

CB(1)145/04-05(11)



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Chapter: 106 Title: TELECOMMUNICATIONS Gazette Number: 36 of 2000  
ORDINANCE  
Section: **7K** Heading: **Anti-competitive practices** Version Date: 16/06/2000

(1) A licensee shall not engage in conduct which, in the opinion of the Authority, has the purpose or effect of preventing or substantially restricting competition in a telecommunications market.  
(2) The Authority in considering whether conduct has the purpose or effect prescribed under subsection (1) is to have regard to relevant matters including, but not limited to-

- (a) agreements to fix the price in a telecommunications market;
- (b) an action preventing or restricting the supply of goods or services to competitors;
- (c) agreements between licensees to share any telecommunications market between them on agreed geographic or customer lines;
- (d) the conditions of relevant licences.

(3) Without limiting the general nature of subsection (1), a licensee engages in conduct prescribed under that subsection if he-

- (a) enters into an agreement, arrangement or understanding that has the purpose or effect prescribed by that subsection;
- (b) without the prior written authorization of the Authority, makes the provision of or connection to a telecommunications network, system, installation, customer equipment or service conditional upon the person acquiring it also acquiring or not acquiring a specified telecommunications network, system, installation, customer equipment or service, either from the licensee or from another person;
- (c) gives an undue preference to, or receives an unfair advantage from, an associated person if, in the opinion of the Authority, a competitor could be placed at a significant disadvantage, or competition would be prevented or substantially restricted.

(Added 36 of 2000 s. 4)

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Chapter:	106	Title:	TELECOMMUNICATIONS	Gazette Number:	36 of 2000
			ORDINANCE		
Section:	<b>7L</b>	Heading:	<b>Abuse of position</b>	Version Date:	16/06/2000

(1) A licensee in a dominant position in a telecommunications market shall not abuse its position.  
 (2) A licensee is in a dominant position when, in the opinion of the Authority, it is able to act without significant competitive restraint from its competitors and customers.  
 (3) In considering whether a licensee is dominant, the Authority shall take into account relevant matters including, but not limited to-

- (a) the market share of the licensee;
- (b) the licensee's power to make pricing and other decisions;
- (c) any barriers to entry to competitors into the relevant telecommunications market;
- (d) the degree of product differentiation and sales promotion;
- (e) such other relevant matters as may be stipulated in guidelines referred to in section 6D(4)(a).

(4) A licensee who is in a dominant position is deemed to have abused its position if, in the opinion of the Authority, the licensee has engaged in conduct which has the purpose or effect of preventing or substantially restricting competition in a telecommunications market.

(5) The Authority may consider conduct to fall within the conduct referred to in subsection (4) as including, but not limited to-

- (a) predatory pricing;
- (b) price discrimination, except to the extent that the discrimination only makes reasonable allowance for differences in the costs or likely costs of supplying telecommunications networks, systems, installations, customer equipment or services;
- (c) making conclusion of contracts subject to acceptance by other parties of terms or conditions which are harsh or unrelated to the subject of the contract;
- (d) arrangements (other than arrangements the subject of an authorization referred to in section 7K(3)(b)) requiring a person seeking the provision of or connection to a telecommunications network, system, installation, customer equipment or service conditional upon the person acquiring it also acquiring or not acquiring a specified telecommunications network, system, installation, customer equipment or service either from the licensee providing the service or from another person;
- (e) discrimination in supply of services to competitors.

(Added 36 of 2000 s. 4)

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Chapter: 106 Title: TELECOMMUNICATIONS Gazette Number: 36 of 2000  
ORDINANCE  
Section: 7M Heading: **Misleading or deceptive conduct** Version Date: 16/06/2000

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.

(Added 36 of 2000 s. 4)

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Chapter: 106 Title: TELECOMMUNICATIONS Gazette Number: 36 of 2000  
ORDINANCE  
Section: 7N Heading: **Non-discrimination** Version Date: 16/06/2000

(1) Subject to subsection (4) and without prejudice to the operation of section 7K, a licensee who is in a dominant position in a telecommunications market shall not discriminate between persons who acquire the services in the market on charges or the conditions of supply.

(2) Subject to subsection (4), an exclusive licensee or a carrier licensee shall not discriminate between a person who lawfully acquires and uses telecommunications networks, systems, installations, customer equipment or services to provide services to the public and any other person who is not providing a service to the public.

(3) Discrimination includes discrimination relating to-

- (a) charges, except to the extent that the discrimination only makes reasonable allowance for difference in the cost or likely cost of supplying the service;
- (b) performance characteristics; and
- (c) other terms or conditions of supply.

(4) The prohibitions in subsections (1) and (2) apply only where in the opinion of the Authority such discrimination has the purpose or effect of preventing or substantially restricting competition in a telecommunications market.

(Added 36 of 2000 s. 4)

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