

Telecommunications Ordinance
(Chapter 106)

DIRECTION
(Section 36B)

To: Express Tone (HK) Limited

Date: 28 May 2014

Interpretation

In this Direction, unless the context otherwise requires,

“Authority” means the Communications Authority;

“ETS” means external telecommunications services;

“LAC” means Local Access Charge;

“Licence” means the Services-Based Operator Licence (Licence No. 1417) granted by the Authority to the Licensee;

“Licensee” means Express Tone (HK) Limited;

“NWT” means New World Telecommunications Limited;

“OFCA” means the Office of the Communications Authority;

“PSTN” means the public switched telephone network;

“Regulatory Guide” means the Regulatory Guide for Calling Line Identification (CLI) Format, HKCA 3101 issued by the Authority;

“SC” means Special Condition; and

“TO” means the Telecommunications Ordinance (Cap. 106).

Background

In August 2013, OFCA discovered that the numbers ranging from 3721 3601 to 3721 3620 had been used by the Licensee for delivering incoming ETS calls from overseas to Hong Kong during the period between 26 July 2013 and 26 August 2013 (both days inclusive). The Licensee was suspected to have breached SC 7.1 and SC 8.1 of the Licence.

2. OFCA has completed an investigation into the matter. Having considered the findings of the investigation, the Authority is satisfied that the Licensee has failed to comply with the requirement of the Regulatory Guide to use the proper calling line identification with leading digits 15xx, 16xx or 30(5-9)x (as prescribed in paragraphs 2 and 3 of the Regulatory Guide) for the delivery of ETS calls from overseas to the PSTN in Hong Kong. The Authority is also satisfied that the Licensee has failed to pay LAC to the relevant local network operator (i.e. NWT) in respect of the ETS calls routed through the numbers specified in paragraph 1 above.

3. SC 7.1 of the Licence provides that:

“For the interconnection between the facilities or services of the licensee and the networks, systems and services of other licensees for the delivery of traffic for the users of the service in Hong Kong, the licensee shall pay such interconnection charges, including, without limitation, local access charge, and access charge or origination charge for interconnection necessary for the provision of international call forwarding service as may be specified by the Authority in the relevant statements and regulatory guides, and/or determined by the Authority from time to time under section 36A of the Ordinance.”

4. As the Licensee has failed to pay LAC to the relevant local network operator, it has contravened SC 7.1 of the Licence.

Direction

5. The Authority, in exercise of his power under section 36B(1)(a)(i) of the TO,

- *having been satisfied* that the Licensee has not paid any LAC (and the associated transit charge) to the relevant local network operator in respect of the ETS calls routed through the numbers specified in paragraph 1, in breach of its obligations under SC 7.1 of the Licence;
- *having been satisfied* that the Licensee has been afforded a reasonable opportunity to make representations; and
- *having considered* all representations made and information furnished by the Licensee,

hereby *directs* the Licensee to:

- (a) pay to NWT all such amount of unpaid LAC (and the associated transit charge) in respect of the ETS calls routed through the numbers specified in paragraph 1 within 30 days from the date of this Direction, at such rate as mutually agreed with NWT; and
- (b) provide to the Authority evidence to the satisfaction of the Authority of the agreement made with NWT regarding the payment of LAC (and the associated transit charge) as referred to in sub-paragraph (a) above within 30 days from the date of this Direction.

6. This Direction will be made public.

(Danny Lau)
for Communications Authority
28 May 2014