

Telecommunications Users and Consumers Advisory Committee (TUCAC)
Minutes of the 5th Meeting held at 3:00 p.m.
on 21 November 2013 (Thursday) in Conference Room,
Office of the Communications Authority (“OFCA”),
29/F Wu Chung House, Wan Chai

Present:

Mr. Danny LAU (Chairman)	Deputy Director-General (Telecommunications), OFCA
Mr. Alfred FUNG	Representative of Consumer Council
Ms. Edith HUI	Representative of Hong Kong General Chamber of Commerce
Mr. Ricky CHONG	Representative of Communications Association of Hong Kong (CAHK)
Mr. Eric YEUNG	Representative of small and medium enterprises
Ms. Irene LEUNG	Representative of the aged community
Mr. Kenny CHIU	Member appointed on an ad personam basis
Mr. K W MA	Member appointed on an ad personam basis
Mr. Tony WONG	Representative of Office of the Government Chief Information Officer
Mr. Michael LUI	Representative of Education Bureau
Mr. Thomas SUN	Member of the public
Ms. Florence MAN	Member of the public
Mr. C B WONG	Member of the public
Mr. Daniel LO	Member of the public
Ms. Eva WONG	Member of the public
Ms. Cindy CHAN	Member of the public
Ms. Martha LEUNG	Member of the public
Ms. Agnes CHAN	Member of the public
Ms. Jamay WONG (Secretary)	OFCA

In attendance:

Mr. Alvin LI	OFCA
Mr. Allen TIN	OFCA
Ms. Linda YU	OFCA
Miss Edith YAU	OFCA

Absent with apologies:

Ms. Enid LOW	Representative of Hong Kong Information Technology Federation (HKITF)
Ms. Leona WONG	Representative of Hong Kong Wireless Technology Industry Association (HKWTIA)
Mr. Ben YU	Representative of the disabled
Mr. H F YUEN	Representative of the disabled
Ms. Elsa CHENG	Member of the public
Ms. Pauline YUNG	Member of the public

I. Opening Remarks

1. The Chairman welcomed new member, Mr. Daniel LO, to the Committee.

II. Confirmation of the Minutes of the 4th Meeting

2. The Secretary had not received any proposed amendment to the draft minutes of the 4th meeting from the members and no amendment was proposed by the members in the meeting. The Chairman announced that the minutes of the 4th meeting were confirmed.

III. Implementation of the Unsolicited Electronic Messages Ordinance - 2013

3. Mr. Alvin LI explained to members the implementation of the Unsolicited Electronic Messages Ordinance (“UEMO”). He first gave an overview of the UEMO and the Code of Practice (“CoP”) under the UEMO, then described in detail the revisions of the CoP, and finally reported on the number of reports and enforcement situation of the UEMO. Related information is in Annex 1 (TUCAC Paper No. 5/2013).
4. Mr. Ricky CHONG enquired whether the following situations were under the scope of the UEMO: 1. Senders outside Hong Kong used local pre-paid phone cards to send promotional messages to users in Hong Kong by “Whatsapp”; and 2. Senders called users but hung up immediately after one ring in an attempt to make users think that they had missed calls. However, when return calls were made according to the calling number display, the users found that they were connected to promotional calls.
5. Mr. Alvin LI responded that as the electronic promotional messages in situation 1 were sent to users in Hong Kong, they had a “Hong Kong link” and thus fell under the scope of the UEMO. Regarding situation 2, it would depend on whether the promotional call returned by the user was a pre-recorded message. If so, the situation also fell under the scope of the UEMO. OFCA had already published consumer alerts in that regard on its website to provide more information to the public.
6. Mr. K W MA noticed that since the implementation of the UEMO, OFCA had only

issued 22 enforcement notices, which was a relatively low figure. He enquired whether this was because senders were generally law-abiding and cooperative or that OFCA handled the cases in a relatively lenient manner.

7. Mr. Alvin LI responded that as the UEMO was a new ordinance, OFCA tended to adopt an advisory approach during the early stage of implementation in the hope of allowing senders and the public to understand more about the UEMO first. In handling the reported cases, OFCA also found that many senders were reported simply because they did not know about the UEMO. They were generally willing to take improvement measures and comply with the UEMO upon receipt of the advisory letters. Regarding whether enforcement notices would be issued, it was subject to the nature of the case. As the investigation and enforcement agency of the UEMO, OFCA had to obtain sufficient evidence to prove that a sender was in breach of the UEMO before taking enforcement actions.

8. Mr. K W MA would like to know whether OFCA would contact the informants after the investigation and follow-up actions to see if the problem had been resolved.

9. Mr. Alvin LI responded that currently OFCA would not take the initiative to contact the informants to see if they still received electronic promotional messages. In fact, if the informants continued to receive electronic promotional messages which were suspected of breaching the UEMO, they would contact us again for further follow-up.

10. Ms. Eva WONG said she often received calls which after connected would automatically return calls to the senders and promotional messages would then be played in those return calls. The situation was like it was she who took the initiative to call those senders to listen their promotional messages. She enquired whether such situation fell under the scope of the UEMO.

11. Mr. Alvin LI explained that if the situation was akin to the tactics of sending unsolicited pre-recorded telemarketing messages by means of missed calls, it would also fall under the scope of the UEMO.

12. The Secretary added that the situation Ms. Eva WONG encountered should be caused by calls generated by computers. Those calls would be transferred to operators or

pre-recorded promotional messages only if they were connected. If the messages received by the person answering the call were pre-recorded electronic promotional messages, the situation would fall under the scope of the UEMO.

IV. Re-assignment of Spectrum Used for the Provision of Third Generation (“3G”) Mobile Services

13. Ms. Linda YU briefed members on the CA’s decision regarding the re-assignment of spectrum used for the provision of third generation (“3G”) mobile services (“3G Spectrum”), including the current situation of the mobile service market, the rationales and considerations of the adopted re-assignment option, as well as the arrangements on the re-auction of parts of the 3G Spectrum. Related information is in Annex 2 (TUCAC Paper No. 6/2013).

14. The Chairman emphasised that the re-assignment of 3G Spectrum would not cause any impact on the services provided by mobile network operators’ (“MNOs”) to their customers.

15. Mr. K W MA was concerned about the impact of the reassignment of 3G Spectrum on service charges as he realised that MNOs generally considered the re-assignment of 3G Spectrum would cause an increase in costs, and such an increase would need to be passed on to consumers.

16. Ms. Linda YU responded that all newly released spectrum was assigned by auction since 2001. As the value of spectrum kept increasing, the spectrum utilisation fee (“SUF”) as determined by auction was on the upward trend as well. For example, in the spectrum auction in 2011, SUF reached a record high of \$98 million per MHz. Nonetheless, the charges of service plans provided by the MNOs had not seen a corresponding increase.

17. The Chairman added that the overall SUF only accounted for about 3% of the MNOs’ annual operating costs. Nonetheless, it would be the MNOs’ commercial decision as to whether they would cite this as a reason to raise prices. It was the duty of the CA to ensure that an environment of fair competition which allowed service charges to be determined by market force could be maintained, and that consumers could be free to choose the mobile service plans provided by various MNOs in the market.

18. Mr. K W MA suggested that OFCA should publish the information about the proportion of SUF in the MNOs' operating costs so that members of the public would be informed of the actual situation and understand that SUF was not the major source of pressure on the MNOs' operating costs.

19. The Chairman indicated that OFCA had already provided such information to the media to enable them to better understand the situation and make report accordingly. In addition, OFCA had also explained the information to the Legislative Council members.

20. Ms. Linda YU said that the principle of OFCA in regulating MNOs was to rely on market force and competition as far as possible. In fact, facilitating competition had been benefiting consumers as MNOs had to enhance service quality and/or reduce service charges in order to attract customers. Besides, regardless of which option OFCA adopted in re-assigning 3G spectrum, MNOs were required to pay SUF.

21. Ms. Florence MAN enquired whether MNOs could use the spectrum for the provision of 2G, 3G or 4G service at will and whether 2G service would be affected if MNOs predominantly provided 3G and 4G services.

22. The Chairman responded that MNOs could deploy the spectrum for the provision of 2G, 3G or 4G service at will. In fact, 2G service has its existence value. Roaming service in many countries was still provided by means of 2G network, and 2G voice service only occupied a very small amount of spectrum. It was believed that MNOs would not use all spectrum for 3G and 4G services and stop providing 2G service without reason.

23. Ms. Florence MAN was concerned that MNOs focused only on the provision of 3G or 4G service and gradually assigned a very small amount of spectrum for 2G service, thereby affecting the quality of 2G service.

24. The Chairman said that in case MNOs took such actions which led to a drastic drop in 2G service quality, and in turn resulted in consumer complaints, the CA would take follow-up actions accordingly.

25. Ms. Linda YU appreciated the concern of Ms. Florence MAN. However, we believed that market force would prevent the problem from arising. At present, there were still more than 5 million 2G service users in the market. MNOs did have an incentive to provide quality 2G service. Moreover, as mentioned by the Chairman earlier on, provision of 2G voice service only occupied a small amount of spectrum. It was not necessary for MNOs to deploy spectrum to such an extent as to undermine the quality of 2G service.

26. Mr. Alfred FUNG asked whether MNOs must use the spectrum acquired through auction to provide service themselves.

27. The Chairman responded that MNOs who succeeded in bidding for the spectrum must perform the obligation of providing network and service as required by their Unified Carrier Licences. They had to build network and provide service by means of the spectrum. Nevertheless, they might sublet their network capacities to mobile virtual network operators.

28. Ms. Irene LEUNG was also concerned about the gradual reduction in resources assigned to 2G service by MNOs in recent years. The aged community which she represented was also notified recently by a MNO of its timetable on reduction in 2G network investment. She enquired if there were any existing legislations or guidelines to monitor the issue.

29. The Chairman said that there was currently no legislation or guideline in place to restrict MNOs in making such an arrangement as this was MNOs' commercial decision. However, if MNOs decided to terminate the provision of certain existing services, they had the obligation to minimise the impact on their users.

30. Ms. Irene LEUNG would like to know whether the reception problem within MTR premises was caused by the limitations of MTR infrastructures or the allocation of spectrum among MNOs.

31. The Chairman replied that works carried out by MNOs within MTR premises to

improve service or to provide 4G service were commercial arrangements between the MNOs and MTR. MNOs might take different views towards the building of 4G network due to different spectrum holdings or other commercial considerations. For example, MNOs with no 3G spectrum should be more keen about building the 4G network.

32. Ms. Irene LEUNG enquired if there were any prioritised telephone lines within MTR premises for emergency calls.

33. The Chairman replied that at present, all MNOs would reserve certain spectrum for the purpose of voice calls and emergency calls (such as emergency telephone numbers 999 and 112) were given priorities in using the spectrum.

34. Mr. Kenny CHIU noticed that MNOs responded to the withdrawal of spectrum in such a way as if the arrangement was mandated by the CA. Mr. Kenny CHIU asked if the terms of the 3G spectrum auction in 2001 conferred upon the CA the power to withdraw the spectrum in 2016.

35. Ms. Linda YU responded that the assignment of spectrum was valid for a limited period of time. The 3G spectrum auctioned by the CA in 2001 had an assignment term of 15 years until 2016. The CA did not withdraw the spectrum by force.

36. Ms. Florence MAN enquired if the CA would consider tackling the problem of network congestion by requesting MNOs to share resources within MTR premises.

37. Ms. Edith HUI said that some members reflected that various difficulties were encountered when installing telecommunications facilities within MTR premises. She asked if the CA had any policy to safeguard public interest and to follow up the problems concerned.

38. The Chairman said that MNOs intending to access to MTR premises for the installation of telecommunications facilities should negotiate with MTR for an agreement. If a MNO failed to reach an agreement with MTR, it might, in accordance with the Telecommunications Ordinance, request the CA to arbitrate and determine the provisional fees.

39. Ms. Linda YU believed that with the increase in the number of 4G service users, MNOs and MTR would seek to reach a consensus on the building of 4G network so as to respond to the demand of the users and the passengers.

V. Any Other Business

Report on Consumer Complaints

40. The Secretary reported that the CA had received 1 250 and 1 105 cases of consumer complaints in the 2nd and 3rd Quarter of 2013 respectively. Among these complaints, 1 193 cases (95.4%) in the 2nd Quarter and 1 049 (94.9%) in the 3rd Quarter were outside the CA's jurisdiction. These complaints primarily involved disputes over billing/contracts/service termination, dissatisfaction with customer services and dissatisfaction with the quality of mobile communications/fixed network/broadband services. The remaining 57 cases (4.6%) in the 2nd Quarter and 56 cases (5.1%) in the 3rd Quarter were related to the possible breach of the Telecommunications Ordinance or licence conditions, including complaints about alleged misleading or deceptive sales conduct, alleged abuse of position by service operators in charging their users high service costs for contract renewal, access by operators to public areas of buildings for the installation of telecommunications/broadcasting equipment and networks, and allegation against service providers of the discrepancy between the concessionary details/costs in the service plans and those stated in the promotional materials etc. 1 case and 3 cases were confirmed to be in breach in the 2nd and 3rd Quarter of 2013 respectively, and the relevant investigation reports have been published on the CA's website. The latest consumer complaint statistics are in Annex 3.

VI. Date of Next Meeting

41. The Secretary informed the members that the next meeting would be held on 17 April 2014 at the same time and venue.

[Post-meeting note: Date of next meeting would be changed to 15 May 2014. OFCA had notified the members by e-mail.]

42. There being no other business, the meeting was adjourned at 5:10 p.m.

Implementation of the Unsolicited Electronic Messages Ordinance - 2013

Telecommunications Users and Consumers Advisory Committee
21 November 2013

An overview of the Unsolicited Electronic Messages Ordinance

- The Unsolicited Electronic Messages Ordinance (“UEMO”)
 - in full force since the end of 2007
 - regulates the sending of commercial electronic messages (“CEMs”) that have a Hong Kong link, and covers fax, emails, short messages and pre-recorded telephone messages for promoting and marketing products or services
 - does not cover person-to-person marketing calls
- “Hong Kong link” refers to a CEM that
 - originates in Hong Kong
 - is sent to Hong Kong, or
 - is sent to an electronic address in Hong Kong (such as a telephone number)

“Opt-out” Regime

- A sender is not required to obtain prior consent from the recipient concerned when sending CEMs
 - but has to comply with the requirements of the UEMO
 - provide accurate sender information
 - provide free unsubscribe facilities
 - honour unsubscribe requests
 - cleanse the distribution lists against the do-not-call registers (“DNCRs”)
 - no misleading subjects shall be used in commercial email messages
 - no hiding of calling line identification is allowed when making a call or sending a fax message
 - until the recipient expresses his/her wish of not receiving CEMs by
 - making use of the unsubscribe facility provided by the sender
 - registering his/her telephone number to the relevant DNCR

The Code of Practice under the UEMO

- Pursuant to section 29 of the UEMO, the former Telecommunications Authority established a Code of Practice (“CoP”) in 2007 after public consultation
 - for the purpose of providing practical guidance to senders of CEMs on certain requirements in the UEMO as well as the Unsolicited Electronic Messages Regulation relating to sender information and unsubscribe facility as described therein
- A failure on the part of any person to observe any provision of the approved CoP shall not of itself render that person liable to legal proceedings
- However, the above CoP is admissible in proof and may be relied on by any party to the legal proceedings as tending to establish or negate the matter

Revisions of the CoP

- The original CoP provides descriptions of the position, display and presentation of the
 - sender information
 - unsubscribe facility and
 - unsubscribe facility statementin different types of CEMs
- The Communications Authority (“CA”) issued a consultation paper on 1 March 2013 to conduct a consultation on the proposed revisions of the CoP
 - for providing practical and updated guidance on the sending of CEMs in compliance with the requirements of the UEMO
- The revised CoP was gazetted on 30 August 2013 and will take effect on 30 November 2013

Gist of the Revisions of the CoP

- define “other short messages”
- cleanse the distribution lists of telephone numbers against the relevant DNCR
- provide the telephone numbers from and to which the fax message is sent
- provide guidance on the storage of different types of records of unsubscribe requests

Revision: Define “other short messages”

- classify short messages into the categories of “short-message-service” (SMS) messages and “other short messages”
- “other short messages” may contain:
 - text
 - graphic/images
 - short messages of audio/video file clips
 - including multimedia message service (“MMS”) messages and any short message conveyed via a variety of online messaging platforms available for smartphones, e.g. WhatsApp

Revision: Cleanse the distribution lists of telephone numbers against the relevant DNCR

- describe the scope of application of different DNCRs
 - DNCR for pre-recorded telephone messages
 - DNCR for fax messages
 - DNCR for short messages
- clearly state that a sender should not send CEMs to telephone numbers in the DNCRs, unless he/she has obtained consent from the recipient concerned

Numbers registered in the DNCRs

- As of 30 September 2013, more than 2.58 million telephone or fax numbers have been registered in the three DNCRs.

DNCR	Numbers registered
For fax	734,158
For short messages	641,724
For pre-recorded telephone messages	1,212,595
Total	2,588,477

Revision: Provide the tel. no. from and to which the fax message is sent in the commercial fax

- its purpose is to facilitate the recipient in identifying whether he/she is the intended addressee
- to minimise misguided complaints caused by call routing/forwarding or the duplex ringing number of a telephone line

Revision: Provide guidance on the storage of different types of records of unsubscribe requests

- To facilitate CEM senders to comply with the Ordinance's requirement regarding the storage of unsubscribe requests:
 - Telephone conversations should be recorded by a voice recorder and be either retained in the original format or converted into digital voice files for storage
 - Unsubscribe requests sent by fax should be retained in the original format (the hardcopy), or converted into images or PDF (portable document format) files for digital storage
 - Contents of SMS/other short messages should be retained and stored in the original format
 - For unsubscribe requests sent by e-mail, or by clicking an Internet hyperlink, an electronic record of such e-mail messages or the content returned by the web page of the hyperlink should be stored in the original format
 - For unsubscribe requests sent by pressing a button while listening to pre-recorded telephone messages, record of details showing the date, time and telephone number receiving the unsubscribe request should be retained

Implementation of the UEMO

- Members of the public may report to the CA on senders suspected to have contravened the UEMO
- Depending on the circumstances, the CA may issue advisory or warning letters to the senders
- Pursuant to the UEMO, the CA may issue to the senders enforcement notices directing them to take steps to remedy the contraventions. Any person who fails to comply with an enforcement notice, he/she may be liable to:
 - on the first conviction: a fine of up to HK\$100,000
 - on a second and subsequent conviction: a fine of up to HK\$500,00
 - for continuing offence, a further daily fine of HK\$1,000 for each day can be imposed by the court

Number of reports

- Since the full implementation of the UEMO, the CA had received a total of 24,775 reports as at 30 September 2013.

Type of reports	Number
Fax	14,900 (60%)
Email	3,589 (14%)
Pre-recorded telephone message	2,139 (9%)
SMS	3,118 (13%)
Others	1,029 (4%)
Total	24,775 (100%)

Enforcement situation

- As at 30 September 2013, the CA had handled 24,194 reports (i.e. 97.7% of the reports received)
 - After having been issued an advisory letter, senders in general are willing to take steps to remedy the contravention
 - Upon confirmation of the remedial measures, the CA will issue a warning letter to the sender, requiring him/her to observe the law
 - A total of 582 warning letters had been issued
- If the sender fails to give any legitimate explanation and refuses to take any remedial measures, we will consider issuing an enforcement notice
- The CA has issued a total of 22 enforcement notices to date, and is currently looking into the cases with the Department of Justice regarding the prosecution of some senders who are in breach of the enforcement notice
- We will adjust our strategies according to the situation so as to effectively combat contravention of the UEMO by senders

- End -

Re-assignment of Spectrum Used for the Provision of Third Generation (“3G”) Mobile Services

**Telecommunications Users and
Consumers Advisory Committee**
21 November 2013

Communications Authority (“CA”)’s Decision : Hybrid Option

- ✚ Existing assignment term for the 3G Spectrum will expire in October 2016
- ✚ Four incumbent 3G operators, viz.
 - CSL Limited
 - Hong Kong Telecommunications (HKT) Limited
 - Hutchison Telephone Company Limited
 - SmarTone Mobile Communications Limited
- ✚ Each incumbent to be re-assigned two-thirds of the 3G Spectrum
- ✚ Remaining 3G Spectrum to be re-assigned by the CA through auction
- ✚ New 15-year assignment term to commence in 2016 and end in 2031

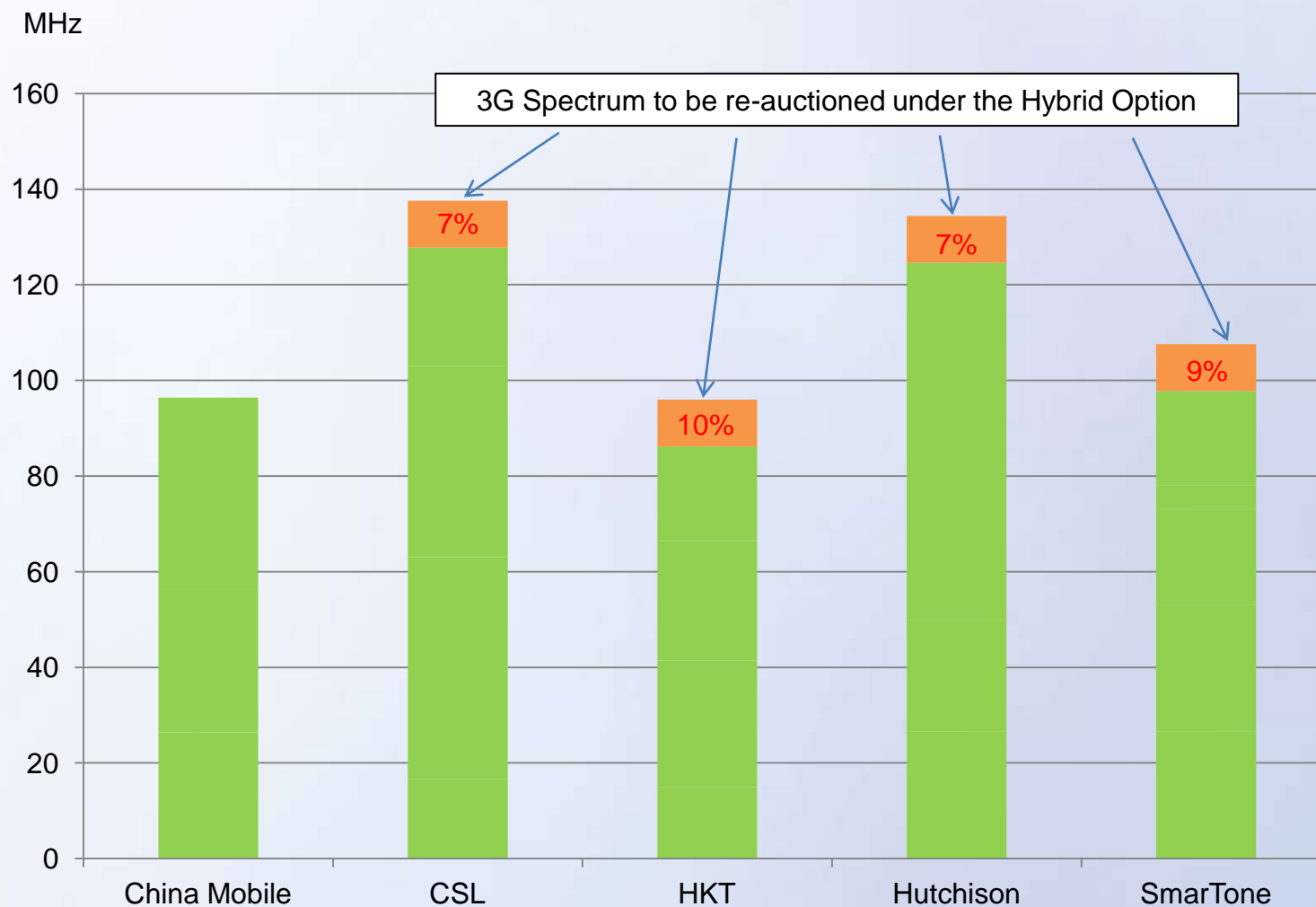
Options Proposed in the Public Consultation

- ✚ Option 1 : Administratively-assigned approach
Right of first refusal for the incumbent 3G operators to be re-assigned all the 3G Spectrum
- ✚ Option 2 : Full-fledged market-based approach
Re-auction all the 3G Spectrum
- ✚ Option 3 : Hybrid approach
Right of first refusal for the incumbent 3G operators to be re-assigned parts of the 3G Spectrum (i.e. Right-of-first-refusal Spectrum), with the Re-auctioned Spectrum to be re-assigned through auction

Market Overview

- ✚ A total of 572 MHz of spectrum assigned for the provision of public mobile services, which includes 120 MHz of 3G Spectrum
- ✚ Spectrum holdings by the individual mobile network operators (“MNOs”) range from the least of 96 MHz to the largest of 138 MHz
- ✚ Under the hybrid option, the Re-auctioned Spectrum amounts to only 7% - 10% of the incumbent 3G operators’ total spectrum holdings

Distribution of Spectrum Assigned to the MNOs



3G & 4G Networks

	3G Services	4G Services
Amount of spectrum	173 MHz	260 MHz
Number of subscribers	9.4 million	1.6 million
Share of subscribers in the total number of mobile data users	84%	14%

- + Mobile data services can be provided on both the 3G and 4G networks
- + There is ample capacity currently on the 4G networks
- + 3G networks already congested at certain hotspots during busy hours, e.g. MTR, Mongkok and Causeway Bay

Use of Spectrum by MNOs within the MTR Areas



✚ Main reasons for congested mobile services along the MTR lines and at the stations :

- Incumbent 3G operators rely only on a small amount of 2G spectrum refarmed for the provision of 4G services, without using the large amount of 4G spectrum on hand



✚ They should immediately utilise the 4G spectrum efficiently, in order to mitigate congestion on the 3G networks

How to Mitigate Congestion on the 3G Networks?

- + MNOs should immediately utilise the 4G spectrum efficiently
- + Incumbent 3G operators should speed up the migration of 3G customers to the 4G networks
 - Introduce 3G/4G integrated mobile data service plans
 - Provide promotional offers for subscribers to purchase 4G handsets

Example : “3G Room” & “4G Room” at “Telecoms Restaurant”

“Telecoms Restaurant” has both 3G Room and 4G Room

3G Room



Many customers at the 3G Room, very congested during busy hours

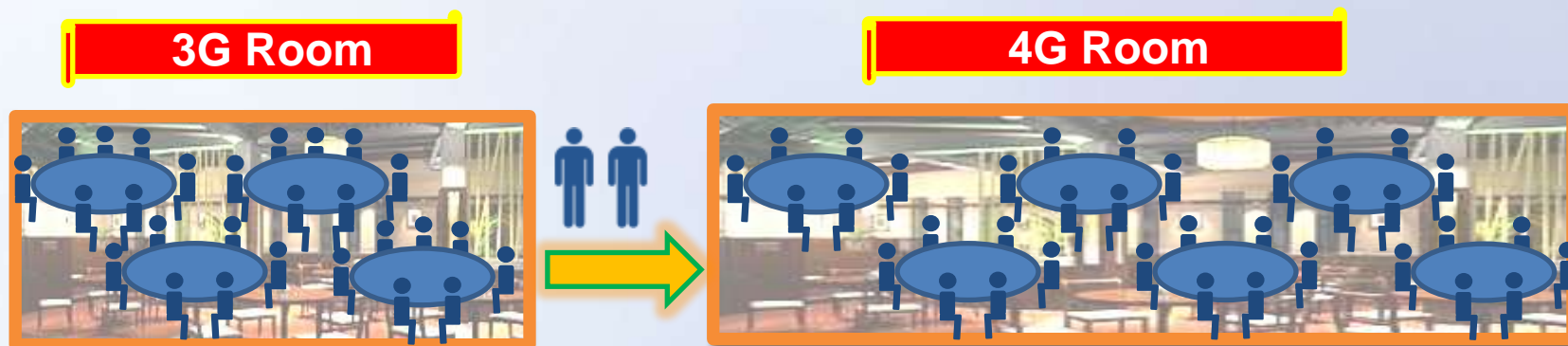
4G Room



Fewer customers at the larger 4G Room, very spacious at all times

Example : “3G Room” & “4G Room” at “Telecoms Restaurant”

Owner of the restaurant can invite customers at the 3G Room to move to the 4G Room in order to solve the congestion problem at the 3G Room, and to allow customers to enjoy quality services



Justifications and Factors Considered

- ✚ Factors considered by the CA in formulating its decision :
 - Relevant provisions under the Telecommunications Ordinance and the Communications Authority Ordinance
 - Policy in spectrum management as stated in the Radio Spectrum Policy Framework
 - Submissions received in the two rounds of public consultation lasting for seven months altogether
 - Findings of the consultancy study commissioned by the Government
 - Policy views of the Secretary for Commerce and Economic Development
 - Independent assessment of the CA

Competing Demands for the 3G Spectrum

- ✚ According to the comments received in the two rounds of public consultation, the CA is of the view that there are indeed competing demands for the 3G Spectrum
- ✚ In accordance with the Radio Spectrum Policy Framework, a market-based approach should be adopted to put to open auction all the 3G Spectrum

Overriding Public Policy Reasons

- ✚ Auction outcome highly uncertain under the full-fledged market-based approach
- ✚ If any of the incumbent 3G operators is not assigned with any 3G Spectrum it originally holds, service quality on its network would be severely affected. There could also be a degradation or even a loss of 3G service coverage at certain indoor areas, such as within the MTR areas, HKCEC, shopping malls, etc.
- ✚ Having considered the concern of the incumbent 3G operators, the CA shares the view of the SCED : there exists an overriding public policy reason for the CA to deviate from the full-fledged market-based approach

Comparison between the Full-fledged Administratively-assigned Option and the Hybrid Option Based on the Four Spectrum Re-assignment Objectives

- ✚ Ensuring customer service continuity
- ✚ Efficient spectrum utilisation
- ✚ Promotion of effective competition
- ✚ Encouragement of investment and promotion of innovative services

Comparison between Hybrid Option and Full-fledged Administratively-assigned Option (1)

✚ Ensuring customer service continuity

- Service continuity and service quality can be maintained under both options
- Under the hybrid option, if the incumbent 3G operators do not acquire any 3G Spectrum through auction, they could effectively mitigate the impact on service quality by implementing appropriate mitigation measures, for example through speeding up the migration of their 3G customers to the 4G networks

✚ In commercial reality, MNOs would strive to maximise customer retention. Thus no customer churning is expected among the MNOs due to re-assignment of the 3G Spectrum

Comparison between Hybrid Option and Full-fledged Administratively-assigned Option (2)

Efficient spectrum utilisation

- The full-fledged administratively-assigned option is like a perpetual spectrum assignment, which provides less incentive for, and exerts less pressure upon, the incumbent 3G operators to efficiently utilise the spectrum
- The hybrid option, through re-auctioning parts of the 3G Spectrum, can assign the spectrum to the MNOs which are able to put it to the most efficient use and hence derive the maximum economic benefits from it
- The hybrid option provides an opportunity for MNOs to critically review their overall effectiveness in utilising the spectrum
- The hybrid option provides an opportunity for the incumbent 3G operators to acquire a contiguous spectrum block of wider bandwidth, thereby facilitating their application of the more advanced 4G technology

Comparison between Hybrid Option and Full-fledged Administratively-assigned Option (3)

Promotion of effective competition

- The hybrid option provides an opportunity for new entrants to enter the Hong Kong mobile market through bidding for the 3G Spectrum
- Incumbent 3G operators could also bid for the 3G Spectrum in the open auction based on their commercial considerations, thereby facilitating their needs in business development and strengthening their competitiveness

Comparison between Hybrid Option and Full-fledged Administratively-assigned Option (4)

- ✚ Encouragement of investment and promotion of innovative services
 - Under the hybrid option, new 3G Spectrum assignees will put in investment to roll out new network infrastructure
 - The incumbent 3G operators, by exercising the right of first refusal to be re-assigned two-thirds of the 3G Spectrum, have to continue to invest in the 3G networks to maintain services
 - For the incumbent 3G operators which eventually do not acquire any 3G Spectrum from the open auction, they are likely to invest to upgrade the network capacity in order to offset the effect stemming from a reduction in spectrum holding
 - If they acquire a contiguous spectrum block of wider bandwidth through option, they could introduce more innovative services

Conclusion : Comparison of the Three Options

	Full-fledged Market-based	Full-fledged Administratively- assigned	Hybrid Approach
Ensuring customer service continuity	✗	✓	✓
Efficient spectrum utilisation	✓	✗	✓
Promotion of effective competition	✓	✗	✓
Encouragement of investment & promotion of innovative services	✓	✗	✓

Arrangements for Spectrum Auction

- ✚ Auction expected to be conducted in the fourth quarter of 2014
- ✚ Open for bidding by all interested parties
- ✚ Spectrum cap : 40 MHz
 - For an incumbent 3G operator which has exercised the right of first refusal to be assigned about 20 MHz of 3G Spectrum that it currently holds, it can bid for not more than 20 MHz of spectrum
 - New entrants to the 1.9 – 2.2 GHz band can bid for not more than 40 MHz of spectrum

Thank You

The 5th Meeting of the Telecommunications Users and Consumers Advisory Committee
(21 November 2013)

CA's Latest Statistics on Consumer Complaints on Telecom Services
(2nd and 3rd Quarters of 2013)

Service Type	4 th Q 2012		1 st Q 2013		2 nd Q 2013		3 rd Q 2013		Number of Cases found to involve breach of the Telecommunications Ordinance / Licence Conditions after Investigation
	No. of Complaints Received	Number of Cases Outside the Scope of the Telecommunications Ordinance / Licence Conditions	No. of Complaints Received	Number of Cases Outside the Scope of the Telecommunications Ordinance / Licence Conditions	No. of Complaints Received	Number of Cases Outside the Scope of the Telecommunications Ordinance / Licence Conditions	No. of Complaints Received	Number of Cases Outside the Scope of the Telecommunications Ordinance / Licence Conditions	January to September 2013
Mobile	904	890	519	512	591	576	555	537	3
Fixed Network	165	159	173	163	215	200	205	187	0
Internet	356	354	316	298	407	381	313	296	1
External Telecommunications	19	19	16	16	11	11	13	11	0
Others	17	16	8	6	15	14	13	12	0
Unclassified	10	10	8	8	11	11	6	6	0
Total	1471	1448	1040	1003	1250	1193	1105	1049	4

Remarks: The aforesaid statistics on consumer complaints about telecom services do not include reports made by consumers in respect of the Unsolicited Electronic Messages Ordinance.

A. Analysis of Complaints in the 2nd and 3rd Quarters of 2013

Overview

- In the 2nd Quarter of 2013, the CA received 1 250 cases of consumer complaints, showing an increase from the number of cases received in the 1st Quarter (1040 cases). This was mainly due to noticeable rise in the number of complaints about mobile services and Internet services. In the 3rd Quarter, 1 105 cases of consumer complaints were received, which showed a slight decline from the number of cases received in the 2nd Quarter. Among the complaints received in the two Quarters, 95.4% of the complaints (1193 cases) in the 2nd Quarter and 94.9% of the complaints (1049 cases) in the 3rd Quarter were outside the CA's scope of jurisdiction as they did not involve any breach of the Telecommunications Ordinance ("TO") or licence conditions ("LC"). The majority of these complaints were related to disputes on bills / contract terms / service termination, dissatisfaction with customer service and dissatisfaction with the quality of mobile / fixed network / broadband services. The total number of these three types of complaints accounted for 83.4% (995 cases) and 88.8% (931 cases) of the cases which did not involve any breach of the TO or LC in the two Quarters respectively. The CA referred these cases to the operators, which would contact the complainants directly to resolve the issues.

Cases Involving Possible Breach of the TO or LC

- The remaining 57 cases (4.6%) of consumer complaints in the 2nd Quarter and the remaining 56 cases (5.1%) of consumer complaints in the 3rd Quarter of 2013 (totalling 113 cases) were related to possible breach of the TO or LC, i.e., they might be within the CA's scope of jurisdiction. Among the total of 113 complaint cases in these two Quarters, 44 cases (38.9% of the possible breaches) were related to alleged misleading or deceptive sales conduct, from which 24 cases being related to mobile services, 9 cases about fixed network services, 8 cases involving Internet

services, 2 about external telecommunications services, while the remaining 1 case was related to a bundled package of pay TV and broadband services. The other 33 cases (29.2% of the possible breaches) were related to allegation of suspected abuse of dominant position by service providers for charging customers exorbitant service fees during contract renewal, with 31 cases being related to Internet services and the remaining 2 cases about fixed network services. The remaining cases of possible breach of the TO or LC included 21 cases which involved access by operators to public areas of buildings for the installation of telecommunications / broadcasting equipment and networks, 6 cases of allegation against service providers of the discrepancy between the concessionary details/charges in the service plans and those stated in the promotional materials, 2 cases of allegation against service providers of their suspected anti-competitive practice, while the rest of the 7 cases included 1 case each for allegation against a mobile service operator of the discrepancy between its network coverage and the information on its company website, not charging roaming service fees according to the tariff and not specifying that the service plans were subject to the restriction of the fair usage policy, and 1 case each alleging Internet service providers of having discrepancy between the network access speed claimed by the telesales representatives and actual speed, discrepancy between the service items offered and those listed in the service package, and obstructing users from browsing other websites, as well as 1 case of allegation against a fixed network service operator of unilaterally terminating a customer's fixed network services. The CA would conduct investigation on possible breach of the TO or LC should there be sufficient *prima facie* evidence.

Mobile Services

- In the 2nd Quarter of 2013, among all the consumer complaints received by the CA, the number of cases and the complaint rate concerning mobile services were 591 cases (47.3%), indicating an increase from the 519 cases (49.9%) in the 1st Quarter. In the 3rd Quarter, the number of

cases and the complaint rate concerning mobile services were 555 cases (50.2%), which was slightly lower than that of the 2nd Quarter. Disputes on bills / contract terms / service termination (267 cases in the 2nd Quarter, 238 cases in the 3rd Quarter), dissatisfaction with network service quality (125 cases in the 2nd Quarter, 132 cases in the 3rd Quarter), and dissatisfaction with customer service (99 cases in the 2nd Quarter, 103 cases in the 3rd Quarter) were the major types of complaints in the 2nd and 3rd Quarters. The total number of these three types of complaints accounted for 83.1% (491 cases) and 85.2% (473 cases) of the complaints concerning mobile services received in the two Quarters respectively. In the 2nd and 3rd Quarters, there were 33 cases related to mobile services involving possible breach of the TO and LC, among which 24 cases were related to alleged misleading or deceptive sales conduct, 5 cases to allegation against service providers of the discrepancy between the concessionary details/charges in the service plans and those stated in the promotional materials, and 1 case each to allegation against a service provider of its suspected anti-competitive practice, the discrepancy between an operator's network coverage and the information on its company website, not charging roaming service fees according to the tariff, and not specifying that the service plans were subject to the restriction of the fair usage policy.

Fixed Network Services

- In the 2nd and 3rd Quarters of 2013, the CA received 215 and 205 cases of consumer complaints concerning fixed network services respectively, accounting for 17.2% and 18.6% of the complaints in the respective Quarters. The numbers of cases in the two Quarters had slightly increased comparing to the 173 cases (16.6%) in the 1st Quarter of 2013. The three major types of complaints received in the 2nd Quarter of 2013 were related to dissatisfaction with customer service (72 cases), disputes on bills / contract terms / service termination (69 cases), and dissatisfaction with network service quality (21 cases), totalling 162 cases and accounting for 75.3% of the total number of complaints concerning fixed

network services received by the CA. In the 3rd Quarter, the three major types of complaints were related to dissatisfaction with customer service (72 cases), disputes on bills / contract terms / service termination (72 cases), and dissatisfaction with network service quality (24 cases), totalling 168 cases and accounting for 82% of the total number of complaints concerning fixed network services received by the CA. As for the cases involving possible breach of the TO or LC, there were 33 cases in these two Quarters, which included 20 cases being related to access by operators to public areas of buildings for the installation of telecommunications / broadcasting equipment and networks, 9 cases to alleged misleading or deceptive sales conduct, 2 cases to allegation against service providers of their suspected abuse of dominant position for charging customers exorbitant service fees during contract renewal, and 1 case each to allegation against a service provider of the discrepancy between the concessionary details/charges in the service plans and those stated in the promotional materials as well as unilateral termination of a customer's fixed network services.

Internet Services

- In the 2nd Quarter of 2013, among all the consumer complaints received by the CA, the number of cases and the complaint rate related to Internet services were 407 cases (32.6%), representing a substantial increase from the 316 cases (30.4%) in the 1st Quarter. Among the complaints received concerning Internet services, the major types of complaints were related to disputes on bills / contract terms / service termination (145 cases), followed by dissatisfaction with customer service (94 cases) and dissatisfaction with Internet service quality (74 cases), accounting for 76.9% (313 cases) of the total number of complaints related to Internet services. In the 3rd Quarter, the number of cases and the complaint rate related to Internet services were 313 cases (28.3%), which was comparable to that of the 1st Quarter (316 cases, 30.4%). The major types of complaints were disputes on bills / contract terms / service termination (123 cases), dissatisfaction with customer service (83

cases) and dissatisfaction with Internet service quality (61 cases), accounting for 85.3% (267 cases) of the total number of complaints related to Internet services. Among the complaints involving possible breach of the TO or LC in these two Quarters, 43 cases were related to Internet services. Of these cases, 31 were related to allegation against service providers of their suspected abuse of dominant position for charging customers exorbitant service fees during contract renewal, 8 cases to suspected misleading or deceptive sales conduct, while the remaining 4 cases included 1 case each for allegation against a service provider of its suspected anti-competitive practice, the discrepancy between the network access speed claimed by the telesales representatives and actual speed, the discrepancy between the service items offered and the those listed in service package, and obstructing users from browsing other websites.

- The figures in the columns of “Number of Cases Outside the Scope of the Telecommunications Ordinance / Licence Conditions” and “Number of Cases found to involve breach of the Telecommunications Ordinance / Licence Conditions after Investigation” of the above table do not include complaints under study / investigation.

B. Case Analysis of Breach of the Telecommunications Ordinance / Licence Conditions

- There was 1 case of breach in the 2nd Quarter of 2013 which was related to misleading or deceptive representations a mobile service provider made when sending short messages to promote its mobile services. The service provider was found to have contravened section 7M of the Telecommunications Ordinance. The CA had imposed a fine of \$90,000 on the mobile service provider.
- In the 3rd Quarter, there were 3 cases of breach. Of these cases, 1 was related to misleading or deceptive representations by a salesperson of an Internet service provider in respect of the transmission speed of its Internet dedicated service and that customers had an unconditional right

to cancel a contract before its end date. The service provider was found to have contravened section 7M of the Telecommunications Ordinance and was imposed a fine of \$80,000 by the CA. The other 2 cases were related to two different mobile service providers. One of them did not specify the service plans being subject to the restriction of the fair usage policy. The provider was found to have contravened Special Condition 13.1 of its licence. The CA had issued a warning to the mobile service provider concerned. The other mobile service provider ported the mobile number of a complainant to its company without his/her consent. The operator was found to have contravened Special Condition 4.4 of its licence. The operator was advised by the CA to observe strictly the special conditions of its licence and the work procedures of mobile number portability.

- The investigation reports of the aforesaid cases of breach have been published on the CA's website.

Statistics on Consumer Complaints Received by the CA

Service Type	2010	2011	2012	2013 (1st to 3rd Quarters)
Mobile	3023	2302	2738	1665
Fixed Network	812	801	735	593
Internet	1561	1603	1590	1036
External Telecommunications	112	89	87	40
Others	176	99	73	36
Unclassified	27	56	39	25
Total	5711	4950	5262	3395