

GUIDANCE NOTE ON THE MAINLAND AND HONG KONG CLOSER ECONOMIC PARTNERSHIP ARRANGEMENT TO ALLOW HONG KONG SERVICE SUPPLIERS TO DISTRIBUTE FIXED/MOBILE TELEPHONE SERVICE CARDS IN THE MAINLAND

Introduction

The Agreement Concerning Amendment to the Mainland and Hong Kong Closer Economic Partnership Arrangement (“CEPA”) Agreement on Trade in Services (“Amended Agreement”)¹ was signed on 21 November 2019. With effect from 1 June 2020, a Hong Kong Service Supplier (“HKSS”) is allowed to distribute in the Mainland fixed and/or mobile telephone service cards (the “Calling Cards”) which can only be used in Hong Kong (excluding mobile satellite phone service cards).

2. This guidance note provides information about the arrangement for the distribution of the Calling Cards in the Mainland and guidelines on the requirements that HKSS and its agent(s), where applicable, shall observe. For the avoidance of doubt, nothing herein shall prejudice the operation of the relevant laws and regulations of the Mainland and Hong Kong and the exercise of any power by the relevant Mainland and Hong Kong regulatory, enforcement and judicial bodies.

Scope of Service

3. Under the Amended Agreement, HKSS and its agent(s), where applicable, may distribute the Calling Cards in the Mainland. The Calling Cards, which include the telephone cards for the provision of fixed and/or mobile services, exclude mobile satellite phone service and are for use in Hong Kong only.

Procedures to Qualify for Distribution of the Calling Cards

4. To qualify for the distribution of the Calling Cards in the Mainland, the

¹ The Amended Agreement is available for reference at the Trade and Industry Department’s CEPA website at http://www.tid.gov.hk/english/cepa/legaltext/cepa_legaltext.html. The liberalisation measures for telecommunications services under CEPA are summarized at http://www.tid.gov.hk/english/cepa/tradeservices/tel_liberalization.html.

following four steps shall be completed:-

- (i) HKSS should hold a valid Carrier Licence or Services-based Operator Licence of Class 3 Services for Mobile Virtual Network Operator Services issued by the Communications Authority (“CA”);
- (ii) HKSS should have a HKSS Certificate issued by the Trade and Industry Department of Hong Kong (“TID”);
- (iii) Upon the granting of a HKSS Certificate in (ii) above, HKSS should sign and submit to the Office of the Communications Authority (“OFCA”) an undertaking for and on behalf of itself and its agent(s), where applicable; and
- (iv) HKSS for and on behalf of itself and its agent(s), where applicable, should notify OFCA before distributing the Calling Cards in the Mainland.

Step 1: Relevant Telecommunications Licence

5. The applicable licences include the Unified Carrier Licence and the Services-based Operator Licence of Class 3 Services for Mobile Virtual Network Operator Services. A summary of the licences and the corresponding types of the Calling Cards which may be allowed to be distributed in the Mainland is given in **Annex 1**.

Step 2: Certificate of HKSS

6. TID is the single contact point to handle applications for HKSS Certificate. For the application procedures, please refer to the Notice to Service Suppliers issued by the TID. The website of TID is at https://www.tid.gov.hk/english/aboutus/tradecircular/ntss/ss_maincontent.html.

Step 3: Undertaking in relation to Compliance with Relevant Laws, Regulations and Guidelines

7. HKSS shall sign and submit to OFCA an undertaking for itself and on behalf of its agent(s), where applicable, guaranteeing compliance with all relevant laws and regulations of the Mainland and Hong Kong, as well as the guidelines which may be issued by relevant Mainland authorities or OFCA from time to time. The form of the undertaking is given in **Annex 2** containing the requirements with which

HKSS and its agent(s), where applicable, must comply. HKSS shall also submit to OFCA a consumer protection scheme².

8. In brief, OFCA requires HKSS and its agent(s), where applicable, to undertake the following:-

(a) Compliance with Relevant Laws, Regulations and Guidelines

Relevant Mainland authorities or OFCA may issue guidelines from time to time specifying the requirements with which HKSS and its agent(s), where applicable, shall comply and the circumstances under which HKSS and/or its agent(s), where applicable, may be disallowed from distributing the Calling Cards in the Mainland. HKSS and its agent(s), where applicable, shall comply with these guidelines as well as all relevant laws and regulations of the Mainland and Hong Kong. In the event of contravention or non-compliance, the relevant Mainland and/or Hong Kong authorities may under their respective jurisdiction take appropriate enforcement action against HKSS and/or its agent(s), including but not limited to the revocation or non-renewal of the HKSS Certificate such that their distribution of the Calling Cards in the Mainland will be disallowed.

(b) Agents

Pursuant to the relevant laws and regulations of the Mainland, HKSS shall be fully responsible for the conduct of its agent(s) in distributing the Calling Cards in the Mainland on behalf of HKSS.

HKSS has the responsibility to supervise the sales activities of its agent(s) and to ensure that its agent(s) will comply with all relevant laws and regulations of the Mainland and Hong Kong, the guidelines which may be issued by relevant Mainland authorities or OFCA from time to time, as well as the requirements stipulated in the undertaking.

HKSS may be disallowed from distributing the Calling Cards in the

² HKSS should provide to the satisfaction of OFCA the consumer protection scheme which includes but not limited to a free-of-charge method of the Calling Card authentication in the Mainland. For the avoidance of doubt, while it is not mandatory to provide an authentication method in Hong Kong, it is recommended that the sales outlet and/or customer services hotline of HKSS will carry out the authentication/activation process in Hong Kong upon request from its customers.

Mainland if its agent has, with the consent or connivance of HKSS, contravened the relevant laws and regulations of the Mainland and Hong Kong, the guidelines issued by relevant Mainland authorities or OFCA, or requirements stipulated in the undertaking signed by HKSS.

(c) Information to be printed on the Calling Cards

The following information must be clearly printed on the Calling Cards:-

- (i) the Calling Cards can only be used in Hong Kong;
- (ii) the name of the card issuer (i.e. HKSS who provides the telephone card service);
- (iii) customer service hotlines and complaint hotlines both in the Mainland and in Hong Kong;
- (iv) telephone number(s) for access to the service, if applicable;
- (v) the currency and initial card value and, where applicable, the method to replenish the card value;
- (vi) the method to authenticate the Calling Cards³; and
- (vii) the method to verify that HKSS is qualified to distribute the Calling Cards.

(d) Provision of Information to Authorities

Before distributing the Calling Cards in the Mainland, prior notification must be given to OFCA. The OFCA notification requirements are specified in Step 4 of this guidance note. If any change occurs which affects the accuracy of the submitted information, notification shall be submitted to OFCA within 10 business days after the change has occurred.

Relevant Mainland authorities and/or OFCA may require HKSS and/or its agent(s), where applicable, to provide any information as may be reasonably necessary for implementation of CEPA (including without limitation for ensuring compliance with all relevant laws, regulations or guidelines by HKSS and its agent(s), where applicable, handling consumer complaints and

³ It should include a free-of-charge method of the Calling Card authentication in the Mainland. For the avoidance of doubt, while it is not mandatory to provide an authentication method in Hong Kong, it is recommended that the sales outlet and/or customer services hotline of HKSS will carry out the authentication/activation process in Hong Kong upon request from its customers.

submission of statistics). HKSS and/or its agent(s), where applicable, shall supply the required information in such manner and at such time as may be specified by relevant Mainland authorities and/or OFCA. All information submitted to relevant Mainland authorities and/or OFCA must be complete and accurate. Relevant Mainland authorities, TID and OFCA may exchange information (including consumer complaints) provided by HKSS and/or its agent(s), where applicable, where they consider appropriate.

(e) Consumer Protection and Complaint Handling

HKSS and its agent(s), where applicable, shall provide sufficient training to their employees and ensure that their employees will be able to provide satisfactory customer services and handle consumer complaints in a proper and efficient manner, including but not limited to providing consumer redress and refund, where appropriate, to the satisfaction of OFCA or relevant Mainland authorities.

Relevant Mainland authorities may take necessary actions, where applicable to disallow HKSS and/or its agent(s), where applicable, from distributing the Calling Cards in the Mainland if HKSS and/or its agent(s) fail to handle consumer complaints in a proper and efficient manner; or the conduct of HKSS and/or its agent(s), where applicable, is having, has had or could have a serious adverse effect on the interests of consumers.

Step 4: Notification

9. Before distributing the Calling Cards, HKSS for and on behalf of itself and its agent(s), where applicable, shall submit to OFCA an original of a completed notification form (in **Annex 3**) containing:-

- (i) its company name and trading name (if different from its company name);
- (ii) the type of the Calling Cards to be distributed in the Mainland;
- (iii) the method it proposes to distribute the Calling Cards;
- (iv) the consumer protection scheme to be implemented by itself and/or its agents(s). It should include the method of the Calling Card authentication which has been shown to the satisfaction of OFCA;
- (v) the commencement date of the proposed distribution; and

(vi) the name(s) and the address(es) of its agent(s), where applicable.

10. The information must be complete and accurate. The completed notification form must be submitted to OFCA at least 15 business days before the distribution of the Calling Cards in the Mainland. If any change occurs which affects the accuracy of the submitted information, HKSS must notify OFCA within 10 business days after the change has occurred (unless otherwise extended by OFCA).

Publication of HKSS and Agents Qualified to Distribute the Calling Cards

11. OFCA may publish and update a list of HKSS and agents, where applicable, who are qualified to distribute the Calling Cards in the Mainland; and another list of HKSS and agents, where applicable, who have been disallowed to distribute the Calling Cards in the Mainland.

Enquiries

12. Further information regarding this guidance note may be addressed to:

Office of the Communications Authority
29/F, Wu Chung House, 213 Queen's Road East
Wanchai, Hong Kong
(Attn.: Senior Regulatory Affairs Manager (R22))
Fax : +852 2834 1501
Tel : +852 2961 6764
E-mail : CEPA-CallingCard@ofca.gov.hk

Office of the Communications Authority

1 June 2020

**Summary of the relevant licences and
their corresponding Calling Cards which may be allowed
to be distributed in the Mainland**

Type of Licence	Authorised Service under the Licence		Examples of the Calling Cards
	Local Service	External Service	
Unified Carrier Licence (for fixed services)	✓		Public Payphone Card
Unified Carrier Licence (for fixed services)		✓	IDD Calling Card
Unified Carrier Licence (for mobile services)	✓		Mobile Prepaid SIM Card
Services-based Operator Licence of Class 3 Services for Mobile Virtual Network Operator Services	✓		Mobile Prepaid SIM Card

Undertaking

To : The Office of the Communications Authority (“OFCA”)
29th Floor, Wu Chung House,
213 Queen’s Road East
Wanchai, Hong Kong

From : [Name and address of Hong Kong service supplier]

Date : [Date]

Dear Sirs,

We, _____ (**name of Hong Kong service supplier**) and our agent(s)⁴, propose to distribute⁵ in the Mainland fixed and/or mobile telephone service cards (the “Calling Cards”) which can only be used in Hong Kong (excluding mobile satellite phone service cards) under the liberalisation measures agreed between the Mainland and Hong Kong in the Agreement Concerning Amendment to the Mainland and Hong Kong Closer Economic Partnership Arrangement (“CEPA”) Agreement on Trade in Services signed on 21 November 2019.

We hereby undertake to OFCA that we shall comply with the following requirements:

General – Compliance with Relevant Laws, Regulations and Guidelines

- 1 We will, in distributing the Calling Cards in the Mainland, observe and comply with all relevant laws and regulations, and observe all the relevant guidelines or requirements by the relevant authorities of the Mainland and Hong Kong.

⁴ In this Undertaking, “agents” refer to agents who are directly appointed by Hong Kong service supplier.

⁵ Distribution includes wholesale and retail.

2 We agree and accept that, in the event of any contravention or non-compliance by us of the relevant laws and regulations of the Mainland and Hong Kong:

(a) the relevant Mainland and/or Hong Kong authorities may under their respective jurisdiction take enforcement action against us in accordance with the relevant laws and regulations⁶, including but not limited to the revocation or non-renewal of the Hong Kong Service Supplier (“HKSS”) Certificate such that our distribution of the Calling Cards in the Mainland will be disallowed;

(b) without prejudice to subparagraph (a) and paragraph 17 below, the relevant Mainland authorities may (and OFCA may recommend the relevant Mainland authorities to) disallow us from distributing the Calling Cards in the Mainland.

3 We agree and accept that relevant Mainland authorities and OFCA may, jointly or separately, issue from time to time any guidelines as they consider appropriate, specifying the requirements (including the relevant laws and regulations of the Mainland and Hong Kong) with which HKSS and its agent(s) shall comply and the circumstances under which HKSS and/or its agent(s) may be disallowed from distributing the Calling Cards in the Mainland.

4 We will, in distributing the Calling Cards in the Mainland, comply with the guidelines mentioned in paragraph 3.

5 We agree and accept that OFCA may regularly publish a list of HKSS and agents who are qualified to distribute the Calling Cards in the Mainland

⁶ This shall not prejudice the operation of the relevant laws and regulations of the Mainland and Hong Kong and the exercise of any power by the relevant Mainland and Hong Kong regulatory, enforcement and judicial bodies.

and a list of HKSS and agents who have been disallowed to distribute the Calling Cards in the Mainland.

Our Agent(s)

- 6 We agree and accept that, pursuant to the relevant laws and regulations of the Mainland, we will be fully responsible for the conduct of our agent(s) in distributing the Calling Cards in the Mainland on behalf of us.
- 7 We agree and accept that, we have the responsibility to supervise the sales activities of our agent(s) and to ensure that our agent(s) will comply with all relevant laws and regulations of the Mainland and Hong Kong, the guidelines which may be issued by relevant Mainland authorities or OFCA from time to time as well as the requirements stipulated in this Undertaking.
- 8 We agree and accept that, we may be disallowed from distributing the Calling Cards in the Mainland if our agent(s) has, with the consent or connivance of us, contravened the relevant laws and regulations of the Mainland and Hong Kong, the guidelines issued by relevant Mainland authorities or OFCA, or requirements stipulated in this Undertaking.

Information to be Printed on the Calling Cards

- 9 We agree to arrange and ensure the following information to be clearly printed on our Calling Cards to be distributed in the Mainland:
- (a) the Calling Cards can only be used in Hong Kong;
 - (b) the name of the card issuer;
 - (c) customer service hotlines and complaint hotlines both in the Mainland and in Hong Kong;
 - (d) telephone number(s) for access to the service, if applicable;
 - (e) the currency and initial card value, and, where applicable, the

- method to replenish the card value;
- (f) the method to authenticate the Calling Cards⁷; and
- (g) the method to verify that we are qualified to distribute the Calling Cards.

Provision of Information to Authorities

- 10 We will notify OFCA at least 15 business days before we distribute Calling Cards in the Mainland. The information submitted to OFCA shall include:
- (a) the company name and the trading name (if different from the company name);
 - (b) the type of the Calling Cards to be distributed in the Mainland;
 - (c) the method we propose to distribute the Calling Cards;
 - (d) the consumer protection scheme we propose to implement. It includes the method of the Calling Card authentication which has been shown to the satisfaction of OFCA;
 - (e) the commencement date of the proposed distribution; and
 - (f) the name(s) and the address(es) of all our agent(s), where applicable.
- 11 We will notify OFCA within 10 business days (unless otherwise extended by OFCA) if any change occurs which affects the accuracy of the information submitted pursuant to paragraph 10 above.
- 12 We agree and accept that relevant Mainland authorities and/or OFCA may require us and/or our agent(s), where applicable, to provide any information as may be reasonably necessary for implementation of CEPA (including without limitation for ensuring compliance with all relevant laws and regulations, handling consumer complaints and submission of

⁷ It should include a free-of-charge method of the Calling Card authentication in the Mainland. For the avoidance of doubt, while it is not mandatory to provide an authentication method in Hong Kong, it is recommended that the sales outlet and/or the customer services hotline of HKSS will carry out the authentication/activation process in Hong Kong upon request from its customers.

statistics) and ensure that the information provided is complete and accurate.

13 We will supply the information mentioned in paragraph 12 above in such manner and at such time as may be specified by relevant Mainland authorities and/or OFCA.

14 We agree and accept that the relevant Mainland authorities, the Trade and Industry Department (“TID”) and OFCA may exchange information provided by us where they consider appropriate.

Consumer Protection and Complaint Handling

15 We agree to implement the consumer protection scheme as submitted to OFCA, including to strictly comply with the method of the Calling Card authentication which has been shown to the satisfaction of OFCA.

16 We will provide sufficient training to our employees and agents, where applicable, and ensure that they will be able to provide satisfactory customer services and handle all consumer complaints (including those referred by OFCA or other relevant Mainland authorities) in a proper and efficient manner, including but not limited to providing consumer redress and refund, where appropriate, to the satisfaction of OFCA or relevant Mainland authorities.

17 We agree and accept that, relevant Mainland authorities may (and OFCA may recommend the relevant Mainland authorities to) disallow HKSS and/or its agent(s) from distributing the Calling Cards in the Mainland if we and/or our agent(s), in the opinion of relevant Mainland authorities (or OFCA), (a) fail to handle consumer complaints in a proper and efficient manner, or (b) our conduct and/or that of our agent(s) is having, has had or could have a serious adverse effect on the interests of consumers.

18 We agree and accept that, relevant Mainland authorities, TID and OFCA may receive, examine, exchange information relating to and refer to each other, consumer complaints against us and/or our agent(s) in respect of their distribution of the Calling Cards in the Mainland.

19 We agree and undertake to terminate the agency agreement or arrangement with the agent(s) if our agent(s) refuses to handle complaints from consumers; or its (their) conduct is having, has had or could have a serious adverse effect on the interests of consumers.

Yours faithfully,

Authorised Signature
(Name and Position)
On behalf of
[To insert name of HKSS]

Authorised Signature
(Name and Position)
[To insert name of HKSS]
On behalf of
[To insert name of agent]

Company chop affixed:

Distribution of Fixed/Mobile Telephone Service Cards
in the Mainland – Notification Form

To : The Office of the Communications Authority
29th Floor, Wu Chung House,
213 Queen’s Road East
Wanchai, Hong Kong
(Attention: Regulatory Affairs Officer (R22)3)

Fax: (852) 2834 1501

Date : [Date]

(1) Company name and trading name of Hong Kong service supplier (“HKSS”) (if different from company name)	
(2) The type of the Calling Cards to be distributed in the Mainland	
(3) The method HKSS proposes to distribute the Calling Cards in the Mainland	
(4) The consumer protection scheme HKSS will implement by itself and /or its agent(s) (including the method of the Calling Card authentication which has been shown to the satisfaction of OFCA)	

(5) Commencement date of the proposed distribution of the Calling Cards	
(6) Name(s) and address(es) of the agent(s) of HKSS	

Important Note:-

1. Please refer to the “Guidance Note on the Mainland and Hong Kong Closer Economic Partnership Arrangement to Allow Hong Kong Service Suppliers to Distribute Fixed/Mobile Telephone Service Cards in the Mainland” issued by OFCA for details.

Name of Responsible Person	
Position in the Company	
Telephone Number	
Fax Number	
E-mail Address	
Date	
Authorised Signature and Company Chop	