

**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;

“CLI” means calling line identification;

“ETS” means external telecommunications services;

“LAC” means Local Access Charge;

“Licence” means the Services-Based Operator Licence (Licence No. 1745) granted by the Authority to the Licensee;

“Licensee” means Skycall Telecom International 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 Authority;

“SC” means Special Condition; and

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

Background

In May and August 2020, OFCA discovered that the numbers 3844 2000, 3844 2001, 3844 2002, 3844 2007, 3844 2017, 3844 2022, 3844 2030, 3844 2031, 3844 2033, 3844 2036, 3844 2051, 3844 2063, 3844 2071, 3844 2084 and 3844 2099 had been used as CLIs by the Licensee for delivering incoming ETS traffic from London, United Kingdom to Hong Kong during the period between 21 and 25 May 2020 (both days inclusive), and the numbers 3844 2010, 3844 2018, 3844 2019, 3844 2021, 3844 2028, 3844 2037, 3844 2039, 3844 2040, 3844 2042, 3844 2043, 3844 2047, 3844 2055, 3844 2057, 3844 2058, 3844 2059, 3844 2061, 3844 2070, 3844 2072, 3844 2073, 3844 2077, 3844 2079, 3844 2080, 3844 2086, 3844 2089, 3844 2092, 3844 2094, 3844 2096 and 3844 2098 had been used as CLIs by the Licensee for delivering incoming ETS traffic from Toronto, Canada as to Hong Kong during the period between 11 and 26 August 2020 (both days inclusive). The Licensee was suspected to have breached SC 7.1 and SC 8.1 of the Licence.

2. OFCA has completed an investigation into the matter. 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 CLI 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 traffic 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 LAC to the relevant local network operator in respect of the ETS traffic using the numbers as CLIs 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 TO 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 14 June 2021 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 licence 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.

(Sanda Cheuk)
for Communications Authority
31 May 2021