

Telecommunications Users and Consumers Advisory Committee (TUCAC)

Minutes of the 9th Meeting held at 3:00 p.m.

on 8 October 2015 (Thursday) in Conference Room,

Office of the Communications Authority (“OFCA”),

29/F Wu Chung House, Wan Chai

Present:

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| Mr. Danny LAU (Chairman) | Deputy Director-General (Telecommunications), OFCA |
| Ms. June IP | Representative of Consumer Council |
| Ms. Irene LEUNG | Representative of the aged community |
| Mr. Kenny CHIU | Member appointed on an ad personam basis |
| Mr. Michael LUI | Representative of Education Bureau |
| Mr. Thomas SUN | Member of the public |
| Ms. Martha LEUNG | Member of the public |
| Ms. Eva WONG | Member of the public |
| Ms. Agnes CHAN | Member of the public |
| Ms. Jamay WONG (Secretary) | OFCA |

In attendance:

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| Mr. Allen TIN | OFCA |
| Mr. Gary SHIU | OFCA |
| Mr. Sidney TSAN | OFCA |
| Miss Edith YAU | OFCA |

Absent with apologies:

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| Mr. Watson CHAN | Representative of The Hong Kong General Chamber of Commerce |
| Mr. Ken FONG | Representative of Hong Kong Wireless Technology Industry Association (HKWTIA) |
| Mr. Alex KUN | Representative of Communications Association of Hong Kong (CAHK) |
| Mr. Eric YEUNG | Representative of small and medium enterprises |
| Mr. K W MA | Member appointed on an ad personam basis |

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|-----------------------|--------------------------------|
| Mr. Anthony NGAN | Representative of the disabled |
| Mr. Ben YU | Representative of the disabled |
| Ms. Florence MAN | Member of the public |
| Ms. Pauline YUNG | Member of the public |
| Ms. Cindy CHAN | Member of the public |
| Mr. Derek Emory YEUNG | Member of the public |
| Mr. C B WONG | Member of the public |
| Mr. Daniel LO | Member of the public |

I. Confirmation of the Minutes of the 8th Meeting

1. The Secretary had not received any proposed amendment to the draft minutes of the 8th meeting from the members and no amendment was proposed by the members in the meeting. The Chairman announced that the minutes of the 8th meeting were confirmed.

II. Smart Use of Mobile Data Roaming Services

2. Mr. Allen TIN briefed the members on the information about Smart Use of Mobile Data Roaming Services, including the number of consumer complaints about billing disputes, examples of complaints, measures to avoid unexpected mobile data roaming charges and measures taken to address “mobile bill shock” by OFCA and the Industry. Related information is in TUCAC Paper No.3/2015.

3. The Chairman added that although the number of complaints concerning “mobile bill shock” had stabilised, such complaints remained one of the major types of complaints received by OFCA. This was mainly due to unintentional use of mobile data roaming services by consumers resulting in charges by operators. In respect of this kind of complaints, the “Customer Complaint Settlement Scheme”, a mediation scheme set up by the telecommunications industry, should be able to help resolve billing disputes between telecommunications service providers and their customers effectively.

4. Ms. Irene LEUNG pointed out that if users turned off the roaming function on their mobile phones, they would then be unable to make roaming calls and use data roaming services when abroad and thus would not be charged any roaming fees. However, if users just turned off the data function on their mobile phones and turned off the roaming

function only when abroad, they might still be charged roaming fees for any unintentional use of data roaming services before the roaming function was turned off. In addition, users who turned off the roaming function on their mobile phones after travelling abroad might be charged a small amount of roaming data fees for sending the instruction via the network. Therefore, if users would like to avoid “mobile bill shock” by way of configuring the settings of their own mobile phones, they should be mindful of the differences between the above two methods. Moreover, the settings would depend on the functions of the users’ mobile phones.

5. Mr. Allen TIN added that if users did not require roaming services (including voice and data services) when travelling abroad, they should configure the settings of their mobile phones before leaving Hong Kong.

6. Mr. Kenny CHIU suggested that the Communications Authority (“CA”) might consider working jointly with the Consumer Council and the Travel Industry Council of Hong Kong to encourage the outbound tour guides of travel agents to remind their tour group members how to avoid “mobile bill shock” before the tours left Hong Kong.

[Post-meeting note: OFCA had reflected the opinion to the Travel Industry Council of Hong Kong. The Travel Industry Council of Hong Kong posted relevant consumers advice at the column “Advice for Travellers > For Outbound Travellers” on its website but indicated that it could not help pass the suggestion to the travel agents. Nonetheless, it provided a list of travel agents to OFCA. OFCA would approach those travel agents to propose distributing relevant leaflets at their retail branches.]

7. Mr. Thomas SUN put forward the following suggestions to enhance consumer publicity and education: 1. airlines might arrange to include relevant information in their flight announcements; 2. the Government might publish such information in travel guides for tourists’ reference; and 3. the Government might provide such information through “GovHK Notifications” to the members of the public who had registered for the service and were about to travel abroad.

[Post-meeting note: The Secretary had reflected the opinion to the relevant work units of OFCA for follow-up actions. Regarding “GovHK Notifications”, since the application sent notification messages via mobile phones, users might have to pay for mobile data or mobile data roaming services for receiving such messages. Besides, if users turned off the roaming function to avoid being charged the data roaming fees, they would be unable

to receive the notification messages. As such, reminding users' of the points to note in using data roaming services via "GovHK Notifications" might not be able to achieve the expected result. OFCA was also contacting immigration control points to enquire about the feasibility of putting up posters at those control points.]

8. The Chairman thanked Mr. Kenny CHIU and Mr. Thomas SUN for their opinions. He believed that tour escorts or tour guides might be glad to remind their tour group members. However, it might be difficult for airlines to broadcast such information as they already had many announcements to make themselves. OFCA would reflect the opinions to the organisations for their consideration.

III. Competition Guidelines issued under the Competition Ordinance

9. Ms. Agnes CHAN declared that she was a member of the Competition Commission.

10. Mr. Gary SHIU briefed the members on the Competition Guidelines issued under the Competition Ordinance, including a general introduction of the Competition Ordinance and the key principles of the Competition Guidelines. Related information is in TUCAC Paper No. 4/2015.

11. The Chairman pointed out that the Competition Guidelines were not statutory provisions. The Guidelines set out how the Competition Commission ("the Commission") and the CA would interpret and give effect to the competition rules, and the procedures to handle complaints, conduct investigations and handle applications for exclusions and exemptions. The Guidelines on the competition provisions currently applicable to the telecommunications and broadcasting industries (i.e. the provisions under the Telecommunications Ordinance and the Broadcasting Ordinance) were also issued after consultation. Yet, as the provisions were only applicable to the telecommunications and broadcasting industries and the industries were consulted, the likelihood of dispute or objection was relatively small. Unlike the provisions concerning telecommunications and broadcasting industries, the Competition Ordinance covered all industries and sectors. Despite that public consultations were conducted prior to the issuance of the Competition Guidelines, the wide coverage of the Guidelines increased the likelihood of dispute. The Chairman would like to know how the Commission would react if a member of public or an organisation applied for a judicial review in respect of the Competition Guidelines.

12. Mr. Gary SHIU responded that the CA was currently conferred on the power to decide whether a licensee had contravened the competition provisions under the Telecommunications Ordinance or the Broadcasting Ordinance. Under the Competition Ordinance, the Commission was required to take the case to the Competition Tribunal for decision if it considered that the conduct concerned was in contravention to the competition rules after conducting an investigation. If a member of public or an organisation applied for a judicial review against the Commission's decision, the case would be decided by the Tribunal or other courts.

13. Ms Agnes CHAN said that the Competition Guidelines were issued under the Competition Ordinance and based on the prevailing circumstances. With the passage of time and change in circumstances, timely revision would be made to the Competition Guidelines as appropriate.

14. Ms. Martha LEUNG said that at present, there was only one fixed broadband service provider providing services for all village houses, and enquired whether the Competition Ordinance could be applied.

15. The Chairman responded that the telecommunications market in Hong Kong was fully liberalised. In a fully liberalised market, the provision of fixed broadband service and the network coverage were decided by fixed network operators based on their commercial considerations. Nevertheless, measures had all along been taken by OFCA to encourage operators to upgrade network facilities and expand their broadband networks. Recently, OFCA learnt that a new telecommunications operator was preparing to provide wireless fixed broadband services in remote rural areas. Some members also indicated that they had received notices from their current service providers about the upgrading of broadband services.

16. Mr. Gary SHIU added that according to OFCA's understanding, some broadband service providers had already indicated that they would actively roll out optical fibre in village house areas so as to provide better broadband services.

IV. Any Other Business

17. The Secretary reported that the CA had received 560 cases of consumer complaints in the 1st Quarter of 2015, representing a significant drop from the number of cases received in the 4th Quarter of 2014. In the 2nd Quarter of 2015, the number of consumer complaint cases increased markedly to 759 cases mainly due to the network outage of a mobile service operator. Excluding the cases related to the above network outage, 544 cases (97.1%) and 744 cases (98%) in the 1st and 2nd Quarters of 2015 respectively were outside CA's jurisdiction. These complaints primarily involved disputes on bill/contract terms/service termination, dissatisfaction with customer services and dissatisfaction with the quality of mobile communications/fixed network/Internet services. The remaining 16 cases (2.9%) and 15 cases (2%) were related to the possible breach of the Telecommunications Ordinance or licence conditions, including complaints about alleged misleading or deceptive sales conduct and access by operators to public areas of buildings for the installation of telecommunications/broadcasting equipment and networks. No substantiated case was confirmed to be in breach of the Telecommunications Ordinance/licence conditions in the 1st and 2nd Quarters of 2015. The latest consumer complaint statistics are in Annex 1.

18. Mr. Kenny CHIU said that as a member of other telecommunications service user concern groups, he would like to take the opportunity to reflect the following concerns of telecommunications service users: 1. Starting from 1 October, three Mainland telecommunications operators would implement data rollover service to allow users to roll over the unused data of the current month to the following month. He wondered if telecommunications operators in Hong Kong would consider putting in place the same arrangement; and 2. Recently, some Taiwan residents successfully claimed compensation from Chunghwa Telecom for disturbing "the peacefulness of residential environment" by setting up a transmitting station without authorisation. As telecommunications operators in Hong Kong also set up transmitting base stations inside residential buildings, Taiwan's case might become a reference case for Hong Kong consumers, thus resulting in similar litigations against the operators in Hong Kong.

19. The Chairman said that he would be glad to reflect the opinion about data rollover service to telecommunications services providers. However, it would be a commercial decision of the operators as to whether or not to launch such a service to allow unused data to be rolled over to the following month. As to the concealed transmitting stations, telecommunications operators in Hong Kong had asserted that they would not set up any

base station without authorisation.

[Post-meeting note: OFCA had already sent letters to four major mobile service operators to encourage them to consider providing the data rollover service plan. OFCA learnt that a mobile service operator had already launched such a service plan for its customers.]

20. Ms. Irene LEUNG believed that market force would drive telecommunications operators to come up with different service plans. For example, there was no unlimited data service plan when mobile data service was first launched. However, with the increasing popularity of mobile data service, unlimited data plans were then launched by the operators to compete for customers. The operators, however, stopped providing unlimited data service plans when such services took up a substantial portion of their resources.

V. Date of Next Meeting

21. The Secretary would inform the members about the date of the next meeting in due course.

22. There being no other business, the meeting was adjourned at 5:00p.m.

**The 9th Meeting of the Telecommunications Users and Consumers Advisory Committee
(8 October 2015)**

**CA's Latest Statistics on Consumer Complaints on Telecom Services
(1st and 2nd Quarters of 2015)**

| Service Type | 3 rd Q 2014 | | 4 th Q 2014 | | 1 st Q 2015 | | 2 nd Q 2015 | | 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 June 2015 |
| Mobile | 489 | 479 | 408 | 399 | 329 | 320 | 478 | 476 | 0 |
| Fixed Network | 120 | 115 | 85 | 75 | 84 | 80 | 102 | 93 | 0 |
| Internet | 166 | 164 | 162 | 160 | 128 | 126 | 163 | 162 | 0 |
| External Telecommunications | 9 | 9 | 9 | 9 | 9 | 9 | 4 | 4 | 0 |
| Others | 3 | 1 | 4 | 3 | 5 | 4 | 5 | 2 | 0 |
| Unclassified | 5 | 5 | 3 | 3 | 5 | 5 | 7 | 7 | 0 |
| Total | 792 | 773 | 671 | 649 | 560 | 544 | 759 | 744 | 0 |

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 and the Trade Descriptions Ordinance.

A. Analysis of Complaints in the 1st and 2nd Quarters of 2015

Overview

- In the 1st Quarter of 2015, CA received 560 cases of consumer complaints, showing a significant decrease from the number of cases received in the 4th Quarter of 2014 (671 cases). This was mainly due to decrease in the number of complaints about mobile services and Internet services. In the 2nd Quarter of 2015, the number of consumer complaints increased markedly to 759 cases mainly due to network outage of a mobile service operator. Excluding the cases related to the aforesaid network outage, 97.1% of the complaints (544 cases) in the 1st Quarter and 98% of the complaints (744 cases) in the 2nd Quarter of 2015 were outside 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 / Internet services. The total number of these three types of complaints accounted for 84.4% (459 cases) and 72% (536 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 16 cases (2.9%) of consumer complaints in the 1st Quarter and the remaining 15 cases (2%) of consumer complaints in the 2nd Quarter (totalling 31 cases) were within the CA's scope of jurisdiction, i.e. they were related to possible breach of the TO or LC. Among these 31 complaints, 13 cases (accounting for 41.9% of the possible breaches) were related to alleged misleading or deceptive sales conduct with 8 cases being related to mobile services, 3 cases involving fixed network services and 2 cases about Internet services. The remaining cases

included 13 cases concerning access by operators to public areas of buildings for the installation of telecommunications / broadcasting equipment and networks, 1 case of allegation against a fixed network service operator of anti-competitive practice and 1 case of allegation against an Internet service provider of abuse of dominant position, while the other 3 cases were related to mobile service operators which included allegation of failure to provide mobile services during network outage, allegation against a service operator of accepting deposit in lieu of address proof and allegation of failure to display the telephone numbers of incoming calls on the bill. The CA would conduct investigation on possible breach of the TO or LC should there be sufficient *prima facie* evidence.

Mobile Services

- In the 1st and 2nd Quarters of 2015, 329 cases and 478 cases of consumer complaints related to mobile services were received respectively, accounting for 58.8% and 63% of the total number of complaints in the respective Quarters. Both the number of cases and the complaint rate in the 1st Quarter showed a decrease when compared with the 408 cases (60.8%) in the 4th Quarter of 2014. Due to the complaints related to network outage of a service operator, the number of complaints and the complaint rate rose in the 2nd Quarter. There were 128 cases related to network outage, accounting for 26.8% of the complaints related to mobile services received in that Quarter. Excluding the number of cases brought by network outage, disputes on bills / contract terms / service termination (158 cases in the 1st Quarter; 160 cases in the 2nd Quarter), dissatisfaction with customer service (79 cases in the 1st Quarter; 82 cases in the 2nd Quarter) and dissatisfaction with network quality (33 cases in the 1st Quarter; 65 cases in the 2nd Quarter) were the major types of complaints in the 1st Quarter and the 2nd Quarter. The total number of these three types of complaints accounted for 82.1% (270 cases) and 64.2% (307 cases) of the complaints concerning mobile services received in the respective Quarters. In the 1st and 2nd Quarters, there were 11 cases of mobile services complaints involving possible breach of the TO

and LC, among which 8 cases were related to alleged misleading or deceptive sales conduct, while the remaining 3 cases included 1 case each for allegation of failure to provide mobile services during network outage, allegation against a service operator of accepting deposit in lieu of proof of residential address and allegation of failure to display the telephone numbers of incoming calls on the bill.

Fixed Network Services

- In the 1st and 2nd Quarters of 2015, a total of 186 cases of consumer complaints concerning fixed network services were received. Compared with the 85 cases in the 4th Quarter of 2014 (accounting for 12.7% of the total number of complaints received in that Quarter), the number of cases received (84 cases) in the 1st Quarter of 2015 remained at a similar level, while the complaint rate (15%) showed a slight increase. The number of cases received in the 2nd Quarter (102 cases) was higher than that in the 1st Quarter but the complaint rate (13.4%) has dropped. Among the complaints in these two Quarters, disputes on bills / contract terms / service termination (39 cases in the 1st Quarter; 35 cases in the 2nd Quarter) was the most major type of complaints, followed by dissatisfaction with customer service (19 cases in the 1st Quarter; 33 cases in the 2nd Quarter) and dissatisfaction with network quality (9 cases in the 1st Quarter; 10 cases in the 2nd Quarter). These complaints accounted for 79.8% (67 cases) and 76.5% (78 cases) of the total number of complaints concerning fixed network services received in the 1st Quarter and the 2nd Quarter respectively. As for the complaints involving possible breach of the TO or LC in these two Quarters, a total of 13 cases were related to fixed network services, from which 9 were related to access by service operators to public areas of buildings for the installation of telecommunications / broadcasting equipment and networks, 3 to allegation of misleading or deceptive sales conduct and the remaining 1 was about suspected anti-competitive practice of a service operator.

Internet Services

- In the 1st Quarter of 2015, the CA received 128 cases of consumer complaints related to Internet services, accounting for 22.8% of the total number of complaints received in that Quarter. This figure represented a decrease from both the number of cases received and the complaint rate in the 4th Quarter of 2014 (162 cases and 24.2%). The number of cases received in the 2nd Quarter (163 cases) increased to a level similar to that in the 4th Quarter of 2014, while the complaint rate (21.5%) continued to decrease. In the 1st and 2nd Quarters of 2015, the three major types of complaints were related to dissatisfaction with customer service (38 cases in the 1st Quarter; 50 cases in the 2nd Quarter), disputes on bills / contract terms / service termination (37 cases in the 1st Quarter; 51 cases in the 2nd Quarter) and dissatisfaction with Internet services (37 cases in the 1st Quarter; 43 cases in the 2nd Quarter). These complaints accounted for 87.5% (112 cases) and 88.3% (144 cases) of the total number of complaints related to Internet services received in the 1st Quarter and the 2nd Quarter respectively. As for cases involving possible breach of the TO or LC, 3 cases in total were received in these two Quarters. Of these cases, 2 were related to alleged misleading or deceptive sales conduct and 1 to allegation against a service operator of abuse of dominant position.
- 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

- In the 1st and 2nd Quarters of 2015, there was no substantiated case of breach of the Telecommunications Ordinance / Licence Conditions.

Statistics on Consumer Complaints Received by the CA

| Service Type | 2012 | 2013 | 2014 | 2015 (1st Quarter to 2nd Quarter) |
|-----------------------------|-------------|-------------|-------------|--|
| Mobile | 2738 | 2213 | 2140 | 807 |
| Fixed Network | 735 | 724 | 498 | 186 |
| Internet | 1590 | 1237 | 695 | 291 |
| External Telecommunications | 87 | 55 | 45 | 13 |
| Others | 73 | 41 | 26 | 10 |
| Unclassified | 39 | 33 | 23 | 12 |
| Total | 5262 | 4303 | 3427 | 1319 |