

Telecommunications Regulatory Affairs Advisory Committee

**Minutes of the Twenty-Second Meeting
Held on Tuesday, 9 November 2021 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 Sarah Hui	China Mobile Hong Kong Company Limited ("CMHK")
Mr Y C Pun	HKC Network Limited
Mr Kevin Chu	Hong Kong Telecommunications (HKT) Limited / PCCW-HKT Telephone Limited and Hong Kong Telecommunications (HKT) Limited / PCCW Global (HK) Limited ("HKT")
Ms Juliana Wong	Hutchison Telephone Company Limited / Genius Brand Limited
Mr T L Or	SmarTone Mobile Communications Limited / SmarTone Communications Limited ("SmarTone")
Mr Kenneth Kwok	ComNet Telecom (HK) Limited ("ComNet")

Web Conference Access

Mr Alex Wong	Communications Association of Hong Kong
Ir Wilson Kwok	The Hong Kong Institution of Engineers ("HKIE")
Ir Ben Li	The Institution of Engineering and Technology Hong Kong ("IETHK")

Mr Francis Fong	Hong Kong Information Technology Federation
Mr Karson Ng	China Telecom Global Limited
Ms Sarah Zhang	China Unicom (Hong Kong) Operations Limited (“China Unicom”)
Ms Agnes Tan	Hong Kong Broadband Network Limited / MVNO as a group
Mr Larry Lee	Hong Kong Cable Television Limited
Miss Katherine Kwok	HGC Global Communications Limited
Mr Donald Chan	NTT Com Asia Limited (“NTT”)
Mr Eric Cheung	TraxComm Limited
Mr Walter Ngan	Towngas Telecommunications Fixed Network Limited
Mr Charles Yip	Village Telephone Limited
Mr Haining Hu	Vodafone Enterprise Hong Kong Limited
Mr Kent Cheung	External fixed carrier / unified carrier (external fixed services) licensees as a group
Mr K H Yip	LWBS/PRS/WIoT licensees as a group
Mr Y T Kan	Hong Kong Police Force (“HKPF”)
Dr Justin Chuang	Ad personam
Ms Katy Lau	Ad personam
Dr Patrick Tsie	Ad personam
Prof Angela Zhang	Ad personam

In Attendance

In Person

Ms Linda Yu	OFCA
Mr Sidney Tsan	OFCA
Mr Benson Cheng	OFCA
Mr Wilson Lee	OFCA
Mr Dennis Leung	OFCA

Ms Stacy Lam	OFCA
Ms Winnie Ng	OFCA
Mr S.Y. Yung	OFCA
Mr Alex Lam	OFCA
Mr Eric Lam	OFCA
Ms Cathy Leung	OFCA
Mr Stephen Lau	CMHK
Mr Adrian Lee	HKT
Mr Alan Choi	SmarTone
Mr Eric Lee	SmarTone

Web Conference Access

Ir Alan Chan	HKIE
Mr Mike Pan	CMHK
Ms Shelley Ng	Village Telephone Limited
Ms Abbie Lo	MVNO as a group

Members Absent with Apologies

Ms Terese Au Yeung	Consumer Council
Mr Bruce Chan	IETHK
Ms Karen Hsu	21 Vianet Group Limited
Mr Patrick Ng	NTT
Mr Henry Wang	LWBS/PRS/WIoT licensees as a group

The Chairman introduced three new Members, Ms Karen Hsu, Mr Mike Pan and Ms Abbie Lo, and welcomed all Members for joining this meeting via web conference access.

Item 1 Confirmation of Minutes of Last Meeting

2. The Chairman said that the draft minutes of the 21st meeting had been circulated to Members for comments on 29 July 2021. With

adoption of some textual amendments suggested by a Member, the minutes of the 21st meeting were confirmed.

Item 2 Matters Arising

3. The Secretary reported that after incorporating the industry's views on the proposed Guidelines on Implementation of Real-name Registration for SIM Cards ("Guidelines") presented at the last TRAAC meeting, the Communications Authority ("CA") approved the proposed Guidelines at its meeting on 17 August 2021. The approved Guidelines were published on CA's website on 20 August 2021 and took effect on 1 September 2021.

4. The Secretary also reported that the deadline for application for the Subsidy Scheme for Encouraging Early Deployment of 5G ("Subsidy Scheme") was extended to 31 July 2022 to encourage more public and private organisations in different sectors to submit applications. In addition, the funding for the Subsidy Scheme was increased from \$50 million to \$100 million. As of 1 November 2021, over 115 projects were approved, of which 25 had been completed.

Item 3 Proposed Incorporation of New Standard Special Conditions into Unified Carrier Licence in relation to Fit and Proper Person Requirements, Testing and Monitoring of Telecommunications Services and Emergency Alert System (TRAAC Paper No. 3/2021)

5. Mr Benson Cheng briefed Members on the proposed incorporation of three new standard special conditions ("New SCs") into the sample Unified Carrier Licence ("UCL") for the provision of the public telecommunications services in general. The three New SCs were on the requirements on fit and proper person ("FAPP"), testing and monitoring of telecommunications services and emergency alert system ("EAS").

6. The Chairman supplemented that the three New SCs had been incorporated into the UCLs to be granted to the successful bidders in the spectrum auction conducted in October 2021. The current proposal was to extend the same New SCs to all UCLs in general.

7. Ms Agnes Tan commented that the Office of the Communications Authority (“OFCA”) was moving backward with a proposal which would increase the regulatory oversight, and asked whether OFCA had done a regulatory impact assessment on the proposal. Also, she recalled that no decision had been made on the proposed inclusion of the FAPP requirement as one of the licensing criteria for UCL in a consultation conducted in 2012 by the former Telecommunications Authority.

8. Ms Linda Yu replied that OFCA had all along been adopting a light-handed approach in the regulation of the telecommunications sector, but the integrity of telecommunications networks was becoming more important than ever in the evolving fifth generation (“5G”) era and it would be important for the telecommunications networks to be managed by trustworthy persons. Therefore, OFCA was actually adopting a forward-looking stance by updating the regulation to tie in with the latest development of the telecommunications infrastructure and technology.

9. The Chairman said that the pro-competition and pro-market light-handed regulatory approach for the telecommunications sector had never been changed. Comparing with the broadcasting side, the FAPP requirement was introduced to the telecommunications sector at a rather late stage. Further, the FAPP statutory declaration form and the declaration mechanism for the telecommunications sector had been streamlined as compared to those for the broadcasting licensees, in order to minimise the burden on telecommunications operators.

10. In response to the question raised by Mr Kevin Chu about the lack of decision made on the consultation on FAPP conducted in 2012, Ms Linda Yu replied that it was considered not the right time then to impose FAPP requirement as one of the licensing criteria for UCL in 2012. However, as we were moving forward into the 5G era, the market

environment and the relevant factors for consideration were entirely different from the situation a decade ago.

11. The Chairman added that the FAPP consultation in 2012 was conducted before the establishment of the CA as the unified regulator of the telecommunications and broadcasting sectors. With the passage of time, the circumstances and the laws had all changed. The proposal in the 2012 consultation was different from the proposal OFCA tabled today. Hence, it was not necessary or appropriate to conclude the FAPP consultation conducted in 2012.

12. The Secretary said that in the 5G spectrum auction conducted in 2019, OFCA had imposed a similar FAPP requirement in the Bidder Compliance Certificate. In the recent auction, the FAPP requirement was introduced as a new licence condition in the UCL to be granted to mobile network operators (“MNOs”) to ensure that the FAPP obligation would be applicable throughout the term of the licences. With a view to extending the FAPP requirement to all facilities-based unified carrier licensees in general due to the increasing importance of telecommunications networks and services to business operation and the general public, OFCA would like to consult the industry through the TRAAC on the proposal set out in the TRAAC Paper No. 3/2021. It is emphasized that under a light-handed regulatory approach, operators would only need to submit the declaration form on FAPP once before the grant of a UCL and, during the 15 years’ term of the licence, they would only be required to submit further declarations upon the request of the CA.

13. Ms Agnes Tan enquired whether any public consultation would be conducted with respect to the three New SCs. The Chairman explained that under the Telecommunications Ordinance, the CA had the discretion to attach special conditions to the UCL and was not obliged to consult before deciding whether to prescribe certain special conditions. He added that after incorporating the views of TRAAC, OFCA would finalize a proposal for submission to the CA. If the CA considered that a wider consultation should be conducted, OFCA would inform Members.

14. Mr Kevin Chu, Mr Eric Lee and Ms Juliana Wong asked whether OFCA would accept an FAPP declaration for the purpose of the new special condition 50 to be made before and witnessed by a solicitor such as an in-house corporate lawyer, other than "Justice of the Peace/Notary Public/Commissioner for Oaths" as stated on the template form, as it seemed to be permissible under section 12 of the Oaths and Declarations Ordinance. It was noted that, OFCA had accepted statutory declarations on connected bidders made before and witnessed by a solicitor for the purpose of spectrum auctions. Mr Benson Cheng replied that the designations "Justice of the Peace/Notary Public/Commissioner for Oaths" in the FAPP template form were adopted from the form specified in the Oaths and Declarations Ordinance. However, OFCA would review the matter and inform Members accordingly. *(Post-meeting note: In relation to the spectrum auction conducted in October 2021, OFCA informed the provisional successful bidders (i.e. the four MNOs) on 15 November 2021 that a statutory declaration on FAPP declared before and witnessed by a solicitor in accordance with the Oaths and Declarations Ordinance (Cap. 11) would be acceptable for the purpose of meeting the requirement for licensing of the concerned spectrum.)*

15. In response to the question raised by Ms Agnes Tan as to whether all the directors exercising control were required to sign the FAPP statutory declaration form, Mr Benson Cheng clarified that the form would be required to be signed by any one director or any one principal officer or the company secretary. The Secretary supplemented that the schedule to the FAPP declaration form required all the directors and persons exercising control to be listed but only one authorised person would be required to make the declaration.

16. In regard to the New SC on testing and monitoring of telecommunications services, Mr Kevin Chu asked whether OFCA would consider using mystery shoppers to do the testing in order to get a real experience rather than incorporating a New SC requesting the operators to provide the customer connections free of charge. Ms Linda Yu replied that as OFCA would be performing a regulatory function, it would be more appropriate for the licensees concerned to provide the customer

connections for testing. This requirement was actually in line with those adopted for the broadcasting regulatory regime as broadcasting licensees were required to provide television connections to OFCA for testing and monitoring the television broadcasting services. As a matter of fact, mobile virtual network operators had already been providing SIM cards to OFCA free of charge to facilitate monitoring and testing of their services by OFCA.

17. Mr Kevin Chu further enquired whether licensees would be required to provide international private leased circuit (“IPLC”), which would be expensive, for the purpose of special condition 51. Mr Alan Chan also enquired whether there would be any requirement on providing IPLC for testing, which in its case for instance would involve end-to-end testing of connections among Hong Kong, Singapore and Japan. Ms Agnes Tan commented that special condition 51 was too broad. She said that fixed line services required installation, making it different from SIM cards which could be readily provided by a mobile operator.

18. The Chairman explained that this New SC was introduced in the sample UCL attached to the information memorandum issued for the recent spectrum auction and they were initially designed to be applicable to mobile operators, in which case the customer connection would mean a SIM card. In view of the importance of other forms of facility-based public telecommunications services, the special condition was proposed to be extended to all UCLs in general. This notwithstanding, OFCA intended to request provision of the types of customer connections generally available to the public. It would be unlikely that OFCA would ask the operators to provide IPLC or wholesale leased line under the New SC. He added that as this New SC was newly introduced, OFCA would further consider the types of customer connections to be requested from operators. Ms Linda Yu said that OFCA would, after CA’s approval of the New SCs, update the guidelines for UCL application to elaborate on implementation of the New SCs.

19. In response to Ms Hu Haining’s enquiry of whether the testing and monitoring requirement would be applicable to licensees providing services to enterprise customers, the Secretary explained that the New SC

focussed primarily on testing and monitoring of services generally available to the public and thus the chance of requesting connections for testing of service provision to enterprise customers should be low.

20. Mr KH Yip asked if the proposal would be applicable to the Localised Wireless Broadband Service Licence (“LWBS Licence”). The Chairman confirmed that the current proposal was only applicable to the UCL. OFCA would review whether it should be extended to other licences in future. *(Post-meeting note: OFCA received further enquiry from a Member in this regard after the meeting, and would like to advise that apart from the LWBS Licence, the New SCs would also not be applicable to the Services-Based Operator Licence, Wireless Internet of Things Licence, and other non-carrier licences.)*

21. The Chairman invited Members to provide written comments on the proposal, if any, within two weeks, by 23 November 2021. Taking into account Members’ views and comments, OFCA would finalise the proposal for CA’s approval.

Item 4 **Mobile Network Sharing and Effective Rollout of Mobile Telecommunications Infrastructure in the 5G Era (TRAAC Paper No. 4/2021)**

22. Mr Dennis Leung and Mr Wilson S Lee introduced updates on the forms of mobile network sharing and measures for effective rollout of mobile telecommunications infrastructure in the 5G era.

23. The Chairman supplemented that a large number of antennae and radio equipment installed on the roof-top of some buildings had given rise to visual impact concerns. It would be necessary to consider appropriate measures (such as mobile network sharing) with a view to reducing negative visual impact and maintaining sustainable development of Hong Kong whilst continuing the rollout of mobile telecommunications infrastructure.

24. Mr Mike Pan in general agreed with the adoption of mobile

network sharing using passive antenna for those Government venues with demands from multiple operators for radio base station (“RBS”) installation. Mr Wilson S Lee responded that in respect of those Government venues required by multiple operators, MNOs would nominate a lead operator to coordinate the requirements of all interested MNOs before submitting applications for approval under the Pilot Scheme. MNOs should adopt mobile network sharing (such as sharing passive antennae) as far as practicable and technically feasible. The Chairman added that the TRAAC paper only set out some guiding principles on mobile network sharing. Detailed implementation issues would be specified in the Guidance Notes of the Pilot Scheme under revision.

25. Mr Adrian Lee in general agreed with the adoption of mobile network sharing at the Government premises. However, he said that as MNOs had different operational requirements in terms of network quality and customers’ locations, they would have different considerations in implementing mobile network sharing. He shared the view of Mr Mike Pan that it would be easier to adopt mobile network sharing using passive antennae. It would be more difficult to share the use of active antennae which might lead to security issues. The Chairman acknowledged that MNOs might have different operational considerations and network designs, and noted that some environmental factors might dictate the forms of the mobile network sharing at some Government venues. Even though sharing arrangement might not be applicable to all Government venues, the industry should endeavour to implement mobile network sharing as far as practicable and technically feasible so as to address the concerns of the relevant Government departments and members of the public.

26. Ms Agnes Tan asked whether OFCA would stipulate the terms and conditions of the sharing arrangement and whether determination by the CA was necessary when MNOs could not reach a sharing agreement. The Chairman clarified that the technical measures proposed in the TRAAC paper were not regulatory requirements, but administrative guidance to facilitate the industry in the effective rollout of their mobile networks. Regarding the Government venues, the Chairman said that

the Guidance Notes of the Pilot Scheme would be revised to expressly include the sharing requirement for the second phase of the Pilot Scheme. Regarding the private venues, the Chairman said that an information note would be developed to provide guidance on the forms of mobile network sharing and mitigating measures that could be adopted to address the visual impact concern.

27. Mr Kevin Chu considered that MNOs should have the right to install RBS at the Government venues according to their operational needs under the Pilot Scheme. Mr Wilson S Lee explained that even for the venues included in the Pilot Scheme, MNOs would still need to meet the requirements of the relevant technical departments and the user departments. For example, MNOs would have to comply with architectural safety requirements of the Architectural Services Department, radiation safety requirements of OFCA and electrical safety requirements of Electrical and Mechanical Services Department. Besides, the proposed RBS installation should not cause any service disruption to the operation of the Government venues (e.g. theatres).

28. The Chairman said that given that MNOs needed to seek approvals from the relevant technical and user departments for the technical setup of RBS with respect to the electrical, architectural and operational requirements; adopting an appropriate sharing arrangement that would reduce the number, size and weight of the radio equipment and antennae installed at the Government venues should facilitate securing approvals from the Government departments.

29. Mr Kevin Chu asked whether MNOs' applications for RBS installation at Government venues had been rejected due to radiation concerns. Mr Wilson S Lee said that whilst some user departments had expressed concerns on radiation, OFCA had explained to them that MNOs would be required to obtain approvals from the CA before bringing their RBS into operation, and all RBS would need to comply with international safety standards adopted by the CA. OFCA would arrange field measurements upon request to check whether the RBS in operation was in compliance with the relevant safety standards. In the past, the user departments would generally approve the applications for

RBS installation at their venues after OFCA's clarifications to them.

30. Mr Adrian Lee asked if OFCA would provide guidelines to the Government departments in order to facilitate MNOs' access to government venues and facilities. In response, Mr Wilson S Lee said that OFCA would provide relevant information on radiation safety of RBS to the Government departments. The Chairman added that OFCA had developed Guidance Notes for implementation of the Pilot Scheme and engaged the relevant Government departments in the process. On a case by case basis, OFCA would provide the necessary assistance to MNOs to liaise with the relevant Government departments and facilitate the installation of RBS at the concerned venues.

Item 5 Any Other Business

31. The Chairman said that the next TRAAC meeting would tentatively be scheduled in the first half of 2022. Members would be informed of the meeting arrangement nearer the time.

32. There being no other business, the meeting was adjourned at 4:30 p.m.

**Office of the Communications Authority
November 2021**