

Public consultation on phase two of review on Broadcasting Ordinance and Telecommunications Ordinance launched

The Government today (November 28) launched a three-month public consultation on phase two of the review on the Broadcasting Ordinance (BO) and the Telecommunications Ordinance (TO). The review aims to set out proposals pertaining to the improvement of the telecommunications regulatory framework to prepare for the arrival of Fifth Generation Mobile Communications (5G) and Internet of Things (IoT) technologies, and to facilitate the development of the telecommunications industry in Hong Kong.

"The next big wave of telecommunications evolution is the arrival of 5G, which empowers massive adoption of IoT and smart communication platforms. We need to ensure that our regulatory framework is 5G-ready," a spokesman for the Commerce and Economic Development Bureau said.

"In conducting the review, we have made reference to our operational experience, as well as feedback and comments received from operators and other stakeholders. We are satisfied that overall, the existing framework is generally effective in regulating various services since the full liberalisation of the telecommunications market in 2003. While fundamental changes to our legislation are not required, there is room to introduce measures to keep pace with the latest developments in telecommunications technologies," the spokesman added.

In the consultation document, the Government proposes the following four measures under two themes, namely, "Embracing the Arrival of 5G and IoT Technologies" and "Trade Facilitation":

Embracing the arrival of 5G and IoT technologies

1. Regulation of telecommunications functions of devices in the 5G and IoT era

In the near future, in addition to dedicated telecommunications equipment and devices (e.g. land-line telephones, fax machines and mobile handsets), other things in our daily life can potentially be equipped with telecommunications functions. They can be connected to and communicate with one another. There is a need to regulate the telecommunications functions of various IoT devices. After review, the Government considers that the telecommunications functions of IoT devices should continue to be regulated by the TO and proposes that the Communications Authority (CA)'s regulatory powers and duties should focus on the telecommunications functions of telecommunications equipment and 5G and IoT devices (i.e. integrity of and compatibility with telecommunications networks and the level of non-ionising electromagnetic radiation), whereas the non-telecommunications functions of

such equipment and devices (e.g. electrical and other general safety aspects) should be regulated by their respective dedicated legislation as appropriate.

2. Protection of underground telecommunications infrastructure

In Hong Kong, underground spaces are packed with telephone lines and optical fibre cables that constitute essential infrastructure of our telecommunications network. With the imminent arrival of 5G services and more extensive use of smart city applications, the integrity of our telecommunications infrastructure will become even more crucial. In this connection, the Government proposes to create new criminal offences under the T0 against negligent damage to underground telecommunications facilities. Compliance with relevant codes of practice or guidelines promulgated by the CA shall constitute a defence to a charge under the proposed offences.

Trade facilitation

3. Simplifying the issue of non-carrier licences

To facilitate the timely introduction of innovative services in the 5G era, the Government proposes to simplify the existing mechanism for issuing non-carrier licences by empowering the Secretary for Commerce and Economic Development to publish a notice in the Gazette to specify non-carrier licences instead of specifying these non-carrier licences under Schedule 1 to the T0. Under the new mechanism, the issue of non-carrier licences will not involve subsidiary legislation amendment procedures. The new measure will be conducive to the rapid development of the telecommunications industry in embracing new technologies and new applications.

4. Improving the appeal mechanism under the T0

In today's increasingly complex, vibrant and fast-developing telecommunications market, telecommunications operators would expect more cost-effective and efficient means to redress their grievances against certain regulatory decisions. After the review, the Government proposes to improve the appeal functions under the T0 by establishing an independent appeal board to deal with certain decisions by the CA. Reference will be made to the existing Telecommunications (Competition Provisions) Appeal Board in mapping out the composition and modus operandi of the proposed appeal board.

For details of the above legislative amendment proposals, please refer to the consultation document ([www.cedb.gov.hk/ccib/eng/paper/pdf/B0T0Review_2\(eng\).pdf](http://www.cedb.gov.hk/ccib/eng/paper/pdf/B0T0Review_2(eng).pdf)).

The review on the B0 and the T0 is being conducted in two phases. The public consultation on phase one on the review of the broadcasting regulatory framework was completed in May 2018. Stakeholders in general supported the direction of the proposals to update the regulatory framework. The Government aims to introduce an amendment bill into the Legislative Council (LegCo) in 2019 to give effect to the relaxation proposals presented in the public consultation.

The public consultation on phase two on the review of the telecommunications regulatory framework will close on February 27, 2019. The Government aims to introduce an amendment bill into the LegCo in 2019.

Members of the public may send in their views direct by email to BOTOREview2@cedb.gov.hk, by fax to 2351 2791 or by post to the Ordinance Review Team, Commerce and Economic Development Bureau (Communications and Creative Industries Branch), 21/F, West Wing, Central Government Offices, 2 Tim Mei Avenue, Tamar, Hong Kong.