

Your Ref 來函檔號 :

Telephone 電話 : (852) 2961 6743

Our Ref 本局檔號 : (47) LM T48/08 in OFTA R117/Fax No 圖文傳真 : (852) 2123 2187

E-mail 電郵地址 :

26 February 2010

**Circular letter to all**

- **Fixed Telecommunication Network Services Licensees**
- **Fixed Carrier Licensees (External Fixed Services)**
- **Unified Carrier Licensees (Fixed Services)**
- **Unified Carrier Licensees (External Fixed Services)**
- **Unified Carrier Licensees (Mobile Service)**
- **Mobile Carriers**
- **Services-Based Operator (SBO) Licensees of Class 3 Service – External Telecommunications Services (ETS) Operators**
- **Public Non-Exclusive Telecom Services (PNETS) – External Telecommunications Services (ETS) Operators**

**URGENT**

Dear Sir/Madam,

**Reminder about Requirements for Providing  
Sufficient Disclosure of the Charges for Calling Card Service**

In June and July 2003, the Office of the Telecommunications Authority issued two circular letters to all operators for External Telecommunications Services (“ETS”) concerning the disclosure of charges for calling card service (see attached). In the circular letters, all operators were urged to ensure that the full cost of the product or service is clearly stated in the promotional materials or easily ascertainable at the time of purchase and, if relevant, at the time the product or service is marketed or promoted. Examples were also given to operators to illustrate what is the reasonable and sufficient disclosure of charges.

The Telecommunications Authority (“the Authority”) has recently found a poster of an operator’s calling card service misleading as the poster failed to disclose associated charges and rounding arrangement. The licensee was in breach of section 7M of the Telecommunications Ordinance (“the Ordinance”) and a financial penalty of \$70,000 was imposed by the Authority.

The case summary has been published on our website<sup>1</sup>. In the course of the investigation, the Authority noted that many posters of calling card services issued by other operators had not clearly identified or shown details of the ETS charges. Such practice is potentially misleading and constitutes a breach of section 7M of the Ordinance.

The Authority would like to take this opportunity to reiterate that the requirements set out in the circular letters should be complied with, or operators run the risk of breach of section 7M of the Ordinance and subject to financial penalty. You are reminded especially that it is NOT acceptable for operators to just state in the promotional materials that “[xxx] charge is applied. *For details, please contact our Customer Service Hotline.*”

Operators are urged to take prompt action to critically review all promotional materials of calling cards service to ensure that the requirements for charge disclosure and section 7M of the Ordinance are fully complied with.

The Authority will closely monitor the situation. If the disclosure of charges on promotional materials is not improved significantly in two month's time, the Authority will not hesitate to take enforcement action. Future cases will be assessed more rigorously than before and financial penalties are likely to be higher.

If you have any questions on this matter, please contact me at 2961 6743.

Yours sincerely,



(Vera Chung)

for Telecommunications Authority

Encl.

- i) Circular letter: Insufficient Disclosure of the Charges for Calling Card Service (issued on 6 June 2003)
- ii) Second Circular letter: Insufficient Disclosure of the Charges for Calling Card Service (issued on 29 July 2003)

---

<sup>1</sup> [http://www.ofta.gov.hk/en/ca\\_bd/case\\_closed/T48\\_08.pdf](http://www.ofta.gov.hk/en/ca_bd/case_closed/T48_08.pdf)

Your ref :  
Our Ref : LM T38/03 in OFTA R117

Telephone :  
Fax No :

6 June 2003

**Circular letter to  
all Fixed Telecommunication Network Service licensees,  
Public Mobile Radiotelephone Service licensees,  
Personal Communications Service licensees,  
Internal calling card service licensees and  
External Telecommunications Service licensees**

**Urgent**

Dear Sir/Madam,

**Insufficient Disclosure  
of the Charges for Calling Card Service**

If your company is offering calling card service or may provide calling card service in the future, please carefully note the following requirement of the Telecommunications Authority ("TA").

It has come to the attention of the TA that many operators for calling card service have not made their charges sufficiently clear to consumers in their promotional materials (including posters, promotional leaflets or tariff sheets etc.). Many operators only highlight the "usage charge" for the calling card service in their promotional materials. The other relevant charges (e.g. connection charges, call handling charges etc.) are not clearly identified or even shown in the promotional materials. As reasonable notice of the other relevant charges is not given in the promotional materials, consumers are not aware that there are other relevant charges for the calling card service. They are often misled by the promotional materials to buy a calling card based on the incorrect understanding that their calls will be charged according to the published "usage charge" only.

To protect the interests of consumers, the TA is concerned about the above practice which is likely to be misleading. As has been stated in the TA Guidelines entitled "Misleading or Deceptive Conduct in Hong Kong Telecommunications Markets"<sup>Note</sup> issued on 21 May 2003, when promoting, marketing or advertising telecommunications products or services, licensees should always ensure the full cost of the product or service is clearly stated or easily ascertainable at the time of purchase and, if relevant, at the time the product or service is marketed or promoted.

/- 2 ....

If your company is offering calling card service, please immediately review the promotional materials of your company to make sure that the above requirement has been duly complied with. Failure to comply with the above requirement may constitute a breach of section 7M of the Telecommunications Ordinance. The TA will closely monitor the market and will not hesitate to take action against any operators who fail to comply with the requirement.

**Office of the Telecommunications Authority**

---

<sup>Note</sup> The Guidelines may be downloaded from OFTA's website  
<http://www.ofa.gov.hk>

29 July 2003

**Second Circular letter to  
All Fixed Telecommunication Network Service licensees,  
Public Mobile Radiotelephone Service licensees,  
Personal Communications Service licensees,  
Internal calling card service licensees and  
External Telecommunications Service licensees**

**Urgent**

Dear Sir/Madam,

**Insufficient Disclosure  
of the Charges for Calling Card Service**

In my circular letter to all operators for external telecommunications service ("ETS") on 6 June 2003 (see attached), I urged all operators to review their promotional materials for calling card service to ensure that "*the full cost of the product or service is clearly stated or easily ascertainable at the time of purchase and, if relevant, at the time the product or service is marketed or promoted*".

After the issue of the above circular letter, the Telecommunications Authority ("TA") has received a number of enquiries from operators for ETS about the details for compliance with the above requirement. In order to illustrate what are the appropriate actions to be taken for compliance with the above requirements to avoid breaching section 7M of the Telecommunications Ordinance, the TA would like to present the following as examples for your consideration:

*Reasonable alert about associated charges*

It is very common for operators for ETS to highlight the usage charges of their service in the promotional materials. Operators should note that, if there are associated charges (e.g. connection charge, call handling charges etc.) in addition to the usage charges, the usage charges should be qualified (e.g. by an asterisk or other means) and with a footnote to inform the customers that there are associated charges for the service.

/- 2 .....

*No hidden charge*

Operators for ETS are obligated to disclose the full costs of services to customers. In all circumstances, there should be no hidden charge. In case a particular charge is too complicated or lengthy for publishing in the promotional materials, operators may state them in a separate tariff sheet provided that (a) there must be a clear statement in the promotional materials saying that the details of that particular charge are shown in a separate tariff sheet and (b) the tariff sheet must be distributed to customers when a card is sold and be available to customers upon request. It is **NOT** acceptable for ETS operators to just state in the promotional materials that:

*“[xxx] charge is applied. For details, please contact our Customer Service Hotline.”*

The TA considers that it is **NOT** sufficient for operators to just arrange to inform their customers of the details of a relevant charge by verbal communication only (verbal advice can only be offered as a supplementary measure). “Reasonable disclosure” requires that all relevant charges should be available in printed form (e.g. in the promotional materials or in a separate tariff sheet) for customers’ perusal and records.

*Usable minutes*

It is noted that, instead of publishing the per-minute usage charges, some operators for ETS would like to publish the “usable minutes” of the calling cards in their promotional materials. It is observed that the “usable minutes” claimed by operators usually are only achievable under certain circumstances or subject to certain terms and conditions (e.g. call duration, single/multiple consumption, call to landline/mobile, etc.). In these circumstances, operators should qualify the “usable minutes” (e.g. by an asterisk) in the promotional materials and arrange a footnote to indicate under what situation or terms and conditions the “usable minutes” are achieved. This can prevent customers from having a misunderstanding that the “usable minutes” are achievable in all circumstances.

Please note that the above are just examples presented by the TA with a view to illustrating what are the reasonable measures to be taken in certain situations for the avoidance of breaching section 7M of the Telecommunications Ordinance. The examples are **NOT** exhaustive. Your company must review the promotional materials of your calling card service carefully and make your judgement on what measures should be taken for ensuring the promotional materials are not misleading or deceptive. If a particular matter is not mentioned in the above example, it does not mean that the TA will not be concerned about the conduct.

The TA will closely monitor the market to ensure that section 7M of the Telecommunications Ordinance is complied with. Your company is urged to take immediate action to ensure that the promotional materials of your calling card service comply with section 7M of the Telecommunications Ordinance. If you have any questions, please call the undersigned or Mr. Ricky Shum at 2961 6736.

**Office of the Telecommunications Authority**