

Telecommunications Regulatory Affairs Advisory Committee

Minutes of the Tenth Meeting

Held on Thursday, 21 January 2016 at 2:30 p.m.
in OFCA Conference Room, 20/F Wu Chung House

Present

Mr Chaucer Leung	Office of the Communications Authority (OFCA) (Chairman)
Mr Sanda Cheuk	OFCA (Secretary)
Ms Agnes Tan	Wharf T&T Limited (Wharf T&T)
Mr Dennis Wong	Hong Kong Cable Television Limited
Mr Gilbert Chan	Communications Association of Hong Kong
Mr WH Tang	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 Eric Yeung	Small and Medium Enterprises
Mr William Brown	Hutchison Global Communications Limited and Hutchison Telephone Company Limited
Mr York Mok	Ad personam
Mr Allen Law	Services-based operators (SBOs) as a group
Mr Raphael Ho	Equinix Hong Kong Limited
Mr Sutton Cheung	ComNet Telecom (HK) Limited (ComNet)
Mr Fred Lam	Hong Kong Police Force
Ms Eva Chan	Ad personam
Mr Karson Ng	China Telecom Global Limited
Mr Patrick Ng	NTT Com Asia Limited (NTT)
Mr Brian Chan	21 ViaNet Group Limited (21 Vianet)
Mr Stephen Chan	External telecommunications services (ETS) providers as a group
Mr Andrew Hung	HKC Network Limited

Dr Andrew Simpson	Ad personam
Mr Alan Chan	The Hong Kong Institution of Engineers (HKIE)
Ms Jacqueline Leung	Towngas Telecommunications Fixed Network Limited (Towngas)
Mr Alex Cheng	China Mobile Hong Kong Company Limited / China Mobile Hong Kong Corporation Limited
Dr Victor Hung	Consumer Council
Mr Richard Leung	New World Telecommunications Limited

In Attendance

Mr Malcolm Leong	Wharf T&T
Mr Eric Lee	SmarTone
Mr Alan Choi	SmarTone
Mr Kenneth Kwok	ComNet
Mr Donald Chan	NTT
Mr Esmond Chiu	OFCA
Mr Kingsley Yeung	OFCA
Mr Sidney Tsan	OFCA
Mr Alvin Li	OFCA
Mr John Wong	OFCA
Ms Andrea Lau	OFCA
Ms Sharis Tam	OFCA
Ms Maggie Fung	OFCA

Absent with Apologies

Mr Charles Yeung	Hong Kong Broadband Network Limited
Mr Ken Yiu	Hong Kong Mobile Television Network Limited
Mr Billy Yeung	Hong Kong Wireless Technology Industry Association
Mr Indarto Nata	Mobile virtual network operators (MVNOs) as a group
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 YH Shum	The Institution of Engineering and Technology Hong Kong
Ms Fannie Cheung	Ad personam
Prof Xu Yan	Ad personam

The Chairman welcomed Members to this Telecommunications Regulatory Affairs Advisory Committee (TRAAC) meeting. He introduced the new participants attending the meeting, namely, Mr Alan Chan from HKIE, Ms Jacqueline Leung from Towngas, Mr Brian Chan from 21 Vianet and Mr Donald Chan from NTT.

Item 1 Confirmation of Minutes of Last Meeting

2. The Chairman advised that the draft minutes of last meeting had been circulated to Members for comment on 5 November 2015. 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 January 2016 respectively. Based on inputs of operators by the end of September 2015 in accordance with the agreed NGN development status templates, a status summary was prepared and circulated to the Members of the subgroup in the last meeting. OFCA would discuss with the Members of the NGN WG whether information in the status summary could be published in the public domain and if so, the format of publication. The meeting also discussed about adding a new

item, “fibre to the home (FTTH) penetration”, to the NGN development indicators report. OFCA would prepare a draft template for operators’ comment. In addition, the inclusion of voice over long term evolution (VoLTE) in NGN interconnection trial had been discussed.

Item 3 Intrinsic Benefits in Universal Service Provisioning (TRAAC Paper No. 1/2016)

4. At the invitation of the Chairman, Mr Kingsley Yeung briefed Members on the research findings of Wharf T&T about intrinsic benefits in universal service provisioning in Europe. He also set forth the issues pertinent to intrinsic benefits in the context of Hong Kong telecommunications market. The Chairman invited comments from Members as to whether it would be appropriate to take into account intrinsic benefits in the calculation of universal service contribution (USC) in Hong Kong.¹

5. Ms Agnes Tan said that she had raised in the last two meetings that there should be a comprehensive review on the current USC regulatory arrangement in light of a number of deregulations in the telecommunications market since the last review of the arrangement in June 2007. While there was no timeframe specified in the relevant statement entitled “Review of the Regulatory Framework for Universal Service Arrangements” issued on 8 June 2007² (the Statement), it was stated that intrinsic benefits should be considered in the future.

6. In response, the Chairman said that, as discussed in the last meeting, the Communications Authority (CA) had already considered the issues raised by Wharf T&T and 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. As to the subject matter of intrinsic benefits, he welcomed the views of other Members as to the appropriateness of taking into account such benefits in the USC calculation.

¹ The presentation slides are available at http://www.ofca.gov.hk/filemanager/ofca/en/content_757/traac1_2016_p.pdf.

² The statement is available at http://tel_archives.ofca.gov.hk/en/tas/ftn/ta20070608.pdf.

7. Mr William Brown considered that intrinsic benefits appeared to be significant in the relevant calculations in Europe, as they represented 14% to 67% of the applicable net costs of universal service provision. While he noted that marketing benefit was included in the USC calculation in Hong Kong in 2007, he asked whether OFCA had also considered other intrinsic benefits such as enhanced brand recognition, ubiquity benefit and life-cycle benefit in the USC calculation. He further asked what would be the way forward, such as the need for public consultation, in dealing with intrinsic benefits in the USC calculation.

8. Mr Kingsley Yeung replied that the existing mechanism had taken account of marketing benefit in terms of advertising on public payphone kiosks in the USC calculation. Other than that, the USC calculation was only based on the actual cost and revenue of the universal service provider (USP) in meeting the universal service obligation. The Secretary supplemented that, as indicated in the Statement, there was difficulty of identifying and quantifying intrinsic benefits and separating such benefits from other factors, and hence it was considered inappropriate to pursue further the calculation of intrinsic benefits at the material time. He noted that in general a lot of assumptions were required in deriving intrinsic benefits and there would be a need to assess whether those assumptions were applicable to the Hong Kong environment.

9. The Chairman pointed out that the TRAAC meeting would be a good platform for OFCA to consult the views of different stakeholders including the USC contributing parties and the USP, but before doing so, it would be premature to make a decision as to the need to conduct public consultation on the subject matter.

10. Mr York Mok queried why intrinsic benefits were recognised in Europe but not in other countries such as Australia and the United States. To be fair, he suggested that any future study of the subject matter should also consider whether there were intrinsic disadvantages of being the USP.

11. The Chairman explained that the idea of intrinsic benefits was not without controversy and hence it was not adopted in every

jurisdiction. In Europe, the European Commission had issued a directive requiring its member states to take account of intrinsic benefits in the costing of universal service provision. In Hong Kong, the costing was based on actual cost and revenue of the USP to avoid subjectivity. Mr Kingsley Yeung supplemented that in Australia, the provision of universal service had transited from a regulatory arrangement to an open and competitive contractual model. Through tendering process, intrinsic benefits of universal service provisioning, if any, would be internalised in the value of the contract signed between the USP and the regulatory authority in Australia.

12. Mr WH Tang considered that the issue of intrinsic benefits was a complex one. According to Wharf T&T's research findings, he observed that intrinsic benefits in France had dropped progressively and rapidly from Euro 95 million in 2002 to Euro 64,000 only in 2013. Thus, intrinsic benefits became insignificant in France in recent years. Though HKT had not carried out a detailed study yet, he opined that the situations in overseas might not be applicable to Hong Kong. In any case, he advised that HKT would submit its own analysis on intrinsic benefits before the next TRAAC meeting so that a more balanced view would be available for further discussion.

13. Regarding the difficulty of identifying and quantifying intrinsic benefits, Mr William Brown suggested that OFCA might make reference to the calculation methodologies of those European countries which recognised intrinsic benefits. Mr Brian Ho asked whether OFCA had made enquiry with the relevant jurisdictions in Europe about the formulae for calculating intrinsic benefits. Mr Kingsley Yeung said that subject to discussion with the local industry about the applicability of intrinsic benefits for USC calculation in Hong Kong, OFCA would consider conducting further studies on the subject. The Chairman replied that OFCA would make enquiries with the relevant overseas regulators after discussion at this meeting.

14. Mr TL Or agreed that OFCA should approach the overseas regulators to understand their calculation methodologies and suggested that the value of intrinsic benefits should be estimated in order to assess their significance towards the USC. Mr Eric Lee supplemented that the

regulators in Australia and New Zealand had first assessed the amount of intrinsic benefits in around year 2000 before making the decision of not pursuing further.

15. Mr York Mok commented that it would be more appropriate to first ascertain whether, in principle, intrinsic benefits were applicable to the Hong Kong environment before drilling into the calculation methodologies adopted by overseas regulators.

16. Noting that intrinsic benefits in Italy, Portugal and Ireland were only calculated up to 2007, 2011 and 2009/10 respectively, Dr Andrew Simpson considered that it would be more useful to obtain more updated figures from these countries. It might not be worth spending extra resource on the calculations in the local environment if, by reference, intrinsic benefits have become very small in Europe in recent years. Mr Stephen Chan also questioned whether the relevant European countries were still recognising intrinsic benefits to date. Ms Agnes Tan advised that Wharf T&T's research was conducted in 2015 and she considered that, similar to the Hong Kong situation, there would be a long lead time for overseas regulators to confirm the actual cost of universal service provision and so more recent figures might not be available yet.

17. Mr TL Or enquired about the status of reviewing the number of public payphones eligible for USC as it was discussed in the last meeting that OFCA would conduct such a review. Mr Kingsley Yeung replied that OFCA had kicked start the review process in late 2015. OFCA would engage further discussion with the USP before reporting its findings to Members in due course.

18. The Chairman concluded that OFCA would (a) approach the relevant regulators in Europe about their calculation methodologies and (b) invite Members to provide written comments as to whether intrinsic benefits should be included in USC calculation. OFCA would consolidate its findings and inputs from Members for discussion at the next TRAAC meeting.

Item 4 Mobile Network Sharing (TRAAC Paper No. 2/2016)

19. At the invitation of the Chairman, Mr Sidney Tsan gave a presentation³ on the subject matter, with an overview of some typical forms of mobile network sharing, the relevant regulatory regimes in Hong Kong, and the need for mobile network operators (MNOs) to seek OFCA's advice if they had any proposals on new forms of mobile network sharing. He emphasised that mobile network sharing should not result in *de facto* sharing, swapping, transfer, leasing or trading of spectrum which had not been approved by the CA or was not permitted under the existing legal and regulatory regime.

20. Mr W H Tang enquired whether any form of spectrum pooling would be permitted under the current regulatory framework, in order to allow more efficient use of spectrum and bring benefit to consumers without adversely affecting the competition. The Secretary replied that any novel form of network sharing could be explored so long as such sharing complied with the existing regulatory requirements. MNOs were encouraged to submit detailed information to OFCA for advice.

21. Mr W H Tang enquired the status of the consultancy study on spectrum trading conducted in 2009. The Chairman said the Government's policy inclination that spectrum trading would be implemented in the long run, subject to a feasibility study and resolution of various implementation issues as stated in the radio spectrum policy framework issued by the then Commerce, Industry and Technology Bureau. The subject matter was currently under study by the policy bureau.

22. Mr T L Or suggested that there was no difference in users' experience no matter what kind of network sharing was implemented by the MNOs. He enquired whether it would be allowable for two MNOs to pool together their respective spectrum assignments to form one carrier for transmission, but the radio transmission could be identified with the respective spectrum assignees. The Chairman responded that while users might not be concerned about the technology being deployed by the

³ The presentation slides are available at http://www.ofca.gov.hk/filemanager/ofca/en/content_757/traac2_2016_p.pdf.

MNOs when they enjoyed the mobile service, it was the responsibility of the respective spectrum assignees to transmit radio signals using their own assigned spectrum. For any innovative form of mobile network sharing, OFCA would welcome further discussion with the concerned MNOs. The Secretary supplemented that the TRAAC paper explained the existing regulatory regime and set out some guiding principles for information by the industry. MNOs were welcome to approach OFCA in case of doubt.

23. There being no further comment, members noted the content of the paper.

Item 5 Public Opinion Survey on Protection Measures for Telecommunications Service Consumers (TRAAC Paper No. 3/2016)

24. At the invitation of the Chairman, Ms Sharis Tam gave a presentation⁴ on the major findings of a telephone survey (Survey) in respect of four consumer protection measures implemented by OFCA and the telecommunications industry for the provision of telecommunications services in Hong Kong, and the recommendation for follow up by OFCA and the industry.

25. The Chairman pointed out that the Survey reflected the need to enhance public awareness of the four consumer protection measures so that people, in particular the elderly and those with lower income and/or lower education attainment, could make use of the measures to protect their rights. He added that the increase in consumers' satisfaction and reduction of complaints would be a win-win situation for both consumers and telecommunications service providers. Other than OFCA's efforts in strengthening the publicity of the measures, the Chairman appealed to the telecommunications service providers to continue effective implementation of the measures and provide assistance to their customers in need.

⁴ The presentation slides are available at http://www.ofca.gov.hk/filemanager/ofca/en/content_757/traac3_2016_p.pdf

26. Dr Victor Wong shared his experience in consumer education and suggested that for publicity events targeting the retired and the elderly, it would be more effective if the content of the events was more relevant to day-to-day experience of the target group of audience and tailored to their needs. He also suggested that OFCA might consider using various means instead of a single platform to convey the advertising messages to the target audience. The Secretary thanked his comments and OFCA would take this suggestion into account in arranging publicity activities for the target audience.

27. The Chairman said that in order to promote awareness of the consumer protection measures, leaflets on consumer tips were distributed through some travel agents to their customers for information, and suggested that a similar arrangement could be done at the sales outlets of the telecommunications service providers. OFCA would be ready to supply the relevant leaflets to telecommunications service providers interested in placing the leaflets at their sales outlets. In response to Mr Gilbert Chan's query, the Secretary clarified that the leaflet was on smart use of communications services and a separate leaflet on CCSS had been published on OFCA's website. The Chairman added that in view of the low public awareness of CCSS, OFCA would launch a six-month CCSS publicity campaign, including publishing comic strip series and advertorials in free newspapers, etc.

28. Mr Alan Chan enquired the possibility of distributing the leaflets at the District Councils (DC). Mr Esmond Chiu replied that OFCA would attend the DC meetings from time to time on various consumer related issues on telecommunications services raised by district councillors and would seek assistance of the DC in distributing OFCA's leaflets when opportunity arose.

29. Mr York Mok opined that apart from the Mobile Bill Shock Measures, it seemed that there was not enough publicity on other consumer protection measures. The Chairman clarified that OFCA broadcasted Announcements in the Public Interest (APIs) not only on Mobile Bill Shock Measures but also on Industry Code of Practice for Telecommunications Service Contracts (Service Contracts CoP). Mr York Mok further asked whether OFCA would consider promoting the

measures by social media, such as filming micro movies. The Chairman welcomed the idea and would take it into account in OFCA's future publicity initiatives.

30. There being no further comments, the Chairman concluded the discussion and encouraged operators interested in putting OFCA's leaflets at their sales outlets to approach OFCA after the meeting. The Secretary added that operators might also consider building links on their websites to OFCA's leaflets.

Item 6 Any Other Business

31. In concluding the meeting, the Chairman announced that the next TRAAC meeting would tentatively be convened around mid of 2016. Members would be informed nearer the time.

32. There being no other business, the meeting adjourned at 4:40 pm.

**Office of the Communications Authority
March 2016**