

Telecommunications Regulatory Affairs Advisory Committee

Minutes of the Sixteenth Meeting Held on Wednesday, 26 September 2018 at 2:30 p.m. in OFCA Conference Room, 20/F Wu Chung House

Members Present

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| Mr Chaucer Leung | Office of the Communications Authority (OFCA) (Chairman) |
| Mr Sanda Cheuk | OFCA (Secretary) |
| Ir John Chan | The Hong Kong Institution of Engineers (HKIE) |
| Mr Ben Li | The Institution of Engineering and Technology Hong Kong (IETHK) |
| Mr Alex Wong | Communications Association of Hong Kong |
| Mr Alex Cheng | China Mobile Hong Kong Company Limited |
| Mr Karson Ng | China Telecom Global Limited |
| Mr Sutton Cheung | ComNet Telecom (HK) Limited (ComNet) |
| Miss C Y Lo | Hong Kong Broadband Network Limited and HKBN Enterprise Solutions Limited (HKBN) |
| Mr Patrick Lam | Hong Kong Cable Television Limited |
| Mr Gilbert Choy | Hong Kong Telecommunications (HKT) Limited, PCCW-HKT Telephone Limited and Hong Kong Telecommunications (HKT) Limited and PCCW Global (HK) Limited |
| Miss Katherine Kwok | HGC Global Communications Limited |
| Ms Juliana Wong | Hutchison Telephone Company Limited and Genius Brand Limited |
| Mr T L Or | SmarTone Mobile Communications Limited and SmarTone Communications Limited |
| Mr CY Chung | Superloop (Hong Kong) Limited (Superloop) |
| Mr H W Ngan | Towngas Telecommunications Fixed Network Limited |
| Mr Allen Law | Village Telephone Limited |

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| Mr Malcolm Leong | WTT HK Limited and Services-based operators (SBO) as a group |
| Mr Indarto Nata | External Fixed Carrier / Unified Carrier (External Fixed Services) licensees as a group |
| Mr James Lam | External Telecommunications Service (ETS) operators as a group |
| Mr W C Lam | Hong Kong Police Force (HKPF) |
| Prof Vincent Lau | Ad personam |

In Attendance

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| Mr Bruce Chan | IETHK |
| Mr Kenneth Kwok | ComNet |
| Mr Charles Yip | Village Telephone Limited |
| Mr Esmond Chiu | OFCA |
| Ms Christine Chim | OFCA |
| Mr Jordan Lee | OFCA |
| Ms Gladys Ng | OFCA |
| Mr Kenneth Leung | OFCA |
| Ms Kim Lee | OFCA |

Members Absent with Apologies

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| Ms Terese Au Yeung | Consumer Council |
| Mr J Law | Easy Tone Network Limited |
| Mr Raphael Ho | Equinix Hong Kong Limited |
| Mr Patrick Ng | NTT Com Asia Limited |
| Mr Marcus Crachi | Telstra International HK Limited and Telstra International Limited |
| Mr Kenneth Lau | TraxComm Limited |
| Ms Claretta Chia | Verizon Hong Kong Limited |
| Ms Joy Guo | Vodafone Enterprise Global Network HK Limited |
| Mr Ralph Riley | Public Radiocommunications Service licensees and Wireless Internet of Things licensees as a group |
| Dr Patrick Tsie | Ad personam |

The Chairman welcomed all Members for the new term of 2018 – 2020 and introduced the new faces to the meeting. The Chairman gave a brief introduction of the TRAAC which served to provide a forum for the industry and interested parties to exchange views on various telecommunications regulatory issues. In general, meetings of the TRAAC would be held two to three times a year and Members would be welcome to propose discussion topics or papers for the meetings.

Item 1 Confirmation of Minutes of Last Meeting

2. The Chairman said that the draft minutes of the fifteenth meeting had been circulated to Members for comment on 12 March 2018. As no comment was received, the minutes of the fifteenth meeting were confirmed without amendment.

Item 2 Matters Arising

Progress of the Technical Regulatory Working Group (TRWG)

3. The Secretary reported that the TRWG had been established under the TRAAC to discuss various technical issues related to the telecommunications networks, systems and services in Hong Kong. He reported that in the last TRWG meeting held on 4 July 2018, OFCA gave an update on the proposal of the mobile network operators (“MNOs”) regarding the calling line identification arrangement among directly interconnected mobile networks for in-bound mobile roamers. With the support of the TRWG Members to the proposal and taking into account comments from relevant operators, OFCA finalized the amendments to HKCA 3101 “Regulatory Guide for Calling Line Identification Format” and the “Code of Practice in relation to Calling Line Identification and Other Calling Line Identification Related Services”. The updated documents were published on CA’s websites and came into effect on 20 August 2018.

4. The Secretary mentioned that OFCA was collecting information from MNOs from time to time in order to provide members of the public with a general picture about the mobile network coverage in country parks. The last TRWG meeting discussed the proposal to extend the coverage measurement to 3G and 4G networks as well. OFCA would collect information from MNOs on the relevant parameters and values for measurement, and would share the preliminary findings and further discuss the matter in future TRWG meetings.

Item 3 Proposed Revisions to the Code of Practice on Verification of the Addresses of Potential Customers for Mobile Telecommunications Services (TRAAC Paper No. 4/2018)

5. Ms Gladys Ng briefed Members on the proposed revisions to the Code of Practice on Verification of the Addresses of Potential Customers for Mobile Telecommunications Services (“CoP”). The Chairman supplemented that it was opportune to update the CoP at this juncture in view of the latest market trend of conducting business online by mobile service providers and the need to allow more flexibility to cater for the evolving industry practices.

6. Mr Gilbert Choy commented that for service subscriptions conducted via online means or customer service hotlines, the requirement for seeking the proof of address should be made as simple as possible. He further suggested that for those potential customers visiting retail outlets for service subscription but without bringing along any acceptable proof of address, they should be permitted to submit afterwards their proof of address via electronic means.

7. Mr Ben Li asked whether pre-paid mobile services would be covered under the draft revised CoP, and whether the proposed measures were related to the true identity registration (“TIR”) scheme implemented in the Mainland. Mr Esmond Chiu said that the proposed revisions to the CoP would waive the address verification requirement when mobile service providers did not collect or retain the address information for the purpose of provision of service to the customer, such as the situation for

pre-paid services. In addition, the CoP was promulgated to provide practical guidance to the industry to verify the address information provided by potential customers, and it was not related to the TIR scheme implemented in the Mainland.

8. In response to Ms Juliana Wong's enquiry about the meaning of proper and effective measures as stipulated under clause 4(e) of the draft revised CoP, Mr Esmond Chiu said that sufficient flexibility would be provided for mobile service providers to implement appropriate address verification measures depending on the specific circumstances and operational requirements. Whether any measures to be implemented by mobile service providers would be considered as proper and effective must be determined on a case-by-case basis. As observed from the market, acceptable measures might include authenticating a customer's address by posting of relevant passcode to the customer at the address and then requiring that customer to enter the passcode over the phone, or actual visit to the concerned address by courier or sales representatives.

9. Mr C Y Chung pointed out that the use of incorrect address for billing and debt collection purposes would still happen if an existing mobile customer moved to another address without providing any updates of address to his/her mobile service providers. He therefore suggested that the scope of the CoP should be extended to require the mobile service providers to put in place measures to verify the address of any of the existing customers when receiving any reports about the use of wrong billing address for that customer.

10. In response, Mr Esmond Chiu said that past complaint cases received by OFCA relating to alleged misuse of address information mostly involved new service subscriptions. There might be a concern that the suggested arrangement to ensure accurate and updated address records of the existing customers would be burdensome to the operations of the mobile service providers. In relation to this concern, Ms Katherine Kwok expressed that customers might move out at any time during the service contract period without updating their address with mobile service providers. Mr T L Or opined that it would be difficult to avoid those circumstances as customers in debts might intentionally not update their address with mobile service providers. The Secretary added

that ensuring updated address records of customers by the operators would be a matter outside the scope of the CoP.

11. There being no further comments from Members, the Chairman invited Members to provide written comments on the proposed revisions, if any, by 3 October 2018.

[Posting meeting note: A total of two written submissions were received after the meeting.]

Item 4 Proposed Review of the Class Licence for Offer of Telecommunications Services under Section 8(1)(aa) of the Telecommunications Ordinance (Cap. 106) (TRAAC Paper No. 5/2018)

12. Mr Jordan Lee gave a presentation providing an overview of the creation of the Class Licence for Offer of Telecommunications Services (“CLOTS”) regime more than a decade ago, latest developments in the market and regulatory environment since the implementation of the CLOTS that justified a review, and set out the scope of the proposed review for Members’ information.

13. Mr Malcolm Leong asked about overseas regulatory experience on tackling those issues relating to the CLOTS regime as mentioned in the presentation. Mr Jordan Lee explained that regulatory measures adopted in other overseas jurisdictions might not necessarily apply to the Hong Kong market because of different statutory and regulatory environments. That said, OFCA would keep in view on similar regimes in other major overseas jurisdictions with a view to ensuring that regulatory measures adopted under the CLOTS licensing regime would be in line with international best practices.

14. Mr Indarto agreed with the proposal to require CLOTS licensees to register and provide yearly updates of their information, and further asked about whether and if so, how an entity offering in the course of business a telecommunications service provided by an overseas service provider could be covered by the CLOTS regime. Ms Juliana Wong

also enquired about whether an overseas operator would be subject to the registration requirement proposed by OFCA if its telecommunications services would be resold through street vendors in Hong Kong. The Secretary pointed out that in general, agents or contractors selling or promoting telecommunications service for or on behalf of licensed operators would not fall within the proposed regulation. In that case, operators should remain fully responsible for the offer and provision of services under their respective licences notwithstanding that their services were offered through their agents such as street vendors. Furthermore, whether a street vendor should be regarded as the overseas operator's agent would depend on the actual circumstances and facts of the case.

15. Mr T L Or asked whether a reseller in Hong Kong would be deemed as a CLOTS licensee if it offered telecommunications services without using its own brand name, and whether an online retail shop reselling telecommunications services of a licensed operator would be deemed as an agent of that operator. Mr Esmond Chiu explained that whether the reseller would be a CLOTS licensee or an agent would depend on the actual circumstances such as the existence of any contractual relationship between the parties. In any case, the relevant commercial practices of selling to customers, whether as a CLOTS licensee or an agent and be it online or otherwise, would be regulated under the Trade Descriptions Ordinance (Cap. 362) for protection of the interests of Hong Kong consumers.

16. In conclusion, the Chairman said that the comments given by Members on the proposed review were noted. He indicated that a public consultation on the subject matter would be conducted around the fourth quarter of 2018 and the details of the proposed changes to the CLOTS regime would be set out for the industry and the public to comment.

Item 5 Any Other Business

17. The Chairman advised that the next TRAAC meeting would tentatively be scheduled in early 2019. Members would be informed of the exact date of the meeting nearer the time.

18. There being no other business, the meeting was adjourned at 3:45 pm.

**Office of the Communications Authority
October 2018**