

23 March 2005

CIRCULAR LETTER

Mobile Carrier licensees
Fixed Telecommunications Network Services (“FTNS”) / Fixed Carrier licensees
Public Mobile Radiotelephone Service (“PMRS”) licensees
Personal Communications Service (“PCS”) licensees
Virtual Private Network (“VPN”) Service licensees and
External Telecommunications Services (“ETS”) licensees

Dear Sir/Madam,

New Guidelines and Sample of Acceptable Independent Assurance Report on the Traffic Volume of External Telecommunications Services

Since 1999, the Telecommunications Authority (TA) has implemented an arrangement for the collection of monthly traffic statistics reports and yearly auditor certificates for external telecommunications services (ETS). The TA has issued a series of circular letters to explain the requirements in detail:

- Circular letter dated 26 February 1999
- Circular letter dated 21 June 1999
- Circular letter dated 17 August 1999
- Circular letter dated 29 April 2004 (issued to the Public Non-Exclusive Telecommunications Services (PNETS) licensees only)

In this letter, we would like to re-instate the importance of punctual fulfilment of the monthly and yearly reporting obligation for licensees engaged in ETS. Your attention is particularly drawn to the revised requirement to submit an independent assurance report to certify the volume of ETS on a yearly basis.

Previous Circular Letters Superseded

With immediate effect, this Circular Letter, together with the documents listed below supersede the previous Circular Letters dated 26 February, 21 June, 17 August 1999, and 29 April 2004 in relation to the reporting requirements for the provision of ETS. This Circular Letter, together with the documents listed below which are to be used for reporting are available at OFTA’s website at <http://www.ofta.gov.hk/howto/ets.html> :-

- **For Yearly Reporting Duty:-**
 1. Guidelines for Independent Practitioners – Assurance Engagement on Traffic Volume of External Telecommunications Services Reported to the Office of the Telecommunications Authority (the “Guidelines”)
 2. Sample of Acceptable Independent Assurance Report (the “Report”)
 3. Table 1 for Yearly Assurance Report

- **For Monthly Reporting Duty:-**
 1. Table 1 and Table 2 for Monthly Traffic Report

Revised Requirement to Submit Yearly Independent Assurance Report

At present, your company being one of the above licensees who provides ETS is under the obligation to provide the TA with an auditor certificate for each year ending 31 March (the “reporting period”). The purpose of the auditor’s certificate is to certify that the traffic figures reported by you on a monthly basis in the form of Table 1 (“Traffic to and from end-customers”) are true representation of the actual traffic handled by you during the reporting period for the calculation of Universal Service Contribution (USC). If there is any discrepancy between the reported and actual figure, the auditor is required to report in the certificate the traffic volume that has been overstated or understated during the reporting period. The existing certification format by way of submission of an annual auditor’s certificate prepared by an independent auditor has been implemented since 1999.

To keep abreast of the latest accounting and auditing standards issued by the Hong Kong Institute of Certified Public Accountants (HKICPA), to reinforce the limited level of assurance required for preparing the auditor’s certificate, and to address the irregularities found in the past submissions of the auditor’s certificates, the TA has initiated and completed a comprehensive review on the existing certification format.

As a result of the review, **Guidelines for Independent Practitioners – Assurance Engagement on Traffic Volume of External Telecommunications Services Reported to the Office of the Telecommunications Authority** (the “Guidelines”) **and Sample of Acceptable Independent Assurance Report** (the “Report”) (presently referred to as “auditor’s certificate”) have been prepared to provide practical guidance to the independent practitioners (presently referred to as “auditors”) in preparation of the Report. I would like to highlight the following main points that you and your practitioner ought to be aware of for producing the Report:-

1. Independent practitioners who are engaged to prepare the Report are now expressly required to prepare a **limited assurance report** in accordance with the Hong Kong Standard on Assurance Engagement (“HKSAE”) 3000 entitled “Assurance Engagements Other Than Audits or Reviews of Historical Financial Information” (effective from 1 January 2005) issued by the HKICPA and to give a **negative form of expression of conclusion** for the Report (Guidelines – paragraphs 2 and 3). The requirement of negative assurance opinion is consistent with the previous arrangement set out by OFTA since 1999.
2. **A new objective of Scope of Work** for licensees who have **zero ETS traffic** for either or both of the incoming or outgoing traffic has been included (Guidelines – paragraph 6(i)). On the other hand, the two objectives of Scope of Work for examining non-zero ETS traffic have not been changed (Guidelines – paragraph 4(i) and (ii)).

3. **A list of Acceptable and Unacceptable Procedures** illustrating examples of procedures which are considered to be acceptable and unacceptable in order to achieve the objectives of the Scope of Work is set out in the Guidelines for practitioners (Guidelines – paragraph 4). The list is not exhaustive. Ultimately, it is the duty of the practitioners to exercise their professional judgement based on the HKSAE 3000 in deciding what procedures are acceptable and should be adopted to complete the task.
4. In the Conclusion of the Report, the practitioner is required to produce a **summary table on ETS Traffic** showing the total traffic minutes submitted by you on monthly basis to the TA during the reporting period, the traffic minutes certified by the practitioner and providing the reasons for the difference, if any (Report – paragraph 4).
5. A **Table 1 for Yearly Assurance Report in the standard excel format** covering the whole reporting period and certified by the practitioner must be attached with the Report (Guidelines – paragraph 10(xii) and Report - Annex 1).

This **new report format** will be used for certifying ETS traffic **from the year 2004/05** (i.e. from 1 April 2004 to 31 March 2005). The Report for the year 2004/05 is due to be submitted to the TA by **30 June 2005**. You are required to submit the Report together with Table 1 for Yearly Assurance Report to OFTA in hard copy format **by mail**. For the avoidance of doubt, any reports which are NOT submitted in this new report format for the year 2004/5 onwards will not be accepted by OFTA as fulfilling the yearly traffic certification requirement.

In order to submit an Acceptable Independent Assurance Report to the TA on or before 30 June 2005, you are advised to handle this matter immediately by instructing an independent practitioner to prepare the Report and passing this Circular letter with all the attachments to the practitioner for consideration and action.

Monthly Traffic Statistics Reporting Requirement

Licensees are also reminded that they are required to submit to the TA, within two weeks from the end of each month, a monthly traffic report of the volume of outgoing and incoming ETS traffic handled by the licensee, by filling out two standard report forms (Table 1 and Table 2 for Monthly Traffic Report). Licensees are required to observe the following rules in reporting the required statistics to OFTA for the calculation of the USC payable by each licensee:

- (a) Licensee must use the two report forms (ie Table 1 and Table 2 for Monthly Traffic Report) to report their statistics;
- (b) Table 1 and Table 2 contain **245** destinations/routes. **Licensees should not delete or change the order of the destinations/routes appearing on these two forms.** In case there has been traffic to/from a destination/route not included in the forms, such destination/route should be added after the 245th destination/route at the end of the forms;

- (c) “Nil” traffic is required to be reported and submitted to OFTA;
- (d) Licensees must submit their traffic statistics report to OFTA on/before the deadline every month (ie within two weeks from the end of each month unless an extension has been granted by the TA). Submission must be made **in Excel file format via e-mail to OFTA at cl_sect@ofta.gov.hk**.

Please note that if a licensee does not follow the above rules to submit the traffic statistics report, the report submitted will be considered as incomplete. The submission of incomplete report will not be accepted by OFTA as fulfilment of the reporting requirement. The licensee will be requested to make the necessary rectification and re-submit a complete report.

Licence obligation to Submit Monthly Report and Yearly Report on Time

I should also like to remind you that pursuant to the respective relevant licence condition and provision of the Telecommunications Ordinance, you are required to provide the TA with the monthly traffic statistics reports and the yearly independent assurance reports on time.

The TA may under section 36C of the Telecommunications Ordinance (the Ordinance) impose a financial penalty for breach of any licence condition and/or issue a direction under section 36B requiring a licensee to take appropriate action to comply with the licence condition. The financial penalty can be up to HK\$200,000 for the first occasion the penalty is imposed. Furthermore, without affecting the TA’s power of imposing a financial penalty or issuing a direction, the TA is entitled under section 34(4) of the Ordinance to cancel or suspend any licence in the event of any contravention of the Ordinance or of any condition to which the licence is subject. Please also note that pursuant to section 7(6) of the Ordinance, the renewal of the licence is subject to the discretion of the TA, and the TA will take into account all relevant factors including any breach of licence condition when considering whether or not to renew a licence.

If you have any questions, please feel free to contact the undersigned.

Office of the Telecommunications Authority

PS Updated contact person:
Regulatory Affairs Managers, Regulatory Section 22
Tel No.: 2961 6678 or 2961 6654.
Fax No.: 2834 1501