

CHARGING ARRANGEMENTS FOR INTERNATIONAL CALL FORWARDING SERVICES

-- Intention to Proceed with a Determination Pursuant to Section 36A(2) of the Telecommunications Ordinance

Statement of the Telecommunications Authority

8 August 2002

Background

1. On 11 June 2002, the TA issued a Statement entitled "Charging Arrangements for International Call Forwarding Services" (TA Statement) setting out his final views on the interconnection charging arrangements for International Call Forwarding Services (ICFS).

2. On 12 July 2002, the TA issued a Notice stating his intention to initiate a determination pursuant to section 36A(2) of the Telecommunications Ordinance to determine the level of charges and other relevant terms and conditions in providing interconnection services necessary for the provision of ICFS.

3. Interested parties were invited to submit representations on whether or not the TA should proceed with the proposed determination. By the deadline of 27 July 2002, the TA received a total of 11 submissions as follows:

- ♦ PCCW-HKT Telephone Limited (PCCW-HKTC)
- ♦ Wharf New T&T Limited (New T&T)
- ♦ New World Telephone Limited (NWT)
- ♦ Hong Kong CSL Limited (HKCSL)
- ♦ Hutchison Telephone Company Limited (Hutchison)
- ♦ SmarTone Mobile Communications Limited (SmarTone)
- ♦ New World Mobility (NWM)
- ♦ SUNDAY Communications Limited (Sunday)
- ♦ Peoples Telephone Company Limited (Peoples)
- ♦ The Society of Hong Kong External Telecommunications Society Providers (ETS Society)

- ♦ 3togo.com Limited (3togo)

The submissions can be downloaded from OFTA's website at <http://www.ofta.gov.hk/>. Having considered the submissions, the TA sets out in this Statement his views on the way forward.

Views Submitted

4. New T&T and ETS Society supported the TA's proposal to proceed with the determination, while all Mobile Network Operators (MNOs) and PCCW-HKTC objected to the proposal. NWT did not object to the TA's proposal and 3togo did not indicate their consent or objection.

5. All MNOs and PCCW-HKTC submitted that the TA has not allowed a reasonable period of time for the concerned parties to conduct commercial negotiations. They pointed out that the TA Statement has been issued for one month only. Some operators have just initiated the commercial negotiations and some have not even started yet. They therefore argued that concerned parties should be allowed a reasonable period of time for commercial negotiations before any regulatory intervention should be initiated by the TA. They were also of the opinion that there was not sufficient "public interest" ground to initiate regulatory intervention at this stage. As regards the scope of the determination, NWM and Peoples considered that the relevant terms and conditions should be clarified while NWT and New T&T considered that other call scenarios should be included.

6. New T&T and ETS Society submitted that the proposed determination is a preferred option because there are a large number of involved parties and the commercial negotiation will require significant resources. New T&T further submitted that if MNOs wish the FTNS operators to perform any billing, collection and settlement functions, the FTNS operators should be entitled to recover their relevant costs. As regards the conveyance of ICFS, PCCW-HKTC and New T&T emphasized that before the terms and conditions are to be concluded, the TA should take regulatory actions to ensure that calls to the ICFS will not be blocked by the MNOs.

The TA's Considerations and Decision

7. Having considered the views of the respondents, the TA considers that while there are good and valid reasons to proceed with a determination at this stage, such as the existence of a large number of parties in the interconnection process making bilateral commercial agreements a very tedious and impractical process and the immediate need to have clear interconnection terms between MNOs and ICFS providers to facilitate the continued satisfactory provision of existing ICF services, the TA also notes that the MNOs have expressed significant interests in going through the commercial negotiation route and it might be feasible to reach such commercial agreements within a relatively short period of time. Balancing the benefits of avoiding regulatory intervention unless it is necessary and the need to minimize the period of uncertainty which, as demonstrated by reports on blockages of calls to ICFS, could have serious impact on competition and consumer interest, the TA has decided to allow two more months for commercial negotiations starting from the issue date of this Statement. The TA will monitor the progress on the commercial negotiations in the industry and will consider re-activating the determination process should there be insufficient progress in the commercial negotiations after this period of time.

8. As regards the scenarios for routing calls from the MNOs to the ICFS providers, the TA considers that both direct and indirect connections between the MNOs and ICFS providers may be discussed by the concerned parties. Parties may choose a configuration based on their business and technical considerations. It is not necessary for the TA to dictate a particular configuration at this stage. Again the TA does not consider it necessary to specify a particular billing or settlement arrangement at this stage to allow more flexibility in the commercial process. However, OFTA will be prepared, upon request by the negotiating parties, to provide guidance or other forms of assistance to facilitate the conclusion of commercial agreement.

9. As mentioned in paragraph 28 of the TA Statement issued on 11 June 2002, the TA reiterates that the call forwarding functions performed by the MNO must be performed efficiently although the level of charges has not yet been settled by commercial negotiations or TA's determination. The TA will consider taking regulatory actions if ICFS calls are intentionally blocked by any MNO.