

Telecommunications Services (8) – 2007 Liberalization Measures

1. What are the newly liberalised telecommunications services in the current round of CEPA and their scope?

The newly liberalised telecommunications services in the current round of CEPA is “Mainland IP-based virtual private network services” and its scope is defined in the Telecommunications Services Classification Catalogue of the Mainland《電信業務分類目錄》. 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 detail of the scope of Mainland IP-based virtual private network services.

2. If I intend to provide Mainland IP-based virtual private network services, 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.6.

3. To qualify as HKSS of IP-based virtual private network services, we must have three years of substantive experience in the operation of IP-based virtual private network services 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 IP-based virtual private network services, we will consider whether the applicant for Certificate of HKSS is currently engaging and has continuously engaged in IP-based virtual private network services for three consecutive years or more immediately prior to the submission of application.

4. What information do I need to supply to TID when applying for a Certificate of 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.

In Hong Kong, the provisioning of IP-based virtual private network services (因特網虛擬專用網服務) is subject to telecommunications licensing. For proof of provision of IP-based virtual private network 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. Examples of service side contracts include service agreements signed with customers to provide IP-based virtual private network services, or invoices/statements issued to customers showing the kind of IP-based virtual private network services that are provided to the customers.

For details of the procedure of application and information required, 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.

5. Once I am qualified as an HKSS, do I need to apply for separate licence from the Mainland's authorities for this

purpose?

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 Mainland IP-based virtual private network services. For the relevant rules in the Mainland, please refer to Q. 6.

6. What are the main steps, procedures and relevant regulations in relation to the application by eligible HKSS for providing Mainland IP-based virtual private network services in the Mainland under CEPA?

Eligible HKSSs who intend to provide Mainland IP-based virtual private network services 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

For a comprehensive set of laws and regulations on the operation and provision of telecommunications services in the Mainland, please visit the MII's website: <http://www.mii.gov.cn>

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

Eligible HKSSs who intend to provide Mainland IP-based virtual private network services may apply to the Mainland authorities anytime for an appropriate licence or permit.

- 8. HKSSs are required to provide Mainland IP-based virtual private network services in the Mainland in the form of joint venture with shareholding not exceeding 50%. Does it mean that HKSSs must set up new joint ventures with their Mainland partners?**

In addition to setting up new joint ventures, HKSSs 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 HKSSs should in any case not exceed 50%.