

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.

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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