence so that the community may reap the benefit from the deployment of the technology in a timely manner. The TA issued a consultation paper in March 2009 to invite views and comments from all interested parties on the proposed regulatory framework for the use of UWB radiocommunications devices in Hong Kong. The consultation period has been over and the TA is now considering submissions from the stakeholders and interested parties.

While the TA intends to reap the full benefits of new technology, it is also important to reduce wherever possible the regulatory burden upon the stakeholders. This explains why a class licence for UWB radiocommunications devices is proposed. Like other low power devices covered by their respective class licences, UWB radiocommunications devices covered by the proposed class licence is required to meet the prescribed technical requirements. The UWB devices should be used predominately indoors and they shall not be used for the provision of a public telecommunications service.

The UWB radiocommunications devices hold promise for a variety of new

applications that are intended for consumer mass-market and should bring substantial net economic benefits to the public. Allowing the deployment of the UWB radiocommunications devices is considered to be in line with the spectrum policy objectives in Hong Kong, which aim, among other things, to (a) achieve technical efficient use of spectrum to facilitate the introduction of advanced and innovative communications services; and (b) facilitate the most economically and socially efficient use of spectrum.

Before the consultation exercise, OFTA has commissioned a consultant to study the emission requirements for UWB radiocommunications devices that would be required to protect authorized radiocommunications services in Hong Kong, and to conduct a field trial to verify the impact of such devices on a C-band satellite receiving station. The emission masks and limits as proposed in the consultation paper are based on the consultant's recommendations. The consultation paper is available at :

<http://www.ofa.gov.hk/en/report-paper-guide/paper/consultation/20090320.pdf>