

**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;

“GC” means General Condition;

“Licensee” means Genius Brand Limited, holding a Unified Carrier Licence No. 007;

“OFCA” means the Office of the Communications Authority; and

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

**Background**

In February 2014, OFCA received a complaint from a member of the public about a suspected installation of an unauthorised radio base station at the rooftop of a building in Sai Kung (“the concerned premises”). Following investigation, OFCA found that the Licensee had operated a radio base station at the concerned premises (“the Station”) for provision of public telecommunications network services. The Station is not a radiocommunications installation that is specified in Schedule 3 to the Licensee’s Unified Carrier Licence No. 007. OFCA has completed its investigation into the complaint and submitted its findings to the Authority.

2. Having considered the findings of investigation, the Authority is satisfied that the Licensee has breached GC 12.1 of its Unified Carrier Licence, which requires that -

*“ 12.1 Each radiocommunications installation operated by or on behalf of the licensee shall be used only at the location and with emissions and at the frequencies and of the classes and characteristics specified in Schedule 3 to this licence and*

*with such power and aerial characteristics as are specified in that Schedule in relation to the class and characteristics of the emission in use”.*

## **Notification**

3. The Authority, in exercise of the power under section 36C of the Ordinance,

having been satisfied that the Licensee has failed to comply with GC 12.1 of its Unified Carrier Licence No. 007;

having also been satisfied that the Licensee has been afforded a 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 Ordinance and gives notice to the Licensee requiring it to pay to the Government of the Hong Kong Special Administrative Region by **30 December 2014** a financial penalty of HK\$90,000.

4. 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's cooperation during the investigation; and
- (c) the remedial action taken by the Licensee including the ceasing of the use of the Station from May 2014.

The Authority is satisfied that a financial penalty of HK\$90,000 is, in all the circumstances of the case, proportionate and reasonable in relation to the breach concerned.

5. This Notice will be made public.

(Miss Eliza Lee)  
for Communications Authority  
16 December 2014