

# Telecommunications Regulatory Affairs Advisory Committee

## **Minutes of the Fifteenth Meeting Held on Thursday, 8 February 2018 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 Gilbert Chan	Communications Association of Hong Kong
Ms Agnes Tan	WTT HK Limited
Ir Kelvin Ma	The Institution of Engineering and Technology Hong Kong (IETHK)
Mr Richard Leung	Hong Kong Broadband Network Limited and HKBN Enterprise Solutions Limited (HKBN)
Ms Juliana Wong	Hutchison Telephone Company Limited and Genius Brand Limited (HTCL)
Mr T L Or	SmarTone Communications Limited and SmarTone Mobile Communications Limited (SmarTone)
Mr Kevin Chu	PCCW-HKT Telephone Limited, Hong Kong Telecommunications (HKT) Limited and PCCW Global (HK) Limited (PCCW)
Mr Brian Chan	21 ViaNet Group Limited
Ms Jacqueline Leung	Towngas Telecommunications Fixed Network Limited
Mr Sutton Cheung	ComNet Telecom (HK) Limited
Mr Patrick Ng	NTT Com Asia Limited
Mr Allen Law	External Telecommunications Services (ETS) operators as a group
Ir Dr Philip Pong	The Hong Kong Institution of Engineers (HKIE)
Mr York Mok	Ad personam
Mr Alex Cheng	China Mobile Hong Kong Company Limited
Ms Katherine Kwok	HGC Global Communications Limited (HGC Global)

### **In Attendance**

Mr Malcolm Leong	WTT HK Limited
Mr Bruce Chan	IETHK
Ms Abbie Lo	HKBN
Mr Henry Chan	HTCL
Mr Eric Lee	Smartone
Mr Alan Choi	Smartone
Mr Gilbert Choy	PCCW
Mr Kenneth Kwok	ComNet
Mr SK Yiu	OFCA
Mr Esmond Chiu	OFCA
Mr Sidney Tsan	OFCA
Ms Christine Chim	OFCA
Mr Eddy Ng	OFCA
Ms Vera Chung	OFCA
Ms Gladys Ng	OFCA
Ms Sharis Tam	OFCA
Mr Patrick Man	OFCA
Mr Derrick Tsang	OFCA
Ms Rainie Kwong	OFCA
Mr Gap Cheuk	OFCA
Ms Maggie Fung	OFCA

### **Members Absent with Apologies**

Dr Victor Hung	Consumer Council
Mr Alex Kun	Hong Kong Wireless Technology Industry Association
Mr W M Chan	Hong Kong Cable Television Limited
Mr Karson Ng	China Telecom Global Limited
Mr Simon Leung	Hong Kong Mobile Television Network Limited
Mr Raphael Ho	Equinix Hong Kong Limited
Mr Andrew Hung	HKC Network Limited
Mr Kenneth Lau	TraxComm Limited
Ms Susana Halliday	Superloop (Hong Kong) Limited

Mr Paul Abfalter	Telstra International HK Limited and Telstra International Limited (Telstra)
Ms Claretta Chia	Verizon Hong Kong Limited
Mr Chris Tsang	APT Satellite Company Limited
Mr Stephen Chan	Services-based operators (SBOs) as a group
Mr Raymond Wong	Paging operators as a group
Mr Fred Lam	Hong Kong Police Force
Ms Eva Chan	Ad personam
Dr Andrew Simpson	Ad personam

The Chairman welcomed Members to the Telecommunications Regulatory Affairs Advisory Committee (TRAAC) meeting. He introduced and welcomed three new Members, namely, Ms Katherine Kwok from HGC Global, Mr Kevin Chu and Mr Gilbert Choy from PCCW.

### **Item 1 Confirmation of Minutes of Last Meeting**

2. The Chairman said that the draft minutes of the fourteenth meeting had been circulated to Members for comment on 18 September 2017. Mr Esmond Chiu summarised the comments received and introduced the amendments made to the minutes. There being no further comment from Members, the minutes of the last meeting were confirmed.

### **Item 2 Matters Arising**

#### Progress of the Technical Regulatory Working Group (TRWG)

3. The Secretary reported that in the last TRWG meeting held on 3 November 2017, OFCA gave an update on the development of Licensed Assisted Access (LAA) technology in the 5GHz unlicensed band. Trial permits had been issued to two mobile network operators (MNOs) for conducting technical trials. Following the completion of its trial, one submitted to OFCA its trial report which posted on OFCA's website for public information. Further, a proposal of calling line identification

arrangement for displaying the genuine mobile numbers of in-bound mobile roamers was also discussed in the TRWG meeting and members were invited to provide further views and comments after the meeting.

Item 3 of the 14th TRAAC Meeting (Proposed Creation of a New Licence for the Provision of Wireless Internet of Things (WIoT) Services)

4. The Secretary reported that the Communications Authority (CA) had approved the creation of the new WIoT Licence the form of which was gazetted on 1 December 2017. Two WIoT Licences had been issued so far.

Item 5 of the 14th TRAAC Meeting (Proposed Code of Practice on the Cessation Arrangements for Mobile Virtual Network Operator Services (MVNOs) (CoP))

5. The Secretary reported that the CA had published the CoP and issued circular letters to all MNOs and MVNOs on 28 September 2017 enclosing its response to the respondents' views and comments. The CoP and the associated performance bond requirement had taken effect since 28 October 2017.

**Item 3 Use of the 5 GHz Shared Band for the Provision of Public Mobile Services (TRAAC Paper No. 1/2018)**

6. Ms Gladys Ng briefed Members about the consultation paper issued by the CA on the use of the shared frequency spectrum in the 5 GHz band (5 GHz Shared Band) for the provision of public mobile services, and introduced the proposed regulatory and licensing regime and the proposed amendment of the Hong Kong Table of Frequency Allocations.

7. Ir Kelvin Ma noted that the trials of LAA conducted by the two MNOs were only confined to specific indoor locations and would like to know if OFCA would consider requesting MNOs to conduct trials in outdoor areas and other live field environments. The Secretary replied that the locations of the trials, as well as other technical details, were

determined by the MNOs conducting the trials. In fact, the MNO who had already completed the trial at indoor environment was currently conducting another field trial at outdoor locations. When completed, the trial report would also be made available for reference by the public.

8. Ms Agnes Tan asked about the meaning of “uncoordinated and unprotected basis” under the proposed new licence condition for the use of the 5 GHz Shared Band. The Chairman explained that the 5 GHz Shared Band was currently utilised by telecommunications apparatus without any need for licensing if it was in compliance with the requirements stipulated in the Telecommunications (Telecommunications Apparatus) (Exemption from Licensing) Order (Cap. 106Z), and the operation of such telecommunications apparatus was not subject to any coordination with other users nor any protection from interference caused by other radio equipment operating in the same frequency band. Hence, there was a need to make clear by way of a new licence condition the 5 GHz Shared Band should similarly be used for the provision for public mobile services on an unprotected and uncoordinated basis.

9. There being no further comments from Members, the Chairman invited Members to make written submissions in response to the consultation paper on or before the deadline of 1 March 2018.

*[Post-meeting note: The consultation period was extended at the request of the industry by one week to 8 March 2018.]*

#### **Item 4 Update on Network Neutrality (TRAAC Paper No. 2/2018)**

10. Ms Sharis Tam gave a presentation on the latest development of network neutrality in some overseas jurisdictions, an overview of the regulatory regime in Hong Kong, and a summary of findings of the performance test of access to over-the-top (OTT) content services conducted by OFCA. After the presentation, the Chairman said that OFCA would keep in view the latest development of network neutrality and invited members to give comments on this issue.

11. Mr Kevin Chu commented that the definition of network

neutrality as presented in the paper seemed to be too broad as it would inadvertently cover voice, SMS and other services as well. Instead, the definition should be more confined to Internet access services. In addition, issues relating to network neutrality should not be dealt with using the provisions under the Telecommunications Ordinance (TO) and the licence conditions, but rather under the Competition Ordinance as they would mainly stem from anti-competitive conducts adopted by the parties concerned. The light-handed, market-based approach as adopted by the Federal Communications Commission in the United States should be welcomed, and this was in fact consistent with the regulatory approach all along adopted in Hong Kong. The Secretary replied that network neutrality issues might not be just related to anti-competitive conducts but might also be linked with the protection of consumer interests by ensuring a fair and non-discriminatory access to the Internet access services by end users. Should any network neutrality cases arise in the future, the CA would examine the facts and merits of each case and adopt relevant ex-ante and/or ex-post regulatory measures where appropriate. The Chairman supplemented that although there were currently no specific regulations under the TO governing network neutrality, any issues associated with network neutrality would be dealt with in the light of the existing laws and licence conditions.

12. Ms Agnes Tan asked whether there would be any difference if the performance test was conducted on the Internet access services provided by SBOs. Mr Esmond Chiu explained that the primary objective of the performance test was to identify any problematic network management practices adopted by the major Internet Service Providers (ISPs) in delivering OTT content services to residential users in Hong Kong. SBOs, which provided services mostly to corporate users by reselling the services of the major ISPs, were not covered in the performance test.

13. Ir Kelvin Ma asked about the handling of complaints from consumers on insufficient bandwidth for OTT content services provided by the ISPs, and asked whether there was any monitoring in place to ensure the quality of the OTT content services provided to customers. The Secretary replied that the quality of access to OTT content services or other telecommunications services should be market-driven and was

not regulated by the CA. In response to Ir Kelvin Ma's further enquiry on the estimated subscriber base of the OTT content services, the Secretary said that the OTT content services were not licensed services under the TO and hence OFCA did not have the concerned statistics. Mr Esmond Chiu supplemented that complaints received by OFCA in relation to the use of the OTT content services or improper traffic management practices adopted by the ISPs were few and far between. In the future if there was any systemic problem identified, OFCA would look into the matter and consider whether any regulatory measure would be needed.

14. Mr Richard Leung suggested that the result of the performance test should be published and another round of the performance test should be conducted. The Secretary mentioned that OFCA did not intend to publish the performance test result as the test was only used for internal monitoring purpose rather than intended for publication in the public domain. Further, the ISPs might have concern with the publication of the test results. The Chairman said that the testing methodologies and benchmarks needed to be agreed with all the relevant ISPs before the conduct of the performance test if its results were intended to be published for reference by the public. In view of the results of the last performance test, OFCA considered it not necessary to conduct another round of the test unless market conditions changed in the future.

15. There being no further comments, Members noted the content of the paper.

**Item 5 5G Technology Development and Technical Trial (TRAAC Paper No. 3/2018)**

16. Mr Sidney Tsan gave a presentation on the subject matter. He briefed Members about the latest development of the fifth generation mobile (5G) technologies and standards, technical trials of 5G technologies and OFCA's measures to facilitate deployment of 5G technologies in Hong Kong.

17. In response to Mr Kevin Chu's enquiry about why no spectrum

in the 700 MHz band was included in the Spectrum Release Plan for 2018 – 2020, the Chairman said that the 700 MHz band was currently used for the provision of television broadcasting services. The current working target for switching off analogue television broadcasting services (Analogue Switch Off, ASO) was the end of 2020. Frequency coordination with the Mainland authorities regarding the future use of the 700 MHz band was in progress. Upon the completion of the frequency coordination, the CA would decide the use of the spectrum in the 700 MHz band vacated after ASO.

18. Mr Kevin Chu asked whether the spectrum in the 3.5 GHz band as well as that in the 26/28 GHz bands would be auctioned at the same time so that more choices would be available for the operators' consideration. The Secretary responded that according to the Radio Spectrum Policy Framework, the CA would need to assess whether there was competing demand for the spectrum to be released. As the demand for the spectrum in the 3.5 GHz band and that in the 26/28 GHz bands might be different, the assignment arrangements for the spectrum in these bands would need to be considered separately. He said that the proposed assignment arrangements for the spectrum in the abovementioned bands would be put up for public consultations in the first half of 2018.

## **Item 6      Any Other Business**

19. Ms Agnes Tan and Mr Richard Leung asked how would the Government refund the overcharged licence fees to the licensees and when would OFCA review the licence fees following the recent judgment of the Court of Final Appeal on the subject matter. The Chairman said that the Government would follow up the restitution claims in consultation with the Department of Justice. Regarding the review of licence fees, the CA and the Secretary for Commerce and Economic Development would consult the industry when they were in the position to do so.

20. Ms Agnes Tan asked about the progress of review on the TO and Broadcasting Ordinance (BO). The Chairman responded that the



Commerce and Economic Development Bureau which was responsible for the review would conduct the first phase of public consultation shortly.

21. In response to Mr Allen Law's enquiry on the measures taken by OFCA for facilitating the development of WIoT services in Hong Kong, the Secretary said that OFCA adopted a market-driven approach in promoting all kinds of telecommunications services, including the WIoT services. There being no pre-set limit on the number of WIoT Licences to be issued, OFCA would process all licence applications in accordance with the published application guidelines and would endeavour to facilitate the industry to develop and deploy these emerging and innovative services.

22. The Chairman said that the next TRAAC meeting would tentatively be scheduled for June or July 2018. Members would be informed of the exact date of the meeting nearer the time.

**Office of the Communications Authority**  
**March 2018**