

**Notice Pursuant to Section 36C
of the Telecommunications Ordinance
(Chapter 106)**

Interpretation

In this Notice, unless the context otherwise requires,

“Authority” means the Communications Authority;

“ETS” means external telecommunications services;

“LAC” means Local Access Charge;

“Licence” means the Services-Based Operator Licence (Licence No. 1092) granted by the Authority to the Licensee;

“Licensee” means Anycall Telecom Network (HK) Company Limited;

“OFCA” means the Office of the Communications Authority;

“PSTN” means the public switched telephone network;

“Regulatory Guide” means the Regulatory Guide for Calling Line Identification (CLI) Format, HKCA 3101 issued by the Communications Authority;

“SC” means Special Condition; and

“TO” means the Telecommunications Ordinance (Cap. 106).

Background

In April and June 2013, OFCA discovered that the numbers 3423 5200, 3605 7400, 3651 9000, 3657 5000, 3765 8000, 3765 8044 and 3765 8075 were used by the Licensee for delivering incoming ETS calls from overseas to Hong Kong. The Licensee was suspected to have breached SC 7.1 and SC 8.1 of the Licence. OFCA has completed an investigation into the matter.

2. Having considered the findings of the investigation, the Authority is satisfied that the Licensee had failed to comply with the requirement of the Regulatory Guide to use the proper calling line identification with leading digits 15xx, 16xx or 30(5-9)x (as prescribed in paragraphs 2 and 3 of the Regulatory Guide) for the delivery of ETS calls from overseas to the PSTN in Hong Kong. Compliance with the Regulatory Guide is required under SC 8.1 of the Licence which provides that:

“8.1 The licensee shall conform to any regulatory guide, code of practice or direction issued by the Authority in respect of calling line identification and other calling line identification related services.”

3. Further, the Licensee had not paid the relevant LAC which should have been paid in respect of the ETS calls routed through the number specified in paragraph 1 above, in breach of SC 7.1 of the Licence which provides that:

“7.1 For the interconnection between the facilities or services of the licensee and the networks, systems and services of other licensees for the delivery of traffic for the users of the service in Hong Kong, the licensee shall pay such interconnection charges, including, without limitation, local access charge, and access charge or origination charge for interconnection necessary for the provision of international call forwarding service as may be specified by the Authority in the relevant statements and regulatory guides, and/or determined by the Authority from time to time under section 36A of the Ordinance.”

Notification

4. The Authority, in exercise of its power under section 36C of the TO,
- having been satisfied that the Licensee has failed to comply with SC 7.1 and SC 8.1 of the Licence;
- having also been satisfied that the Licensee has been afforded reasonable opportunity in accordance with section 36C(7) of the Ordinance to make representations; and
- having considered all representations made before the Authority decides whether or not to impose the financial penalty,

hereby exercises its power under section 36C of the TO and gives notice to the Licensee requiring it to pay to the Government of the Hong Kong Special Administrative Region by **28 March 2014** a financial penalty of HK\$65,000.

5. In imposing the financial penalty, the Authority has noted that, subject to section 36C(3B), the maximum penalty that the Authority is empowered under section 36C to impose on the first occasion of imposing such penalty is HK\$200,000. The Authority has also considered the following relevant factors:

- (a) the nature and gravity of the breach;
- (b) the Licensee is under the positive obligation to comply with the license condition but has failed to take reasonable measures to comply with SC 7.1 and SC 8.1 of the Licence;
- (c) the duration of the breach; and
- (d) the cooperation which the Licensee has shown to the Authority during the investigation and the remedial action it has taken.

The Authority is satisfied that the financial penalty of HK\$65,000 is, in all the circumstances of the case, proportionate and reasonable in relation to the breach concerned.

6. This Notice will be made public.

(Danny Lau)
for Communications Authority
14 March 2014