

**Telecommunications Ordinance
(Chapter 106)**

**Notice
Pursuant to Section 36C
of the Telecommunications Ordinance**

Interpretation

In this Notice, unless the context otherwise requires,

“Authority” means the Telecommunications Authority;

“Licence” means the Public Non-Exclusive Telecommunications Service Licence (Licence No. 515) granted by the Authority to the Licensee;

“Licensee” means Pacific Long Distance Telephone Corp. Limited;

“OFTA” means Office of the Telecommunications Authority; and

“Ordinance” means the Telecommunications Ordinance (Cap. 106).

Background

2. Complaint has been received by OFTA that the Licensee’s promotional materials relating to the Licensee’s international calling card services namely, the Monday Card, Pesos Card, Philippines Direct Card and Super Woman Card are misleading.

3. Having considered the findings of the investigations, the Authority considers that the promotional materials of the Monday Card, Pesos Card, Philippines Direct Card and Super Woman Card are misleading in breach of section 7M of the Ordinance which provides that:

“A licensee shall not engage in conduct which, in the opinion of the Authority, is misleading or deceptive in providing or acquiring telecommunications networks, systems, installations, customer equipment or services including (but not limited to) promoting, marketing or advertising the network, system, installation, customer equipment or service”.

Notification

4. The Authority, in exercise of his power under section 36C of the

Ordinance,

having been satisfied that the Licensee has failed to comply with section 7M of the Ordinance;

having also been satisfied the Licensee has been afforded reasonable opportunity in accordance with section 36C(7) of the Ordinance to make representations;

having considered all representations made before the Authority decides whether or not to impose the financial penalty;

having been satisfied that the Licensee has been afforded reasonable opportunity of complying with the requirements of section 7M of the Ordinance;

hereby exercises his power under section 36C of the Ordinance and *gives notice* to the Licensee requiring it to pay to the Government by 22 December 2003 a financial penalty of HK\$25,000.00.

5. In imposing the financial penalty, the Authority has noted that, subject to section 36C(3B), the maximum penalty that he is empowered under section 36C to impose on the first occasion of imposing such penalty is HK\$200,000.00 and has also considered the following relevant factors:

- (a) the nature and seriousness of the breach;
- (b) the duration of the breach; and
- (c) the co-operation which the Licensee has shown to the Authority,

and *is satisfied* that the financial penalty of HK\$25,000.00 is, in all the circumstances of the case, proportionate and reasonable in relation to the contravention concerned.

6. This Notice will be made public.

(M H Au)
Telecommunications Authority
8 December 2003