



The Society of Hong Kong External Telecommunications Service Providers
香港對外通訊服務聯會

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4th December 2002

Hon Sin Chung Kai

Chairman

Legislative Council Panel on

Information Technology and Broadcasting

Legislative Council Building

8 Jackson Road, Central,

Hong Kong

**Re: Panel - Submission by The Society of Hong Kong External
Telecommunications Service Providers**

Dear Mr. Sin,

**Further to our discussions, we are enclosing the attached brief on the current
dilemma facing the External Telecommunications Service Providers,. We
would like this to be tabled at the Panel meeting**

**The External Telecommunications Service Society is a non-profit organization
made up of a majority of ETS license holders.**

Should you have any questions, please do not hesitate to contact me.

Yours Sincerely,

Shafi Aboobaker

Chairman

External Telecommunications Service Society

External Telecommunications Service Society (ETSS)

Submission to LegCo Panel on Information Technology and Broadcasting Discriminatory and Anti-Competitive China International Direct Dialing (IDD) Termination Rates and the OFTA ruling concerning ICFS

1. The External Telecommunications Society (ETSS) is pleased to present its views regarding aggressive anticompetitive action by major Hong Kong Telecom companies that clearly demonstrate a determination to render ETS suppliers uncompetitive to enhance their own profitability while simultaneously increasing IDD prices to Hong Kong consumers.
2. The ETSS, have two crucial issues to bring forward to the LegCo Panel on Information Technology and Broadcasting in the next panel session. The two following issues raise concern for us (the ETSS), the government, and the public:
 - A. OFTA's existing ruling concerning ICFS and its detrimental affects on the industry and consumer interests; and
 - B. Discriminatory "Special Discounts" on China IDD termination rates offered only to Fixed Telecommunications Network Service operators (FTNS) and its detrimental affects on the industry and consumer interests.

ISSUE ONE: ICFS (International Call Forwarding)

Background:

3. ICFS – The ETS operators have been pioneers in this field and due their innovations the Consumer has greatly benefited from the low call forward roaming rates –as compared to the very high roaming rates being charged by the Mobile industry.
4. In June 2002 OFTA issued a ruling, which appears to threaten this very services existence; the effect on the ETS licensee is very drastic. The salient features are:
 - A. The ICFS service provider will have to pay the MNOs an access charge
 - B. This access charge would be based on net cost basis which is left open to each party to commercially negotiate
 - C. These charges will be backdated to 11 June 2002
5. The points to note are:
 - A. Currently the ETS operators were paying HK\$ 0.036 per minute to the FTNS for delivery of these calls to the ETS platforms
 - B. the mobile operators are indicating that their costs are HK\$ 1.00 so they intend to charge in the area of this figure

Implications:

6. The ETS operators are therefore in a quandary. They continue to serve the consumer by offering this service at current competitive market prices. However they are left guessing as to what level the charge actually will be and they have no recourse to recover this from the customer in the future. At the same time they cannot be conservative and add HK\$ 1 to their current price – as they will lose the business. Some of our members entire business model is built on the ICFS and they now stand on unsure ground with unlimited financial exposure threatening their very existence.
7. A further issue is the mobile industry does not have any means to reconcile billing disputes etc due to technical limitations of the scheme. Therefore the FTNS operators need still to be involved for billing and technical issues which again will add to the cost. (Ofta's proposed solutions –dated November 22, 2002)

Possible Remedy:

8. The simple fact is that the mobile industry can recover its costs by charging its customers the Airtime.(similar logic was used by the regulator at time of determining the Local Access Charge at the time of deregulation) Currently the mobile industry is offering call forward services at a fixed monthly charge for unlimited use. OFTA has clarified that it does not want to the MNO to change this and level an airtime charge unilaterally for all call forwarding services.
9. Under the revised access charge mechanism, the ICFS provider has to identify the numbers they use for this service to enable the MNO or FTNS to raise the necessary charge on them. Therefore such numbers having been identified, the MNO can very easily charge their customer (if they so desire) ONLY for the ICFS service and still leave the fixed monthly charge for all other call forwarding.
10. This would
 - A. Remove the need for price negotiations and the uncertainty created in the market and the uncertain financial commitments for the ETS operator
 - B. It would remove the involvement of the FTNS in the billing issues (and therefore the additional charge payable to them –another burden on the consumer)
 - C. It would give the consumer the choice to opt or not to opt for this service
 - D. Leave control of pricing and billing with the parties that offer the service

Summary:

11. It really makes no sense that the ETS operator should add the charge for a service (call forwarding) provided by the MNO to their customers, and pay it

back to the MNO. The decision to charge airtime or fixed fee for this service should be entirely a commercial decision by the MNO and there seems to be no reason as to why the ETS industry should be made responsible to apply this charge on behalf of the MNO.

12. We hope that the LegCo Panel on Information Technology and Broadcasting can put our cause forward at your next legislature meeting and try to help rectify the situation even at this late stage.

ISSUE TWO: CHINA PRICE RISE

Background:

13. Based on a notice issued by the Ministry of Information Industry (MII) of China, China Telecom notified the external carriers in Hong Kong on 26 October 2002 that the termination rate for incoming telephone traffic from all countries and regions into the Mainland of China will be increased to not less than US\$0.17 per minute. On 1 November 2002, China Telecom made effect the increase in its termination rates. We understood this was an external decision. Accordingly, the industry accepted it with that premise and the entire industry raised their rates for calls terminating to China. Subsequently a few days later (4 November 2002), it was announced that a special discount on this rate was being offered to the FTNS operators in Hong Kong.

Special Discount for FTNS Operators ONLY

14. This special discount arrangement (though with unknown parameters) for ONLY FTNS operators created a substantial advantage in favor of the FTNS operators who immediately lowered their rates for calls to China by a substantial amount. However, the ETS industry did not receive such lower rates from the FTNS on their wholesale traffic. The situation therefore was the ETS operators retail rates to China were almost three (3) times those being offered in the retail market by the FTNS.

Implications:

15. *For ETS Operators*

The ETS operators started losing their customers and continue to do so. With over 50% of Hong Kong's outbound traffic destined to China, the discriminatory special discount China IDD termination affects a substantial portion of ETS business. It is demonstrable that in the last week, wholesale prices to mainland China have decreased, thereby narrowing the wholesale to retail price differential. However, at the date of writing, this gap remains inverted leaving ETS suppliers unable to compete effectively with FTNS pricing. Should this discriminatory pricing remain in placed, many ETS operators will be forced to close down their businesses due to their inability to compete in a biased environment.

16. ***For the Industry***

The liberalization of the telecommunications industry brought forward many competitors, made up mostly of ETS operators that have in turn, effectively and drastically lowered market prices for IDD costs to all international destinations. With China being the top destination for all Hong Kong outbound traffic, the industry is ultra-sensitive to costs for delivering China-bound calls.

17. ETSS has approached OFTA to address our concerns and asked that OFTA take immediate steps in rectifying this situation in the interest of the industry as well as that of the consumers of Hong Kong. However, all requests to the regulator to take proactive action in this unusual and unique market event have met with the response that we (OFTA) are looking into this and taking all necessary action. Whatever action that the regulator is undertaking is going to be too late for many of the operators and the longer this BIASED playing field continues the more drastic the effect on the ETS industry

18. The investments in Hong Kong made by the ETS industry have given substantial benefits to the consumer. Now this very industry is threatened with OFTA apparently unable to find the appropriate mechanisms to re-establish for competition.

19. ***For Consumers***

OFTA is watching the erosion of the “level playing field” concept that it was created to safeguard! The unfair, non-transparent, anti-competition, and discriminatory China termination rates will continue to eliminate ETS providers from operating in Hong Kong. This has the potential to recreate the oligopoly that once dominated Hong Kong’s IDD market, recreating overpriced IDD rates that are simply unaffordable for Hong Kong residents and businesses.

20. ***For Hong Kong SAR***

The Hon. Secretary for Commerce, Industry and Technology, said, only earlier this week (2 December 2002 at the opening of ITU TELECOM ASIA 2002) that “to ensure that the industry has the confidence to invest in the future, it is important that governments make it their priority to engender a conducive environment for businesses... [and that] we should provide a stable environment so that the industry never stops taking risks and making investment decisions... Hong Kong is firmly committed to providing a regulatory environment that provides a level-playing field, and operating environment that is both pro-competition and transparent.”

21. Unfortunately, in regards to this very important issue, we have not seen such proactive action from the regulator (OFTA). Our concern is how will the

regulator ensure “THE LEVEL PLAYING FIELD CONCEPT” remains intact not only in this situation but in an on-going sense. Unless OFTA maintains its active role in ensuring free and even competition, not only the ETS operators, but the industry, and consumers will suffer as a result.

Respectfully submitted,

External Telecommunications Service Society
2 December 2002