

Telecommunications Services (8)

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

The Hong Kong service suppliers are allowed to set up joint venture enterprises in the Mainland to provide the following types of value-added telecommunications services under CEPA:

- (i) Internet data centre services
- (ii) store and forward services
- (iii) call centre services
- (iv) Internet access services
- (v) content services
- (vi) IP based Virtual Private Network Services

The classification of VAS is stipulated in the *Telecommunications Services Classification Catalogue* 《電信業務分類目錄》 of the Mainland. A softcopy of the *Catalogue* (2003 Version) can be found at

http://www.tid.gov.hk/tc_chi/cepa/tradeservices/tel_relevant.html.

2. If I intend to provide the permitted type(s) of VAS in the Mainland, what steps do I need to take?

To benefit from CEPA, you will first need certification from the HKSAR Government that you are qualified as a “Hong Kong Service Supplier” (HKSS) according to the criteria set out in CEPA Annex 5. Trade and Industry Department (TID) is the one-stop point to handle applications for Certificate of HKSS. Please visit TID’s Internet homepage at <http://www.tid.gov.hk> and refer to the updated version of Notice to Service Suppliers issued by the department for the application procedures. Upon satisfaction that the qualification criteria are met, TID will issue a Certificate of HKSS to you. The Certificate will state that you are qualified as a “Hong Kong Service Supplier” in respect of VAS.

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.

3. What is the qualification to apply for the HKSS with respect to telecommunications service?

The basic qualification for application of the HKSS with respect to telecommunications service is that the applicant should have substantive business operational experience in providing any or a combination of the permitted types of VAS in Hong Kong 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 Hong Kong Service Supplier?

You need to provide two types of document: 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.

For submission of information relating to the applicant's corporate details, please refer to Appendix 6 of the updated version of *Notice to Service Suppliers* posted on the website of TID for details of the documents to be provided.

For submission of information relevant to the provision of telecommunications service, the applicant is required to provide:

- A copy of the relevant telecommunications licence issued by the Telecommunications Authority if the service is licensable in Hong Kong;
- Documentary evidences such as supply contracts, leasing agreements, service agreements, invoices or statements etc. to demonstrate that you have actually been providing the permitted types of services in Hong Kong for at least three consecutive years immediately prior to the application for certification, as applicable.

5. Once I am qualified as a "Hong Kong Service Supplier", do I need to apply for separate licences from the Mainland's authorities for providing the permitted VAS in Mainland?

The Certificate of HKSS issued by the TID only certifies that you meet the qualification criteria for HKSS which entitles the holder to benefit from CEPA. You are still required to apply to Mainland's authorities at any time for the necessary licence or permit for provision of the permitted VAS in Mainland.

6. What are the main steps, procedures and relevant regulations in relation to the provision of telecommunications services in Mainland under CEPA?

Eligible HKSS who intend to provide the permitted VAS in 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.miit.gov.cn/n11293472/n11294912/n11296257/11937316.html>
- (2) *Administrative Rules on Telecommunications Service Operation Licences* (Simplified Chinese Only)
<http://www.miit.gov.cn/n11293472/n11294912/n11296542/12130160.html>
- (3) *Regulations of the People's Republic of China on Telecommunications* (Simplified Chinese Only)
<http://www.miit.gov.cn/n11293472/n11294912/n11296257/11937080.html>
- (4) *Telecommunications Services Classification Catalogue* (Simplified Chinese Only)
http://www.tid.gov.hk/tc_chi/cepa/tradeservices/tel_relevant.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.miit.gov.cn/n11293472/n11293832/n11294057/n11302435/11657940.html>)
- (6) *Administrative Provisions on Internet Bulletin Board Services* (Simplified Chinese Only)
<http://www.miit.gov.cn/n11293472/n11294912/n11296542/11957379.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.miit.gov.cn>

- 7. Hong Kong Service Suppliers are required to provide the permitted VAS in 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, HKSS 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 HKSS should in any case not exceed 50%.

- 8. Is there any other segments of telecommunications service being liberalized apart from those as mentioned in Q.1?**

Under CEPA Supplement VI, HKSS are permitted to distribute in Guangdong Province fixed/mobile telephone service cards which can only be used in Hong Kong (excluding mobile satellite phone service card) starting from 1 October 2009. Relevant information can be found in the following website:

http://www.ofta.gov.hk/en/report-paper-guide/guidance-notes/gn_201221.pdf