

19 January 1999

CIRCULAR LETTER to
all Public Non-exclusive Telecommunications Service (PNETS) licensees
for External Telecommunications Services

Dear Sir/Madam,

**Special Condition 18 of
External Telecommunications Services Licence**

As you are aware, Special Condition (SC) 18(1) of your licence prohibits the entry into any “agreement or arrangement” with a service supplier of international public switched services in a place outside Hong Kong the effect of which is to effectively and substantially distort competition in the supply of external services between that place, or another place, and Hong Kong. “Agreement or arrangement” is defined in SC 18(2) to include the agreement, arrangement, understanding or the like in relation to payments between service suppliers whether by way of the international accounting methods or accounting rates, revenue divisions or terminating charges, or any other like charges.

SC 18 is intended to be a safeguard against any activity (e.g. one-way accounting rate bypass) which would distort competition in the market of external telecommunications services (ETS). The Telecommunications Authority (TA) considers that these activities, which are likely to occur on routes where the operator at the distant end is a monopoly and where competition from alternative connections through International Simple Resale (ISR) is not permissible, are detrimental to the interests of Hong Kong consumers and operators.

To enable the TA to monitor the development of the market and assess whether the ETS will be operated in compliance with licence conditions, you are requested under SC 5 of your licence to supply the TA, within one week of the conclusion of any agreement or arrangement that falls within the scope of SC 18(2) with an operator (or its affiliate) at the distant end, one copy of the agreement or arrangement, where

- (a) the operator at the distant end operates as a monopoly; or
- (b) ISR is not permitted by the authorities at the distant end.

Where written agreement or arrangement is not available, you are requested under SC 5 to provide the TA with the following basic information about the agreement or arrangement within the period specified above:

- (a) identity of the operator at the distant end;

- (b) commencement date of agreement or arrangement;
- (c) validity period;
- (d) settlement rate to destination in outgoing direction;
- (e) settlement rate to Hong Kong in incoming direction;
- (f) any transit country/territory involved and the relevant transit settlement;
- (g) any traffic volume commitments; and
- (h) any exclusive or restrictive terms.

The above request covers all agreements and arrangements that are existing or to be concluded in the future.

The information you provide to the TA pursuant to this request will be handled according to SC 5 of your licence. If you have any enquiry on the above, please feel free to contact the undersigned. For your information, similar letters have been sent to the fixed telecommunication network services (FTNS) operators which are permitted to operate external services under their FTNS licences.

Office of the Telecommunications Authority

PS Updated contact person: Assistant Controller Telecom (Economic Regulation)²
Tel: 2961 6635