

12 April 2012

BY FAX & Email

Circular letter to all Services-Based Operator (“SBO”) Licensees authorised to provide external telecommunications service (“ETS”)

Dear Sir/Madam,

Introduction of Special Condition (“SC”) 29 and Schedule 5 to the SBO Licence

I would like to inform you that the SBO licence has recently been amended to introduce a new SC 29 and Schedule 5. **All holders of SBO licence authorised for provision of ETS (“SBO(ETS) Licence”) will be issued with the new SBO licence. As the holder of SBO(ETS) Licence, you will later receive a separate letter, requiring you to return your existing SBO(ETS) Licence for the issue of the new SBO licence.**

In the statement of 23 December 2011 entitled “New Regulatory Regime for Local Access Charge”¹, it was decided to introduce a performance bond requirement to combat illegal local access charge (“LAC”) bypass activities². Under the newly introduced SC 29 and Schedule 5 of the SBO licence³, holders of SBO(ETS) Licence, **if so required**, will need to provide to the Communications Authority (“CA”)⁴ and maintain a duly issued performance bond. The performance bond is to guarantee the payment of financial penalty imposed on the licensees by the CA, if any, pursuant to section 36C of the Telecommunications Ordinance for breach of SC 2.1, 7.1 and/or 8.1 of the SBO licence.

¹ The statement can be downloaded at http://tel_archives.ofca.gov.hk/en/tas/interconnect/ta20111223.pdf. Prior to the issue of the statement, two rounds of public consultations were held in December 2009 and March 2011.

² For details of the new measures for combating illegal LAC bypass activities, please refer to paragraphs 86 to 93 of the statement.

³ Please refer to the sample SBO(ETS) Licence available at <http://www.coms-auth.hk/filemanager/common/licensing/SBO-ETS.pdf>

⁴ Pursuant to the Communications Authority Ordinance (Cap 616), with effect from 1 April 2012, all duties and powers of the Telecommunications Authority (“TA”) are conferred on the Communications Authority (CA), and all duties and powers of the Office of the Telecommunications Authority (OFTA) are conferred on the Office of the Communications Authority (OFCA), the executive arm of the CA.

While your existing SBO(ETS) Licence is to be replaced by the new SBO licence with the newly introduced SC 29 and Schedule 5, the requirement to submit a performance bond is not yet imposed. The CA is closely monitoring the operation of the ETS market including the situation of illegal bypass activities. If it is considered that there is a need to impose the requirement of submission of performance bond, the CA will give the necessary advance notice to the licensees concerned.

Should you have further enquires, please contact Ms Olive Wong at 29616526.

Yours faithfully,

(Helen Lai)
for Director-General
of Communications