

Telecommunications Regulatory Affairs Advisory Committee

Minutes of the Nineteenth Meeting Held on Thursday, 11 June 2020 at 2:30 p.m. in OFCA Conference Room, 20/F Wu Chung House

Members Present

In Person

Mr Sanda Cheuk	Office of the Communications Authority ("OFCA") ("Chairman")
Miss Elaine Hui	OFCA ("Secretary")
Ms Teresa Au Yeung	Consumer Council ("CC")
Mr Alex Wong	Communications Association of Hong Kong ("CAHK")
Mr Ben Li	The Institution of Engineering and Technology Hong Kong ("IETHK")
Mr Richard Leung	Hong Kong Broadband Network Limited / HKBN Enterprise Solutions Limited / HKBN Enterprise Solutions HK Limited ("HKBN")
Mr Kevin Chu	Hong Kong Telecommunications (HKT) Limited, PCCW-HKT Telephone Limited and Hong Kong Telecommunications (HKT) Limited and PCCW Global (HK) Limited ("HKT")
Mr Kenneth Kwok	ComNet Telecom (HK) Limited ("ComNet")
Mr Larry Lee	Hong Kong Cable Television Limited
Mr Donald Chan	NTT Com Asia Limited ("NTT")
Dr Patrick Tsie	Ad personam

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Ir John Chan	The Hong Kong Institution of Engineers
Mr Bruce Chan	IETHK
Mr Henry Lee	21 ViaNet Group Limited

Mr Alex Cheng	China Mobile Hong Kong Company 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 ("SmarTone")
Mr Eric Lee	SmarTone
Mr Karson Ng	China Telecom Global Limited
Mr Sutton Cheung	ComNet
Mr Raphael Ho	Equinix Hong Kong Limited
Mr Patrick Ng	NTT
Mr Walter Ngan	Towngas Telecommunications Fixed Network Limited
Mr Eric Cheung	TraxComm Limited
Mr Indarto Nata	External fixed carrier / unified carrier (external fixed services) licensees as a group
Mr James Lam	External telecommunications services (ETS) operators as a group
Mr Tommy Tang	Hong Kong Police Force

In Attendance

In Person

Ms Linda Yu	OFCA
Mr Sidney Tsan	OFCA
Mr Jordan Lee	OFCA
Ms Jacqueline Tse	OFCA
Ms Karen Kwan	OFCA
Mr Benson Cheng	OFCA
Ms Vanessa Chow	OFCA
Mr Raymond Ho	OFCA
Ms Cherry Yu	OFCA
Mr Patrick Man	OFCA
Ms Kim Lee	OFCA

Observer

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Mr Francis Fong Hong Kong Information Technology Federation (“HKITF”)

Members Absent with Apologies

Mr J Law	Easy Tone Network Limited
Mr Allen Law	Village Telephone Limited
Mr CY Chung	Superloop (Hong Kong) Limited
Mr Ralph Riley	Representative of public radiocommunications service / wireless internet of things licensees as a group

The Chairman welcomed all Members, attending either in person or via web conference access, to the meeting. He also welcomed representative of HKITF who joined the discussion as observer.

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

2. The Chairman said that the draft minutes of the 18th meeting had been circulated to Members for comment on 19 December 2019. As no comment had been received, the minutes of the 18th meeting were confirmed without amendment.

Item 2 **Matters Arising**

3. The Secretary reported that after taking into account Members’ views on the proposal to streamline the regulatory arrangements for filing and publication of interconnection agreements presented at the last TRAAC meeting, OFCA had prepared a revised proposal for Members’ further consideration under Agenda Item 3 of this meeting.

4. The Secretary further reported that after briefing Members on

the progress in the launch of 5G services and presenting a draft *Guidelines for Mobile Communications Industry on the Use of the Term “Fifth Generation” or “5G”* (“5G Guidelines”) to Members at the last meeting of the TRAAC, the 5G Guidelines were adopted and published on the website of the Communications Authority (“CA”) on 19 December 2019, with a revised version published on 31 March 2020. It was also noted that mobile network operators had launched their commercial 5G services since April 2020.

Item 3 Revised Proposal for Streamlining the Arrangements for Filing and Publication of Interconnection Agreements (TRAAC Paper No. 1/2020)

5. Ms Jacqueline Tse gave a presentation on the revised proposal for streamlining the arrangements for filing and publication of interconnection agreements.

6. Mr Kevin Chu welcomed the revised proposal put forward by OFCA, but sought clarification on the meaning of “new” in respect of the proposed requirement for the filing of interconnection agreements involving any network(s), system(s), installation(s) and/or service(s) which is/are of a “new” type or contain(s) substantive element(s) which is/are “new” to anyone of the interconnecting parties. The Secretary explained that while a revised framework for the streamlined the arrangements was proposed in the TRAAC paper, OFCA would further consult the industry on a draft revised waiver issued under section 36A(5B) of the Telecommunications Ordinance (Cap 106), and by that time more details would be provided. Ms Linda Yu supplemented that the interconnecting parties could always seek advice from OFCA on whether a particular type of interconnection arrangement would be subject to the filing requirement as and when necessary.

7. Mr Richard Leung also supported the revised proposal and suggested OFCA to list all types of existing interconnection arrangements which would be waived from the filing requirement under the proposed revised regime. He also enquired about the timeframe for implementation of the revised proposal. The Chairman said that it was

the target to further consult the industry on the draft revised waiver with a view to finalising it for consideration by the CA in the fourth quarter of this year.

8. The Chairman invited Members to provide any further comments on the revised proposal within two weeks.

Item 4 Proposal for Streamlining the Arrangements for Filing and Publication of Tariffs (TRAAC Paper No. 2/2020)

9. Mr Benson Cheng gave a presentation on OFCA's proposal to streamline the regulatory arrangements for filing and publication of tariffs.

10. Mr Kevin Chu said that the Proposal had incorporated their suggestions made earlier and therefore welcomed the Proposal.

11. Mr Richard Leung commented that the entire special condition ("SC") 7.2 of the unified carrier licence should be removed as the proposed removal of the tariff filing requirement would not lessen the burden of licensees if they would still be required to prepare the tariffs in the same prescribed format and publish them on their websites for compliance with the remaining publication requirement under SC 7.2(a). Ms Linda Yu explained that the current prescribed format for filing of tariffs would be removed from the Guidelines on Publication of Tariff ("Guidelines"). There would no longer be any prescribed format for publication of tariffs. The revised tariff publication requirement could be fulfilled by publication of market price information together with the relevant terms and conditions on licensee's websites. There would be no need for licensees to produce a separate set of tariffs for regulatory purpose, and hence the cost of compliance should be lower. The Chairman added that the Guidelines would be revised to provide an updated guidance to relevant licensees.

12. Ms Terese Au Yeung provided comments from the consumer protection perspective. She considered that it was important for consumers to have transparent price information for resolving disputes

with operators and some people especially the elderly might not have access to the Internet to obtain the published tariffs. The Secretary responded that in the current state of competition in the market, the tariff information of licensees' services, including the prices and terms and conditions, was readily available through different channels. Furthermore, the enforcement of Trade Descriptions Ordinance by OFCA was an effective means to protect consumers against any misleading trade practice of the licensees during the selling process. Ms Linda Yu added that the removal of publication of the tariff information on OFCA's website should not have much impact on consumers who could not have access to Internet, as the consumers should not have difficulties in obtaining price information direct from network operators or service providers.

13. As there was no further comment from Members, the Chairman said that OFCA would circulate the draft revised Guidelines to the relevant licensees in the near future (say within a couple of weeks) for comments.

[Post-meeting note: OFCA issued a circular letter together with the draft revised Guidelines to the relevant licensees on 24 June 2020.]

Item 5 Subsidy Scheme for Encouraging Early Deployment of 5G (TRAAC Paper No. 3/2020)

14. Ms Cherry Yu gave a presentation on the Subsidy Scheme for Encouraging Early Deployment of 5G (the "Scheme") launched by OFCA under the second round of Anti-epidemic Fund.

15. Dr Patrick Tsie enquired about the definition of project "completion" and "innovation" under the Scheme. Mr Sidney Tsan replied that a project would be considered "completed" when project deliverables as proposed by the applicant were delivered as well as the applicant had submitted the completion report and audited accounts of the project to OFCA's satisfaction. As for "innovation", Mr Tsan said that a project should involve application of new solution based on 5G deployed by a business for improving its efficiency or productivity.

16. Mr Ben Li asked whether a company having different divisions could make multiple applications for different projects under the Scheme and if two companies submitted similar projects for the Scheme, whether it would only be the first company being granted with the subsidy under the first-come-first-served basis. The Chairman responded that if each business unit of a group had its own business registration number, each business unit would be regarded as a separate entity and be eligible to submit an application for the Scheme. Regarding two companies submitting similar projects, Mr Sidney Tsan said that it would depend on whether the project proposed by the second company was essentially a replica of that of the first company, and if yes, the application might not be considered. The Chairman added that similar solutions deployed in different industries might not necessarily be considered as replicas. The applications received would be assessed by an interdepartmental assessment committee in accordance with the assessment criteria as specified in the application guideline.

17. For the assessment criteria of the Scheme, Mr Kevin Chu asked how a project could demonstrate substantive benefits in comparison to 4G/3G technologies if the project had never been deployed with 4G/3G technologies before, and why a rather short time frame of project completion deadline of 31 March 2021 was imposed when 5G was still in its infancy. Mr Sidney Tsan clarified that a project needed not be deployed with 4G/3G technologies before but the application needed to demonstrate why the project had to be deployed with 5G, not 4G/3G technologies. Mr Tsan further explained that as the Scheme was launched under the second round of Anti-epidemic Fund and its objective was to encourage early deployment of 5G, a project completion deadline of 31 March 2021 was required. The Chairman added that if an applicant had a large-scale/complex project in mind that would span a few years, the applicant might consider breaking down the project into mini-projects with a number of milestones and submitting an application for a mini-project covering certain milestone(s).

18. Mr Alex Wong echoed HKT's comment that the rather short project completion timeline could be an issue since 5G networks were still being rolled out and there might not be 5G coverage for a particular

location by the time of project completion. He asked whether an applicant could still be entitled to the subsidy if it failed to complete the project due to external factors or technology limitations. Mr Wong also asked whether an applicant could be reimbursed with relevant cost items before project commencement such as costs for research or trials. Mr Sidney Tsan said OFCA would look into the circumstances of individual cases to determine if a project had been implemented and properly completed. Regarding the relevant costs which might be reimbursed under the Scheme, Mr Tsan stated that costs incurred prior to the project commencement date or costs to be incurred after the project completion date would not be covered under the Scheme.

19. Dr Patrick Tsie asked whether an applicant would need to make a commitment to commercially launch the project in the market. Mr Sidney Tsan said that while there was no such explicit requirement in the application guideline, the applicant would be expected to make use of the project deliverables in its business operation so as to achieve efficiency or productivity gain. Mr Raymond Ho supplemented that the Scheme was not for product or application development, but for the business concerned to use the product or application to improve its business operation.

20. For transparency of the Scheme, Mr Alex Wong asked if OFCA would publish the number of successful applicants. Mr Kevin Chu also asked if OFCA would publish the descriptions of successful projects so as to inspire other applicants. The Chairman said that OFCA would consider publishing relevant information on the applications approved having regard to any commercial sensitivity of the information. Ms Terese Au Yeung suggested that the relevant descriptions could be anonymised and generalised to mitigate any trade secret concerns.

Item 6 Any Other Business

21. Mr Richard Leung followed up on HKBN's suggestion made earlier of streamlining the existing arrangements for reporting of various statistics to OFCA. The Chairman replied that OFCA was conducting a review and targeted to formulate a proposal within the year. OFCA

would then seek views from the licensees concerned, where necessary.

22. Mr Richard Leung further enquired on the progress of review of the telecommunications regulatory framework, in particular the proposed measures in relation to the protection of underground telecommunications facilities. The Chairman said that the Government aimed to introduce an amendment bill into the Legislative Council to give effect to the proposal as presented in the public consultation to create new criminal offences under the Telecommunications Ordinance against negligent damage to underground telecommunications facilities. In response to Mr Richard Leung's enquiry on whether any interim measures to enhance protection of underground fibre cables could be taken pending legislative amendments, the Secretary added that in response to HKBN's concerns on the matter raised to OFCA and the Commerce and Economic Development Bureau ("CEDB") earlier, it was noted that CEDB had circulated a letter to the relevant bureaux and departments by asking them to urge their contractors to undertake precautionary measures during the road works to prevent damage to underground telecommunications facilities.

23. As the current term of TRAAC would expire in August 2020, the Chairman thanked all Members for their participation and invaluable advice on the economic and technical regulatory issues that had been discussed over the past two years. The Chairman said that the next TRAAC meeting would tentatively be scheduled in the fourth quarter of 2020. Members would be informed of the meeting arrangement nearer the time.

24. There being no other business, the meeting was adjourned at 4:15 p.m.

Office of the Communications Authority
July 2020