

Trade in Services

HONG KONG

Schedule of Specific Commitments

Supplement 2

(This is authentic in English only)

This text supplements the entries relating to the Telecommunication services section contained on page 11 of document GATS/SC/39.

HONG KONG - SCHEDULE OF SPECIFIC COMMITMENTS

Modes of supply:				
1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons	
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	
<p>COMMUNICATIONS SERVICES</p> <p>2.C. <u>Telecommunications Services</u></p> <p>I. <u>Local services</u></p> <p>(a) Voice services</p> <p>(b) Packet-switched data transmission services</p> <p>(c) Circuit-switched data transmission services</p> <p>(f) Facsimile services</p> <p>(g) Private leased circuit services</p> <p>(o) Others</p> <p>Mobile services</p> <p>- mobile radio telephone services including Cellular and Personal Communications Services</p> <p>- mobile data services</p> <p>- radio paging services</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None other than the following:</p> <p>- Chubb Electronics (HK) Ltd has the exclusive right for providing a fire alarm transmission system for relaying fire alarm signals between Fire Services Department (government) and public buildings;</p> <p>- Four licences for local fixed network services were issued in 1995. New licences will not be considered before June 1998. Whether more licences will be issued thereafter is subject to review in 1998.</p> <p>(4) Unbound except for intra-corporate transfer of general managers, senior managers and specialists as set out in the Attachment to GATS/SC/39.</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p> <p>(4) Unbound</p>	<p>Additional commitments on regulatory principles (Details at <u>Annex</u>)</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>II. <u>International services</u></p> <p>(a) Voice services (resale based only)</p> <p>(b) Packet-switched data transmission services (resale based only)</p> <p>(c) Circuit-switched data transmission services (resale based only)</p> <p>(f) Facsimile services (resale based only)</p> <p>(o) Others</p> <p>- Call back services or alternative calling procedures (resale based only)</p>	<p>(1) None other than:</p> <ul style="list-style-type: none"> - Public external telephone service¹ is not allowed; - For self-provision of external satellite circuits, connection to the public-switched telephone network (PSTN) at the Hong Kong end may be restricted; - For virtual private network service, connection to the PSTN at the Hong Kong end may be restricted; - For mobile satellite service, gateway station for mobile satellite traffic is not allowed. <p>(2) None</p>	<p>(1) None</p> <p>(2) None</p>	

¹"External telephone services" only include person to person voice communications with places outside Hong Kong.

Modes of supply:				
1) Cross-border supply	2) Consumption abroad	3) Commercial presence	4) Presence of natural persons	
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	
<ul style="list-style-type: none"> - Self provision of external satellite circuits for a company if the messages originated from or received at the Hong Kong end are intended for the company, its holding, subsidiary or affiliated companies; or for an organization if the messages originated from or received at the Hong Kong end are intended for the common business or activities of the organization - Virtual private network service (resale based only) - Mobile satellite service 	(3) None other than: <ul style="list-style-type: none"> - Public external telephone service¹ is not allowed; - For self-provision of external satellite circuits, connection to the PSTN at the Hong Kong end may be restricted; - For virtual private network service, connection to the PSTN at the Hong Kong end may be restricted; - For mobile satellite service, gateway station for mobile satellite traffic is not allowed. 	(3) None		
	(4) Unbound except for intra-corporate transfer of general managers, senior managers and specialists as set out in the Attachment to GATS/SC/39.	(4) Unbound		

¹"External telephone services" only include person to person voice communications with places outside Hong Kong.

Annex

Additional Commitments on Regulatory Principles

Scope

The following are definitions and principles on the regulatory framework for basic telecommunications services.

Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

1. Competitive safeguards

1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided:

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time; or
- (b) after a reasonable period of time which has been made publicly known

to an independent domestic body, which may be a regulator as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal service

Hong Kong has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by Hong Kong.

4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and
- (b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulator is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.