

## **Order of the Regulator No. 2013/T04**

### **CUSTOMER COMPLAINT AGAINST BLUESKY SAMOATEL'S BILLING PRACTICES**

The Office of the Regulator ('OOTR') received a complaint from a BlueSky fixed-line subscriber with respect to charges included in their telephone bill and the manner in which BlueSky was billing its customers for services rendered.

In the interests of being transparent, the Regulator forwarded the complaint to BlueSky for comment. As a result of the response received, the Regulator concluded that an investigation would be carried out in relation to the matter.

During the process of its investigation, the Office of the Regulator ('OOTR') consulted with the relevant parties, allowing each party to make submissions on the matter. Upon the completion of its investigation, the Regulator was satisfied that SamoaTel (now Bluesky Samoa Ltd);

- (i) Has in fact breached the conditions contained in Order No. 2008/01 with regard to the manner in which it billed the complainant for each minute for a fixed-to-mobile call;
- (ii) Bluesky has compensated the complainant in respect of the breach of Order 2008/01.

The Regulator is also satisfied that the breach contained in paragraph (i) above has impacted on other Bluesky fixed-line subscribers. In making this Order, the Regulator is mindful of various delays that have occurred since 2008 with the compliance, implementation and enforcement of Order No. 2008/01.

Pursuant to section 77(d) of the Telecommunications Act 2005 as amended, the Regulator hereby makes the following orders –



**Order instructing BlueSky to carry out an audit of its billing system**

1. The Regulator instructs BlueSky to carry out an audit of its billing system; such audit to be completed within ninety (90) days and a report detailing the result of such audit ('Report') is to be submitted to the Office of the Regulator seven (7) days from the date the audit is completed.
2. The Regulator instructs that the Report should identify the following –
  - (a) total number of BlueSky fixed line subscribers existing for the period 1<sup>st</sup> April 2011 up until 31<sup>st</sup> January 2012;
  - (b) statements detailing total amount of revenue received from fixed-line customers affected by BlueSky's billing practice from 1<sup>st</sup> April 2011 up until 31<sup>st</sup> January 2012;
  - (c) statement indicating the variance /difference between the revenue received by BlueSky during the period from 1<sup>st</sup> April 2011 to 31<sup>st</sup> January 2012 and the amount it **should** have collected if the charges were implemented in accordance with Order No. 2008/01;
  - (d) BlueSky's proposed plan for addressing the impact to affected customers for the period from 1<sup>st</sup> April 2011 to 31<sup>st</sup> January 2012 as a result of not applying rates in Order 2008/01. This proposed plan is to be approved by the Regulator.

**Order instructing BlueSky to submit request for approval of retail tariffs for all Bluesky fixed line services**

- (1) Pursuant to the requirements of section 40(1) of the Act, Bluesky is hereby instructed to submit to the Regulator within 7 days from the effective date of this Order revised retail tariffs for all Bluesky's fixed line services. Retail tariffs for all Bluesky's fixed to mobile calls must be lower than the approved tariffs specified in Order No. 2008/01.
2. Bluesky's revised retail tariffs must take into account the interim interconnection rates specified in Order No. 2013/T01. They further must not contain excessive costs and must be based on the cost of efficient service provision as required by s.40(3) of the Act.



Failure to action the Regulator's instructions set forth above will result in penalties being imposed on Bluesky in accordance with section 75 of the Act.

This Order 2013/T04 revokes Order 2013/T02 and Order 2013/T03 made in respect of this matter.

Effective date of this Order: 5<sup>th</sup> June 2013

**Dated this 29<sup>th</sup> May 2013**



Donnie De Freitas

**Regulator**