

**Telecommunications Ordinance  
(Chapter 106)**

**DIRECTION  
(Section 36B)**

To: Mountain Telecom International Limited  
Date: 22 September 2003

**Interpretation**

In this Direction, unless the context otherwise requires,

“Authority” means the Telecommunications Authority;

“Determination” means the determination issued under Section 36A of the Telecommunications Ordinance by the Authority on 30 December 1998;

“ETS” means external telecommunications services;

“LAC” means Local Access Charge;

“LAC Arrangement Statement” means the statement entitled ‘Local Access Charge and Modified Delivery Fee Arrangements’ issued by the Authority on 25 November 1998;

“LAC Review Statement” means the statement entitled ‘Review of Local Access Charges’ issued by the Authority on 28 June 2001;

“Licence” means the Public Non-Exclusive Telecommunications Service Licence (Licence No. 551) granted by the Authority to the Licensee;

“Licensee” means Mountain Telecom International Limited;

“PCCW-HKT” means PCCW-HKT Telephone Limited;

“USC” means Universal Service Contribution;

“USC Calculation Statement” means the statement entitled ‘Universal Service Contribution Calculation Methodology’ issued by the Authority on 13 July 2000; and

“USC Level Statements” means the statements issued by the Authority concerning the confirmed and provisional level of USC including the statements issued on

5 February 1999, 13 July 2000, 4 March 2002 and 30 November 2002.

## **Background**

2. In mid 2003, the Authority received information that the Licensee had provided an international calling card service via 3193 9595 and 3406 5678 in breach of its licence obligation. The Authority conducted investigations and confirmed the alleged non-compliance.

3. The Licensee was a subscriber of, and directly connected to, PCCW-HKT in respect of the above-mentioned numbers.

4. Special Condition (SC) 22(1) of the Licence provides that:

*“For the delivery of outgoing and incoming external telecommunications traffic..., the licensee shall pay such interconnection charges and local access charges as may be determined by the [Telecommunications] Authority from time to time under section 36A of the [Telecommunications] Ordinance...”*

5. According to the Determination, the ETS operators shall pay the LAC (and associated transit charge) to the local fixed network operator to which the ETS is directly connected in respect of both outgoing and incoming traffic over the relevant routes. The LAC Arrangement Statement and the LAC Review Statement have set out the LAC level for the relevant periods. In contravention of its obligation under SC22, the Licensee has failed to pay the LAC (during the period when the said numbers were used by the Licensee for providing ETS) which should have been paid in respect of the ETS calls routed through the said numbers.

6. SC24(1) of the Licence provides that:

*“...the licensee shall pay ... its relevant share of the Universal Service Contribution to assist the PCCW-HKT Telephone Limited, or those licensees, to meet their Universal Service Obligations”.*

7. The USC Calculation Statement set out the calculation methodology for USC. The level of USC for the relevant periods are set out in the USC Level Statements and the amount payable is calculated based on the ETS traffic volumes over Category A and Category B routes as described therein. In this connection, the Licensee has failed to produce to the Authority any ETS traffic volumes for calculation of the amount of USC payable under SC24 (during the period when the said numbers were used by the Licensee for providing ETS), and has also failed to discharge its licence obligation under SC24.

## Direction

8. The Authority, in exercise of his power under section 36B(1)(a)(i) of the Telecommunications Ordinance,

*having been satisfied* that the Licensee had not paid any LAC (and associated transit charge) which should have been paid in respect of the ETS calls routed through the numbers specified in paragraph 2 nor any USC payable for its ETS service (during the period when the said numbers were used by the Licensee for providing ETS) in breach of its obligations under SC22(1) and SC24(1) of the Licence;

*having been satisfied* that the Licensee has been afforded reasonable opportunity to make representations to him;

*having considered* all representations made and information furnished by the Licensee;

hereby *directs* the Licensee to:

- (i) pay to PCCW-HKT all such amount of unpaid LAC and transit charge in respect of the numbers 3193 9595 and 3406 5678 within 14 days from the date of this Direction;
- (ii) pay to PCCW-HKT all such amount of unpaid USC in respect of the numbers 3193 9595 and 3406 5678 within 14 days from the date of this Direction; and
- (iii) provide to the Authority evidence to the satisfaction of the Authority of payment of LAC (and associated transit charge) and USC as referred to in above paragraph (i) and (ii) within 14 days from the date of this Direction.

9. This Direction will be made public.

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Telecommunications Authority  
22 September 2003