

8 December 2008

**BY FAX**

*Circular letter to all Services-Based Operator (“SBO”) licensees*

Dear Sir/Madam,

**Non-compliance with special condition (“SC”) 6.1, SC 7.1 and SC 8.1  
under SBO licence**

Recently, we have received a number of complaints about improper use of the numbers with prefix “57/58” for delivering external telecommunications services (“ETS”) calls from overseas to Hong Kong in contravention of the Regulatory Guide for Calling Line Identification (“CLI”) Format, HKTA3101 (“Regulatory Guide”). Those ETS calls are originated from conventional telephone lines outside Hong Kong via means such as calling card services and are delivered to the public switched telecommunications networks (“PSTNs”) of Hong Kong as ordinary incoming external calls. In accordance with the Statement of the Telecommunications Authority (“TA”) on “Services-Based Operator (SBO) Licence” issued on 6 January 2006 (“SBO Statement”), such incoming calls originating from a place outside Hong Kong to local PSTN numbers should be subject to local access charge (“LAC”) and universal service contribution (“USC”) (see paragraph 9 of the SBO Statement).

We would like to remind you that as a SBO licensee, you are required to conform to the Regulatory Guide under SC 8.1<sup>1</sup> of the SBO licence. According to the Regulatory Guide, the first 4 digits of the CLI for an ETS call should be 15xx,

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<sup>1</sup> SC 8.1 of the SBO licence states that “[t]he 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.”

16xx or 30(5-9)x. As such, the use of the numbers with prefix “57/58” to deliver an ETS call is contrary to the Regulatory Guide. In addition, the SBO licensee is required, under SC 6.1<sup>2</sup> and SC 7.1<sup>3</sup> of the SBO licence respectively, to pay the USC and LAC for the provision of ETS to the relevant parties. Failure to pay USC or LAC is a breach of the said licence conditions.

We would like to stress that SC 6.1, SC 7.1 and SC 8.1 impose unequivocal obligations on the SBO licensee to comply with the Regulatory Guide and to pay the applicable amount of LAC and USC. The SBO licensee should implement the proper measures or take the necessary precautionary actions, such as routine tests or monitoring of abnormal traffic pattern, to ensure the compliance with the aforesaid licence conditions and the Regulatory Guide. As explained in paragraph 9 of the SBO Statement, the TA would not tolerate bypass of LAC making use of improper numbers.

Pursuant to section 36C of the Telecommunications Ordinance (Cap 106), the TA may impose a financial penalty for breach of any licence condition and/or issue a direction under section 36B of the Telecommunications Ordinance requiring a licensee to take appropriate action to comply with the licence condition. The financial penalty can be up to HK\$200,000 for the first occasion the penalty is imposed. The TA has already published the Regulatory Guide (at [http://www.ofta.gov.hk/en/standards/hktaspec/hkta3101\\_4.pdf](http://www.ofta.gov.hk/en/standards/hktaspec/hkta3101_4.pdf)) and the “Guidelines on the Imposition of Financial Penalty under section 36C of the Ordinance” issued on 15 April 2002 (at

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<sup>2</sup> SC 6.1 of the SBO licence states that “[w]here directed by the Authority, the licensee shall pay to PCCW-HKT Telephone Limited, or other licensees, as the case may be, its relevant share of the universal service contribution to assist PCCW-HKT Telephone Limited, or those licensees, to meet their universal service obligations, if any.”

<sup>3</sup> SC 7.1 of the SBO licence states that “[f]or the delivery of outgoing and incoming external telecommunications traffic between the facilities of the licensee and the users of the service in Hong Kong, the licensee shall pay such interconnection charges, including, without limitation, local access charges, and access charge or origination charge for interconnection necessary for the provision of international call forwarding service as may be determined by the Authority from time to time under section 36A of the Ordinance and the level and to the fixed carriers, fixed telecommunications network services licensees,

<http://www.ofta.gov.hk/en/howto/ets20040819.pdf>) on the website of the Office of Telecommunications Authority. The same was brought to your attention when the SBO licence was issued.

In order to ensure the compliance with the licence conditions and the Regulatory Guide, you are strongly advised **to read through the aforesaid documents and licence conditions and to ensure the provision of your service is not in contravention with Regulatory Guide or any licence condition under your licence.**

Should you have any enquiry, please do not hesitate to contact the undersigned.

Yours faithfully,

(S T Cheuk)  
for Director-General  
of Telecommunications