

20 March 2006

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
Services-Based Operator (“SBO”) licensees

Dear Sir/Madam,

Revised Guidelines and Format of Acceptable Independent Assurance Report on the Traffic Volume of External Telecommunications Services (ETS)

In this letter, we would like to reiterate the importance of punctual fulfillment of the yearly reporting obligation for licensees engaged in ETS. Your attention is particularly drawn to the attached “Revised Guidelines for Independent Practitioners – Assurance Engagement on Traffic Volume of External Telecommunications Services Reported to the Office of the Telecommunications Authority” issued on 20 March 2006 (Revised Guidelines) to submit an Independent Assurance Report (Report) to certify the volume of ETS on a yearly basis.

We found that some Reports for last year were not properly prepared in accordance with the previous guidelines and in the course of our investigation we noted that some of the independent practitioners had misinterpreted or overlooked some of the requirements in the guidelines. Taking into account the experience we gained in processing the reports and communicating with the concerned licensees and/or independent practitioners last year, we issue the Revised Guidelines and have revised the “Format of Acceptable Independent Assurance Report” (previously referred as “Sample of Acceptable Independent Assurance Report”) with a view to enhancing the previous guidelines and clarifying various issues identified in the reports submitted last year. We would like to emphasize that no material change has been made to the reporting requirements or reporting format.

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. Revised Guidelines for Independent Practitioners – Assurance Engagement on Traffic Volume of External Telecommunications Services Reported to the Office of the Telecommunications Authority (the “Revised Guidelines”)
2. Format of Acceptable Independent Assurance Report (the “Report”)

3. Table 1¹ for Yearly Assurance Report

Requirement to Submit Yearly Independent Assurance Report

Your company is under the obligation to provide the Telecommunications Authority (TA) with a yearly Independent Assurance Report (Report) for each year ending 31 March (the “reporting period”). The purpose of the Report is to certify that the traffic figures for ETS 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 certified traffic minutes, the Independent Practitioner is required to report in the Report the traffic volume that has been overstated or understated during the reporting period and to provide the reasons for overstating or understating the traffic minutes.

Major Common Issues Identified in Last Year’s Reports

As mentioned in paragraph 2 of this Circular Letter, the Revised Guidelines and “Format of Acceptable Independent Assurance Report” serve to enhance the previous guidelines and clarify various issues identified in last year’s reports, we would like to highlight some of the major issues which we have incorporated into the Revised Guidelines for your reference :-

1. The Report should be prepared and signed off by an **Independent Practitioner**. For our purpose, the Independent Practitioner means a Certified Public Accountant (CPA) who is a professional accountant registered as such by virtue of section 24 of the Professional Accountants Ordinance (Chapter 50) and holding a valid and current practicing certificate under section 29A of the Professional Accountants Ordinance. (Revised Guidelines – Footnote 3)
2. We wish to reiterate that Independent Practitioners who are engaged to prepare the Report are 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 Hong Kong Institute of Certified Public Accountants and to give a **negative form of expression of conclusion** for the Report (Revised Guidelines – paragraphs 2 and 3). Since a level of assurance is required, **any statements which in the opinion of OFTA reduce the required level of assurance or the credibility of the Report will NOT be accepted by OFTA** and should not be included in the Report (Revised Guidelines – paragraph 4).

¹ Traffic reported under Table 1 is used for calculation of the amount of universal service contribution (USC) payable by licensees. For Table 1 submitted on a monthly basis, USC invoices will be issued to the licensees periodically to collect USC in accordance with the traffic reported. For Table 1 submitted yearly together with the Yearly Assurance Report, the traffic shown in the table and certified by the independent practitioner will be used for any adjustment of the USC paid or payable during the period covered by the Yearly Assurance Report.

3. Independent Practitioners should state the relevant **overall objectives and the work done (i.e. procedures)** to achieve the objectives in the Scope of Work of the Report. (Revised Guidelines – paragraphs 5 to 10).
4. **Exact standard wordings for the objective(s)** for either incoming or outgoing traffic or both incoming and outgoing traffic for Non-Zero (Revised Guidelines – paragraphs 5(i) and (ii)) and/or Zero ETS Traffic (Revised Guidelines – paragraph 6(i)) must be followed and used in the Report. Objectives other than the overall objectives stated in the Revised Guidelines will NOT be accepted. (Revised Guidelines – paragraph 7).
5. For situations where the Relevant Licensee has non-zero incoming traffic but zero outgoing traffic, or vice versa, the Independent Practitioner is required to quote in the Report the respective objectives set out in the Revised Guidelines for the **direction of traffic with non-zero traffic AND for the direction of traffic with zero traffic.** (Revised Guidelines – Footnote 4).
6. **A summary table on ETS Traffic** is required in the Conclusion (even if Table 1 shows all zero or nil traffic). (Revised Guidelines – paragraph 13 (viii)).
7. Independent Practitioners are required to **depict the reason and findings for any difference** between the traffic submitted previously by the Relevant Licensee to OFTA (through monthly Table 1 reports) and the traffic certified below the summary table in the Conclusion of the Report. (Revised Guidelines – paragraph 11).

The Report for the year 2005/06 covering the period from 1 April 2005 to 31 March 2006 is due to be submitted to OFTA **by 30 June 2006**. 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, please note that if a licensee does not follow the Revised Guidelines to submit the Report, the Report submitted will be considered as incomplete and will not be accepted by OFTA. The submission of incomplete and/or unacceptable Report will be treated as non-fulfillment of the reporting obligation under the Licence and in breach of the related licence condition. OFTA reserves the right to ask the licensee concerned to make necessary rectification and resubmit a revised Report and/or to provide clarification on the issues raised by OFTA. Appropriate regulatory actions may also be instituted against the licensee for breach of the licence condition.

Licence Obligation to Submit Yearly Report and Monthly Report on Time

We would also like to remind you that pursuant to the respective relevant licence condition and provision of the Telecommunications Ordinance (the Ordinance), you are required to provide the TA with the yearly Independent Assurance Report and monthly traffic report on time.

The TA may under section 36C of 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.

In order to submit the Report to OFTA on time and in the manner as required in the Revised Guidelines, 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.

With regard to the submission of monthly traffic reports, you are reminded to complete and submit the two standard report forms (Table 1² and Table 2) to OFTA **by e-mail at cl_sect@ofta.gov.hk** on a monthly basis. **Please do not send us the monthly reports by fax or by post.** All emails sent to cl_sect@ofta.gov.hk must include the Licence number, Licensee name and month(s) for which the submission is being made in the SUBJECT HEADER. The blank Table 1 and Table 2 forms are available at the hyperlink at: <http://www.ofta.gov.hk/en/Howto/ets.html>.

Should you any further questions relating to this Circular Letter, please contact our Regulatory Affairs Managers, Regulatory Section 22 on 2961 6678 or 2961 6735.

Office of the Telecommunications Authority

² Traffic reported under Table 1 is used for calculation of the amount of universal service contribution (USC) payable by licensees. For Table 1 submitted on a monthly basis, USC invoices will be issued to the licensees periodically to collect USC in accordance with the traffic reported. For Table 1 submitted yearly together with the Yearly Assurance Report, the traffic shown in the table and certified by the independent practitioner will be used for any adjustment of the USC paid or payable during the period covered by the Yearly Assurance Report.