

Telecommunications Regulatory Affairs Advisory Committee

Minutes of the Fourteenth Meeting Held on Thursday, 10 August 2017 at 2:30 p.m. in OFCA Conference Room, 20/F Wu Chung House

Members Present

Mr Chaucer Leung	Office of the Communications Authority (OFCA) (Chairman)
Mr Sanda Cheuk	OFCA (Secretary)
Mr Peter Lam	PCCW-HKT Telephone Limited, Hong Kong Telecommunications (HKT) Limited and PCCW Global (HK) Limited (HKT)
Ms Juliana Wong	Hutchison Global Communications Limited, Hutchison Telephone Company Limited and Genius Brand Limited (Hutchison)
Mr Richard Leung	Hong Kong Broadband Network Limited and HKBN Enterprise Solutions Limited (HKBN)
Mr T L Or	SmarTone Communications Limited and SmarTone Mobile Communications Limited (SmarTone)
Ir Dr K F Tsang	The Institution of Engineering and Technology Hong Kong (IETHK)
Ir Dr Peter Chiu	The Hong Kong Institution of Engineers (HKIE)
Mr Brian Chan	21 ViaNet Group Limited
Mr Kenneth Kwok	ComNet Telecom (HK) Limited
Mr Allen Law	External Telecommunications Services (ETS) operators as a group
Mr Karson Ng	China Telecom Global Limited
Mr York Mok	Ad personam
Mr Stephen Chan	Services-based operators (SBOs) as a group
Mr Marcus Crachi	Telstra International HK Limited and Telstra International Limited (Telstra)
Mr Ricky Ho	NTT Com Asia Limited (NTT)
Mr Chris Tsang	APT Satellite Company Limited
Mr C Y Chung	Superloop (Hong Kong) Limited (Superloop)

Mr Andrew Hung	HKC Network Limited
Mr Simon Leung	Hong Kong Mobile Television Network Limited (HKMTV)
Ms Jacqueline Leung	Towngas Telecommunications Fixed Network Limited
Mr Eric Cheung	TraxComm Limited (TraxComm)
Mr Alan Choi	Hong Kong Cable Television Limited
Mr Mike Pan	China Mobile Hong Kong Company Limited
Mr Malcolm Leung	WTT HK Limited
Mr Gilbert Chan	Communications Association of Hong Kong
Ms Eva Chan	Ad personam
Mr Fred Lam	Hong Kong Police Force

**Members of the Telecommunications Users and Consumers Advisory
Committee (TUCAC) Present**

For Agenda Item 5

Ms June Ip	Consumer Council
Mr L K Chong	Communications Associations of Hong Kong
Ms Edith Hui	The Hong Kong General Chamber of Commerce
Mr Eric Yeung	Representative of Small and Medium Enterprises
Mr C M Chung	Representative of the disabled
Mr William Tang	Representative of the disabled
Ms Eva Lau	Member of the public
Ms Cindy Chan	Member of the public
Mr Daniel Lo	Member of the public
Ms Florence Man	Member of the public
Mr Thomas Sun	Member of the public
Ms Eva Wong	Member of the public
Mr C B Wong	Member of the public
Mr Kenny Chiu	Ad personam
Mr K W Ma	Ad personam

In Attendance

Mr W H Tang	HKT
Mr Henry Chan	Hutchison
Ms Abbie Lo	HKBN
Mr Eric Lee	SmarTone
Mr Bruce Chan	IETHK
Mr Esmond Chiu	OFCA
Ms Christine Chim	OFCA
Ms Gladys Ng	OFCA
Mr Penny Lo	OFCA
Mr Matthew Wong	OFCA
Mr Patrick Man	OFCA
Ms Maggie Fung	OFCA

For Agenda Item 5

Ms F Y Ma	Sign Language Interpreter
Ms Jamay Wong	OFCA
Ms Edith Yau	OFCA

Observers

For Agenda Item 3

Mr Murray Hankinson	Thinextra Network Limited (Thinextra)
Mr Neil Carabine	Thinextra
Mr Ralph Riley	Pixel Networks Limited (Pixel)
Mr Kirill Nosov	Pixel

For Agenda Item 5

Mr C M Chan	China Mobile International Limited
Ms Sonia Fung	China Unicom (Hong Kong) Operations Limited
Mr Joe Chan	China Telecom Global Limited
Ms Maria Lee	Sun Mobile Limited

Dr Alex Ip	Truphone (Hong Kong) Limited
Ms Joey Kwan	263 Mobile Communications (HongKong) Limited
Mr Jim Yang	Multibyte Info Technology Limited
Ms Kiki Che	Easco Telecommunications Limited
Mr Stanley Ma	Tink Labs Limited

Members Absent with Apologies

Dr Victor Hung	Consumer Council
Mr Alex Kun	Hong Kong Wireless Technology Industry Association
Mr Raphael Ho	Equinix Hong Kong Limited
Mr Cliff Wong	Big Big Channel Limited
Ms Claretta Chia	Verizon Hong Kong Limited
Mr Raymond Wong	Paging operators as a group
Dr Andrew Simpson	Ad personam

The Chairman welcomed Members to the Telecommunications Regulatory Affairs Advisory Committee (TRAAC) meeting. He informed Members that the meeting would be divided into two parts, in which the first part of the meeting would be held as usual, and the second part would be a joint meeting of the TRAAC and the Telecommunications Users and Consumers Advisory Committee (TUCAC) for the discussion of agenda item 5 which concerned a proposed Code of Practice on the Cessation Arrangements for Mobile Virtual Network Operator Services (CoP) and the associated performance bond requirement on mobile virtual network operators (MVNOs) involving both regulatory and consumer issues.

2. The Chairman introduced and welcomed five new Members to the TRAAC, namely, Mr Simon Leung from HKMTV, Mr C Y Chung from Superloop, Mr Eric Cheung from TraxComm, Mr Ricky Ho from NTT and Mr Bruce Chan from IETHK.

Item 1 Confirmation of Minutes of Last Meeting

3. The Chairman said that the draft minutes of the thirteenth meeting had been circulated to Members for comment on 10 May 2017. As there was no comment received from Members, the minutes of the thirteenth meeting were confirmed without amendment.

Item 2 Matters Arising

Progress of the Technical Regulatory Working Group (TRWG)

4. The Secretary reported that in the last TRWG meeting held on 21 February 2017, OFCA discussed with all mobile network operators (MNOs) whether they had any plan to conduct trials of technologies making use of the unlicensed bands to provide mobile broadband services, for example Long Term Evolution in Unlicensed Spectrum (LTE-U), Licensed-Assisted Access (LAA), LTE-WLAN Aggregation (LWA) and LTE Wi-Fi radio level integration with IPsec tunnel (LWIP). After the meeting, OFCA had received two applications for trial in July 2017. OFCA had already issued a permit to one applicant and was processing the other application. The Secretary informed Members that the next meeting of the TRWG would be held in the second half of this year and members of the TRWG would be informed nearer the time.

Item 3 of the 13th TRAAC Meeting (Proposal on the Implementation of Review of the Number of Public Payphones under Universal Service Obligation)

5. The Secretary reported that some Members expressed the view at the last TRAAC meeting that the number of emergency calls made from public payphones (PPs) should be considered in addition to the revenue data of PPs in order to obtain a full picture of the usage level of PPs. Based on the information subsequently provided by the universal service provider, it was noted that only about 60% of PPs had been used for making emergency calls during a roughly three-month period between January and April 2017. For each of these PPs, on average only one emergency call per two weeks' time was made. Although it appeared

that the usage level of PPs for making emergency calls was not high, OFCA would take into account any reasonable need for making emergency calls at specific PPs in the process of consultation with stakeholders before making a final decision to exclude any PPs from the universal service contribution (USC).

6. On 29 June 2017, the Communications Authority (CA) had approved and issued a press release announcing its decision to embark on the review of the number of PPs under the universal service obligation. The Secretary said that the review would be conducted by phases and the entire review was expected to be completed by end 2019. In the initial phase, OFCA had issued letters to nine site owners of in-building PPs in July 2017 to solicit their views on the proposed exclusion of identified PPs from the USC.

Item 3 Proposed Creation of a New Licence for the Provision of Wireless Internet of Thing Services (TRAAC Paper No. 4/2017)

7. The Chairman welcomed four observers for this agenda item, namely Mr Murray Hankinson and Mr Neil Carabine from Thinextra, and Mr Ralph Riley and Mr Kirill Nosov from Pixel.

8. At the invitation of the Chairman, Mr Penny Lo briefed Members and other participants on the proposed creation of a new licence for the provision of wireless Internet of Things (WIoT) services. The Chairman added that the objective was to make available a proportionate regulatory regime for the provision of WIoT services using the shared band of 920 – 925 MHz. He invited Members and other participants to provide comments on the proposal.

9. Ms Juliana Wong asked why OFCA needed to create the new licensing regime in a tight schedule, and said that OFCA might further conduct a public consultation on the matter. The Chairman said that the proposed licensing regime concerned primarily the industry players only and TRAAC had been a well established consultative platform to collect views from the industry on telecommunications regulatory affairs. The

Communications Authority would take into account comments collected by OFCA via TRAAC and put in place an appropriate licensing regime timely with a view to facilitating the development of the WIoT services in Hong Kong.

10. In response to Mr Peter Lam's enquiry if OFCA had made any reference to the overseas experience when proposing the licence fee level, the Secretary replied that before putting forward the proposal, OFCA had considered the licence fee levels as adopted in other major economies, but it should be pointed out that OFCA was bound by the cost-recovery principle for operation of the OFCA Trading Fund in determining the amount of applicable licence fees. The proposed licence fee level for WIoT devices was determined on application of the cost-recovery principle, taking into account OFCA's estimated licence administration cost and estimated licence fee revenue based on projections on the number of WIoT devices as submitted by the licence applicants. Mr Peter Lam opined that a licence fee calculated based on revenue sharing as adopted in Singapore might facilitate small and medium enterprises to deploy WIoT services, as he considered that the proposed \$2 per wireless IoT device was on the high side. The Chairman said that the licence fee calculation based on the revenue sharing mechanism by Singapore might possibly lead to a higher fee as compared with the licensing regime currently proposed by OFCA. He said that OFCA would, in view of the development of the WIoT services after their launch, review the licence fee of the WIoT licence as and when necessary.

11. Mr Simon Leung asked the rationale of regulating the WIoT services by a new licensing regime and requested OFCA to share any similar overseas licensing experience. Mr Esmond Chiu explained that the provision of public telecommunications services in Hong Kong shall be licensed under the Telecommunications Ordinance (Cap. 106) (TO). In fact, other major economies such as Singapore and Australia also required WIoT service providers to obtain appropriate licences pursuant to their respective statutory requirements.

12. Ms Juliana Wong enquired the meaning of the term "massive deployment of IoT network and devices by MNOs" as mentioned in the paper and the level of details that might be required by OFCA in MNOs'

proposals. The Chairman said that MNOs could prepare their proposals to OFCA in free format. Moreover, the term “massive development of WIoT network and devices by MNOs” was just a general description about the scale of deployment by MNOs. OFCA would consider reviewing the licensing regime and licence fee arrangement for MNOs’ deployment of WIoT network and devices after the receipt of any proposal from them.

13. In response to Mr T L Or’s enquiry on whether OFCA would review the existing level of customer connection fee under the unified carrier licence (UCL), the Chairman said that there was an on-going legal case initiated by HKT to the Court of Final Appeal on the matter of licence fee reduction. Any review of the licence fee of the UCL would be subject to the conclusion of all the relevant legal proceedings in the Court.

14. In conclusion, the Chairman invited Members and other participants to provide written comments on the proposed licence, if any, within two weeks by 24 August 2017.

[Post meeting note: OFCA received four written submissions from HKT, NTT, Pixel and Thinxtra by the deadline of 24 August 2017.]

Item 4 Any Other Business

15. The Chairman said that the next TRAAC meeting would tentatively be convened in December 2017 or January 2018. Members would be informed of the details nearer the time.

Joint Meeting of TRAAC and TUCAC for Agenda Item 5

Item 5 Proposed Code of Practice on the Cessation Arrangements for Mobile Virtual Network Operator Services (TRAAC Paper No. 5/2017)

16. The Chairman welcomed members of TUCAC and representatives from MVNOs to join the discussion of this agenda item.

17. Ms Gladys Ng briefed Members and other participants on the background information of the two incidents of abrupt service cessation of mobile services offered by MVNOs, namely Easycall Limited in March 2016 and CMMobile Global Communications Limited (CMMobile) in January 2017 respectively, the proposed CoP and the associated performance bond requirement on MVNOs. The Chairman would like to invite Members and other participants to provide comments on the proposal.

18. Mr C M Chung welcomed the proposed CoP but suggested that if a hosting mobile network operator (Hosting MNO) decided to terminate the wholesale services to an MVNO, it should have the responsibility to continue to provide mobile services to the affected customers of the concerned MVNO. Mr Mike Pan commented that without the information of the affected customers, it might not be technically feasible for the Hosting MNO to continue to provide mobile services to them. Rather, the Hosting MNO might invite the affected customers to port their mobile numbers to the Hosting MNO before the service cessation of the MVNO. The Secretary said that the Hosting MNO might not have the customer information, and the customers might at their own discretion choose whether to port to a particular MNO. He pointed out that issuing an advance notice of at least five business days before service cessation as proposed in the CoP served to strike a proper balance between the needs of the affected customers, and the interests of the Hosting MNOs and MVNOs.

19. In response to Ms Florence Man's enquiry regarding the promulgation arrangement of the proposed CoP, the Secretary replied that OFCA would take into consideration all views and comments received before finalising the CoP and the associated performance bond requirement on MVNOs. Subject to the approval of the CA, the CoP would be brought into effect one month from the date of the issue and all MVNOs and Hosting MNOs would then be required to comply with the CoP as part of their licence obligations.

20. Mr C B Wong opined that the proposed amount of the performance bond of HK\$ 200,000 might be on the high side for MVNOs

with small customer base and considered that it should be calculated based on a sliding scale, commensurate with the numbers of customers of the MVNOs. Mr Jim Yang supported the requirement of giving an advance notice of about a week before service cessation but considered that the performance bond requirement would increase the financial burden on MVNOs as most of them were small and medium enterprises. The Secretary explained that the amount was equivalent to the maximum amount of the financial penalty for the first breach of licence condition under the TO. There was a need to impose such a performance bond requirement to safeguard the MVNOs' commitment to comply with the CoP or otherwise an MVNO found in breach of the CoP might just go out of business, thus evading all its responsibilities under the CoP and in relation to the payment of the financial penalty. Mr Richard Leung questioned whether the performance bond would be fully drawn by the CA in case an MVNO failed to comply with the CoP. The Secretary clarified that the CA would only demand the associated bank to pay from the bonded sum the amount of financial penalty imposed by the CA, if the MVNO defaulted the penalty payment. The Chairman supplemented that the performance bond was a kind of credit facility provided by a bank rather than a cash deposit. He also clarified that any financial penalty as might be imposed on the MVNOs in breach of the CoP would be payable to the Government coffers instead of the OFCA Trading Fund.

21. Mr Jim Yang considered that the proposed CoP, regarding the reasonable notice period to be given to service subscribers of the MVNO concerned before service cessation by the Hosting MNO, was beneficial to the industry and consumers. However, he objected to the requirement of a performance bond of HK\$200,000 to be imposed on MVNOs. As far as he knew, more than two ETS operators closed IDD business in the past and had very bad impact on their service users. He asked if OFCA would consider extending the application of the proposed CoP to all ETS operators. Mr Esmond Chiu replied that the nature of services provided by ETS operators was not identical to those provided by MVNOs. With the serious impact as experienced in the past two incidents caused by cessation of MVNO services, there was an imminent need to impose the requirements set out in the proposed CoP on MVNOs. Mr Jim Yang did not agree to this reply.

22. Mr K W Ma and Mr Kenny Chiu supported the proposed arrangement as the objective of the CoP was for consumer protection. Mr K W Ma considered that the Hosting MNOs and MVNOs in fact had the social responsibility to properly manage any service cessation and the industry could in fact consider the introduction of self regulatory measures first, before intervention by OFCA. The Secretary responded that the proposed CoP might be a more effective measure, as the Hosting MNOs and the MVNOs were obliged under their licences to comply with the CoP. On the other hand, Mr Kenny Chiu suggested that the Hosting MNOs should consider charging the MVNOs an appropriate amount of security deposit so as to avoid service cessation in case of default payment by the MVNOs. He also suggested that the Hosting MNOs should put in place concrete arrangements with MVNOs to safeguard the continued provision of mobile services to the affected customers in case of service cessation.

23. Mr Peter Lam disagreed that HKT as the Hosting MNO had given insufficient advance notices before terminating the services to the MVNOs as HKT had been in touch with OFCA about its commercial dispute with the MVNOs for more than a month in the two incidents. He said that HKT had the right to terminate the service to the MVNOs because of their default on paying the outstanding service charges. In respect of the existing requirement for the MVNOs to submit a letter of confirmation issued by their Hosting MNOs for annual licence renewal, he found it difficult for the Hosting MNOs to guarantee the service provision for a period of 12 months.

24. Regarding the proposed CoP, Mr Peter Lam commented that the use of the term “interconnection agreement” was inaccurate and should be superseded by “capacity wholesale agreement”. As regards the advance notice requirement, he opined that it would be more appropriate for the Hosting MNOs to inform OFCA only and it should be the responsibility of the MVNOs to inform the affected customers and the general public. To reduce the financial loss of the Hosting MNOs, he suggested that the Hosting MNOs should be permitted during the notice period to stop the provision of certain types of mobile services to the MVNOs such as IDD and international roaming services. And, MVNOs should avoid using SMS to notify their customers about the service

termination as it would incur irrecoverable costs on the Hosting MNOs. He also said that the requirement for the Hosting MNOs and MVNOs to handle mobile number portability should be shortened from a period of six months to three months, and the requirement for the Hosting MNOs to maintain the customer service hotlines should be waived.

25. Regarding the proposed performance bond, Mr Peter Lam said that it would impose additional financial burden on MVNOs many of which were small and medium enterprises. He considered that the proposed arrangement was inconsistent with the policy of OFCA in promoting competition in the telecommunications market.

26. In response, the Chairman said that the proposed CoP was drawn up in the wake of the occurrence of the two service cessation incidents over the past 18 months affecting over 110,000 mobile service subscribers in total. In both incidents, OFCA had been requesting HKT as the Hosting MNO to give at least one-week's notice before actual cessation of the wholesale service to the MVNOs but to no avail. He pointed out that setting the payment deadlines by the Hosting MNO and subsequently giving extensions to the MVNO during the commercial negotiation process could not be taken as advance notices of actual service cessation. In the incident relating to CMMobile, HKT notified OFCA its decision of service cessation with an advance notice of less than 10 hours. Albeit OFCA issued a consumer alert to inform the public right after, the notification was too short for the affected mobile service subscribers to take any possible action, such as number porting, to enable service continuity. The situation was very undesirable to OFCA, the relevant operators and the affected service subscribers. With nearly two million mobile service subscribers being served by MVNOs, OFCA considered that there was a need to avoid recurrence of any similar incident in the future by putting in place the proposed CoP which would regulate both MVNOs and the Hosting MNOs in case of cessation of MVNO services.

27. The Chairman said that the proposed CoP was not final and would be subject to amendments and changes with reference to the comments contributed by Members before the approval by the Communications Authority. For example, the minimum period and the

scope for respective follow-up actions by the MVNO and the Hosting MNO, and whether IDD and international roaming services should be subject to a shorter notice period, etc. would be reviewed by OFCA based on the comments raised by members and other participants in the meeting. The Secretary supplemented that IDD and international roaming services would be essential to those affected mobile service subscribers in the event that they were travelling abroad. Regarding dissemination of the service suspension notice, the Chairman said that instead of SMS, MVNOs might opt for other reasonable channels available (including the social media platform, instant messaging, emails and voice calls) to save cost.

28. The Chairman would like members and other participants to understand that the stipulation under the proposed CoP aimed to enhance consumer protection in the competitive telecommunications market based on the experience in the past two incidents. For those MVNOs with a small customer base, OFCA would review the level of the performance bond to be imposed upon them.

29. Mr K W Ma advised that OFCA might impose requirements in the proposed CoP that the Hosting MNOs would take up the affected customers for the MVNOs in the event of service cessation. The Secretary responded that the Hosting MNOs would be free to enter into any such commercial agreements with the MVNOs in such an event. Nevertheless, it might not be necessary and appropriate to mandate such requirement under the proposed CoP.

30. In conclusion, the Chairman invited members and other participants to let OFCA have their further comments on the proposed CoP and performance bond, if any, within two weeks by 24 August 2017.

31. There being no other business, the meeting was adjourned at 5 pm.

[Post meeting note: OFCA received four written submissions from HKMTV, HKT, Future Power International Limited and NTT by the deadline of 24 August 2017. On 6 September 2017, HKT issued a

circular letter to all participants of the meeting in relation to agenda item 5 of the meeting. In response, OFCA issued a circular letter on 18 September 2017 to all participants of the meeting to respond to issues raised.]

Office of the Communications Authority
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