

Telecommunications Regulatory Affairs Advisory Committee

Minutes of the Ninth Meeting

Held on Thursday, 17 September 2015 at 2:30 p.m.
in OFCA Conference Room, 20/F Wu Chung House

Present

Mr Danny Lau	Office of the Communications Authority (OFCA) (Chairman)
Mr Chaucer Leung	OFCA (Secretary)
Ms Agnes Tan	Wharf T&T Limited (Wharf T&T)
Mr Raymond Chan	Hong Kong Cable Television Limited
Mr Gilbert Chan	Communications Association of Hong Kong
Mr Kevin Chu	PCCW-HKT Telephone Limited, Hong Kong Telecommunications (HKT) Limited and Genius Brand Limited
Mr Brian Ho	TraxComm Limited
Mr TL Or	SmarTone Communications Limited and SmarTone Mobile Communications Limited (SmarTone)
Mr YH Shum	The Institution of Engineering and Technology Hong Kong (IETHK)
Mr William Brown	Hutchison Global Communications Limited and Hutchison Telephone Company Limited
Mr York Mok	Ad personam
Mr Allen Law	Services-based operators as a group
Mr Raphael Ho	Equinix Hong Kong Limited
Mr Sutton Cheung	ComNet Telecom (HK) Limited (ComNet)
Mr Indarto Nata	Mobile virtual network operators as a group
Mr Patrick Ng	NTT Com Asia Limited
Ms Vivian Wong	China Telecom Global Limited
Ms Maggie Cheng	21 ViaNet Group Limited (21 Vianet)
Mr Stephen Chan	External telecommunications services (ETS) providers as a group
Mr Andrew Hung	HKC Network Limited

Mr Patrick Dong	The Hong Kong Institution of Engineers (HKIE)
Mr Walter Ngan	Towngas Telecommunications Fixed Network Limited
Mr Charles Yeung	Hong Kong Broadband Network Limited
Mr Richard Leung	New World Telecommunications Limited

In Attendance

Mr Malcolm Leong	Wharf T&T
Mr Eric Lee	SmarTone
Mr Kelvin Ma	IETHK
Mr Kenneth Kwok	ComNet
Mr Sanda Cheuk	OFCA
Ms Elaine Hui	OFCA
Mr TY Chan	OFCA
Mr WK Luk	OFCA
Ms Olive Wong	OFCA
Mr Raymond Ho	OFCA
Mr Bennet Wong	OFCA
Mr Joseph Chu	OFCA
Mr John Wong	OFCA
Ms Pancy Cheng	OFCA

Absent with Apologies

Mr Alex Cheng	China Mobile Hong Kong Company Limited / China Mobile Hong Kong Corporation Limited
Dr Victor Hung	Consumer Council
Mr Fred Lam	Hong Kong Police Force
Mr Ken Yiu	Hong Kong Mobile Television Network Limited
Mr Billy Yeung	Hong Kong Wireless Technology Industry Association
Mr Raymond Wong	Paging operators as a group

Mr Paul Abfalter	Telstra International HK Limited and Telstra International Limited, and External fixed operators as a group
Mr Eric Yeung	Small and Medium Enterprises
Dr Andrew Simpson	Ad personam
Ms Fannie Cheung	Ad personam
Ms Eva Chan	Ad personam
Prof Xu Yan	Ad personam

The Chairman welcomed Members to this Telecommunications Regulatory Affairs Advisory Committee (TRAAC) meeting. He introduced the new faces of the meeting, namely, Ms Maggie Cheng from 21 Vianet and Mr Patrick Dong from HKIE.

Item 1 Confirmation of Minutes of Last Meeting

2. The Chairman advised that the draft meeting minutes of last meeting had been circulated to Members for comment on 11 May 2015. The Secretary reported that the minutes of last meeting had been amended according to a comment received. There being no further comment from Members, the minutes of last meeting were confirmed.

Item 2 Matters Arising

Progress of the Next Generation Network Working Group (NGN WG) and its Subgroup

3. At the invitation of the Chairman, the Secretary updated Members that the NGN WG and its subgroup convened a meeting in June 2015 and May 2015 respectively. The NGN Development Status Template had been finalised and operators would submit data on a half-year basis, in March and September. The data received would be consolidated and used to reflect the NGN development status in Hong Kong. The adoption of SIP as a standard for voice service over NGN had been discussed. Members of the NGN WG concluded that it would

be premature to set a standard at this stage. The meeting also discussed the NGN features to minimise the nuisance caused by unsolicited cold calls. Their feasibility would be further explored in the coming meetings.

4. The Chairman explained that development of NGN in Hong Kong and the migration to NGN was basically commercial decisions of individual operators and market driven. OFCA would continue to monitor the developments of NGN in other economies, especially in the area of security, and report to Members the relevant matters in due course.

Item 3 Competition Guidelines Issued under the Competition Ordinance (TRAAC Paper No. 5/2015)

5. At the invitation of the Chairman, Ms Elaine Hui briefed Members on the Competition Guidelines issued under the Competition Ordinance (CO) and updated on the progress of preparatory work towards the full implementation of the CO.¹

6. Mr William Brown asked if the leniency policy would be in place when the CO was fully implemented. In response, Mr Sanda Cheuk explained that the CO empowered the Communications Authority (CA) and the Competition Commission (Commission) to enter into a leniency agreement with a person but did not require a leniency policy to be in place before its full operation. While a leniency policy would provide transparency and certainty to parties in respect of how the enforcement authorities would handle leniency applications, in view of the novelty of the leniency regime in competition enforcement for the telecommunications and broadcasting sectors as well as for Hong Kong on the whole, the CA would keep an open mind on the matter. In the event that the CA eventually decided not to have a leniency policy at the initial implementation of the CO, it would handle leniency applications on a case-by-case basis in accordance with the relevant provisions under the CO.

¹ The presentation slides are available at http://www.ofca.gov.hk/filemanager/ofca/en/content_757/traac5_2015_p.pdf.

7. Noting that the Competition Guidelines were jointly issued by the Commission and the CA applying to all sectors including telecommunications and broadcasting sectors, Ms Agnes Tan queried if the leniency policy could possibly be a joint guideline as well. Ms Elaine Hui informed that there would be a draft leniency policy to be issued by the Commission for consultation purpose. That said, the CA would not preclude the possibility of adopting on its own or jointly with the Commission, a leniency policy for the telecommunications and broadcasting sectors, and if so, when that should take effect.

8. The Chairman encouraged operators and concerned parties to provide comments in the public consultation to be issued by the Commission on its leniency policy, such that the CA could take into account the views of the industry in considering whether it would publish a leniency policy.

9. Mr William Brown asked for an update on the statement of enforcement priorities. Mr Sanda Cheuk informed that it was under preparation by the Commission and clarified that it was an operational document for the Commission only, not the CA.

10. Ms Agnes Tan inquired on the progress of the Memorandum of Understanding (MoU) between the CA and the Commission and opined that operators were keen to understand the demarcation between the two authorities because competition cases may involve telecommunications licensees and non-telecommunications licenses. Mr Sanda Cheuk updated that the MoU was targeted to be finalised and signed prior to the full implementation of the CO. It would be posted on the websites of the CA and the Commission.

11. Regarding Ms Agnes Tan's query on the information exchange between telecommunications operators, Ms Elaine Hui informed that the general principles in relation to information exchange had already been set out in the Guideline on the First Conduct Rule under the CO and the relevant principles would be applied for all sectors including the telecommunications sector.

Item 4 **Caller Identity Spoofing (TRAAC Paper No. 6/2015)**

12. At the invitation of the Chairman, Mr TY Chan gave a presentation on caller identity spoofing, the recent phone scams in Hong Kong and the new measure implemented to identify incoming calls originating from outside Hong Kong.² He thanked the industry for their cooperation in implementing the insertion of “+” sign in the calling number display of mobile phones as a prefix in incoming external calls.

13. The Chairman said that OFCA received positive feedbacks from the public and the media that the measure was useful in helping people identify possible scam calls. He also appreciated the efforts made by mobile network operators in sending SMS messages of the Police about prevention of telephone deception to their subscribers.

14. Mr Raphael Ho asked if the measure was applicable to spoof calls that began with “852”. Mr TY Chan affirmed that a “+” sign would appear in front of the calling number as long as it was an incoming external call.

15. In response to Mr Kelvin Ma’s query about whether the measure was applicable to VoIP calls originated from outside Hong Kong, Mr TY Chan explained that ETS operators were required to set the Nature of Address indicator of all incoming external calls routed through them as “international calls”, regardless of whether they were VoIP calls or not. VoIP calls routed through the Internet to Hong Kong might not be identifiable as external calls. That said, since this type of calls must still be connected to a local telecommunications network in Hong Kong for termination to the called party, the source of this type of scam calls could be easily traced.

16. Ms Agnes Tan asked if the new measure would be implemented on fixed telephones. In response, Mr TY Chan explained that unlike the case of mobile phones where the standards to indicate international numbers by a “+” sign were set out in the 3GPP specifications, there was no universal standard to indicate international numbers in fixed

² The presentation slides are available at http://www.ofca.gov.hk/filemanager/ofca/en/content_757/traac6_2015_p.pdf.

telephones. There was no plan to implement any measure for fixed telephones for the time being.

17. The Chairman admitted that there still existed call scenarios in which the “+” sign would not be displayed. For instance, network operators might be unable to display a “+” sign for incoming external calls with the calling number hidden by the caller. However, he pointed out that such calls would not be made by the scammers because calls without displaying incoming numbers were unable to serve the purpose of cheating the called parties. He said that OFCA would monitor the situation and enhance publicity and education if warranted.

Item 5 Regulatory Framework for Universal Service Arrangements (TRAAC Paper No. 7/2015)

18. At the invitation of the Chairman, Mr Raymond Ho gave an overview of the current regulatory framework for universal service arrangements.³

19. The Chairman said that in view of a Member’s request in the last meeting to review the regulatory framework for universal service arrangements, this paper was tabled to provide Members an overview of the current framework to facilitate discussion. Subsequent to the implementation of the new local access charge (LAC) regime, the LAC over-compensation was no longer available to offset the level of universal service contribution (USC). USC contributing parties were required to pay USC starting from 1 July 2013. He pointed out that the current USC regulatory arrangement was implemented in accordance with the statutory provisions stipulated under the TO. In fact, OFCA conducted periodical reviews on the costs of the universal service provider (USP) in meeting its universal service obligation and the overall USC level had been decreasing.

³ The presentation slides are available at http://www.ofca.gov.hk/filemanager/ofca/en/content_757/traac7_2015_p.pdf.

20. Ms Agnes Tan had the following comments –

- (a) Albeit the decreasing cost of uneconomic fixed lines in recent years, the cost of uneconomic public payphones had shown a rising trend. Whilst the former Telecommunications Authority (TA) stated in its statement of 8 June 2007 (Statement)⁴ that a mechanism would be introduced to direct removal from the list of public payphones eligible for USC, the number of public payphones had not been reduced significantly. She requested OFCA to share information about the review.
- (b) OFCA should explore other uses of the public payphone kiosks to increase the revenue source for the USC.
- (c) It was also stated in the Statement that various issues would be considered at an appropriate time in the future (i.e. the Phase 2 implementation mentioned in the Statement), including whether directory enquiry (DQ) service should be part of basic service. She was not aware of any progress made on this aspect.
- (d) In addition to holders of subscriber numbers, the CA should consider involving other parties to share the USC. For instance, OFCA might contribute to the USC by using the reserve of OFCA Trading Fund (OFCATF).

21. In response, Mr Sanda Cheuk said that the CA had already considered the issues raised by Ms Agnes Tan. The CA remained of the view that the current USC regulatory arrangement was well serving its objectives and there was no imminent need to conduct a comprehensive review on the USC regulatory framework. That said, within the existing framework, OFCA would continue to review the number of eligible public payphones for USC, explore additional revenue source for using payphone kiosks, and fine-tune the calculation model.

⁴ The Statement is available at <http://tel.archives.ofca.gov.hk/en/tas/ftn/ta20070608.pdf>.

22. The Chairman said that OFCA had constantly reviewed the relevant costs of the public payphones with a view to reducing the level of USC. In fact, OFCA was planning to conduct a further review on the number of public payphones eligible for USC. Nevertheless, he pointed out that there was still demand for public payphones in the community, such as for emergency purpose. Mr Sanda Cheuk added that a lot of public payphones were situated in indoor areas like government properties and public hospitals, and OFCA had received requests for public payphones in those areas.

23. Mr TL Or commented that parties who requested for public payphone services should pay for the service rental. If the government requested for public payphone services, it should pay for the services accordingly. Ms Agnes Tan agreed, suggesting that this was analogous to private property owners subscribing to private payphone services in their premises. Mr Sanda Cheuk clarified that public payphones were public facilities for serving the general public. As such, parties like public hospitals should not be considered as subscribers to the public payphone services.

24. Mr Kevin Chu argued that one of the policy objectives of the universal service arrangement was to ensure that the costs for providing universal service was fairly borne by the users of network services, but not to reduce the cost of providing basic service. Mr Sanda Cheuk clarified that the CA endeavoured to derive a fair and reasonable calculation of the net cost for providing basic service so as to enable a reasonable contribution by licensees towards the USC.

25. Concerning the expanded use of public payphone kiosks, the Chairman said that the kiosks had already been used for deployment of public Wi-Fi service and a rental fee had been applied for such use and included as special revenue for funding USO. The Secretary added that OFCA would not preclude any possibility of allowing the industry to deploy kiosks for other telecommunications uses, such as for installation of mobile base stations, subject to the approval of relevant government departments.

26. Regarding the fundamental issues of the universal service arrangement, such as whether payphones should be subject to USC, and the commencement of Phase 2 implementation, the Chairman said that the CA considered that those issues were better reviewed in a holistic manner during the review of the TO. The government had already scheduled to conduct a comprehensive review on the TO and Broadcasting Ordinance in the coming years.

27. As regards the use of the OFCATF for funding the USC, the Chairman explained that the Director-General of Communications, as the manager of OFCATF, was obliged to appropriately use the fund in accordance with the existing policies and laws including the Trading Funds Ordinance. To divert funds from the OFCATF for other purposes might risk OFCA being accused of misappropriation of trading fund.

28. Ms Agnes Tan also urged OFCA to review the licence fee. She and Mr Kevin Chu disagreed that it should be put on hold due to the legal proceedings in which HKT applied for judicial review on the last licence fee reduction for UCL and other relevant licences. The Chairman said that OFCA had been reviewing regularly whether there could be scope for licence fee reductions notwithstanding there were legal proceedings on the matter. However, he was of the view that the outcome of the court case might have an impact on the fundamentals of the trading fund policy and the licence fee calculation. Having said that, he added that when OFCA considered that there should be scope to reduce licence fees, consultations in accordance with the TO would be launched.

29. The Chairman concluded that Members' comments and suggestions were noted and OFCA would update Members on any further progress on its review of USC in due course.

[Post-meeting note: On 16 October 2015, Ms Agnes Tan circulated to Members research findings on the intrinsic benefits to the universal service provider.]

Item 6 Any Other Business

30. In concluding the meeting, the Chairman announced that the next TRAAC meeting would tentatively be convened around end of 2015 or early 2016. Members would be informed nearer the time.

31. There being no other business, the meeting adjourned at 4:30 pm.

**Office of the Communications Authority
November 2015**