

IN THE COPYRIGHT TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
APPLICATION NO. 2 OF 2010

Between:

NEWAY MUSIC LIMITED

Originator

and

HONG KONG KARAOKE
LICENSING ALLIANCE LIMITED

Respondent

Before : Mr. Huen Wong BBS, JP (Chairman)
Ms. Grace Chu (Member)
Mr. Kenneth Wong (Member)

Dates of Hearing: 20 August 2020

Date of Decision: 10 November 2020

DECISION ON THE AMOUNT OF LICENCE FEES

A. Background

1. This Decision determines the amount of the licence fees payable by the Originator to the Respondent pursuant to the Decision of the reference in these proceedings dated 23 December 2019 (the “**Decision**”). Unless otherwise specified, the abbreviations of names, terms and phrases in this Decision follow

those adopted in the Decision, and the paragraph numbers stated below refer to the paragraph numbers of the Decision.

2. In paragraph 239, the Tribunal directed the parties to, basing on the determination set out in paragraph 238, provide to the Tribunal a set of agreed calculation and amounts payable within 28 days from the date of the Decision. The Tribunal also gave the parties liberty to apply for further directions in the event that the parties could not agree on the amount of licence fees payable in accordance with the Tribunal's determination.
3. The parties could not agree. The Tribunal therefore directed the parties to file written submissions and affirmations in support, if any, and further heard the parties' counsel's oral submissions.

B. How the licence fees should be calculated

4. It must be emphasised that, in the Decision, the Tribunal has decided how the licence fees should be calculated.
5. In paragraphs 229 and 239, the licence fees to be ascertained are in relation to HKKLA's back catalogue K MVs for the period from 1 July 2010 (i.e. the date of commencement of the HKKLA K-Server Licensing Scheme (or the "Scheme") to 30 June 2015 (i.e. the date of termination of the HKKLA K-Server Licensing Scheme), i.e. 5 years.
6. In paragraph 238, the Tribunal found and confirmed that the structure and the rates of the back-catalogue repertoire of HKKLA K-Server Licensing Scheme are reasonable, and it did not consider necessary to make any variation to the scheme.

7. Paragraph 96 reproduced HKKLA K-Sever Licensing Scheme's tariff for back catalogue K MVs.
8. Paragraph 97 explained that the tariff was calculated by reference to number of rooms with karaoke facilities.
9. Paragraph 100 explained that HKKLA's K-Server licence under this scheme was a blanket licence. The level of licence fee did not depend on the frequency of usage of the K MVs.
10. Therefore, the task is to multiply the number of rooms with karaoke facilities of the outlets of Neway Group by the applicable rate in the tariff table (i.e. fee per room per annum) set out in paragraph 96. Repeating the same exercise for the said 5 years in question should then arrive at the total sum which the Tribunal should order the Originator to pay.

C. The Respondent's calculation

11. The Respondent's calculation and the basis of calculation are set out in an Appendix 5 to its written submissions dated 27 May 2020. It is convenient for this appendix to be appended to this Decision and marked as "A".
12. The total licence fees reached by the Respondent's calculation are **HK\$90,350,640.**

D. The Originator's calculation

13. The Originator's calculation reached a negative figure. In its written submissions to the Tribunal on 27 May 2020, the respective licence fees for each of the 5-year period from 2010 to 2015 are as follows:

(1)	2010/2011	-HK\$10,664,640
(2)	2011/2012	-HK\$10,522,115
(3)	2012/2013	-HK\$10,203,838
(4)	2013/2014	-HK\$10,497,235
(5)	2014/2015	-HK\$ 6,422,939
	Total :	-HK\$48,310,767

It would be fair to also append the Originator's calculation submitted on 27 May 2020 to this Decision and marked as "B".

14. The Originator's calculation did not follow at all the HKKLA K-Sever Licensing Scheme's tariff table set out in paragraph 97. What the Originator did was that it deconstructed the tariff of HK\$28,500 per room set for the "1 to 10" rooms for both Old KMVs and New KMVs, applying various percentages to discount the figure and making various deductions. According to the Originator's counsel, in summary, the calculation was based on two again newly raised allegations:

(1) No licence scheme had ever commenced, based on the fact that the Respondent did not provide any old KMVs for the first 4 years (2010-2014) and only provided an insufficient number of old KMVs (62,271) for the last year (2014-2015).

(2) The Respondent's calculation is also wrong for the reasons that: (a) the Respondent provided 2,606 concert videos as old KMVs when concert videos should have been excluded from old KMVs, and (b) the Respondent's

licensing scheme with the “waiver” system was clearly a two-tiered licensing scheme and not a linear one as alleged by the Respondent.

After this “reverse engineering” exercise, having applied various discount percentages and made various deductions, the calculation reaches a negative figure. When the Tribunal asked the Originator’s counsel what this meant, he said the Originator was not asking the Respondent to pay, but the negative figure shows that the Originator should not be held liable to pay any licence fees.

E. Analysis

15. In our view, the Originator’s calculation and allegations are contrary to the Decision, incredible and clearly untenable, for the reasons we explained below.

16. After the full substantive hearing, having heard all the evidence adduced by both parties, the Tribunal has held in the Decision that the structure and the rates of the back-catalogue repertoire of HKKLA K-Server Licensing Scheme are reasonable. It is not open to the Originator to revisit the issue by devising another formula or deriving a figure from a re-examination of the composition of the tariff of HK\$28,500 per room set for the “1 to 10” rooms for both Old K MVs and New K MVs, which was not canvassed at the hearing.

17. It is not open to the Originator to assert that the HKKLA K-Server Licensing Scheme had not ever commenced. The Originator did not make this allegation in these proceedings. It did not even deny this fact in all of the evidence it adduced and submissions it made during the proceedings. In this reference, it was the Originator who applied for determination of the licence fees payable under the Scheme for the aforesaid 5-year period from 1 July 2010 to 30 June 2015. Further, in its written closing submissions, the Originator repeatedly emphasized to the Tribunal that the only remaining issue in, or the focus of, these

proceedings is the reasonableness of the licence fee charged under the Scheme in respect of back catalogue K MVs¹.

18. It is incontrovertible that during the 5 years in question, Neway has used old K MVs, or back catalogue K MVs, the copyright of which was administered by HKKLA under the Scheme. At the substantive hearing, the Originator adduced and relied on the hit rate data from the k-servers of Neway's karaoke outlets to show the popularity of HKKLA's Old K MVs and New K MVs sung at Neway's karaoke outlets by Neway's customers in those years in question².

19. The Originator's counsel submitted that while the Originator had used the Respondent's old K MVs, the Respondent did not provide any old K MVs for the first 4 years and only provided an insufficient number of old K MVs (62,271) for the last year. Therefore, so he asserted, the "songs" were not used under the licence of the scheme. We disagree. It is plain that the Respondent's K MVs, or "songs" as termed by the Originator's counsel, is intangible. As mentioned above, the Originator had during the relevant period been using the Respondent's K MVs. We do not agree to the Originator's submission that the licence between the Originator and the Respondent under the Scheme could only take effect after the Respondent had physically delivered the old K MVs to the Originator. We do not see any basis for such a condition to be imposed. The Originator was using the Respondent's K MVs in its karaoke outlets and applied to the Tribunal for determination of the reasonableness of the Respondent's licence fees under the Scheme. Now the Tribunal has made the determination. The Originator should pay according to the determination.

20. The Originator's counsel relied on Clause 2 of the conditions of the Respondent's scheme and submitted that the Respondent should provide the K MVs to the Originator physically. We disagree. Clause 2 does not assist the

¹ E.g. paragraph 6 of the Originator's written closing submissions dated 2 October 2018.

² Paragraph 203(7) and section L(1) of the Decision.

Originator. It provides that the licensed titles must be supplied by the Respondent or its authorized agents or obtained from a source approved by the Respondent. There is nothing in this clause requiring the Respondent to provide anything tangible to the Originator.

21. HKKLA K-Server Licensing Scheme is a scheme available to all. It is a scheme for collective licensing. Anyone may commercially exploit the Respondent's K MVs in accordance with the terms of the scheme. If one finds the terms of the scheme unreasonable, it may apply for determination by the Tribunal under the Copyright Ordinance. But it is simply not open to, or right for, the Originator to say, after applying for determination of reasonableness of the scheme, that the Respondent's scheme is not operative vis-à-vis the Originator only.

22. As recorded in paragraphs 2 and 16 of the Decision, HKKLA K-Server Licensing Scheme commenced operation on 1 July 2010. The effect of a licensing scheme as defined in section 145 of the Copyright Ordinance, as rightly submitted by the Respondent's counsel, is equivalent to a standing invitation to treat³, which is extended to anyone who intends to use the K MVs covered by the scheme. There is no requirement for the scheme operator to provide the K MVs before a scheme takes effect. To avoid the risk of copyright infringement, a user of the K MVs must pay the fees and comply with the conditions prescribed in the scheme.

23. In any event, the Originator's calculation must be rejected, for the following reasons:

(1) As mentioned above, the Originator's calculation is based on a re-examination of the component of the tariff in the Scheme. It is not entitled

³ In *Performing Right Society Ltd v Working Men's Club and Institute Union Ltd* [1988] FSR 586 at page 592, the English Copyright Tribunal mentioned that, "What section 24(4) [of the Copyright Act 1956, which is similar to section 145(1) of the Ordinance] contemplates as a 'licence scheme' is something in the nature of a standing invitation to treat: a setting out of the terms on which the PRS [i.e. the licensor] is willing to grant licences. Setting out those terms is a unilateral act of the PRS for which the acceptance or agreement of users, like the clubs, is unnecessary."

to do so. The Tribunal has already determined in the Decision the reasonableness of the Scheme, including its structures and rates.

- (2) The Originator relied on a ratio of 25% in its calculation. However, there is no evidential basis for this figure.
- (3) In its calculation, the Originator deducted some substantial amounts as being watermarking fee and administration fee (which the Originator opaquely alleges that they were paid to K-Net Music and were overpaid or overcharged). The evidential and legal basis of the deduction is unclear. There is no evidence before the Tribunal on the existence of any contractual dealing between K-Net Music and the Respondent. And the Tribunal does not see how such payments bear any relationship on the calculation of licence fees according to the tariff of the Scheme.
- (4) The Originator said because the K MVs provided by the Respondent to the Originator in 2014 included some concert titles or concert K MVs, the Respondent has breached the definition of old K MVs in the General Terms and Conditions of the Scheme, and such provision of concert K MVs shows that the Respondent did not provide enough old K MVs so the scheme year was not commenced even at the last scheme year. We find this argument confusing. We cannot see the causal relationship between oversupply of some concert K MVs and undersupply of old K MVs as alleged by the Originator. Even if some concert K MVs were provided by the Respondent to the Originator “redundantly” (NB: there is no evidence supporting the alleged redundancy of those concert K MVs i.e. that Neway did not ever use those concert K MVs in its karaoke outlets, or that no patrons at Neway’s outlets have ever sung those songs with those concert K MVs), by no means this could be a proof that insufficient old K MVs were provided to the Originator as alleged. In any event, we have held above that the alleged

insufficient provision of old K MVs is irrelevant to the calculation of the licence fees.

(5) The Originator alleged that the Respondent's licensing scheme with the “waiver” system was a two-tiered licensing scheme and not a linear one as alleged by the Respondent. This is a complete disregard of the finding of the Tribunal in paragraphs 211 to 218 (i.e. Section L(3)) of the Decision. It is not open to the Originator to reargue the same subject matter.

24. We accept the Respondent’s calculation of the licence fees as explained and set out in the Appendix 5 appended to this decision and marked “A”, as it was based on the evidence adduced by the Originator.

F. Conclusion & Order

25. We reject the Originator’s calculation.

26. We accept the Respondent’s calculation.

27. The licence fees payable by the Respondent to the Originator pursuant to the Decision are:

<u>Scheme Year</u>	<u>Licence Fee Payable (HK\$)</u>
1. 1 Jul 2010 – 30 Jun 2011	17,431,680
2. 1 Jul 2011 – 30 Jun 2012	16,394,640
3. 1 Jul 2012 – 30 Jun 2013	18,015,600
4. 1 Jul 2013 – 30 Jun 2014	19,254,360

5. 1 Jul 2014 – 30 Jun 2015 19,254,360


Total Licence Fees Payable: 90,350,640

28. We therefore order the Originator to pay the Respondent the sum of HK\$90,350,640, being the total licence fees payable by the Originator to the Respondent for HKKLA's back catalogue K MVs for the period from 1 July 2010 to 30 June 2015.

29. In respect of costs of this exercise of calculation of the amount of licence fees, we are of the view that the Originator's arguments and conduct, particular its laborious attempts to reargue issues which have already been argued in the substantive hearing and determined in the Decision, are frivolous, vexatious or otherwise abusive of the Tribunal process, which constitutes special circumstances under Rule 38(1) of the Copyright Tribunal Rules. We therefore exercise our discretion under Rule 38 and order on a *nisi* basis that the Originator shall pay the Respondent the costs of and related to the calculation of the amount of licence fees to be taxed on the party and party basis if not agreed. We note the Respondent has engaged three counsel in this exercise. We think two counsel should be justified for the purpose of taxation.

30. The said cost order *nisi* shall become absolute if no application for variation is made by either party within 14 days from the date of this decision.

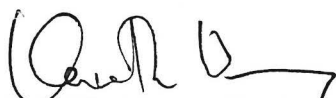
Dated this 10th day of November 2020.



Huen Wong
Chairman of the Copyright Tribunal



Grace Chu
Member of the Copyright Tribunal



Kenneth Wong
Member of the Copyright Tribunal

Mr. Joseph Wong of Counsel instructed by Messrs. S. W. Wong & Associates,
Solicitors for the Originator

Mr. Rimsy Yuen, S.C., Ms. Queenie Lau of Counsel and Ms. Natalie So of Counsel
instructed by Messrs. ELLALAN, Solicitors for the Respondent

Appendix 5

Calculation of Licence Fees payable by Neway pursuant to §239 of the Decision

1. At §239 of the Decision, the Tribunal ordered the payment of licence fees payable by Neway to HKKLA for HKKLA's back catalogue KMVs for the period from 1 July 2010 to 30 June 2015, and directed the parties to provide the Tribunal with a set of agreed calculations and amounts payable.

Table A: Tariffs under HKKLA's K-Server Licensing Scheme

2. The tariffs in the yellow column headed "For Back Catalogue only (not less than 8,000 KMVs)" ("Tariffs") are taken from §96 of the Decision. These Tariffs were upheld at §238 of the Decision, and will therefore be used to calculate the licence fees payable by Neway.

Tariff Table¹				
No. of room per shop	Up to 150 New KMVs + Back Catalogue (not less than 8,000 KMVs)	In excess of 150 New KMVs	For New KMVs only (up to 150 KMVs)	For Back Catalogue only (not less than 8,000 KMVs)
	Per room per annum (HK\$)	Per new KMV per room per annum (HK\$)	Per room per annum (HK\$)	Per room per annum (HK\$)
1 to 10	28,500	105	17,010	14,760
11 to 15	26,900	103	16,170	13,800
16 to 20	26,900	103	16,170	13,800
21 to 25	26,800	102	16,065	13,800
26 to 30	26,600	101	15,960	13,680
31 to 35	26,300	100	15,750	13,560
36 to 40	26,100	99	15,645	13,440
41 to 45	25,700	98	15,435	13,200
46 to 50	25,400	97	15,225	13,080
51 to 55	25,200	96	15,120	12,960
56 to 60	24,800	95	14,910	12,720
61 to 65	24,500	93	14,700	12,600
66 to 70	24,100	92	14,490	12,360

¹ Although the Tribunal has in this reference determined the reasonableness of only the back catalogue tariffs, the other figures are provided for the Tribunal's reference.

71 to 75	23,800	91	14,280	12,240
76 to 80	23,500	89	14,070	12,120
81 to 85	23,100	88	13,860	11,880
86 to 90	22,800	87	13,650	11,760
91 to 95	22,400	85	13,440	11,520
96 to 100	22,100	84	13,230	11,400
above 100	21,700	83	13,020	11,160

Table B: Licence fees payable for 2010-2011

<u>No.</u>	<u>Company name</u>	<u>No. of rooms / TVs²</u>	<u>Fee per room per annum³</u>	<u>Back Catalogue Only⁴</u>
1	Autoflow Limited	90	11,760	1,058,400
2	Capital More Co., Ltd.	45	13,200	594,000
3	Century Advance Limited	50	13,080	654,000
4	Cheerway Limited	43	13,200	567,600
5	Comegreat Limited	52	12,960	673,920
6	Easway Development Limited	36	13,440	483,840
7	Follow Hong Kong Limited	33	13,560	447,480
8	Gainflex Limited	28	13,680	383,040
9	Growson Limited	50	13,080	654,000
10	Happy Show Limited	40	13,440	537,600
11	Hundred Art Investments Ltd	15	13,800	207,000
12	Jadeway Corporation Limited	36	13,440	483,840
13	Legend Supreme Limited	44	13,200	580,800
14	Lionway Corporation Limited	30	13,680	410,400
15	Modernline Limited	92	11,520	1,059,840
16	Multiprize Limited	40	13,440	537,600
17	Superfeel Limited	60	12,720	763,200
18	Neway.com Technology Ltd	50	13,080	654,000
19	Paco Corporation Limited	50	13,080	654,000
20	Perfect Galaxy Limited	30	13,680	410,400
21	Profit Chart Development Ltd	42	13,200	554,400

² The figures in this column are those set out in Appendix (I) of HKKLA's Closing Submissions dated 2 October 2018, which are in turn taken from the Witness Statement of Suet Chai Kit Christopher dated 6 January 2016 ("Suek 1st") [B1/131-4 – 131-5].

³ The figures in this column are based on the Tariffs in Table A above.

⁴ This is calculated based on the number of rooms multiplied by the fee per room per annum.

22	Silver Benefit Limited	50	13,080	654,000
23	Song Advance Limited 11-12/F	53	12,960	686,880
24	Star Business Limited	16	13,800	220,800
25	Sunway Creation Limited	45	13,200	594,000
26	Well Dragon Limited	46	13,080	601,680
27	Well Power Pacific Limited	45	13,200	594,000
28	Winflow Limited	34	13,560	461,040
29	Wonderful limited	112	11,160	1,249,920
	Total no. of rooms	<u>1357</u>	Total:	<u>17,431,680</u>

Table C: Licence fees payable for 2011-2012

<u>No.</u>	<u>Company name</u>	<u>No. of rooms⁵</u>	<u>Fee per room per annum</u>	<u>Back Catalogue Only</u>
1	Autoflow Limited	90	11,760	1,058,400
2	Capital More Co., Ltd.	45	13,200	594,000
3	Century Advance Limited	50	13,080	654,000
4	Cheerway Limited	43	13,200	567,600
5	Comegreat Limited	52	12,960	673,920
6	Easway Development Limited	36	13,440	483,840
7	Follow Hong Kong Limited	33	13,560	447,480
8	Growson Limited	50	13,080	654,000
9	Happy Show Limited	40	13,440	537,600
10	Hundred Art Investments Ltd	15	13,800	207,000
11	Jadeway Corporation Limited	36	13,440	483,840
12	Legend Supreme Limited	44	13,200	580,800
13	Lionway Corporation Limited	30	13,680	410,400
14	Modernline Limited	92	11,520	1,059,840
15	Multiprize Limited	40	13,440	537,600
16	Superfeel Limited	60	12,720	763,200
17	Neway.com Technology Ltd	50	13,080	654,000
18	Perfect Galaxy Limited	30	13,680	410,400
19	Profit Chart Development Ltd	42	13,200	554,400
20	Silver Benefit Limited	50	13,080	654,000

⁵ The figures for the number of rooms are taken from Annex B of Suek 1st [B/1/132-133], which shows PPSEAL karaoke server licence fees.

21	Song Advance Limited 11-12/F	53	12,960	686,880
22	Star Business Limited	16	13,800	220,800
23	Sunway Creation Limited	45	13,200	594,000
24	Well Dragon Limited	46	13,080	601,680
25	Well Power Pacific Limited	45	13,200	594,000
26	Winflow Limited	34	13,560	461,040
27	Wonderful limited	112	11,160	1,249,920
Total no. of rooms		<u>1279</u>	Total:	<u>16,394,640</u>

Table D: Licence fees payable for 2012-2013

<u>No.</u>	<u>Company name</u>	<u>No. of rooms⁶</u>	<u>Fee per room per annum</u>	<u>Back Catalogue Only</u>
1	Autoflow Limited	90	11,760	1,058,400
2	Capital More Co., Ltd.	45	13,200	594,000
3	Century Advance Limited	50	13,080	654,000
4	Cheerway Limited	40	13,440	537,600
5	Comegreat Limited	52	12,960	673,920
6	Easway Development Limited	36	13,440	483,840
7	Follow Hong Kong Limited	33	13,560	447,480
8	Gainflex Limited	28	13,680	383,040
9	Growson Limited	50	13,080	654,000
10	Happy Show Limited	40	13,440	537,600
11	Hundred Art Investments Ltd	15	13,800	207,000
12	Jadeway Corporation Limited	36	13,440	483,840
13	Legend Supreme Limited	38	13,440	510,720
14	Lionway Corporation Limited	30	13,680	410,400
15	Modernline Limited	92	11,520	1,059,840
16	Multiprize Limited	43	13,200	567,600
17	Neway.com Technology Ltd	50	13,080	654,000
18	Paco Corporation Limited	50	13,080	654,000

⁶ The figures for the number of rooms are taken from Suek 1st, §58 [B/1/116-117]. The table represented what Neway would have had to pay as of "early 2013". Asterisked branches were those which had ceased business. As it is unclear when such branches ceased business, and bearing in mind that Suek 1st suggests that as of early 2013 these branches were still in business, as well as the fact that HKKLA's scheme year for 2011-2012 started only on 1 July 2012, all 30 branches set out in §58 will be included in this Table D.

19	Perfect Galaxy Limited	30	13,680	410,400
20	Profit Chart Development Ltd	42	13,200	554,400
21	Silver Benefit Limited	50	13,080	654,000
22	Song Advance Limited 11-12/F	53	12,960	686,880
23	Star Business Limited	16	13,800	220,800
24	Sunway Creation Limited	45	13,200	594,000
25	Superfeel Limited	60	12,720	763,200
26	Well Dragon Limited	46	13,080	601,680
27	Well Power Pacific Limited	45	13,200	594,000
28	Winflow Limited	34	13,560	461,040
29	Wonderful limited	112	11,160	1,249,920
30	South Profit Ltd	50	13,080	654,000
Total no. of rooms		<u>1401</u>	Total:	<u>18,015,600</u>

E. Licence fees for 2013-2014

3. At Suek 1st, §8 [B/1/98] it is stated that “*as of the end of 2013, the Neway Karaoke Group operated 27 outlets in Hong Kong with a total of 1,512 rooms*”. In other words, there was an increase of **111 rooms** compared to the 1,401 rooms in 2012-2013. Save as aforesaid, there is no further evidence on the individual number of rooms operated by each of Neway’s karaoke outlets by the end of 2013, and there is no evidence as to how the increase of 111 rooms was spread out, for example whether the 111 rooms were in only one outlet or several outlets, and if the latter, how many outlets.
4. Pending the provision of the relevant figures by Neway, HKKLA is content to adopt the lowest figure of the Tariffs (HK\$11,160 per room per annum), *i.e.* to assume that the 111-room-increase arose from only one additional outlet.
5. The following table shows the increased licence fee payable.

Table E: increased licence fee payable from 2012-2013 to 2013-2014

<u>No.</u>	<u>Company name</u>	<u>No. of rooms</u>	<u>Fee per room per annum</u>	<u>Back Catalogue Only</u>
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1	Unknown	111	11,160	1,238,760
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6. Hence, the total licence fee for 2013-2014 is **HK\$19,254,360**.⁷

F. Licence fees for 2014-2015

7. There is no further evidence on the number of rooms operated by Neway from the end of 2013 onwards. Given the evidential limitations, HKKLA proposes to adopt the licence fee payable for 2013-2014 for the scheme year 2014-2015, *i.e.* **HK\$19,254,360**.

G. Conclusion

8. In summary, the total licence fees payable by Neway to HKKLA for HKKLA's Back Catalogue K MVs for the period from 1 July 2010 to 30 June 2015 are as follows:

	<u>Scheme Year</u>	<u>Licence Fee Payable (HK\$)</u>
1	1 Jul 2010 – 30 Jun 2011	17,431,680
2	1 Jul 2011 – 30 Jun 2012	16,394,640
3	1 Jul 2012 – 30 Jun 2013	18,015,600
4	1 Jul 2013 – 30 Jun 2014	19,254,360
5	1 Jul 2014 – 30 Jun 2015	19,254,360
	<u>Total Licence Fee Payable:</u>	<u>90,350,640</u>

⁷ Being the total of HK\$18,015,600 + HK\$1,238,760.

Calculations on Licence fee amounts payable by Neway (Originator) to HKKLA (Respondent) Pursuant to CT2/2010 Decision P.239.

1) The structure of R's K-Server Licensing Scheme of Back Catalogue (old KMVs)

(a) It was a "Blanket Licence" including all R's old watermarked licensed KMVs (B1, Page 232 P.106- Page 235 P.110).

In this case, they were the 8,833 old KMVs (Decision P.101(4)) provided to O under HCCT45/2012 (Decision P.224 and B2, Page 374 P.34), in the middle of 2014 of the last scheme year 2014/2015, the watermarking fee was \$1 per KMV (B1, Page 330 P.13a(i))

(b) It was a linear structure by offering bulk discount in a sliding scale for licensees who were using more of the watermarked licenced KMVs (B1, Page 236 P.111(c)).

The starting rate for old KMVs was \$14,760, with a sliding scale ratio prepared by O (Attachment 1).

(c) The old KMVs were separated from the old and new KMVs package at the starting rate of \$28,500 (Decision P.99 1-2). There were two accepted ratios of these old KMVs at this starting rate. They are as follows: -

i) The first ratio was the 25% which R agreed with the June 2008 Agreement that \$5M for the old KMVs was comparable (Decision P.182 and R's Closing Page 75, P.13.7 and B1, Page 323 P.9(b)). R also agreed the new KMVs were worth \$15m (Decision P.99(4) and P.186).

ii) The second ratio was 45% that R's Mr. Botejue mentioned in his Statement. (B1, Page 326-327 P.11) and (Decision P.99(6)).

2) The construction of the Tariff Rate was:

(a) \$1,924 administrative fee and watermarking fee derived from the 15% of the starting rate of \$28,500. (Decision P.99(5&6) and (B1, Pages 326-327 P.11).

$(\$28,500 \times 45\% \times 15\% = \$1,924)$

(b) \$500/month or \$6,000/annum administrative fee of K-net for each licence (Decision P.105 and F2, Page 4430 schedule II).

(c) \$8,833 watermarking fee which was the sum of \$1 per KMV paid by R to K-net (B1, Page 330 P.13(a)(i)).

In this case R provided O with 8,833 old KMVs in mid-2014 at the last scheme year in 3 instalments. They were 534 KMVs on 9/5/2014, 8,166 KMVs on 4/6/2014 and 133 KMVs on 30/7/2014.

(d) The starting rate \$28,500 was included in 2b and 2c above, which were the \$8,833 watermarking fee (B1 Page 325 P.10c (1-3) and the \$6,000 administrative fee (F2, Page 4430 schedule II and Decision P.105)

3) There were 2 methods for calculating O's licence fee

- (a) The 25% at 1c above.
- (b) The 45% at 1c above.

4) Issues that, if not agreed by R, should be determined by CT.

- (i) O's scheme year should be started at the last scheme year 2014/2015 because R never provided its "blanket licence" together with its 8,833 watermarked licenced old K MVs to O until it was ordered under HCCT 45/2012 on mid 2014.
- (ii) In the 2014/2015 scheme year R provided O with 8,833 watermarked licenced old K MVs in a very short period of time. O was unable to upload them to its servers. O only used 5,443 old K MVs. Therefore, it would be fair for O to pay 5,443 old K MVs or a favourable discount rate should be given by the discretion of CT.
- (iii) In the case of the 1-4 scheme years, even though R did not provide O any watermarked licenced old K MVs in its "blanket licence" and did not grant a licence to O, CT still required O to pay the licence fees, CT should allow O to deduct the K MVs that O had not used. That is $8,833 - 4,582 = 4,251$. On the other hand, since the "recently becoming old K MVs" were very valuable among the old K MVs which were not provided to O, O requested a discount of at least 30% of the value of the old K MVs or a favourable discount rate under CT's discretion.
- (iv) Referring to the starting rate of \$28,500, it is noticed that:
 - (a) The watermarking fee was mistakenly charged twice by R through K-net. It was also charged repeatedly after the first room. R should correct this, which does not affect the structure linearly.
 - (b) The administrative fee paid to K-net was also mistakenly charged twice. It was also charged repeatedly after the first room. R should correct this, which also does not affect the structure linearly.
- (v) Referring to the \$1,924, there was no indication of the 15% mark-up administrative fee + watermark fee that was paid to R or K-net; and it was also never mentioned that it was the charge per licence or per room. O considered that it was paid to K-net per licence because it included watermarking fee and it was hard to distinguish the percentage between them. O would seek advice from the CT and request R to provide a clearer explanation of this issue.
- (vi) Since O applied the licence through R directly, K-net's fee should be deducted.

5) Calculations

1) (a) The 25% method (3(a)) of O's licence fee for the 5th scheme year.

Illustration diagram for the structure of the O's licence fee

\$14,760	old watermarked licensed KMV rate ($\$28,500 \times 115\% = \$32,775 \times 45\% = \$14,749$ rounded up to \$14,760) (Decision P.99 P.5-6)
↓	
\$1,924	15% mark-up on the starting rate of \$28,500 for K-net's watermarking fee and administrative fee ($\$28,500 \times 45\% \times 15\% = \$1,924$)
↓	
\$7,125	R's licence fee $\$28,500 \times 25\% = \$7,125$
↓	
\$6,000	K-net's administrative fee per licence yearly
↓	
\$8,833	Watermarking fee for R's old watermarked licensed 8,833 KMVs provided to O
↓	
-\$7,708	R's licence fee after deducting watermarking fee and administrative fee ($\$1,924 + \$6,000 + \$8,833 = \$16,757$)

$\$28,500 \times 45\% \times 15\% = \$1,924$ watermarking fee + administrative fee

$\$28,500 \times 25\% = \$7,125 \times 5,443/8,833 = \$4,391 - \$8,833$

$= -\$4,442 - \$6,000 = -\$10,442$

Add back \$8,833

No add back of the administrative fee and the watermarking fee, and the commission fee per licence because they were paid to agent K-net.

$(\$1,924 \times 21 \text{ outlets} = \$40,404) + (\$6,000 \times 21 \text{ outlets} = \$126,000) = \$166,404$

The result is $-\$9,691,280 + \$8,833 = -\$9,682,447$ (Refer to Attachment 2)

(b) The 25% method (3(a)) of O's licence fee for the 1st – 4th scheme years

New songs made by HKKLA			(Estimate)
Old songs		New songs	
8231	2009 / 2010	150	
8381	2010 / 2011	152	
8533	2011 / 2012	150	
8683	2012 / 2013	150	
8833	2013 / 2014	133	
	2014 / 2015	158	

Refer to Box B2 Page 410.

2010 / 2011 $\$28,500 \times 25\% = \$7,125 \times 4,582 / 8,231 = \$3,966 \times 70\%$
 $= \$2,776 - \$6,000 - \$8,231 = -\$11,455$
 The result is $-\$13,231,177$
 (Refer to Attachment 3)

2011 / 2012 $\$28,500 \times 25\% = \$7,125 \times 4,582 / 8,381 = 3,895 \times 70\%$
 $= \$2,727 - \$6,000 - \$8,381 = -\$11,654$
 The result is $-\$12,944,657$
 (Refer to Attachment 4)

2012 / 2013 $\$28,500 \times 25\% = \$7,125 \times 4,582 / 8,533 = \$3,826 \times 70\%$
 $= \$2,678 - \$6,000 - \$8,533 = -\$11,855$
 The result is $-\$12,455,364$
 (Refer to Attachment 5)

2013 / 2014 $\$28,500 \times 25\% = \$7,125 \times 4,582 / 8,683 = \$3,760 \times 70\%$
 $= \$2,632 - \$6,000 - \$8,683 = -\$12,051$
 The result is $-\$12,718,900$
 (Refer to Attachment 6)

Licence Period	Amount
2010 / 2011	$-\$13,231,177$
2011 / 2012	$-\$12,944,657$
2012 / 2013	$-\$12,455,364$
2013 / 2014	$-\$12,718,900$
2014 / 2015	$-\$9,682,447$

Total: $-\$61,032,545$

Notes:

(1) Regal Pioneer Ltd is the operation company, Multiprize Ltd has no operation and should be excluded.

(2) Music Advance Ltd is the operation company, Superfeel Ltd has no operation and should be excluded.

2) (a) The 45% method (3(b)) of O's licence fee for the 5th scheme year

Illustration diagram for the structure of the O's licence fee

\$14,760	old watermarked licensed KMV rate ($\$28,500 \times 115\% = \$32,775 \times 45\% = \$14,749$ rounded up to \$14,760) (Decision P.99 P.5-6)
↓	
\$1,924	15% mark-up on the starting rate of \$28,500 for K-net's watermarking fee and administrative fee ($\$28,500 \times 45\% \times 15\% = \$1,924$)
↓	
\$12,825	R's licence fee $\$28,500 \times 45\% = \$12,825$
↓	
\$6,000	K-net's administrative fee per licence yearly
↓	
\$8,833	watermarking fee for R's old watermarked licensed 8,833 KMVs provided to O
↓	
-\$2,008	R's licence fee after deducting watermarking fee and administrative fee ($\$1,924 + \$6,000 + \$8,833 = \$16,757$)

$\$28,500 \times 45\% \times 15\% = \$1,924$ watermarking fee + administrative fee

$\$28,500 \times 45\% = \$12,825 \times \$5,443 / \$8,833 = \$7,903 - \$8,833$

$= -\$930 - \$6,000 = -\$6,930$

Add back \$8,833

No add back of the administrative fee and the watermarking fee, and the commission fee per licence because they were paid to agent K-net.

$(\$1,924 \times 21 \text{ outlets} = \$40,404) + (\$6,000 \times 21 \text{ outlets} = \$126,000) = \$166,404$

The result is $-\$6,431,772 + \$8,833 = -\$6,422,939$ (Refer to Attachment 7)

(b) The 45% method (3(b)) of O's licence fee for the 1st – 4th scheme years

2010 / 2011	$\$28,500 \times 45\% = \$12,825 \times 4,582 / 8,231 \times 70\%$ $= \$4,998 - \$6,000 - \$8,231 = -\$9,233$ The result is $-\$10,664,640$ (Refer to Attachment 8)
2011 / 2012	$\$28,500 \times 45\% = \$12,825 \times 4,582 / 8,381 \times 70\%$ $= \$4,908 - \$6,000 - \$8,381 = -\$9,473$ The result is $-\$10,522,115$ (Refer to Attachment 9)

2012 / 2013 $\$28,500 \times 45\% = \$12,825 \times 4,582 / 8,533 \times 70\%$
= $\$4,821 - \$6,000 - \$8,533 = -\$9,712$

The result is $-\$10,203,838$

(Refer to Attachment 10)

2013 / 2014 $\$28,500 \times 45\% = \$12,825 \times 4,582 / 8,683 \times 70\%$
= $\$4,737 - \$6,000 - \$8,683 = -\$9,946$

The result is $-\$10,497,235$

(Refer to Attachment 11)

Licence Period	Amount
2010 / 2011	$-\$10,664,640$
2011 / 2012	$-\$10,522,115$
2012 / 2013	$-\$10,203,838$
2013 / 2014	$-\$10,497,235$
2014 / 2015	$-\$6,422,939$

Total: $-\$48,310,767$

25% \$1,924 ($\$28,500 \times 45\% \times 15\% = \$1,924$) watermarking fee + administrative fee (Decision P.99(5) & (6) and B1, Pages 326-327 P.11)

Starting rate \$28,500

2010 / 2011 $\$28,500 \times 25\% = \$7,125 \times \$4,582 / \$8,231 \times 70\%$
 $= \$2,776 - \$6,000 - \$8,231 = -\$11,455$ (Attachment 3)

2011 / 2012 $\$28,500 \times 25\% = \$7,125 \times \$4,582 / \$8,381 \times 70\%$
 $= \$2,727 - \$6,000 - \$8,381 = -\$11,654$ (Attachment 4)

2012 / 2013 $\$28,500 \times 25\% = \$7,125 \times \$4,582 / \$8,533 \times 70\%$
 $= \$2,678 - \$6,000 - \$8,533 = -\$11,855$ (Attachment 5)

2013 / 2014 $\$28,500 \times 25\% = \$7,125 \times \$4,582 / \$8,683 \times 70\%$
 $= \$2,632 - \$6,000 - \$8,683 = -\$12,051$ (Attachment 6)

2014 / 2015 $\$28,500 \times 25\% = \$7,125 \times \$5,443 / \$8,833$
 $= \$4,391 - \$8,831 = \$4,442 - \$6,000 = -\$10,442$ (Attachment 2)

45% \$1,924 ($\$28,500 \times 45\% \times 15\% = \$1,924$) watermarking fee + administrative fee (Decision P.99(5) & (6) and B1, Pages 326-327 P.11)

Starting rate \$28,500

2010 / 2011 $\$28,500 \times 45\% = \$12,825 \times \$4,582 / \$8,231 \times 70\%$
 $= \$4,998 - \$6,000 - \$8,231 = -\$9,233$ (Attachment 8)

2011 / 2012 $\$28,500 \times 45\% = \$12,825 \times \$4,582 / \$8,381 \times 70\%$
 $= \$4,908 - \$6,000 - \$8,381 = -\$9,473$ (Attachment 9)

2012 / 2013 $\$28,500 \times 45\% = \$12,825 \times \$4,582 / \$8,533 \times 70\%$
 $= \$4,821 - \$6,000 - \$8,533 = -\$9,712$ (Attachment 10)

2013 / 2014 $\$28,500 \times 45\% = \$12,825 \times \$4,582 / \$8,683 \times 70\%$
 $= \$4,737 - \$6,000 - \$8,683 = -\$9,946$ (Attachment 11)

2014 / 2015 $\$28,500 \times 45\% = \$12,825 \times \$5,443 / \$8,833$
 $= \$7,903 - \$8,833 = -\$930 - \$6,000 = -\$6,930$ (Attachment 7)

(Attachment 1)

HKKLA Karaoke K-Server Licence Tariff

No. of room per shop	Old KMVs per room per annum (HK\$) Rounded Up HKKLA Tariff	Sliding scale ratio
1 to 10	14,760	
11 to 15	13,800	-6.50%
16 to 20	13,800	0.00%
21 to 25	13,800	0.00%
26 to 30	13,680	-0.87%
31 to 35	13,560	-0.88%
36 to 40	13,440	-0.88%
41 to 45	13,200	-1.79%
46 to 50	13,080	-0.91%
51 to 55	12,960	-0.92%
56 to 60	12,720	-1.85%
61 to 65	12,600	-0.94%
66 to 70	12,360	-1.90%
71 to 75	12,240	-0.97%
76 to 80	12,120	-0.98%
81 to 85	11,880	-1.98%
86 to 90	11,760	-1.01%
91 to 95	11,520	-2.04%
95 to 100	11,400	-1.04%
above 100	11,160	-2.11%

According to Neway 25% of \$28,500 (New + Old songs tariff)

26/2/2020

Attachment 2 : Originator's Licence fees payable for 2014-2015 for Neway according to originator's tariff calculation
(No. of room according to Summary of Neway outlet)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$
1	Autoflow Limited	90	1 year	-8,320	-748,768
2	Cheerway Limited	40	1 year	-9,508	-380,327
3	Comegreat Limited	52	1 year	-9,169	-476,766
4	Growson Limited	50	1 year	-9,253	-462,674
5	Happy Show Limited	40	1 year	-9,508	-380,327
6	Hundred Art Investments Ltd	15	1 year	-9,763	-146,443
7	Jadeway Corporation Limited	36	1 year	-9,508	-342,294
8	Legend Supreme Limited	38	1 year	-9,508	-361,310
9	Regal Pioneer Ltd (Multiprize Limited)	43	1 year	-9,338	-401,550
10	Neway.com Technology Ltd	50	1 year	-9,253	-462,674
11	Perfect Galaxy Limited	30	1 year	-9,678	-290,339
12	Profit Chart Development Ltd	42	1 year	-9,338	-392,212
13	Silver Benefit Limited	50	1 year	-9,253	-462,674
14	Song Advance Limited	53	1 year	-9,169	-485,935
15	Sunway Creation Limited	45	1 year	-9,338	-420,227
16	Music Advance Ltd (Superfeel Limited)	60	1 year	-8,999	-539,928
17	Well Dragon Limited	46	1 year	-9,253	-425,660
18	Well Power Pacific Limited	45	1 year	-9,338	-420,227
19	Wonderful Limited	112	1 year	-7,895	-884,259
20	South Profit Ltd	50	1 year	-9,253	-462,674
21	Gloryfaith Limited	42	1 year	-9,338	-392,212
22	Greenspark International Limited	37	1 year	-9,508	-351,802

Total no. of rooms

1,029

Total amount

-9,691,280

Add back

8,833

-9,682,447

Notes:

- (1) Regal Pioneer Ltd is the operation company, Multiprize Ltd has no operation and should be excluded.
- (2) Music Advance Ltd is the operation company, Superfeel Ltd has no operation and should be excluded.

Attachment 3 : Originator's Licence fees payable for 2010-2011 for Neway according to originator's calculation
(No. of room according to Suek's Witness Statement 2016 P.116-117)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$	Remark
1	Autoflow Limited	90	1 year	-9,127	-821,407	
2	Capital More Co. Ltd.	45	1 year	-10,244	-460,994	
3	Century Advance Limited	50	1 year	-10,151	-507,559	
4	Cheerway Limited	43	1 year	-10,244	-440,505	
5	Comegreat Limited	52	1 year	-10,058	-523,019	
6	Easway Development Limited	36	1 year	-10,431	-375,500	
7	Follow Hong Kong Limited	33	1 year	-10,524	-347,282	
8	Gainflex Limited	-	-	-	-	Ceased business on 18 Apr 2010
9	Growson Limited	50	1 year	-10,151	-507,559	
10	Happy Show Limited	40	1 year	-10,431	-417,223	
11	Hundred Art Investments Ltd	15	1 year	-10,710	-160,649	
12	Jadeway Corporation Limited	36	1 year	-10,431	-375,500	
13	Legend Supreme Limited	44	1 year	-10,244	-450,750	
14	Lionway Corporation Limited	30	1 year	-10,617	-318,505	
15	Modernline Limited	92	1 year	-8,940	-822,525	
16	Regal Pioneer Ltd (Multiprize Limited)	40	1 year	-10,431	-417,223	
17	Music Advance Ltd (Superfeel Limited)	60	1 year	-9,872	-592,307	
18	Neway.com Technology Ltd	50	1 year	-10,151	-507,559	
19	Paco Corporation Limited	50	307 days	-10,151	-507,559	Ceased business on 3 May 2011
20	Perfect Galaxy Limited	30	1 year	-10,617	-318,505	
21	Profit Chart Development Ltd	42	1 year	-10,244	-430,261	
22	Silver Benefit Limited	50	1 year	-10,151	-507,559	
23	Song Advance Limited	53	1 year	-10,058	-533,077	
24	Star Business Limited	16	1 year	-10,710	-171,359	
25	Sunway Creation Limited	45	1 year	-10,244	-460,994	
26	Well Dragon Limited	46	1 year	-10,151	-466,954	
27	Well Power Pacific Limited	45	339 days	-10,244	-460,994	Business commenced on 26 Jul 2010
28	Winflow Limited	34	1 year	-10,524	-357,806	
29	Wonderful Limited	112	1 year	-8,661	-970,043	

Total no. of rooms

1,329

Total amount :

-13,231,177

According to Neway 25% of \$28,500 (New + Old songs tariff)

26/2/2020

Attachment 4 : Originator's Licence fees payable for 2011-2012 for Neway according to originator's tariff calculation
(No. of room according to PPSEAL karaoke server licence fees in Suek's Witness Statement 2016 P.132-133)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$	Remark
1	Autoflow Limited	90	1 year	-9,285	-835,677	
2	Capital More Co. Ltd.	45	1 year	-10,422	-469,002	
3	Century Advance Limited	50	1 year	-10,328	-516,376	
4	Cheerway Limited	43	1 year	-10,422	-448,158	
5	Comegreat Limited	52	1 year	-10,233	-532,105	
6	Easway Development Limited	36	1 year	-10,612	-382,024	
7	Follow Hong Kong Limited	33	261 days	-10,707	-353,315	Ceased business on 18 Mar 2012
8	Growson Limited	50	1 year	-10,328	-516,376	
9	Happy Show Limited	40	1 year	-10,612	-424,471	
10	Hundred Art Investments Ltd	15	1 year	-10,896	-163,440	
11	Jadeway Corporation Limited	36	1 year	-10,612	-382,024	
12	Legend Supreme Limited	44	1 year	-10,422	-458,580	
13	Lionway Corporation Limited	30	1 year	-10,801	-324,038	
14	Modernline Limited	92	243 days	-9,096	-836,814	Ceased business on 28 Feb 2012
15	Regal Pioneer Ltd (Multiprize Limited)	40	1 year	-10,612	-424,471	
16	Music Advance Ltd (Superfeel Limited)	60	1 year	-10,043	-602,597	
17	Neway.com Technology Ltd	50	1 year	-10,328	-516,376	
18	Perfect Galaxy Limited	30	1 year	-10,801	-324,038	
19	Profit Chart Development Ltd	42	1 year	-10,422	-437,736	
20	Silver Benefit Limited	50	1 year	-10,328	-516,376	
21	Song Advance Limited	53	1 year	-10,233	-542,337	
22	Star Business Limited	16	1 year	-10,896	-174,336	
23	Sunway Creation Limited	45	1 year	-10,422	-469,002	
24	Well Dragon Limited	46	1 year	-10,328	-475,066	
25	Well Power Pacific Limited	45	1 year	-10,422	-469,002	
26	Winflow Limited	34	235 days	-10,707	-364,022	Ceased business on 20 Feb 2012
27	Wonderful Limited	112	1 year	-8,812	-986,895	

Total no. of rooms

1,279

Total amount :

-12,944,657

Attachment 5 : Originator's Licence fees payable for 2012-2013 for Neway according to originator's tariff calculation
(No. of room according to Suek's Witness Statement 2016 P.116-117)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$	Remark
1	Autoflow Limited	90	1 year	-9,445	-850,090	
2	Capital More Co. Ltd.	45	1 year	-10,602	-477,091	
3	Century Advance Limited	50	1 year	-10,506	-525,283	
4	Cheerway Limited	40	1 year	-10,795	-431,792	
5	Comegreat Limited	52	1 year	-10,409	-541,282	
6	Easway Development Limited	36	275 days	-10,795	-388,613	Ceased business on 1 Apr 2013
7	Follow Hong Kong Limited	-	-	-	-	Ceased business on 18 Mar 2012
8	Gainflex Limited	-	-	-	-	Ceased business on 18 Apr 2010
9	Growson Limited	50	1 year	-10,506	-525,283	
10	Happy Show Limited	40	1 year	-10,795	-431,792	
11	Hundred Art Investments Ltd	15	1 year	-11,084	-166,259	
12	Jadeway Corporation Limited	36	1 year	-10,795	-388,613	
13	Legend Supreme Limited	38	1 year	-10,795	-410,202	
14	Lionway Corporation Limited	30	1 year	-10,988	-329,627	
15	Modernline Limited	-	-	-	-	Ceased business on 28 Feb 2012
16	Regal Pioneer Ltd (Multiprize Limited)	43	1 year	-10,602	-455,887	
17	Neway.com Technology Ltd	50	1 year	-10,506	-525,283	
18	Paco Corporation Limited	-	-	-	-	Ceased business on 3 May 2011
19	Perfect Galaxy Limited	30	1 year	-10,988	-329,627	
20	Profit Chart Development Ltd	42	1 year	-10,602	-445,285	
21	Silver Benefit Limited	50	1 year	-10,506	-525,283	
22	Song Advance Limited	53	1 year	-10,409	-551,691	
23	Star Business Limited	16	1 year	-11,084	-177,343	
24	Sunway Creation Limited	45	1 year	-10,602	-477,091	
25	Music Advance Ltd (Superfeel Limited)	60	1 year	-10,217	-612,990	
26	Well Dragon Limited	46	1 year	-10,506	-483,260	
27	Well Power Pacific Limited	45	1 year	-10,602	-477,091	
28	Winflow Limited	-	-	-	-	Ceased business on 20 Feb 2012
29	Wonderful Limited	112	1 year	-8,964	-1,003,916	
30	South Profit Ltd	50	292 days	-10,506	-525,283	Business commenced on 12 Sept 2012
31	Greenspark International Limited	37	82 days	-10,795	-399,407	Business commenced on 10 Apr 2013

Total no. of rooms

1,164

Total amount :

-12,455,364

According to Neway 25% of \$28,500 (New + Old songs tariff)

26/2/2020

Attachment 6 : Originator's Licence fees payable for 2013-2014 for Neway according to originator's tariff calculation

(No. of room according to Summary of Neway outlet)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$	Remark
1	Autoflow Limited	90	1 year	-9,602	-864,145	
2	Capital More Co. Ltd.	45	56 days	-10,777	-484,979	Ceased business on 25 Aug 2013
3	Century Advance Limited	50	63 days	-10,679	-533,967	Ceased business on 1 Sept 2013
4	Cheerway Limited	40	1 year	-10,973	-438,931	
5	Comegreat Limited	52	1 year	-10,581	-550,231	
6	Growson Limited	50	1 year	-10,679	-533,967	
7	Happy Show Limited	40	1 year	-10,973	-438,931	
8	Hundred Art Investments Ltd	15	1 year	-11,267	-169,008	
9	Jadeway Corporation Limited	36	1 year	-10,973	-395,038	
10	Legend Supreme Limited	38	1 year	-10,973	-416,984	
11	Lionway Corporation Limited	30	50 days	-11,169	-335,077	Ceased business on 19 Aug 2013
12	Regal Pioneer Ltd (Multiprize Limited)	43	1 year	-10,777	-463,425	
13	Neway.com Technology Ltd	50	1 year	-10,679	-533,967	
14	Perfect Galaxy Limited	30	1 year	-11,169	-335,077	
15	Profit Chart Development Ltd	42	1 year	-10,777	-452,647	
16	Silver Benefit Limited	50	1 year	-10,679	-533,967	
17	Song Advance Limited	53	1 year	-10,581	-560,812	
18	Star Business Limited	16	92 days	-11,267	-180,275	Ceased business on 30 Sept 2013
19	Sunway Creation Limited	45	1 year	-10,777	-484,979	
20	Music Advance Ltd (Superfeel Limited)	60	1 year	-10,385	-623,125	
21	Well Dragon Limited	46	1 year	-10,679	-491,250	
22	Well Power Pacific Limited	45	1 year	-10,777	-484,979	
23	Wonderful Limited	112	1 year	-9,112	-1,020,514	
24	South Profit Ltd	50	1 year	-10,679	-533,967	
25	Gloryfaith Limited	42	279 days	-10,777	-452,647	Business commenced on 25 Sept 2013
26	Greenspark International Limited	37	1 year	-10,973	-406,011	

Total no. of rooms

1,170

Total amount :

-12,718,900

According to Neway 45% of \$28,500 (New + Old songs tariff)

26/2/2020

Attachment 7 : Originator's Licence fees payable for 2014-2015 for Neway according to originator's tariff calculation

(No. of room according to Summary of Neway outlet)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$
1	Autoflow Limited	90	1 year	-5,521	-496,932
2	Cheerway Limited	40	1 year	-6,310	-252,410
3	Comegreat Limited	52	1 year	-6,085	-316,414
4	Growson Limited	50	1 year	-6,141	-307,061
5	Happy Show Limited	40	1 year	-6,310	-252,410
6	Hundred Art Investments Ltd	15	1 year	-6,479	-97,189
7	Jadeway Corporation Limited	36	1 year	-6,310	-227,169
8	Legend Supreme Limited	38	1 year	-6,310	-239,789
9	Regal Pioneer Ltd (Multiprize Limited)	43	1 year	-6,198	-266,495
10	Neway.com Technology Ltd	50	1 year	-6,141	-307,061
11	Perfect Galaxy Limited	30	1 year	-6,423	-192,688
12	Profit Chart Development Ltd	42	1 year	-6,198	-260,298
13	Silver Benefit Limited	50	1 year	-6,141	-307,061
14	Song Advance Limited	53	1 year	-6,085	-322,499
15	Sunway Creation Limited	45	1 year	-6,198	-278,890
16	Music Advance Ltd (Superfeel Limited)	60	1 year	-5,972	-358,332
17	Well Dragon Limited	46	1 year	-6,141	-282,496
18	Well Power Pacific Limited	45	1 year	-6,198	-278,890
19	Wonderful Limited	112	1 year	-5,240	-586,853
20	South Profit Ltd	50	1 year	-6,141	-307,061
21	Gloryfaith Limited	42	1 year	-6,198	-260,298
22	Greenspark International Limited	37	1 year	-6,310	-233,479

Total no. of rooms

1,029

Total amount

-6,431,772

Add back

8,833

-6,422,939

According to Neway 45% of \$28,500 (New + Old songs tariff)

26/2/2020

Attachment 8 : Originator's Licence fees payable for 2010-2011 for Neway according to originator's calculation

(No. of room according to Suek's Witness Statement 2016 P.116-117)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$	Remark
1	Autoflow Limited	90	1 year	-7,356	-662,074	
2	Capital More Co. Ltd.	45	1 year	-8,257	-371,572	
3	Century Advance Limited	50	1 year	-8,182	-409,104	
4	Cheerway Limited	43	1 year	-8,257	-355,058	
5	Comegreat Limited	52	1 year	-8,107	-421,565	
6	Easway Development Limited	36	1 year	-8,407	-302,662	
7	Follow Hong Kong Limited	33	1 year	-8,482	-279,918	
8	Gainflex Limited	-	-	-	-	Ceased business on 18 Apr 2010
9	Growson Limited	50	1 year	-8,182	-409,104	
10	Happy Show Limited	40	1 year	-8,407	-336,291	
11	Hundred Art Investments Ltd	15	1 year	-8,632	-129,487	
12	Jadeway Corporation Limited	36	1 year	-8,407	-302,662	
13	Legend Supreme Limited	44	1 year	-8,257	-363,315	
14	Lionway Corporation Limited	30	1 year	-8,557	-256,722	
15	Modernline Limited	92	1 year	-7,206	-662,974	
16	Regal Pioneer Ltd (Multiprize Limited)	40	1 year	-8,407	-336,291	
17	Music Advance Ltd (Superfeel Limited)	60	1 year	-7,957	-477,414	
18	Neway.com Technology Ltd	50	1 year	-8,182	-409,104	
19	Paco Corporation Limited	50	307 days	-8,182	-409,104	Ceased business on 3 May 2011
20	Perfect Galaxy Limited	30	1 year	-8,557	-256,722	
21	Profit Chart Development Ltd	42	1 year	-8,257	-346,800	
22	Silver Benefit Limited	50	1 year	-8,182	-409,104	
23	Song Advance Limited	53	1 year	-8,107	-429,672	
24	Star Business Limited	16	1 year	-8,632	-138,120	
25	Sunway Creation Limited	45	1 year	-8,257	-371,572	
26	Well Dragon Limited	46	1 year	-8,182	-376,376	
27	Well Power Pacific Limited	45	339 days	-8,257	-371,572	Business commenced on 26 Jul 2010
28	Winflow Limited	34	1 year	-8,482	-288,400	
29	Wonderful Limited	112	1 year	-6,981	-781,877	

Total no. of rooms

1,329

Total amount :

-10,664,640

According to Neway 45% of \$28,500 (New + Old songs tariff)

26/2/2020

Attachment 9 : Originator's Licence fees payable for 2011-2012 for Neway according to originator's tariff calculation
(No. of room according to PPSEAL karaoke server licence fees in Suek's Witness Statement 2016 P.132-133)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$	Remark
1	Autoflow Limited	90	1 year	-7,548	-679,283	
2	Capital More Co. Ltd.	45	1 year	-8,472	-381,230	
3	Century Advance Limited	50	1 year	-8,395	-419,739	
4	Cheerway Limited	43	1 year	-8,472	-364,287	
5	Comegreat Limited	52	1 year	-8,318	-432,523	
6	Easway Development Limited	36	1 year	-8,626	-310,530	
7	Follow Hong Kong Limited	33	261 days	-8,703	-287,194	Ceased business on 18 Mar 2012
8	Growson Limited	50	1 year	-8,395	-419,739	
9	Happy Show Limited	40	1 year	-8,626	-345,033	
10	Hundred Art Investments Ltd	15	1 year	-8,857	-132,853	
11	Jadeway Corporation Limited	36	1 year	-8,626	-310,530	
12	Legend Supreme Limited	44	1 year	-8,472	-372,759	
13	Lionway Corporation Limited	30	1 year	-8,780	-263,396	
14	Modernline Limited	92	243 days	-7,394	-680,208	Ceased business on 28 Feb 2012
15	Regal Pioneer Ltd (Multiprize Limited)	40	1 year	-8,626	-345,033	
16	Music Advance Ltd (Superfeel Limited)	60	1 year	-8,164	-489,823	
17	Neway.com Technology Ltd	50	1 year	-8,395	-419,739	
18	Perfect Galaxy Limited	30	1 year	-8,780	-263,396	
19	Profit Chart Development Ltd	42	1 year	-8,472	-355,815	
20	Silver Benefit Limited	50	1 year	-8,395	-419,739	
21	Song Advance Limited	53	1 year	-8,318	-440,841	
22	Star Business Limited	16	1 year	-8,857	-141,710	
23	Sunway Creation Limited	45	1 year	-8,472	-381,230	
24	Well Dragon Limited	46	1 year	-8,395	-386,160	
25	Well Power Pacific Limited	45	1 year	-8,472	-381,230	
26	Winflow Limited	34	235 days	-8,703	-295,896	Ceased business on 20 Feb 2012
27	Wonderful Limited	112	1 year	-7,163	-802,201	

Total no. of rooms

1,279

Total amount :

-10,522,115

According to Neway 45% of \$28,500 (New + Old songs tariff)

26/2/2020

Attachment 10 : Originator's Licence fees payable for 2012-2013 for Neway according to originator's tariff calculation
(No. of room according to Suek's Witness Statement 2016 P.116-117)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$	Remark
1	Autoflow Limited	90	1 year	-7,738	-696,421	
2	Capital More Co. Ltd.	45	1 year	-8,686	-390,849	
3	Century Advance Limited	50	1 year	-8,607	-430,328	
4	Cheerway Limited	40	1 year	-8,843	-353,738	
5	Comegreat Limited	52	1 year	-8,528	-443,436	
6	Easway Development Limited	36	275 days	-8,843	-318,364	Ceased business on 1 Apr 2013
7	Follow Hong Kong Limited	-	-	-	-	Ceased business on 18 Mar 2012
8	Gainflex Limited	-	-	-	-	Ceased business on 18 Apr 2010
9	Growson Limited	50	1 year	-8,607	-430,328	
10	Happy Show Limited	40	1 year	-8,843	-353,738	
11	Hundred Art Investments Ltd	15	1 year	-9,080	-136,205	
12	Jadeway Corporation Limited	36	1 year	-8,843	-318,364	
13	Legend Supreme Limited	38	1 year	-8,843	-336,051	
14	Lionway Corporation Limited	30	1 year	-9,001	-270,041	
15	Modernline Limited	-	-	-	-	Ceased business on 28 Feb 2012
16	Regal Pioneer Ltd (Multiprize Limited)	43	1 year	-8,686	-373,478	
17	Neway.com Technology Ltd	50	1 year	-8,607	-430,328	
18	Paco Corporation Limited	-	-	-	-	Ceased business on 3 May 2011
19	Perfect Galaxy Limited	30	1 year	-9,001	-270,041	
20	Profit Chart Development Ltd	42	1 year	-8,686	-364,792	
21	Silver Benefit Limited	50	1 year	-8,607	-430,328	
22	Song Advance Limited	53	1 year	-8,528	-451,963	
23	Star Business Limited	16	1 year	-9,080	-145,285	
24	Sunway Creation Limited	45	1 year	-8,686	-390,849	
25	Music Advance Ltd (Superfeel Limited)	60	1 year	-8,370	-502,181	
26	Well Dragon Limited	46	1 year	-8,607	-395,902	
27	Well Power Pacific Limited	45	1 year	-8,686	-390,849	
28	Winflow Limited	-	-	-	-	Ceased business on 20 Feb 2012
29	Wonderful Limited	112	1 year	-7,343	-822,441	
30	South Profit Ltd	50	292 days	-8,607	-430,328	Business commenced on 12 Sept 2012
31	Greenspark International Limited	37	82 days	-8,843	-327,208	Business commenced on 10 Apr 2013

Total no. of rooms

1,164

Total amount :

-10,203,838

Attachment 11 : Originator's Licence fees payable for 2013-2014 for Neway according to originator's tariff calculation
(No. of room according to Summary of Neway outlet)

No.	Company name	No. of rooms / TVs	License time	Tariff \$	Amount \$	Remark
1	Autoflow Limited	90	1 year	-7,924	-713,201	
2	Capital More Co. Ltd.	45	56 days	-8,895	-400,266	Ceased business on 25 Aug 2013
3	Century Advance Limited	50	63 days	-8,814	-440,697	Ceased business on 1 Sept 2013
4	Cheerway Limited	40	1 year	-9,057	-362,261	
5	Comegreat Limited	52	1 year	-8,733	-454,120	
6	Growson Limited	50	1 year	-8,814	-440,697	
7	Happy Show Limited	40	1 year	-9,057	-362,261	
8	Hundred Art Investments Ltd	15	1 year	-9,299	-139,487	
9	Jadeway Corporation Limited	36	1 year	-9,057	-326,035	
10	Legend Supreme Limited	38	1 year	-9,057	-344,148	
11	Lionway Corporation Limited	30	50 days	-9,218	-276,547	Ceased business on 19 Aug 2013
12	Regal Pioneer Ltd (Multiprize Limited)	43	1 year	-8,895	-382,476	
13	Neway.com Technology Ltd	50	1 year	-8,814	-440,697	
14	Perfect Galaxy Limited	30	1 year	-9,218	-276,547	
15	Profit Chart Development Ltd	42	1 year	-8,895	-373,581	
16	Silver Benefit Limited	50	1 year	-8,814	-440,697	
17	Song Advance Limited	53	1 year	-8,733	-462,853	
18	Star Business Limited	16	92 days	-9,299	-148,786	Ceased business on 30 Sept 2013
19	Sunway Creation Limited	45	1 year	-8,895	-400,266	
20	Music Advance Ltd (Superfeel Limited)	60	1 year	-8,571	-514,281	
21	Well Dragon Limited	46	1 year	-8,814	-405,441	
22	Well Power Pacific Limited	45	1 year	-8,895	-400,266	
23	Wonderful Limited	112	1 year	-7,520	-842,256	
24	South Profit Ltd	50	1 year	-8,814	-440,697	
25	Gloryfaith Limited	42	279 days	-8,895	-373,581	Business commenced on 25 Sept 2013
26	Greenspark International Limited	37	1 year	-9,057	-335,091	

Total no. of rooms

1,170

Total amount :

-10,497,235

IN THE COPYRIGHT TRIBUNAL OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
APPLICATION NO. 2 OF 2010

BETWEEN

NEWAY MUSIC LIMITED

Originator

and

HONG KONG KARAOKE
LICENSING ALLIANCE LIMITED

Respondent

DECISION ON THE AMOUNT OF LICENCE FEES

Dated this 10th day of November 2020

Copyright Tribunal
25th Floor, Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong