

## **Press Release**

### **OFTA Solicits Public Views on the Regulation of Card Issuers for Prepaid Telecommunications Services**

Card issuers for prepaid telecommunications services (such as prepaid calling cards for International Direct Dialling (IDD) service and prepaid SIM cards for mobile service) are proposed to be regulated by a class licence according to a consultation paper issued today (15 October 2004) by the Office of the Telecommunications Authority (OFTA).

Under the proposal, card issuers who offer prepaid telecommunications services without maintaining or establishing any means of telecommunications are required to register with OFTA under the class licence regime. Class licence is the form of licence that reduces administrative burden to licensees by not requiring individual licence applications. Most often, class licensees are only required to register with OFTA before offering the regulated telecommunications services.

"In view of the proliferation of prepaid telecommunications services the mode of business operation of which involves collection of service charges before delivery of the services, the TA considers that the card issuers should be regulated to protect consumer interests," a spokesperson of OFTA said.

Card issuers for prepaid telecommunications services typically conduct their business by issuing prepaid calling cards (fixed line services) or SIM cards (mobile services) to end customers. They purchase bulks of call minutes from the network or service operators on a wholesale basis, and resell the call minutes in retail by issuing their own prepaid calling cards or SIM cards. A shop that merely sells telephone cards or SIM cards as general commodities, but is not involved in similar conduct will not be regarded as card issuers of prepaid telecommunications services and regulated according to the proposal.

The TA proposes to regulate the card issuers by class licence. A company incorporated or registered under the Companies Ordinance (Cap 32) and registered with the TA under the proposed class licence will become a class licensee. The class licensee will be under a licence obligation to provide information such as its name, its registration number and tariffs to the consumers.

"By requiring the card issuers to register, we will be able to trace them and monitor their business operations. The information that the card issuers will be required to provide to the consumers will facilitate the consumers to make informed purchasing decisions," the spokesperson continued.

The consultation period will last for two months and end on 14 December 2004. The TA invites interested parties to submit their views on his proposals. The consultation paper can be downloaded from the website of OFTA ([www.ofta.gov.hk](http://www.ofta.gov.hk)).

## **Background**

Section 8(1)(aa) of the Telecommunications Ordinance (Cap 106) provides that save under and in accordance with a licence granted by the TA, no person shall in Hong Kong "offer in the course of business a telecommunications service". Section 8(1)(aa) is currently not yet in operation. The Secretary for Industry, Commerce and Technology is vested with the power to commence the section by notice in the Gazette. The TA proposes in the consultation paper that section 8(1)(aa) be partially commenced to subject the card issuers for prepaid telecommunications services to regulation.

In the consultation paper, the TA also proposes to partially commence section 8(1)(aa) to subject resellers who resell the services operated by carriers or dominant operators associated with them to licensing requirement.

There is an emerging trend that an operator may spin off its operation by setting up an associated corporation to run various aspects of its services which, at present, are not subject to licensing requirement. They include promoting and offering the services to end customers, billing, marketing and customer support. The associated corporation can in practice be reselling the whole range of services of the associated operator.

Given the generally greater potential of carriers and dominant operators to serve a wider spectrum of the public, they are imposed with more extensive licensing and statutory obligation. The TA considers that the associated corporations of carriers or dominant operators which resell their services should be regulated to ensure that operations which are spinned off by these carriers or dominant operators do not fall outside the regulatory control imposed by relevant licence conditions and statutory provisions.

Since the activities and operation of the associated corporations are closely related to the associated carriers or dominant operators, the TA considers that it is more appropriate to regulate the associated corporations by individual licences, so that appropriate licence conditions can be imposed. The details of the TA's proposal are set out in the consultation paper.

Office of the Telecommunications Authority

15 October 2004