Submission to Commerce and Economic Development Bureau on:

Consultation Paper on the Creation of A Unified Carrier Licence under the Telecommunications Ordinance

4 March, 2008

FOREWORD

This consultation presents a unique opportunity to critically review and test every licence condition to determine if it is still relevant and necessary.

The market in 2008, 2010 and beyond is very different to that in 1995. A mechanistic transfer of licence conditions crafted in 1995 to licences that are to be effective from 2010 is therefore highly inappropriate.

Regulatory intervention (e.g. imposition of licence conditions) is only likely to be in the public interest if and when the market mechanism is objectively demonstrated to have failed.[1]

The burden of proof should be on the party who is arguing for regulatory intervention, i.e. the Commerce and Economic Development Bureau to show that there is a market failure and that intervention can do better.[2]

The Bureau must therefore justify each licence condition against the occurrence of market failure, otherwise it should not be included in the Unified Carrier Licence.

[1] Refer to paragraph 39 of the Statement of the Telecommunications Authority on *Deregulation for Fixed-Mobile Convergence* issued on 27 April 2007.

[2] Refer to OFTA's response to Question 4. in *Replies to Enquiries from Interested Parties – Issue No. 1* published on 26 September 2006.

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INTRODUCTION

1. PCCW-HKT Telephone Limited ("**PCCW**") welcomes the opportunity to provide its comments on the consultation paper issued by the Commerce and Economic Development Bureau ("**CEDB**") on the *Creation of A Unified Carrier Licence under the Telecommunications Ordinance* ("**Consultation Paper**").

2. The Unified Carrier Licence ("**UCL**") was put forward by the Telecommunications Authority ("**TA**") in his Statement on *Deregulation for Fixed-Mobile Convergence* ("**FMC Statement**")[3] as a means of facilitating the provision of converged telecommunications services.

3. At the outset, PCCW would make three major points:

4. Firstly, PCCW does not consider it necessary for a combined fixed-mobile carrier licence to be especially created simply to facilitate the development of converged fixed-mobile services. The market (i.e. user requirements and technology) will automatically drive the development of such services. The present licensing regime, with separate licences for fixed line and mobile services, already permits operators to provide telecommunications services which cross the fixed line and mobile platforms. Indeed, under the current licensing framework, an operator has already successfully launched integrated third generation mobile cum Wi-Fi services, as noted by the CEDB in the Consultation Paper[4].

5. Secondly, this consultation presents an appropriate opportunity to test whether each licence requirement is still relevant and necessary. The TA formulated the general position in the FMC Statement that regulation should be withdrawn absent a likelihood of market failure being demonstrated. The market has evolved from little to hyper competition since most of the General Conditions ("**GCs**") contained in the licence were imposed. It is only logical and consistent to test if each of these Conditions is still necessary today and in the future.

6. Thirdly, PCCW can see no reason to impose higher licence fees on fixed line operators. In particular, it should not be necessary to introduce a number fee to discourage "number hoarding" as the likelihood of a number shortage is remote. Even if there were a shortage of telephone numbers, other solutions besides the imposition of a number fee are available. In addition, reduced administration costs (which naturally arise as a result of deregulation) justify a reduction in the licence fees.

7. In this Paper, the CEDB sets out its proposals to introduce the UCL, the suggested GCs to be attached to the licence, the period of validity and the fees payable for the licence, and seeks the industry's comments on these proposals. PCCW's comments on each of the proposals are outlined in the ensuing section.

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[3] Issued on 27 April 2007.

[4] See paragraph 7 of the Consultation Paper.

8. PCCW also notes that the TA is concurrently conducting a consultation on the Special Conditions to be attached to the UCL. PCCW will be responding to this consultation separately.

CREATION OF A UNIFIED LICENSING FRAMEWORK

9. The CEDB proposes to create a common UCL to be adopted for all kinds of fixed, mobile and converged services. The new licence will replace the existing Fixed Carrier Licence ("**FCL**"), Fixed Carrier (Restricted) Licence ("**FCRL**"), Mobile Carrier Licence ("**MCL**") and Mobile Carrier (Restricted) Licence("**MCRL**")[5].

10. Once the UCL is introduced, all the aforementioned licences will remain valid until they have either reached their expiry date, or until the holder of the licence decides to convert the licence to a UCL before the expiry date.

Q.1	*The Secretary invites comments on the proposal of creating the UCL as detailed in paragraphs 9-13.*

11. As previously stated, PCCW is not convinced that it is essential to create a new licence to facilitate the development of converged fixed-mobile services, particularly when it is difficult to see how the existing licensing regime prevents operators from providing such services, and the demand for (and hence development of) fixed-mobile services is still unclear at this point in time.

12. PCCW, nevertheless, does recognize that a standardized carrier licence which is used to cover both fixed and mobile services could help to administratively simplify the licensing regime and, if it results in significant cost savings to the operators without any increase in burden, then it should generally be welcomed by the industry[6]. To state that the creation of a UCL will significantly advance or promote the development of converged fixed-mobile services is, however, simply far fetched.

13. On this basis, PCCW would clearly need to examine the detailed proposals concerning the new licence, including the licensing fees, validity period, General and Special Conditions to be attached to the UCL before it can be in a position to decide whether or not it would benefit the industry to introduce such a licence.

14. Should the UCL be introduced, then PCCW would concur that:

- Existing Fixed Carrier and Mobile Carrier licensees should be given the option to convert their licence into the new UCL;

[5] From here on, these licences will be collectively referred to as the *Fixed Carrier and Mobile Carrier licences*.

[6] Of course, if administrative cost savings do occur then the proposal to increase the licence fees for fixed line operators would make even less sense.

- Should the existing licensee not wish to convert its licence into a UCL, then its existing licence should be allowed to run its course, unaltered, until expiry;
- No further Fixed Carrier or Mobile Carrier licences should be issued by the TA. In future, only UCLs will be issued for providing fixed line, mobile or a combination of these services.

15. Obviously, if on converting to the UCL, the operator wishes to expand the scope of services it wishes to offer under its licence[7], then this will require separate application to, and approval by, the TA.

16. PCCW also agrees with the CEDB that holders of the UCL should not automatically be granted spectrum to provide mobile services. The acquisition of spectrum is a matter which must be treated separately to the acquisition of a carrier licence. Spectrum is a scarce public resource and hence, in accordance with the Spectrum Policy Framework, must be acquired by the licence holder on the open market if the particular piece of spectrum is subject to competing demands. In addition to acquiring frequency via an open auction process, operators should be able to purchase spectrum from each other via trading, and make use of the spectrum in whatever way they consider appropriate. That is why it is essential for spectrum trading and liberalization to be introduced in Hong Kong as soon as possible. Both of these initiatives are consistent with the policy to separate the licensing regime from the granting of spectrum rights.

MIGRATION TO THE UCL

17. The CEDB proposes that, once the UCL regime is implemented, no new Fixed Carrier or Mobile Carrier licences should be issued to new entrants or to the existing operators when their current licences expire. Existing operators are also to be given the opportunity to convert their licence over to a UCL before their current licences expire.

Q2. The Secretary invites views on the proposed migration arrangement under paragraphs 15-16.

18. If the UCL is to be introduced then it would not make sense to continue issuing Fixed Carrier and Mobile Carrier licences otherwise this would defeat the whole purpose of creating the UCL, that is, to streamline and standardize the licensing vehicle for fixed line and mobile services.

19. On this basis, PCCW concurs that a UCL should be issued for all relevant new licensees and for the replacement of the existing Fixed Carrier and Mobile Carrier licences upon their expiry. In the meantime, the holders of Fixed Carrier and Mobile

[7] For instance, if an existing Fixed Carrier licensee wishes to provide mobile services under its UCL in addition to its fixed line services, or an existing Mobile Carrier licensee intends to provide fixed line services under its UCL in addition to its mobile services.

Carrier licences should be given the option of deciding whether or not to convert their current licence over to a new UCL, with their new licence lasting until the expiry date of their original licence[8].

PERIOD OF VALIDITY OF THE UCL

20. In deciding on the period of validity for the UCL, the CEDB has taken into account the validity periods for the set of licences which the UCL is intended to replace. These are as follows:

- FCL, MCL and MCRL (15 years)
- FCRL (12 years)

21. On this basis, the CEDB has proposed that the UCL should be granted to the licensee for a period of 15 years. Upon expiry of this licence, a new UCL will be issued to the licensee with conditions updated to reflect the prevailing regulatory environment. Sufficient notice will be given to the licensee if it is not intended to renew the licence.

22. Further, as previously stated, under the scheme put forward by the CEDB, existing Fixed Carrier and Mobile Carrier licensees would be able to convert their licences into a UCL before expiry of their current licences. Under these circumstances, the CEDB suggests that different validity periods should be applied to the UCLs issued as follows:

- Where the existing licensee proposes no change in scope to the services it is offering ("**no change in scope**");
- Where the existing licensee proposes to increase the scope of its services, but submits proposals to the TA on its new services only ("**proposals on new services only**"); and
- Where the existing licensee proposes to increase the scope of its services and submits proposals to the TA on both its existing and new services ("**proposals on both existing and new services**").

Q3.	*The Secretary invites views on the proposed period of validity for UCL under paragraphs 18-19, and the proposed conversion arrangement in paragraph 25.*

[8] It is interesting that the TA's proposal is to make eventual take up of the UCL mandatory. If the UCL did actually facilitate the development of converged fixed-mobile services, then one might conclude that all service providers (especially those currently offering both fixed line and mobile services) would not need any encouragement to apply for the UCL. PCCW sees this as somewhat ironic.

New Licence Application

23. PCCW agrees that it is desirable to standardize the validity period for licences issued in respect of fixed line and mobile services. On this basis, it concurs that a validity period of 15 years would be appropriate for the UCL in line with the current validity period for fixed carrier and mobile carrier licences.

24. Upon expiry of its UCL licence, the licensee should have a reasonable expectation that it will be granted a fresh licence unless there are exceptional circumstances justifying the TA's decision not to renew the licence[9]. It is particularly important to make this clear to the licensee up front, especially a licensee in possession of spectrum, otherwise this will create uncertainty and only encourage the licensee to make very short term investments or discourage them from investing near the end of the licence term. This would, as a result, detract from the benefits that can be offered to consumers.

25. The longer the term of the licence, i.e. 15 years, the greater the need for the licence to be renewed. This is because, for such licences, a significant amount of investment is likely to have already been made by the licence holder and a substantial customer base built up by the licensee over the years. If the licence is not to be renewed, and insufficient notice period is given to the licensee, this could result in less investment and/ or customers suddenly being cut off.

26. This approach would be consistent with the fact that UCL holders will only be awarded to operators with "carrier" status who are expected to make substantial and long term investments in rolling our their service. By providing assurance to such licensees that their licence will be renewed upon expiry unless there are exceptional circumstances, this makes it easier for the operator to make investment decisions.

27. In contrast, service providers who operate based on short term annual licences, e.g. Services-Based Operators, are normally short term players in the market. They are expected to neither have a significant customer base nor make significant investments in providing service. Failing to renew these licences would therefore have relatively little impact on the licensee's investment and consumers at large compared to holders of carrier licences.

28. As a matter of policy, therefore, PCCW would suggest that the TA make it clear that the UCL will be automatically renewed upon expiry of the licence term unless there are exceptional circumstances justifying their non-renewal.

29. This does not mean, however, that the TA is bound to renew the licence with the exact same terms and conditions as before. The new UCL should contain terms and conditions which reflect the prevailing market conditions and regulatory

[9] For instance, if the licensee has committed a licence breach that cannot be remedied or if there is a major exercise to revamp the licensing structure, then the TA may be justified in withdrawing the licence immediately or at the end of the licence term.

environment. For instance, in an increasingly competitive and mature market where the TA is striving to withdraw ex ante regulation, the industry should expect fewer and fewer general and special conditions to be imposed each time licences are renewed. Indeed, as noted by PCCW above, this consultation (and the parallel consultation being conducted by the TA) should place a particular emphasis on ascertaining the continuing relevance and necessity for each licence condition.

Conversion to the UCL

30. PCCW concurs with the CEDB that, to simplify administration of the licences, operators should either be issued with UCLs which are valid for 15 years or valid for the remaining term of the operator's existing licence. If there are any increases in the scope of services provided by the licensee then this should be treated in the same manner as a fresh licence application and a UCL granted for the full term of 15 years. On the other hand, if there is no change in scope to the range of services offered by the licensee then this should simply be regarded as a continuation of the existing licence and hence no need to extend the existing licence term. Applying this to the circumstances listed above, this would mean:

- *No change in scope*. A UCL would be granted for the remaining term of the existing licence only.
- *Proposals on new services only* and *proposals on both existing and new services*. Both cases involve extending the scope of the licensee's existing services, therefore, upon approval of the new services by the TA and confirmation that the existing services can continue to be provided, a UCL will be granted to the licensee for a full 15 year licence term. In practice, it may be difficult to ascertain whether the licensee is providing new services (which are beyond the scope of its existing licence) or whether the new services still fall within the scope of its existing licence. This will obviously require detailed examination by the TA.

31. The Consultation Paper raises a question as to the treatment of a UCL application whereby the applicant presently holds both a Fixed Carrier and Mobile Carrier licence (each possibly carrying different expiry dates) and wishes to combine both of these services under one single licence. PCCW considers that, consistent with the approach noted above, since there is no extension in scope of services under either licence, the application should be treated as if there is no change in scope and a UCL automatically granted for the longer of the two remaining terms. For instance, if ABC Company held a Fixed Carrier Licence expiring in December 2008 and a Mobile Carrier Licence expiring in December 2009, and it were to apply for a UCL to continue offering the services it was providing under its current Fixed Carrier and Mobile Carrier licences, then the UCL granted to ABC Company would carry a validity period until December 2009.

32. As previously stated, the acquisition of spectrum should be treated separately to the acquisition of a licence. This could therefore give rise to a situation whereby the validity period for the UCL may not exactly coincide with the term for which the

spectrum rights have been acquired, i.e. the expiry date of the UCL may be several years before or after the date on which the rights to use the spectrum expire. In such a situation, the licensee will have to acquire more spectrum in order to cover the remaining life of its UCL (where the spectrum rights expire before the end of the UCL expiry date) or else apply for its licence to be renewed (where the validity period of the UCL falls short of the life of the spectrum rights). That is why it is important to make it easier for operators to acquire and make use of spectrum, and the introduction of spectrum trading and liberalization in Hong Kong are crucial to this process.

GENERAL CONDITIONS OF THE UCL

33. In order to ensure a level playing field under the UCL regime, the CEDB considers that the GCs contained in the licence should be the same as those currently attached to the Fixed Carrier and Mobile Carrier licences.

Q4. The Secretary invites views on the proposed GCs of UCL as set out in Appendix A.

34. PCCW considers that it is important to ensure fair play amongst the existing Fixed Carrier/ Mobile Carrier licensees and the new UCL holders, given that the licences they hold will entitle them to offer the same services and the fact that both sets of licences will (at least temporarily) co-exist.

35. Operators holding the UCL should not be subject to more onerous requirements compared to the existing Fixed Carrier and Mobile Carrier licences which the UCL is intended to replace. On the other hand, there may be a case for the CEDB to relieve the UCL holder of certain existing licence requirements in an effort to encourage operators to migrate over to the licence. In fact, as the telecommunications market in Hong Kong has already reached a mature stage and is very competitive, it could be argued that it is only proper for the new licence to carry fewer licence conditions. On this basis, unless a particular licence condition is required to prevent a market failure or to ensure a strong public interest outcome unrelated to economic regulation, it should be removed.

36. In any case, PCCW concurs that the same set of GCs should be carried over to the new UCL insofar as these Conditions are necessary to ensure that:

(i) The licensee complies with basic operational requirements and international technical standards;

(ii) The secure operation of the network and safety of consumers is guaranteed;

(iii) There is no interference or obstruction by the licence holder; and

(iv) A market failure would not occur.

37. The 18 GCs outlined in Appendix A of the Consultation Paper generally fulfill the above criteria, except for the following:

GC 4: Compliance Generally

38. This Condition requires the licensee to comply with the Telecommunications Ordinance and any instruments issued by the TA under the Ordinance, etc. As the existing legislation already requires compliance, the Condition would appear to be redundant.

GC 5: Provision of Service

39. This Condition requires the licensee to maintain and provide a good, efficient and continuous service to its customers. In today's competitive market, where customers churn easily, PCCW would question the necessity of imposing such a requirement, particularly when the licensee is already required to adopt a Customer Charter (See GC 6). The market, not the regulator, should drive this issue.

GC 7: Confidentiality of Customer Information

40. This Condition prohibits the licensee from disclosing any information pertaining to its customers or using any of this information for other intended purposes without the customer's prior consent. In view of the already stringent requirements under the Personal Data (Privacy) Ordinance and the recent requirements concerning the use of customer information in relation to the delivery of electronic messages, however, it is doubtful whether this Condition needs to be retained in the UCL.

GC 11: Compliance

41. This Condition states that if the licensee employs any person for the purposes of providing service or operating and maintaining the network, the licensee shall also be responsible for ensuring that that person complies with the requirements of the licence. For the same reasons outlined under GC 4, this Condition would appear to be unnecessary. In any case, if the CEDB is minded to retain a requirement for *compliance* within the set of GCs then, in the interests of efficacy, it should consider combining GC 4 and GC 11.

42. On this basis, PCCW would suggest that the CEDB seriously considers removing these GCs from the proposed UCL.

FEE SCHEDULE OF THE UCL

43. In introducing the new UCL, the CEDB proposes to make changes to the current licensing fee structure. As explained in the Consultation Paper, at present, licence fees are levied on the following basis depending on the type of licence used:

Licence	Fixed Component	Subscriber-Based Component	Non-Subscriber-Based Component
Fixed Carrier Licence	Annual fee ($1,000,000 or	Customer connection fee	Spectrum management fee

Licence	Fixed Component	Subscriber-Based Component	Non-Subscriber-Based Component
	$200,000 for external service only	($7 per connection)	(Note 1)
Fixed Carrier (Restricted) Licence	Annual fee ($100,000)	Customer connection fee ($7 per connection)	Spectrum management fee (Note 1)
Mobile Carrier Licence	-	Mobile station fee ($18 per station)	Spectrum management fee and base station fee (Note 1)
Mobile Carrier (Restricted) Licence	Annual fee ($50,000)	-	Land station fee (Note 1)

Note 1: Calculated in accordance with pre-defined formulae.

44. Under the UCL, the CEDB intends to consolidate the above table of charges into the following set of fees:

Licence	Fixed Component	Subscriber-Based Component	Non-Subscriber-Based Component
Unified Carrier Licence	Annual fee ($1,000,000 or $100,000 for external fixed service only and/or for radiocommunications services where moving stations are primarily for use in locations other than on land only)	Customer connection fee ($8 per connection)	Number fee ($3 per subscriber number) Spectrum management fee and base station/ land station fee (Note 2)

Note 2: Calculated in accordance with pre-defined formulae.

Q5. *The Secretary invites views on the proposed fee schedule of UCL as set out in Appendix B.*

45. The CEDB seems to suggest, in the Consultation Paper, that these changes in licensing fees will be revenue neutral. Upon closer examination, however, this is clearly not the case. For existing Fixed Carrier licensees, on changing over to a new UCL, they will be subject to a $1 increase in customer connection fee as well as a new fee component ($3) levied on the basis of the quantity telephone numbers in their possession. In addition, there is no reduction in the annual fixed fee component which they are presently paying. PCCW estimates that this licence fee proposal will increase the financial burden placed on it by almost $30 million each year.

46. The CEDB explains that these increases in licence fees are necessary in order to enable the Office of the Telecommunications Authority ("**OFTA**") to recover the costs it incurs in administering the new UCL. This explanation is, however, with respect, rather odd given that there is nothing to suggest that OFTA's costs have increased, or are expected to increase in the future. Indeed, elsewhere it is suggested that the UCL will simplify administrative burdens and, in competitive markets, regulatory costs should decline. In particular:

(i) The CEDB has signaled its intention to generally reduce the licence fees paid by the mobile operators under the UCL;

(ii) The fees paid by the mobile operators have already been reduced several times in the past (although those paid by the fixed line operators have not);

(iii) OFTA's costs should be falling as a result of increased competition and the general deregulation in the telecommunications market;

(iv) The streamlining of licensing activities upon combining fixed line and mobile services under one single UCL should lower OFTA's administration costs; and

(v) PCCW would note that OFTA's Trading Fund Report for 2006/07 shows a healthy financial state of affairs, with a 24.6% increase in pre-tax profit over the previous year to $92.6 million, so it cannot be said that OFTA is failing to recover its costs under the present licensing regime.

On this basis, raising the licence fees of the fixed line operators would not seem a justifiable course of action.

47. As already noted, mobile operators have been granted successive reductions in licensing fees over the past few years and are now about to benefit from a further substantial decrease in their fees by changing over to the UCL[10]. On the other hand, the fixed line operators have received no such concessions. This inconsistent treatment clearly favours the mobile players in the market over the fixed line service providers. Indeed, the proposed increase in licence fees for the fixed line operators effectively means that this group of service providers will be subsidizing the operations of the mobile operators. This cannot be considered acceptable.

48. It is therefore disappointing that, despite the CEDB's goal to establish a level playing field for holders of the existing carrier licences and holders of the new UCL by ensuring that both sets of licences contain the same GCs, it then proposes to increase the financial burden for fixed line operators by raising the licence fees for such operators under the UCL. This is not a consistent approach and actually discourages existing Fixed Carrier licensees from switching over to the new UCL.

[10] As noted by the CEDB in the Consultation Paper, the subscriber-based component of the licence fee accounts for a significant portion of the total licence fees received from the fixed line and mobile operators.

Annual Fee

49. The CEDB proposes that the annual fee for the new UCL, which allows the licensee to offer both fixed line and mobile services under the same licence, should be set at $1 million. This, however, would then imply that the current annual fee for the Fixed Carrier licence (also set at $1 million) is too high given that under this licence, only fixed line services can be offered. On this basis, the CEDB/ OFTA should look into reducing the annual licence fee for the Fixed Carrier licence.

Number Fee

50. Under the UCL, the CEDB states its intention to introduce a fee for the use of telephone numbers in order to encourage more efficient use of numbering resources and extend the life of the current 8 digit Hong Kong telephone numbering plan. It is therefore clear that, despite claims that such a fee needs to be introduced to recover the costs of administering the numbering plan, it is actually being implemented more as a "financial penalty" to deter operators from stockpiling telephone numbers.

51. As a fundamental matter, any possible problem concerning shortage of telephone numbers in Hong Kong has nothing to do with, and should not be associated with, the future convergence of fixed line and mobile services. These are two separate and distinct issues. It is therefore inappropriate for the TA to deal with the number shortage problem (and any solution to this problem) in any discussion concerning fixed-mobile convergence.

52. In addition, it should not be an objective, in its own right, to extend forever the life of the current 8 digit numbering plan. As demand for telecommunications services continues to grow, it is inevitable that there will be increasing demand for telephone numbers, so the implementation of a 10 digit numbering plan in Hong Kong cannot be avoided forever. It would therefore be inappropriate to suppress demand for telecommunications services simply to maximize the delay in switching over to a 10 digit numbering plan in Hong Kong. A more sensible goal would be to ensure that Hong Kong follows an *optimal timeframe* for transitioning over to a 10 digit numbering plan.

53. It is wrong to impose a number fee to suppress demand for telephone numbers for several reasons:

54. Firstly, it is not clear to PCCW that Hong Kong is facing a shortage of telephone numbers. The number of fixed line users is generally stable, mobile penetration is already at around 150% and population growth is minimal.

55. Secondly, there are alternative ways to minimize the pressure on the numbering plan, particularly for mobile services. For instance, the TA does not seem to have fully explored the possibility of making use of telephone numbers in the much under-utilized "7" number range to cater for the growth in mobile subscribers.

56. Thirdly, this new charge represents a considerable expense to fixed line and mobile service providers who are presently holding blocks of numbers which they may not be able to give back to the TA unless they are allowed to return incomplete blocks of numbers. A mechanism should be developed for operators to return unused telephone numbers in sufficiently small blocks so as to maximize the quantity of numbers that can be restored and hence ease any potential future number shortage.

57. Fourthly, indiscriminately charging operators for all telephone numbers allocated to them does not directly solve the problem of "number hoarding" since even those telephone numbers which are being used by customers will be subject to this fee.

58. If the CEDB decides to impose the number fee, therefore, operators may have no choice but to pass on such charges to their customers.

59. On this basis, PCCW does not support a number fee being introduced as part of the UCL except as a last resort. But first, other options need to be fully explored and tested. This is different to the Services-Based Operator licence, where no customer connection fees are payable and hence it is appropriate for a number fee to be levied.

60. If the CEDB is minded to introduce such a fee, however, then PCCW would suggest that the charging basis be simplified by only applying the fee to *new telephone numbers* allocated by the TA to the licensee in the future. This would be a fair approach given that existing service providers were not informed of the need to pay for number blocks when they were previously allocated telephone numbers by the TA. At the same time, the objective of deterring operators from asking for an excessive quantity of telephone numbers would also be achieved. An alternative would be to impose the charge only on those telephone numbers held by the licensee as at a certain date which have *not yet been assigned to customers*.

CONCLUSION

61. As a fundamental issue, PCCW does not see the need to create a new licence simply to facilitate the development of converged fixed-mobile services. There is no clear evidence that fixed-mobile convergence is occurring in the industry[11] and even if it were, the existing licensing regime is sufficient to enable such services to be offered.

62. If a UCL were to be introduced at this point in time, it could only be justified on the basis of streamlining and standardizing the current licensing regime so as to reduce the costs involved in administering the existing set of licences. This, in turn, should logically be reflected by a reduction of the licence fees. It is therefore difficult to comprehend why the CEDB proposes to increase the licence fees for Fixed Carrier licensees when they come to take up the UCL, particularly given the healthy financial

[11] Indeed, we note the recent press reports that BT in the UK has now "pulled the plug" on its BT Fusion converged fixed-mobile service.

state of affairs shown in OFTA's Trading Fund. A tax on numbers (in the form of a number fee) is not appropriate.

63. The creation of a new standardized licence offers the TA an opportunity to reset the scales so that all licensees operate on the same footing and no one particular operator is burdened with any additional obligations. It also enables the TA to critically review the existing set of licence conditions to assess whether they are still required in view of the intensely competitive state of the Hong Kong telecommunications market and in the light of the Government's policy direction to increasingly withdraw from regulation. In PCCW's view, this should be a major objective of the two consultations on the UCL which are being run concurrently by the CEDB and the TA, i.e. to critically examine and test the need to retain each licence condition in a competitive market such as is found in Hong Kong today.

64. In short, PCCW does not, in principle, oppose the introduction of the UCL as long as the requirements contained in the licence and the fees payable for the licence do not impose any more onerous conditions on the licensee compared to its existing licence. This would be a natural expectation given the state of the market. The new UCL should be drafted in such a manner that it would be attractive to the industry so that existing operators would be eager to convert over to the new licence and new entrants encouraged to take up the licence. This is what the Government sorely needs to recognize if it is not to stunt the growth of a successful Hong Kong telecommunications industry.

Submitted by
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