

# **GUIDANCE NOTE ON THE MAINLAND AND HONG KONG CLOSER ECONOMIC PARTNERSHIP ARRANGEMENT TO ALLOW HONG KONG SERVICE SUPPLIERS TO DISTRIBUTE FIXED/MOBILE TELEPHONE SERVICE CARDS IN THE GUANGDONG PROVINCE**

## **Introduction**

The Supplement VI to the Mainland and Hong Kong Closer Economic Partnership Arrangement (“CEPA”)<sup>1</sup> was signed and announced on 9 May 2009. With effect from 1 October 2009, a Hong Kong service supplier (“HKSS”) is allowed to distribute in the Guangdong province fixed and/or mobile telephone service cards (“Calling Cards”) which can only be used in Hong Kong (excluding mobile satellite phone service).

2. This guidance note provides information about the arrangement for the distribution of Calling Cards in the Guangdong province and guidelines on the requirements that HKSS and its agent(s) shall observe. For the avoidance of doubt, nothing herein shall prejudice the operation of the relevant laws and regulations of the Mainland and Hong Kong and the exercise of any power by the relevant Mainland and Hong Kong regulatory, enforcement and judicial bodies.

## **Scope of Service and Validity Period**

3. Under the Supplement VI to CEPA, HKSS and its agent(s) may distribute Calling Cards in the Guangdong province. The Calling Cards, which include the telephone cards for the provision of fixed or mobile services, exclude mobile satellite phone service and are for use in Hong Kong only.

4. The arrangement for the distribution of Calling Cards in the Guangdong province will operate for a 2-year pilot period (i.e. from 1 October 2009 to 30 September 2011).

---

<sup>1</sup> The Supplement VI to CEPA is available for reference at the Trade and Industry Department’s CEPA website at [http://www.tid.gov.hk/english/cepa/legaltext/cepa\\_legaltext.html](http://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html). The liberalization measures for telecommunications services under CEPA are summarized at [http://www.tid.gov.hk/english/cepa/tradeservices/tel\\_liberalization.html](http://www.tid.gov.hk/english/cepa/tradeservices/tel_liberalization.html)

## **Procedures to qualify for distribution of Calling Cards**

5. To qualify for the distribution of Calling Cards in the Guangdong province, the following four steps shall be followed. A flowchart is given in **Annex 1**:-

- (i) HKSS should hold a valid carrier licence issued by Office of the Telecommunications Authority (“OFTA”);
- (ii) HKSS should have a Certificate of Hong Kong Service Supplier (“HKSS”) issued by the Trade and Industry Department of Hong Kong (“TID”);
- (iii) HKSS should sign and submit separately to the Guangdong Communications Administration (广东省通信管理局) (“GCA”) and OFTA an undertaking for and on behalf of itself and its agent(s) guaranteeing compliance with all relevant laws and regulations of the Mainland and Hong Kong, as well as the guidelines which may be issued by the Ministry of Industry and Information Technology (工业和信息化部) (“MIIT”), GCA or OFTA from time to time; and
- (iv) HKSS and its agent(s) should notify separately GCA and OFTA before distributing Calling Cards in the Guangdong province.

### Step 1: Relevant Telecommunications Licence

6. The applicable carrier licences include the Fixed Telecommunication Network Services / Fixed Carrier Licence, the Mobile Carrier Licence or the Unified Carrier Licence. A summary of the licences and the corresponding type of Calling Cards which may be allowed to be distributed in the Guangdong province is given in **Annex 2**.

### Step 2: Certificate of Hong Kong Service Supplier (HKSS)

7. TID is the single contact point to handle applications for Certificate of HKSS. For the application procedures, please refer to the Notice to Service Suppliers issued by the TID. The website of TID is at <http://www.tid.gov.hk/english/aboutus/tradecircular/ntss/2008/ntss022008.html> .

### Step 3: Undertaking in relation to Compliance with Relevant Laws, Regulations and

## Guidelines

8. HKSS shall sign and submit separately to GCA and OFTA an undertaking for itself and on behalf of its agent(s) guaranteeing compliance with all relevant laws and regulations of the Mainland and Hong Kong, as well as the guidelines which may be issued by MIIT, GCA or OFTA from time to time. The HKSS should submit an undertaking<sup>2</sup> based on the form of undertaking as required by GCA (“GCA Undertaking”) to GCA. After that the HKSS shall submit to OFTA:-

- (i) a duly signed undertaking (the form of the undertaking is given in **Annex 3**) containing the requirements with which HKSS and its agent(s) must comply;
- (ii) a copy of the signed GCA Undertaking; and
- (iii) a consumer protection scheme<sup>3</sup>.

9. In brief, OFTA requires the HKSS and its agent(s) to undertake the following:-

*(a) Compliance with Relevant Laws, Regulations and Guidelines*

MIIT, GCA or OFTA may issue guidelines from time to time specifying the requirements with which HKSS and its agent(s) shall comply and the circumstances under which HKSS and/or its agent(s) may be disqualified from distributing Calling Cards in the Guangdong province. HKSS and its agent(s) shall comply with these guidelines as well as all relevant laws and regulations of the Mainland and Hong Kong. In the event of contravention, the relevant Mainland and/or Hong Kong authorities may under their respective jurisdiction take enforcement action against the HKSS and/or its agent(s).

*(b) Agents*

Pursuant to the relevant laws and regulations of the Mainland, HKSS shall

---

<sup>2</sup> The HKSS should contact GCA (the contact of which is provided at the end of this guideline) for the details of the undertaking as required by GCA.

<sup>3</sup> The HKSS should provide to the satisfaction of OFTA the consumer protection scheme which includes but not limited to a free-of-charge method of Calling Card authentication in the Guangdong province. For the avoidance of doubt, while it is not mandatory to provide an authentication method in Hong Kong, the sales outlet of the HKSS should be capable of carrying out the authentication/activation process in Hong Kong upon request from its customers.

be fully responsible for the conduct of its agent(s) in distributing Calling Cards in the Guangdong province on behalf of the HKSS.

HKSS has the responsibility to supervise the sales activities of its agent(s) and to ensure that its agent(s) will comply with all relevant laws and regulations of the Mainland and Hong Kong, the guidelines which may be issued by MIIT, GCA or OFTA from time to time, as well as the requirements stipulated in the undertaking.

The relevant Mainland authorities may disqualify the HKSS from distributing Calling Cards in the Guangdong province if its agent has, with the consent or connivance of the HKSS, contravened the relevant laws and regulations of the Mainland and Hong Kong, the guidelines issued by MIIT, GCA or OFTA, or requirements stipulated in the undertaking signed by the HKSS.

*(c) Information to be printed on Calling Cards*

The following information must be clearly printed on the Calling Cards:-

- (i) the Calling Cards can only be used in Hong Kong;
- (ii) the Calling Cards can only be distributed in the Guangdong province and that distribution in other provinces, autonomous regions and municipalities in the Mainland is prohibited;
- (iii) the name of the card issuer (i.e. the HKSS who provides the telephone card service);
- (iv) customer service hotlines and complaint hotlines both in the Guangdong province and in Hong Kong;
- (v) telephone number(s) for access to the service, if applicable;
- (vi) the currency and initial card value and, where applicable, the method to replenish the card value;
- (vii) the method to authenticate the Calling Cards<sup>4</sup>; and
- (viii) the method to verify that the HKSS is qualified to distribute Calling Cards.

*(d) Provision of Information to Authorities*

---

<sup>4</sup> The authentication method should be the one that has been shown to the satisfaction of OFTA.

Before distributing Calling Cards in the Guangdong province, prior notification must be given separately to GCA and OFTA. The OFTA notification requirements are specified in Step 4 of this Guideline. If any change occurs which affects the accuracy of the submitted information, notification shall be submitted separately to GCA and OFTA within 10 business days after the change has occurred.

GCA and/or OFTA may require HKSS and/or its agent(s) to provide such information as may be reasonably necessary for implementation of CEPA (including without limitation for ensuring compliance with all relevant laws, regulations or guidelines by HKSS and its agent(s), handling consumer complaints and submission of statistics). HKSS and/or its agent(s) shall supply the required information in such manner and at such time as may be specified by GCA and/or OFTA. HKSS and its agent(s) may be required to submit to GCA regularly such information as required by the relevant Mainland laws and regulations. All information submitted to GCA and/or OFTA must be complete and accurate. GCA and OFTA may exchange information provided by HKSS and/or its agent(s) where they consider appropriate.

*(e) Consumer Protection and Complaint Handling*

HKSS and its agent(s) shall provide sufficient training to their employees and ensure that their employees will be able to provide satisfactory customer services and to handle consumer complaints in a proper and efficient manner.

The relevant Mainland authorities may disqualify the HKSS and/or its agent(s) from distributing Calling Cards in the Mainland if the HKSS and/or its agent(s) fail to handle consumer complaints in a proper and efficient manner; or the conduct of the HKSS and/or its agent(s) is having, has had or could have a serious adverse effect on the interests of consumers.

GCA and OFTA may receive, examine, exchange information and refer to each other, consumer complaints against HKSS and/or its agent(s) in respect of their distribution of Calling Cards in the Mainland.

#### Step 4: Notification

10. Before distributing Calling Cards, HKSS and its agent(s) shall notify GCA in the Guangdong province (“Notification to GCA”).<sup>5</sup> After that HKSS shall submit to OFTA an original of a completed notification form (in **Annex 4**) containing:-

- (i) its company name and trading name (if different from its company name);
- (ii) the licence number of the carrier licence under which it proposes to provide its Calling Card service;
- (iii) the type of Calling Cards to be distributed in the Guangdong province;
- (iv) the method it proposes to distribute Calling Cards;
- (v) the consumer protection scheme to be implemented by itself and/or its agents(s). It should include the method of Calling Card authentication which has been shown to the satisfaction of OFTA;
- (vi) the commencement date of the proposed distribution;
- (vii) the name(s) and the address(es) of its agent(s); and
- (viii) a copy of the Notification to GCA.

11. The information must be complete and accurate. The completed notification form must be submitted to OFTA at least 15 business days before the distribution of Calling Cards in the Guangdong province. OFTA will consider it as an incomplete notification and request the HKSS to re-submit a notification form in case there is any inconsistent information in the notifications to GCA and OFTA. If any change occurs which affects the accuracy of the submitted information, HKSS must notify GCA and OFTA within 10 business days after the change has occurred (unless otherwise extended by GCA and OFTA).

#### **Publication of HKSS and Agents Qualified to Distribute Calling Cards**

12. GCA and OFTA may publish and regularly update<sup>6</sup>: (a) a list of HKSS and agents who are qualified to distribute Calling Cards in the Guangdong province and (b)

---

<sup>5</sup> The HKSS shall complete the notification requirement as required by GCA. For details, please refer to relevant guidelines issued by GCA.

<sup>6</sup> GCA and OFTA will, based on the commencement date of the proposed distribution of Calling Cards as notified by the HKSS to GCA and OFTA, update the list of HKSS and agents who are qualified to distribute Calling Cards in the Guangdong province.

another list of HKSS and agents who have been disqualified to distribute Calling Cards in the Guangdong province. For the avoidance of doubt, the lists to be published by OFTA will be based on the classification (i.e. qualified or disqualified) determined by GCA.

## **Enquiries**

13. Further information regarding this guidance note may be addressed to:

Office of the Telecommunications Authority  
29/F, Wu Chung House, 213 Queen's Road East  
Wanchai, Hong Kong  
(Attn.: Senior Regulatory Affairs Manager (R22))  
Fax : +852 2834 1501  
Tel : +852 2961 6349  
E-mail : [CEPA-CallingCard@ofta.gov.hk](mailto:CEPA-CallingCard@ofta.gov.hk)

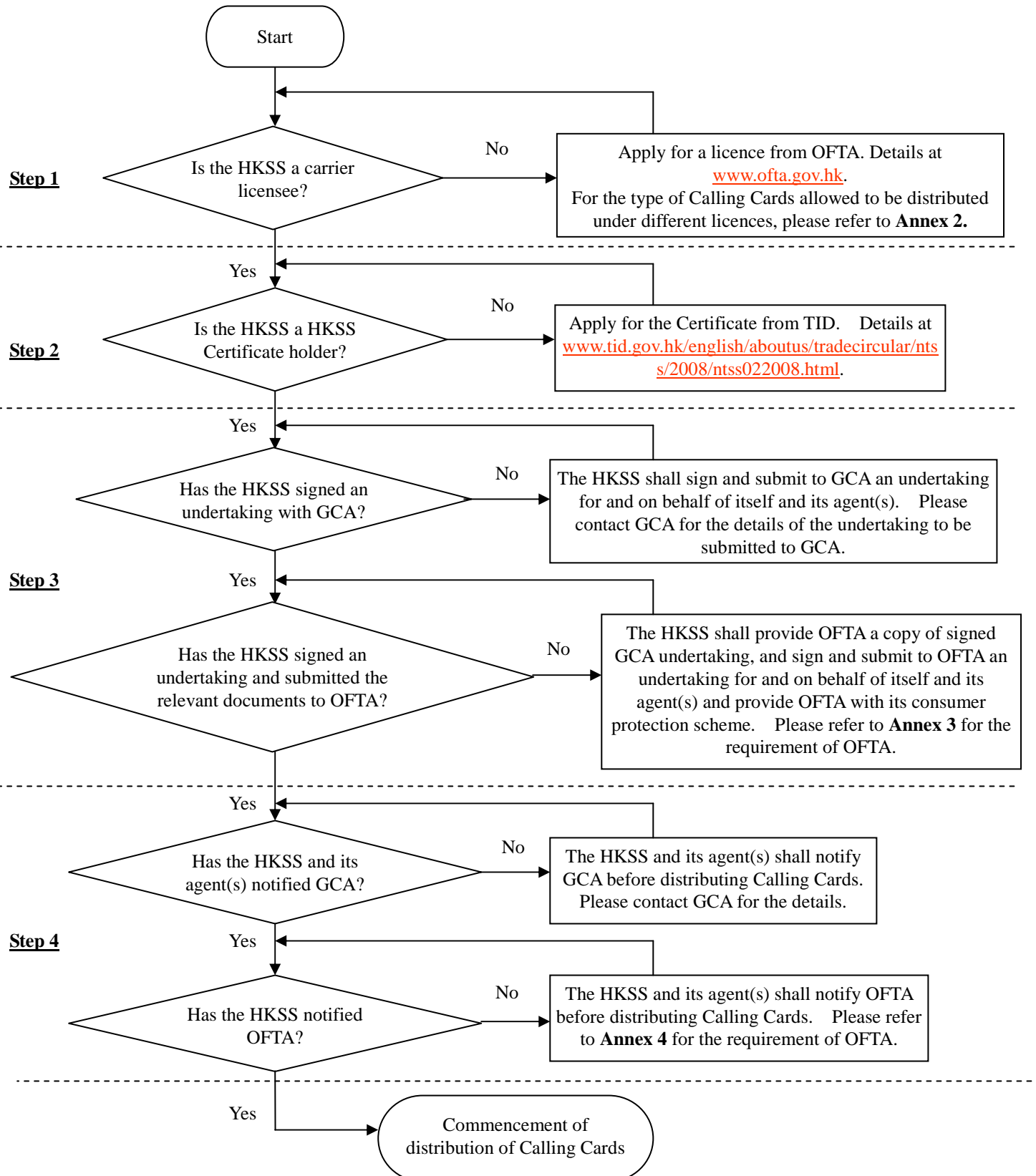
14. Further enquires on the requirement of the Mainland regulatory bodies in relation to the distribution of Calling Cards in Guangdong province may be addressed to:

Guangdong Communications Administration  
(广东省通信管理局)  
No. 3 Zhixin Nan Road, Guangzhou  
(广东省广州市执信南路 3 号)  
Post Code: 510080  
Fax : +8620 8769 2030  
Tel : +8620 8769 0457  
web site : <http://www.gdca.gov.cn/>

**Office of the Telecommunications Authority**

23 September 2009

**Flowchart showing the procedures to qualify for distribution of Calling Cards**



**Summary of the relevant licences and  
their corresponding Calling Cards which may be allowed  
to be distributed in the Guangdong province**

Type of Licence	Authorised Service under the Licence		Examples of Calling Cards
	Local Service	External Service	
Fixed Telecommunication Network Services Licence / Fixed Carrier Licence	✓		Public Payphone Card
Fixed Telecommunication Network Services Licence / Fixed Carrier Licence		✓	IDD Calling Card
Mobile Carrier Licence	✓		Mobile Prepaid SIM Card
Unified Carrier Licence (for fixed services)	✓		Public Payphone Card
Unified Carrier Licence (for fixed services)		✓	IDD Calling Card
Unified Carrier Licence (for mobile services)	✓		Mobile Prepaid SIM Card

**Undertaking**

To : The Office of the Telecommunications Authority (“OFTA”)  
29<sup>th</sup> Floor, Wu Chung House,  
213 Queen’s Road East  
Wanchai, Hong Kong

From : [Name and address of HKSS]

Date : [Date]

Dear Sirs,

We, \_\_\_\_\_ (name of HKSS) and our agent(s)<sup>7</sup>, propose to distribute<sup>8</sup> in the Guangdong province fixed and/or mobile telephone service cards (“Calling Cards”) which can only be used in Hong Kong (excluding mobile satellite phone service card) under the liberalisation measures agreed between the Mainland and Hong Kong in the Supplement VI to the Mainland and Hong Kong Closer Economic Partnership Arrangement (“CEPA”) signed on 9 May 2009.

We hereby undertake to OFTA that we shall comply with the following requirements:

***General – Compliance with Relevant Laws, Regulations and Guidelines***

1. we will, in distributing Calling Cards in the Guangdong province, comply with all relevant laws and regulations of the Mainland and Hong Kong;
2. we agree and accept that, in the event of any contravention by HKSS and/or its agent(s) of the relevant laws and regulations of the Mainland and Hong Kong:
  - (a) the relevant Mainland and/or Hong Kong authorities (including the Ministry of Industry and Information Technology (工业和信

---

<sup>7</sup> In this Undertaking, “agents” refer to agents who are directly appointed by HKSS.

<sup>8</sup> Distribution includes wholesale and retail.

息化部) (“MIIT”), the Guangdong Communications Administration (广东省通信管理局) (“GCA”) and the Telecommunications Authority (“TA”) may under their respective jurisdiction take enforcement action against the HKSS and/or its agent(s) in accordance with the relevant laws and regulations<sup>9</sup>;

(b) without prejudice to subparagraph (a) and paragraph 14 below, the relevant Mainland authorities may (and OFTA may recommend the relevant Mainland authorities to) disqualify the HKSS from distributing Calling Cards in the Mainland;

- 3.1 we agree and accept that MIIT, GCA and OFTA may, jointly or separately, issue from time to time such guidelines as they consider appropriate, specifying the requirements (including the relevant laws and regulations of the Mainland and Hong Kong) with which HKSS and its agent(s) shall comply and the circumstances under which HKSS and/or its agent(s) may be disqualified from distributing Calling Cards in the Guangdong province;
- 3.2 we will, in distributing Calling Cards in the Guangdong province, comply with the guidelines mentioned in paragraph 3.1;
4. we agree and accept that GCA and OFTA may regularly publish a list of HKSS and agents who are qualified to distribute Calling Cards in the Guangdong province and a list of HKSS and agents who have been disqualified to distribute Calling Cards in the Guangdong province;

***Agent(s) of HKSS***

- 5.1 we agree and accept that, pursuant to the relevant laws and regulations of the Mainland, HKSS will be fully responsible for the conduct of its agent(s) in distributing Calling Cards in the Guangdong province on behalf of the HKSS;
- 5.2 we agree and accept that, HKSS has the responsibility to supervise the sales activities of its agent(s) and to ensure that its agent(s) will comply

---

<sup>9</sup> This shall not prejudice the operation of the relevant laws and regulations of the Mainland and Hong Kong and the exercise of any power by the relevant Mainland and Hong Kong regulatory, enforcement and judicial bodies.

with all relevant laws and regulations of the Mainland and Hong Kong, the guidelines which may be issued by MIIT, GCA or OFTA from time to time as well as the requirements stipulated in this Undertaking;

- 5.3 we agree and accept that, the relevant Mainland authorities may disqualify the HKSS from distributing Calling Cards in the Guangdong province if its agent(s) has, with the consent or connivance of the HKSS, contravened the relevant laws and regulations of the Mainland and Hong Kong, the guidelines issued by MIIT, GCA or OFTA, or requirements stipulated in this Undertaking.

***Information to be Printed on Calling Cards***

6. we will arrange the following information to be clearly printed on our Calling Cards to be distributed in the Guangdong province:
- (a) the Calling Cards can only be used in Hong Kong;
  - (b) the Calling Cards can only be distributed in the Guangdong province and that distribution in other provinces, autonomous regions and municipalities in the Mainland is prohibited;
  - (c) the name of the card issuer (i.e. the HKSS who provides the telephone card service);
  - (d) customer service hotlines and complaint hotlines both in Guangdong province and in Hong Kong;
  - (e) telephone number(s) for access to the service if applicable;
  - (f) the currency and initial card value, and, where applicable, the method to replenish the card value;
  - (g) the method to authenticate the Calling Cards<sup>10</sup>; and
  - (h) the method to verify that the HKSS is qualified to distribute Calling Cards.

***Provision of Information to Authorities***

- 7.1 we will notify OFTA at least 15 business days before we distribute Calling Cards in the Guangdong province. The information submitted to OFTA shall include:
- (a) the company name and the trading name (if different from the company name) of HKSS,

---

<sup>10</sup> The authentication method should be the one that has been shown to the satisfaction of OFTA.

- (b) the licence number of the carrier licence under which we propose to provide our Calling Card service,
- (c) the type of Calling Cards to be distributed in the Guangdong province,
- (d) the method we propose to distribute Calling Cards,
- (e) the consumer protection scheme we propose to implement. It includes the method of Calling Card authentication which has been shown to the satisfaction of OFTA,
- (f) the commencement date of the proposed distribution,
- (g) the name(s) and the address(es) of all our agent(s), and
- (h) a copy of the notification submitted to GCA.

7.2 we will notify GCA and OFTA within 10 business days (unless otherwise extended by GCA and OFTA) if any change occurs which affects the accuracy of the information submitted pursuant to paragraph 7.1 above;

8.1 we agree and accept that GCA and/or OFTA may require HKSS and/or its agent(s) to provide such information as may be reasonably necessary for implementation of CEPA (including without limitation for ensuring compliance with all relevant laws and regulations by HKSS and its agent(s), handling consumer complaints and submission of statistics);

8.2 we will supply the information mentioned in paragraph 8.1 above in such manner and at such time as may be specified by GCA and/or OFTA;

8.3 we agree and accept that GCA and OFTA may exchange information provided by HKSS and/or its agent(s) where they consider appropriate;

9. in addition to the information mentioned in paragraph 8 above, we will regularly submit to GCA such information as required by the relevant Mainland laws and regulations;

10. we will ensure that all information submitted to GCA and/or OFTA is complete and accurate;

***Consumer Protection and Complaint Handling***

11. we will provide sufficient training to our employees and ensure that they

will be able to provide satisfactory customer services and to handle consumer complaints in a proper and efficient manner;

- 12 we agree and accept that, the relevant Mainland authorities may (and OFTA may recommend the relevant Mainland authorities to) disqualify the HKSS and/or its agent(s) from distributing Calling Cards in the Mainland if the HKSS and/or its agent(s), in the opinion of the relevant Mainland authorities (or OFTA), fail to handle consumer complaints in a proper and efficient manner;
13. we agree and accept that, GCA and OFTA may receive, examine, exchange information relating to and refer to each other, consumer complaints against HKSS and/or its agent(s) in respect of their distribution of Calling Cards in the Mainland;
- 14.1 we agree and accept that, the relevant Mainland authorities may disqualify the HKSS from distributing Calling Cards in the Mainland if the conduct of the HKSS, in the opinion of the relevant Mainland authorities (or OFTA), is having, has had or could have a serious adverse effect on the interests of consumers;
- 14.2 we agree and accept that, the relevant Mainland authorities may (and OFTA may recommend the relevant Mainland authorities to) order the agent(s) of the HKSS to cease distributing Calling Cards in the Mainland and advise the HKSS to terminate the agency agreement or arrangement with the agent(s) if:
  - (a) the agent(s) of the HKSS refuses to handle complaints from consumers; or
  - (b) the agent(s) of the HKSS, in the opinion of the relevant Mainland authorities (or OFTA), is having, has had or could have a serious adverse effect on the interests of consumers.

Yours faithfully,

*[To insert name of HKSS]*

---

Authorised Signature  
(Name and Position)

---

Authorised Signature  
(Name and Position)

Company chop affixed:

---

**OFTA**



電訊管理局

**Distribution of Fixed/Mobile Telephone Service Cards**  
**in the Guangdong Province – Notification Form**

To : The Office of the Telecommunications Authority  
29<sup>th</sup> Floor, Wu Chung House,  
213 Queen's Road East  
Wanchai, Hong Kong  
(Attention: Regulatory Affairs Manager (R22)2)

Fax: (852) 2834 1501

Date : [Date]

(1) Company name and trading name of Hong Kong Service Supplier (“HKSS”) (if different from company name)	
(2) Licence number of the carrier licence under which HKSS proposes to provide its Calling Card service	
(3) The type of Calling Cards to be distributed in the Guangdong province	
(4) The method HKSS proposes to distribute Calling Cards in the Guangdong province	
(5) The consumer protection scheme the HKSS will implement by itself and /or its agent(s) (including the method of Calling Card authentication which has been shown to the satisfaction of OFTA)	

(6) Commencement date of the proposed distribution of Calling Cards	
(7) Name(s) and address(es) of the agent(s) of HKSS	

**Important Note:-**

1. Please refer to the “Guidance Note on the Mainland and Hong Kong Closer Economic Partnership Arrangement to Allow Hong Kong Service Suppliers to Distribute Fixed/Mobile Telephone Service Cards in the Guangdong Province” issued by OFTA for details.
2. Please submit a copy of the Notification to GCA together with this notification form.

Name of Responsible Person	
Position in the Company	
Telephone Number	
Fax Number	
E-mail Address	
Date	
Authorised Signature and Company Chop	