

19 November 2015

**CIRCULAR LETTER**

*By fax and/or email to licensees of -*

Unified Carrier Licence  
Fixed Carrier Licence  
Mobile Carrier Licence / Mobile Carrier (Restricted) Licence  
Public Radiocommunications Service Licence  
Services-Based Operator Licence  
Broadcast Radio Relay Station Licence  
SMATV Licence  
Space Station Carrier Licence  
Class Licence for Provision of Public Wireless Local Area Network Services  
Domestic Free Television Programme Service Licence  
Domestic Pay Television Programme Service Licence  
Non-Domestic Television Programme Service Licence  
Other Licensable Television Programme Service Licence  
Sound Broadcasting Licence

Dear Sir/Madam,

**The Communications Authority's Position on Handling Leniency Applications  
in respect of the Telecommunications and Broadcasting Sectors under the  
Competition Ordinance**

I refer to our circular letter dated 23 September 2015, inviting your comments on whether the Communications Authority ("CA") should adopt, on its own or jointly with the Competition Commission ("Commission"), a leniency policy for the telecommunications and broadcasting sectors for the enforcement of the Competition Ordinance (Cap. 619) ("CO"), and if so, when that should take place.

Having considered the views received from the telecommunications and broadcasting sectors, and taking into account its experiences in enforcing the competition provisions under the Telecommunications Ordinance (Cap. 106) and the Broadcasting Ordinance (Cap. 562) since 2000, the CA has decided **not** to adopt a leniency policy for its enforcement of the CO, either on its own or jointly with the Commission, for the time being. Following the full commencement of the CO on 14 December 2015, the CA may, in accordance with the relevant provisions of the CO

and the actual circumstances of the cases on which it has concurrent jurisdiction with the Commission, consider making leniency agreements with the telecommunications and broadcasting licensees on a case-by-case basis.

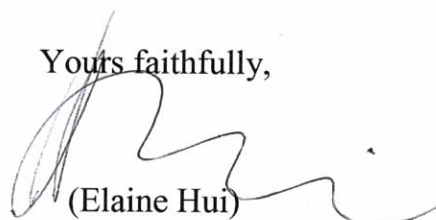
With the accumulation of enforcement experiences under the CO, the CA would, in consultation with the telecommunications and broadcasting sectors, revisit at a later time the need or otherwise for it to adopt a leniency policy, and if so, the underlying principles of the policy.

As required under the CO, the CA and the Commission will sign a Memorandum of Understanding (“MoU”) upon the full commencement of the CO to coordinate the performance of their functions on which they have the concurrent jurisdiction. Competition cases, including the related leniency applications, will be handled by the two competition authorities according to the arrangements set out in the MoU.

In accordance with the principles agreed by the CA and the Commission under the MoU, for cases involving the telecommunications or broadcasting sectors and falling within the concurrent jurisdiction, the CA will ordinarily take the role of the lead authority (“Lead Authority”), which will assume responsibility for exercising the relevant powers and functions conferred upon it under the CO. **Telecommunications or broadcasting licensees intending to apply for leniency under the CO should approach the CA**, which will consider such requests on a case-by-case basis. If the Commission receives any leniency applications in relation to cases which fall within the concurrent jurisdiction and therefore will, according to the MoU, ordinarily be taken up by the CA as the Lead Authority, the Commission will defer the applications to the CA for consideration. For matters involving issues that are partly within and partly outside the concurrent jurisdiction, the CA and the Commission will discuss and agree on how best to progress the matter on a case-by-case basis, including the arrangements for the Lead Authority to offer leniency agreements.

Should you have any questions relating to this Circular Letter, please call 2961 6526 (Miss Wong) or 2961 6292 (Mr Chu).

Yours faithfully,

A handwritten signature in black ink, appearing to be 'Elaine Hui', written over the typed name.

(Elaine Hui)

for Director-General of Communications