

Telecommunications Services (9) - General FAQs and FAQs in relation to CEPA and its Supplements (up to 2006 Liberalization Measures)

1. What is the scope of the five value-added services (VAS)?

The classification of the five VAS is based on the Telecommunications Services Classification Catalogue《電信業務分類目錄》 of the Mainland. You are advised to refer to or download a copy of the Catalogue from the website of the Ministry of Information Industry (MII) (www.mii.gov.cn) (Simplified Chinese Only) for details of the scope of each VAS.

2. If I intend to provide the five VAS, what steps do I need to take before I can acquire the necessary permit or licence in the Mainland?

To benefit from CEPA, you will first need certification from the HKSAR Government that you qualify as a “Hong Kong Service Supplier” (HKSS) according to the criteria set out in CEPA Annex 5. Trade and Industry Department (TID) will be the one-stop point to handle applications for Certificate of HKSS from all service sectors, including the telecommunications sector. Please visit Trade and Industry Department’s internet homepage at <http://www.tid.gov.hk> and refer to the updated version of Notice to Service Suppliers issued by the TID for the application procedures.

After you have obtained the Certificate of HKSS from the TID, you may then apply to the Mainland’s authorities for the entitlements under CEPA. Please refer to paragraph 7 of Annex 5 to CEPA for the general procedure involved in applying to the Mainland’s authorities. In respect of the more specific information for the provision of telecommunications services in the Mainland, please refer to Q.7.

3. To qualify as “Hong Kong Service Supplier”, we must have three years of substantive experience in the operation of the five VAS in Hong Kong. Does it mean that we need to have three years of substantive experience in all five VAS before the certificate will be issued?

When you submit your application for Certificate of Hong Kong Service Supplier (HKSS) to the TID, you are only required to submit proofs in respect of any one or more of the VAS that you

have substantive experience in for consideration (for details of the documents required as proofs, please visit Trade and Industry Department's internet homepage <http://www.tid.gov.hk> and refer to Appendix 6 of the updated version of Notice to Service Suppliers issued by the TID or Q.5). Upon satisfaction that the qualification criteria are met, the TID will issue a Certificate of HKSS to you. The Certificate will state that you are qualified as "Hong Kong Service Supplier" in respect of VAS. When applying to the Mainland's authorities to provide the VAS in Mainland, you should submit to the Mainland's authorities all the documents and information submitted to TID together with the Certificate of HKSS issued by TID.

4. To qualify as "Hong Kong Service Supplier", we must have three years of substantive experience in the operation of the five VAS in Hong Kong. How will the three years of substantive experience be assessed?

In assessing whether or not the applicant has three years of substantive experience in the operation of the five VAS, we will consider whether the applicant for Certificate of Hong Kong Service Supplier is currently engaging and has continuously engaged in the VAS concerned for three consecutive years or more immediately prior to the submission of application.

5. What information do I need to supply to TID when applying for a Certificate of Hong Kong Service Supplier (HKSS)?

There are two main types of documents that you will need to submit. One relates to the company's corporate details in general, and the other relates to telecommunications specific information on the nature and scope of telecommunications services provided in Hong Kong.

Of the five VAS according to the Mainland's classification, "store and forward services" 存儲轉發類業務 and "Internet access services" 因特網接入服務業務 are subject to telecommunications licensing in Hong Kong. For proofs of provision of these services in Hong Kong, you are required to provide a copy of the relevant telecommunications licence issued by the Telecommunications Authority (TA) for reference, in addition to documents such as supply contracts and service contracts to show that you have actually been engaged in the

services for at least three consecutive years immediately prior to the application for certification. Examples of supply side contracts include agreements signed with network operators to lease telecommunications circuits, facilities, capacity or equipment (such as PABX). Examples of service side contracts include service agreements signed with customers to provide store and forward services (such as voice mail, email services) or Internet access services (dial up or broadband), or invoices / statements issued to customers showing the kind of store and forward or Internet access services that are provided to the customers.

In respect of the other three VAS, namely “Internet data centre services” 因特網數據中心業務, “call centre services” 呼叫中心業務 and “content services” 信息服務業務, they are not subject to telecommunications licensing in Hong Kong. For proofs of provision of these three services in Hong Kong, you are required to provide documents such as supply contracts and service contracts to show that you have actually been engaged in the services for at least three consecutive years immediately prior to the application for certification. Examples of supply side contracts include agreements signed with landlords for leasing premises to operate Internet data centres, or agreements signed with network operators to lease telecommunications circuits, facilities, capacity or equipment (such as PABX). Examples of service side contracts include service agreements with customers to provide Internet data centre services (such as data storage or management), call centre services (such as telephone hotline operation or telephone sales), or content services (such as game, ringtone or information services), or invoices / statements issued to customers showing the kind of Internet data, call centre or content services that are provided to the customers.

For details of the procedure of application and information required, please visit Trade and Industry Department internet homepage at <http://www.tid.gov.hk> and refer to the updated version of Notice to Service Suppliers issued by the TID.

- 6. Once I am qualified as a “Hong Kong Service Supplier”, am I entitled to provide all five VAS in the Mainland? Do I need to apply for separate licences from the Mainland’s authorities for this purpose?**

An applicant providing one of the five VAS in Hong Kong can still qualify as a “Hong Kong Service Supplier” (HKSS). The Certificate of HKSS issued by the TID only certifies that you meet the qualification criteria for HKSS entitled to benefit from CEPA. You are still required to apply for the necessary licence or permit from the Mainland’s authorities for the provision of the VAS. For the relevant rules in the Mainland, please refer to Q. 7.

7. What are the main steps, procedures and relevant regulations in relation to the application by eligible Hong Kong Service Supplier for providing VAS in the Mainland under CEPA?

Eligible Hong Kong Service Suppliers who intend to provide VAS services in the Mainland may refer to the following laws and regulations of the Mainland for the steps, procedures, timeframe for processing applications and relevant regulations:

(1) *Administrative Provisions on Foreign-Invested Telecommunications Enterprises* (Simplified Chinese Only)

http://www.mii.gov.cn/art/2005/12/15/art_873_3856.html

(2) *Administrative Rules on Telecommunications Service Operation Licences* (Simplified Chinese Only)

http://www.mii.gov.cn/art/2005/12/17/art_873_3841.html

(3) *Regulations of the People's Republic of China on Telecommunications* (Simplified Chinese Only)

http://www.mii.gov.cn/art/2005/12/15/art_873_3855.html

(4) *Telecommunications Services Classification Catalogue* (Simplified Chinese Only)

http://www.mii.gov.cn/art/2006/01/11/art_874_4784.html

In addition to the above, for those Hong Kong Service Suppliers who wish to provide Internet Access Services and Internet Content, they should also make reference to the following regulations:

(5) *Administrative Measures on Internet Content Provision* (Simplified Chinese Only)

http://www.mii.gov.cn/art/2005/12/28/art_873_3861.html

(6) *Administrative Provisions on Internet Bulletin Board Services* (Simplified Chinese Only)

http://www.mii.gov.cn/art/2005/12/16/art_873_3854.html

For a comprehensive set of laws and regulations on the operation and provision of telecommunications services in the Mainland, please visit the website of the Ministry of Information Industry:

<http://www.mii.gov.cn>

8. When would the Mainland authorities receive applications for telecoms licences or permits each year?

Eligible Hong Kong Service Suppliers who intend to provide VAS services in the Mainland may apply to the Mainland authorities anytime for an appropriate licence or permit.

9. Hong Kong Service Suppliers are required to provide the five VAS in the Mainland in the form of joint venture with shareholding not exceeding 50%. Does it mean that Hong Kong Service Suppliers must set up new joint ventures with their Mainland partners?

In addition to setting up new joint ventures, Hong Kong Service Suppliers may also choose to form joint ventures through merging or acquiring the shares of existing Mainland telecommunications service providers. The licence registration held by the Mainland telecommunications service providers may require amendment in the circumstances to reflect the change. The shareholding of the Hong Kong Services Suppliers should in any case not exceed 50%.