

Minimum Notice Periods for Variation or Withdrawal of Spectrum Assignments

Statement of the Telecommunications Authority

31 January 2008

Introduction

As part of the implementation of the Radio Spectrum Policy Framework announced by the then Commerce, Industry and Technology Bureau in April 2007 (“the Framework”)¹, the Telecommunications Authority (“TA”) today states the minimum notice periods that would be applied to variation or withdrawal of spectrum assignments.

2. For the avoidance of doubt, the minimum notice periods stated in this Statement shall not apply to cases where a licence is cancelled, withdrawn or suspended by the Authority in the event of contravention by the licensee of the Telecommunications Ordinance or a licence condition, and where a licence is cancelled or suspended by the Chief Executive in Council on the ground of public interests, pursuant to section 34 of the Telecommunications Ordinance (Cap.106).

Background

3. In relation to the renewal of spectrum assignment upon expiry of the assignment, paragraph 4.2 of the Framework states that “*the decision whether a new spectrum assignment, with the same or varied radio frequencies, should be given to the spectrum assignee would be made and notified to the spectrum assignee within a reasonable time before the expiry of its spectrum assignment or after receipt of its application by TA as it is applicable in the circumstances.*”

4. In relation to the variation or withdrawal of spectrum assignment before expiry of the assignment, paragraph 4.3 of the Framework states that “*if a spectrum assignment is to be varied or withdrawn before the assignment expires,*

¹ A copy of the Framework can be downloaded from <http://www.cedb.gov.hk/ctb/eng/legco/pdf/spectrum.pdf>.

the spectrum assignee to be affected will be notified before the variation or withdrawal is to take place in accordance with sections 32H(3) and (4) of the Telecommunications Ordinance. For this purpose, the TA may state the minimum notice periods for different types of spectrum assignments.”

Minimum Notice Periods

5. Pursuant to paragraphs 4.2 and 4.3 of the Framework, the TA, having consulted the Radio Spectrum Advisory Committee, now states that, insofar as it is practicable in the circumstances, the following minimum notice periods would be given for variation or withdrawal of spectrum assignments upon and before their expiry:-

- (a) In the case of spectrum assignment to a carrier licence²,
 - (i) subject to subparagraph (ii), a notice period of not less than three years would be given;
 - (ii) a notice period of not less than two years would be given where the spectrum is for operation of the network other than for connection between the network and the customers³;
- (b) In the case of spectrum assignment to a sound broadcasting licence for operation of the network other than for connection between the network and sound broadcast receiving apparatus⁴, a notice period of not less than two years would be given;
- (c) In the case of spectrum assignment to a Public Radiocommunications Service Licence⁵, a notice period of not less than one year would be given; and

² “Carrier licence” has the meaning ascribed to it in section 2 of the Telecommunications Ordinance. It includes Fixed Telecommunications Network Services Licence, Fixed Carrier Licence, Fixed Carrier (Restricted) Licence, Mobile Carrier Licence, Mobile Carrier (Restricted) Licence and Space Station Carrier Licence.

³ e.g. spectrum for fixed links including electronic news gathering/outside broadcast links.

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⁵ For the purpose of this Statement, “Public Radiocommunications Service Licence” means Public Radiocommunications Service Licence for radio paging services, Public Radiocommunications Service Licence for trunked radio services, Public Radiocommunications Service Licence for radiolocation services, Public Radiocommunications Service Licence for mobile radiocommunications service to taxis, or Public Radiocommunications Service Licence for public mobile data communications service.

(d) In the case of spectrum assignment to a licence listed in the Annex, a notice period of not less than one year would be given.

6. Nothing in this Statement shall prejudice the powers of the TA under section 32H(3) and the generality of section 32H(4) of the Telecommunications Ordinance. While the minimum notice periods stated in this Statement will serve as a reference for the TA in deciding the reasonable notice period of an intended variation or withdrawal of spectrum assignment, the TA is entitled to depart or deviate from the stated minimum notice periods where the circumstances so warrant. This Statement is not legally binding on the TA, and is subject to review and may from time to time be amended as and when it is considered necessary in the light of latest developments.

Office of the Telecommunications Authority
31 January 2008

Annex

Aeronautical VHF Fixed Station Licence
Amateur Station Licence
Broadcast Radio Relay Station Licence
Broadcast Relay Station Licence
Experimental Station Licence
General Communication Radio Receiving Station Licence
Hotel Television (Transmission) Licence
Industrial, Scientific and Medical Electronic Machine Licence
Mobile Radio System Fixed Station Licence
Mobile Radio System Mobile Station Licence
Pleasure Vessel Radio Network Station Licence
Private Mobile Radio System Licence
Private Radio Paging System Licence
Radiocommunications School Licence
Radiodetermination and Conveyance of Commands, Status and Data Licence
Self-provided External Telecommunications System Licence
Wide Band Link and Relay Station Licence
Aircraft Station Licence
Ship Station Licence
Ship Station (Fishing Vessel) Licence
Ship Station (Local Craft) Licence