

Real-name Registration Programme for SIM Cards - Consultation Paper
(“Consultation Paper”)
Response by Hong Kong Retail Management Association (“HKRMA”)
(19 March 2021)

Background

- The Commerce and Economic Development Bureau has issued Consultation Paper on 29 January 2021, inviting submissions from the members of public as well as the business sector in respect of the proposed Real-name Registration Program for the sale of Prepaid SIM Cards (“PPS”) in Hong Kong. The deadline for the consultation has been extended to 21 March 2021
- Pursuant to the Consultation Paper, the Real-name Registration has the below features:
 - A SIM Card user has to provide full name, ID no. and copy of ID proof (in case of an individual) or business registration information and the contact details of a designated person as representative or responsible person (in case of a company).
 - Each user can register no more than 3 PPS with the same licensee (e.g. a person can register 3 with CSL, 3 with 3HK, 3 with SmarTone, etc. as each is an independent licensee)
 - Registration of a PPS by an individual below 16 must be endorsed by an “appropriate adult” (e.g. parent, relative, guardian, etc.)
- A licensee has the below obligations:
 - To devise a system/database to verify, register and store users’ personal data.
 - If the license has reasonable ground to believe the personal data provided is false, then the licensee is responsible for de-registering the PPS
 - The registered user’s data has to be retained for 12 months after de-registration of the PPS
- From the commencement day of the Real Name Registration requirement, (i) a licensee has 120 days to put a system in place for PPS users to register their personal data, and to activate / deactivate a PPS, (ii) from the 121st day onwards, all new PPS sold will have to be registered by the user by uploading their personal data before activating the PPS, and (iii) existing-users of all activated PPS in Hong Kong must register their personal data with the licensee within 360 days. From the 361st day, the licensee must deactivate all unregistered PPS.
- A licensee has an obligation to respond to law enforcement agencies’ request licensees to provide SIM cards registration records pursuant to a warrant issued by a magistrate or without warrant in certain urgent or emergency situations.

HKRMA’s response

- HKRMA’s members include a number of key retail chains in Hong Kong. The majority of them are convenience stores and supermarkets, which are selling PPS and the top-up vouchers supplied by the Mobile Network Operators (“MNOs”), Mobile Virtual Network Operations (“MVNOs”) and/or certain resellers as an agent. They are **not** involved in the customer service nor aftersales service of the mobile services under the PPS (except that they may sell top-up vouchers for the PPSs). As such, we do not consider that any of the obligations imposed on a licensee under the Consultation Paper would extend to an agent. We invite the government to clarify their guidance on this issue in the proposed amendments to the legislation.
- Certain retailers sell mobile services via PPSs under their own brands supplied by an underlying MNO / MVNO, and are “resellers” of such mobile services which are regulated as a Class Licence for Offer of Telecommunications Services (“CLOTS”) licensee. They will be regulated as a licensee under the various proposals put forward under the Consultation Paper.
- Some of HKRMA’s members include MNOs and MVNOs which have their own retail operations and sell PPSs in their retail outlets as well.
- Our specific response to the 9 proposals set out in the Consultation Paper are as follow:

	Proposal	HKRMA’s View
1)	<p>Provide the following information as set out in their identity document, together with its copy, for registration –</p> <ul style="list-style-type: none"> - name in Chinese and English (as applicable); - identity document number (HKID number or serial number of other acceptable identity documents such as travel documents for visitors); - copy of identity document; and - date of birth. <p>A company or corporation can be registered as a PPS user if it can provide business registration information and designate a person (with provision of his or her personal particulars as listed above) as representative or responsible person for the company/corporate user.</p>	<ul style="list-style-type: none"> • Retailers selling PPS as an agent (such as convenience stores and supermarkets) do not have the resources to participate in verification / registration of personal data and/or business registration information to activate a PPS. For example, there is always a long queue at a convenience store for payment of products being purchased by end-customers which are not related to PPS. It may not be practicable for the cashier to verify the personal data / business registration information of the purchaser on the spot. • Generally, for retailers selling PPS as a CLOTS licensee, they heavily rely on the network system of the underlying MNOs / MVNOs for provision of the mobile service as well as topping up the value of the PPSs. • We suggest the underlying supplier of the PPS (MNOs or MVNOs) should provide a registration system (as per paragraph 3.4 of the Consultation Paper)

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		<p>for the purchasers of PPS (including those sold by the CLOTS licensees) to self-activate the PPS purchased by registering their personal particulars.</p> <ul style="list-style-type: none"> We also invite the Government to clarify that for PPS purchasers which are corporate customers, provision of the designated representative's name, work email address and work phone number only would be sufficient – this is in line with the current practice of corporate customers signing up to SSPs.
2)	Each user (including company/corporate user) can register no more than three PPS cards with each licensee.	<ul style="list-style-type: none"> It is considered that since the identity of the registered user of the PPS has been provided, restricting the number of PPS that can be held by an individual to 3 per licensee is unnecessary. There is a genuine need for an individual to have more than 3 PPS, for example: <ul style="list-style-type: none"> The individual is providing mobile connections for various mobile devices for his/her family, including children who are not able to subscribe to SIM Service Plans (“SSPs”) It is inconvenient for an individual to subscribe to different licensees for the 4th PPS onwards. For some of the corporate subscribers of multiple PPSs, there is a genuine need for having more than 3 PPS (e.g. a company providing Wi-Fi dongle roaming service will need to have a high number of activated PPS for its customers). Given the contact information of the corporate customer's representative and the business registration information are required to be registered prior to activation of the service under a PPS, it is considered that restriction of the number of PPS held by a corporate customer should not be subject to the “3 PPS per individual rule”.

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		<ul style="list-style-type: none"> In addition, it is understood that there are certain licensees which are selling PPS under several different brands, and that a subscriber may be holding more than 3 PPS operated by the same licensee at present. If the PPS limitation was to be applied on a per licensee basis, this would create confusion to customers - for example, a customer who had 3 activated PPS with a licensee would fail to activate a 4th PPS supplied by the same licensee under a different brand without knowing the underlying reason. [To resolve this, we suggest that the government should consider each brand is to be treated as an individual CLOTS licensee (supported by a separate Business Registration Certificate). This would be compatible with the objective of Real-name Registration.
3)	Registration of an SSP or PPS user below the age of 16 (young person) should be endorsed by an "appropriate adult" who may be the parent, relative or guardian of the young person or someone who has experience in dealing with the young person having special needs (e.g. a registered social worker).	<ul style="list-style-type: none"> It is considered that the requirement for endorsement by an "appropriate adult" is unnecessary since (i) a licensee is unable to verify the relationship between an "appropriate adult" and a PPS purchaser below the age of 16, and (ii) the "appropriate adult" is subject to the Real-name Registration Requirement, and will be responsible for providing information of the user of a particular SSP or PPS registered under his/her name - the adult can simply purchase a SSP or PPS for his/her children below 16 for their use.

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4)	Licensees should check, clarify and verify the information provided by users, and to deregister the concerned SIM cards if there is reasonable ground to believe that the information provided is false, misleading or incomplete.	<ul style="list-style-type: none"> • We consider the suggested approach under paragraph 3.4 is sufficient for the purpose of Proposal 4. • It is impracticable for the licensees to keep track of the usage of the PPS users after the registration and activation of the PPS pursuant to the Real-name Registration Program. It is considered that as long as the identity of the registered user of a PPS has been provided and retained, the licensee is not required to further monitor the usage of a PPS. If required, the registered user will be approached by the LEAs for the information of the actual user of a PPS to the best of his/her/its knowledge even if the PPS has been given to another person (except in the event of identity fraud).
5)	The personal information of the registered SIM card users should be kept and stored by respective licensees (including MNOs, MVNOs and CLOTS licensees) offering the relevant SIM services for at least 12 months after the SIM cards are deregistered.	<ul style="list-style-type: none"> • The issue here is once the PPS is deregistered, it can no longer be used in the mobile network and potentially be applied for illegal activities. If there were any illegal activities associated with the number(s) of a particular PPS, it should have been unveiled when the PPS is still active – LEAs would perform investigations shortly after the commitment of such offences. • There is substantial cost for a licensee in storing the data of the registered PPS users for 12 months after deregistration of the PPS. Under the Personal Data (Privacy) Ordinance, a data user can only retain the personal data for a “reasonable period” after the purposes of processing the personal data has been completed (i.e. deactivation of the mobile service under a PPS). It is considered that 3 months is a reasonable period for the licensees to retain the customer data from de-registering a PPS.

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6)	<p>The real-name registration programme will be implemented in two phases. In the first phase, licensees should put in place a registration system with a database ready within the 120 days after the date of commencement of the Regulation. On the 121st day, i.e. the Registration Day, all new PPS cards that are available for sale in the market as well as new SSPs effective from this day will need to comply with the real-name registration requirements before service activation.</p> <p>The second phase will allow 360 days after the date of commencement of the Regulation for users of existing PPS cards sold by licensees before the Registration Day to register their PPS cards in use (i.e. the Registration Deadline for PPS cards). Cards that have not completed real-name registration can no longer be used on the 361st day after the date of commencement of the Regulation.</p>	<ul style="list-style-type: none"> • Generally, a reseller does not have access to the mobile service provision system of the underlying MNO/MVNO hence a reseller may not be able to develop a system by itself to implement the obligations proposed under the Consultation Paper. It will make more sense for the underlying MNO/MVNO to share the system developed for this purpose with its PPS resellers. • The 120 days window for developing a registration system with activation / deactivation feature of the mobile services may be too aggressive since it is a complicated project (which involves deploying changes to a pre-existing mobile service network system). We suggest this period should be lengthened to 12 months, and be subject to a reasonable extension by the licensee upon application should it experience technical difficulties in implementing these system changes.
7)	<p>Licensees should not be required to re-register their existing SSP customers but should be required to ensure compliance with the real-name registration requirements upon commencement of new contracts or renewal of existing contracts.</p>	<ul style="list-style-type: none"> • Licensees selling SSP (Sim service plans) would have verified the identity of the users under the service contract – for consumer customers, provision of the HKID card or relevant ID document and verification of identity of the user is a must on accepting the contract in the first place. Otherwise, the licensees would be unable to enforce a contract and recover the relevant debt in the event of default. • Similarly, all SSP commercial customers are also required to provide business registration information and a contact person for the licensees' due diligence process prior to activation of the SSPs, otherwise the licensees will be unable to recover any debts under the relevant service contracts.

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		<ul style="list-style-type: none"> • Upon renewal of SSPs, it is understood that the licensees would verify the subscribers' information prior to completion of contract renewal under their pre-existing processes. • As such, it is considered that Proposal 7 is unnecessary.
8)	LEAs can request licensees to provide SIM cards registration records pursuant to a warrant issued by a magistrate or without warrant in certain urgent or emergency situations.	<ul style="list-style-type: none"> • It is suggested that there should be a definitive list of which are the "LEAs" which can make such requests to the licensees to produce the registration records of PPSs and SSPs. • Further clarification should be provided on what are the "urgent or emergency situations" that the law enforcement agencies can request the production of SIM card records without a court warrant under paragraph 3.14 of the Consultation Paper. • We also suggest that for "urgent or emergency situations", the personal information of the PPS users should still be provided in response to a written request from an authorised officer of the relevant LEA, which will be supported by a court warrant to be provided to the licensees later for record purpose.
9)	The existing sanctions such as those mentioned in paragraph 3.15 above (including financial penalties imposed by the CA on licensees) should be applied to all licensees in enforcing the real-name registration programme.	<ul style="list-style-type: none"> • Paragraph 3.16 mentions about the more severe criminal offences which are punishable for provision of false information and documents (max. penalty being 14 years of imprisonment). It is unclear whether (and how) these more severe offences could apply to a licensee (and its staff members / management). We consider that the government should further clarify. • CA need to publish a detail guidelines on implementing the Real-Name Registration Program in light of the relevant amendments to the Telecommunications Ordinances. It

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		shall be a legal defence for the licensee if it can demonstrate to the court that a compliance program and procedures are in place to implement the Real-Name Registration Program.

- It is also proposed that a CLOTS licensee offering SIM card products are required to be subject to the same set of registration requirements and obligations as those applicable to an MNO and MVNO under paragraph 3.19 of the Consultation Paper. This requirement will incur further cost on a reseller (which usually is not offering PPS as its core business) regarding compliance with the obligations under the Telecommunication Ordinance. It is suggested in case the service activation system of the underlying MNO/MNVO is able to keep track of the information on the identity of the registered user of a reseller's PPSs, then a reseller is not required to assume additional obligations that would only apply to a MNO/MVNO.
- It is understood that there are PPS businesses which are not targeting Hong Kong local consumptions, for example, overseas roaming SIM cards with a short expiry period which cannot be topped up (e.g. 7 days Japan roaming pass). These PPS products usually do not have an underlying voice/SMS mobile service. Besides, data-only SIM, though for Hong Kong local consumptions, do not have mobile numbers. As such, it is suggested this group of products are to be exempted from Real-name Registration Program since these products are unlikely to pose a high risk in respect of illegal / criminal activities.

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