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## 促進市場競爭 加強保障消費者 Facilitating Market Competition and Strengthening Consumer Protection

### 處理和調查有關電訊牌照持有人具誤導性或欺騙性行為的投訴

《電訊條例》第7M條禁止電訊牌照持有人作出具誤導性或欺騙性行為，通訊辦根據這項條文的規定，於2012年4月1日至2013年3月31日期間處理了58宗投訴個案。當中有5宗個案證實違例。我們已向牌照持有人施加罰款，款額由港幣5萬元至30萬元不等。

### 處理和調查電訊與廣播業的競爭投訴

《電訊條例》第7K、7L和7N條禁止電訊牌照持有人作出反競爭行為，我們根據這些條文的規定，於2012年4月1日至2013年3月31日期間考慮了5宗投訴個案。經詳細考慮後，我們決定結束這些個案而不展開調查。同期，我們根據《廣播條例》第13條或第14條考慮了3宗投訴個案，該兩項條文禁止廣播牌照持有人作出反競爭行為和濫用支配優勢。經詳細考慮後，我們決定結束這些個案而不展開調查。在上述期間，我們亦根據《電訊條例》第7P條考慮了4宗個案，該項條文規管傳送者牌照持有人的收購與合併活動，結論是該等個案並不涉及需要根據第7P條展開調查的事宜。

### 實施《2012年商品說明（不良營商手法）（修訂）條例》的籌備工作

《2012年商品說明（不良營商手法）（修訂）條例》（《修訂條例》）於2012年7月17日獲立法會通過，將原有的《商品說明條例》涵蓋範圍擴大至包含服務，並禁止訂明的不良營商手法，以及加強執法機制（統稱為「公平營商條文」）。除香港海關負責執法外，通訊辦同時獲賦予共同管轄權，就《電訊條例》和《廣播條例》下的持牌人作出與根據相關條例提供電訊服務或廣播服務有直接關連的營業行為，根據公平營商條文執法。為籌備《修訂條

例》的實施，通訊辦與商務及經濟發展局和香港海關緊密合作，包括就執法指引進行諮詢，發出執法指引，亦簽訂執法機關之間的諒解備忘錄，以協調雙方在《修訂條例》下履行各自的職能。隨着《修訂條例》於2013年7月19日起生效，《電訊條例》第7M條在相關過渡安排下已予以廢除。

### 實施《競爭條例》的籌備工作

立法會已在2012年6月14日通過《競爭條例》，作為跨行業的競爭法例，以禁止各行業從事具妨礙、限制或扭曲競爭的目的或效果的反競爭行為。根據《競爭條例》，除競爭事務委員會負責執法外，通訊辦同時獲賦予共同管轄權，就電訊和廣播牌照持有人的行為，包括涉及電訊業傳送者牌照持有人的收購與合併活動，執行《競爭條例》的相關條文。《競爭條例》生效後，《廣播條例》和《電訊條例》內有關競爭的條文將在相關過渡安排下予以廢除。在《競爭條例》生效前，通訊辦將繼續協助通訊局與商務及經濟發展局和競爭事務委員會跟進所需的籌備工作。



通訊辦與香港海關緊密合作，為實施經修訂的《商品說明條例》進行籌備，《修訂條例》於2013年7月19日生效。OFCA worked closely with the C&ED on the preparatory work for the implementation of the amended TDO, which came into effect on 19 July 2013.

## Handling of and Investigations into Complaints about Misleading or Deceptive Conduct of Telecommunications Licensees

During the period of 1 April 2012 to 31 March 2013, OFCA handled 58 complaint cases under section 7M of the TO, which prohibits misleading or deceptive conduct by telecommunications licensees. Five of these complaint cases were confirmed as infringements of the TO and resulted in financial penalties ranging from HK\$50,000 to HK\$300,000 being imposed on the licensees.

## Handling of and Investigations into Competition Complaints in the Telecommunications and Broadcasting Sectors

During the period of 1 April 2012 to 31 March 2013, we considered five complaint cases under section 7K, 7L or 7N of the TO, which prohibits anti-competitive conduct by telecommunications licensees. After due consideration, the cases were closed with no investigations opened. During the same period, we considered three complaint cases under section 13 or 14 of the BO, which prohibits anti-competitive conduct and abuse of dominance by broadcasting licensees. After due consideration, the cases were closed with no investigations opened. During the same period, we also considered four cases under section 7P of the TO, which regulates merger and acquisition activities involving carrier licensees, and concluded that no issue was raised that required commencement of investigation under section 7P.

## Preparation for the Implementation of the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012

Enacted by the Legislative Council on 17 July 2012, the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 amended the TDO by extending its

coverage to services, prohibiting specified unfair trade practices, and providing for an enhanced enforcement mechanism (collectively known as “fair trading sections”). The CA is granted concurrent jurisdiction with the C&ED to enforce the fair trading sections of the TDO in relation to commercial practices of licensees under the TO and BO directly connected with the provision of telecommunications and broadcasting services. The CA has worked closely with the Commercial and Economic Development Bureau (CEDB) and C&ED on the preparatory work for the implementation of the amended TDO, including the consultation on and issue of enforcement guidelines and the signing of a memorandum of understanding between the two enforcement agencies on co-ordinating the performance of their functions under the amended TDO. The amended TDO came into operation on 19 July 2013 when section 7M under the TO was repealed subject to transitional arrangements.

## Preparation for the Implementation of the Competition Ordinance

The CO was passed by the Legislative Council on 14 June 2012. It provides for a cross-sectoral competition law prohibiting anti-competitive conduct in all sectors which has the object or effect of preventing, restricting or distorting competition. Under the CO, the CA is granted concurrent jurisdiction with the Competition Commission to enforce the CO in respect of the conduct of telecommunications and broadcasting licensees, including merger and acquisition activities involving carrier licensees in the telecommunications sector. Upon commencement of the CO, the competition provisions in the BO and TO will be repealed, subject to transitional arrangements. OFCA will assist the CA and follow up with CEDB and the Competition Commission on the preparatory work required before the commencement of the CO.

## 《非應邀電子訊息條例》的執行事宜

### 拒收訊息登記冊

我們根據《非應邀電子訊息條例》設立了適用於傳真訊息、短訊和預錄電話訊息的三份《拒收訊息登記冊》。除非發送人已取得號碼登記使用者的同意，否則發送人不可發送商業電子訊息到已登記在登記冊上的號碼。截至2013年9月，已有超過258萬個號碼登記在三份登記冊上。除了《拒收訊息登記冊》的有關規定外，商業電子訊息發送人還須遵守多項發送訊息規則，例如發送人必須在商業電子訊息內提供其聯絡資料和「取消接收選項」。

於2010/11、2011/12和2012/13年度收到的懷疑違反《非應邀電子訊息條例》舉報總數分別下跌至3 025宗、2 613宗和2 410宗，反映舉報宗數逐年分別減少約40%、14%和8%。此下降趨勢應是由於電子促銷業對《非應邀電子訊息條例》的規定加深了認識，以及市民對該條例下自身權利的認識增加。我們會繼續密切監察發送人遵守有關規則的情況，並理順程序，以便更有效執法。



### 執行條例

在處理懷疑違反《非應邀電子訊息條例》的舉報方面，我們可發出勸諭信或警告信。我們如收到針對某發送人的舉報數目不超過某個數額，會向該發送人發出勸諭信，要求他遵守《非應邀電子訊息條例》的規定。如我們收到的舉報數目超過該數額，或在發出勸諭信後繼續收到針對同一發送人的舉報，便會進行正式調查，並可能發出警告信。

於2012/13年度，我們共發出332封勸諭信和69封警告信。如發現商業電子訊息發送人持續違反該條例，我們會考慮發出執行通知，指示發送人採取措施糾正違例行為。任何人不遵從向其送達的執行通知，第一次定罪最高可處罰款港幣10萬元。於2012/13年度，我們共發出了八份執行通知。

### 擴展光纖網絡接達樓宇登記計劃

光纖網絡接達樓宇登記計劃於2010年推出時，只涵蓋住宅樓宇。2013年4月，我們把計劃擴展至非住宅樓宇。截至2013年4月初，該計劃已有超過13 500幢住宅樓宇登記，即約有220萬住戶，佔全港住戶總數約84%。在已登記的樓宇中，超過80%屬於光纖到戶類別。此外，該計劃有超過1 500幢非住宅樓宇登記，佔全港非住宅樓宇的18%。

## Enforcement of the Unsolicited Electronic Messages Ordinance

### *Do-Not-Call (DNC) Registers*

Under the UEMO, we have established three DNC Registers for facsimile messages, short messages and pre-recorded telephone messages. Commercial electronic messages must not be sent to registered numbers, unless the senders have obtained consent from the registered users. By September 2013, more than 2.58 million numbers had been registered with these three DNC Registers. In addition to the requirements related to the DNC Registers, senders of commercial electronic messages are also required to comply with a number of sending rules. For example, they must provide their contact information and an “unsubscribe facility” in their commercial electronic messages.

In years 2010/11, 2011/12 and 2012/13, the total number of reports received in relation to suspected contraventions of UEMO declined to 3 025, 2 613 and 2 410 respectively. This represents a decrease in the number of reported cases by around 40%, 14% and 8%, respectively, on a year-on-year basis. This downward trend is probably due to a better understanding of the requirements under the UEMO on the part of the telemarketing industry, and a growing awareness among the public of their rights under the UEMO. We will continue to closely monitor the compliance of the senders with the rules and streamline the procedures for more effective enforcement.

### *Enforcement*

In dealing with reports of suspected contraventions of the UEMO, we may issue advisory or warning letters. If the number of reports received against a sender is below a certain threshold, we will issue an advisory letter to the sender, requiring it to observe the requirements under the UEMO. If the number of reports received exceeds the threshold or we continue to receive negative reports about

the same sender after the issuance of an advisory letter, we will conduct a formal investigation and may issue a warning letter.

In 2012/13, a total of 332 advisory letters and 69 warning letters were issued. In the event of repeated contraventions by the senders of commercial electronic messages, we may consider issuing enforcement notices directing the sender to take steps to remedy the offences. Anyone who fails to comply with the enforcement notice may be liable to a fine of up to HK\$100,000 on first conviction. In 2012/13, we issued a total of eight enforcement notices.

## Expansion of the Registration Scheme for Buildings with Optical Fibre Access Networks

When it was launched in 2010, the Registration Scheme for Buildings with Optical Fibre Access Networks (the Scheme) covered only residential buildings. We extended the Scheme in April 2013 to cover also non-residential buildings. As at early April 2013, the Scheme has registered over 13 500 residential buildings, representing about 2.2 million households or 84% of the total number of households in Hong Kong. Over 80% of these buildings belong to the FTTH category. In addition, over 1 500 non-residential buildings, representing 18% of all non-residential buildings in the territory, have been registered with the Scheme.



「做個精明通訊服務用家」四格漫畫創作比賽的頒獎典禮在通訊辦總部舉行。

The Prize Presentation Ceremony for the 4-Panel Comic Drawing Competition on Smart Use of Communications Services was held at OFCA Headquarters.

## 消費者教育活動

為幫助市民更懂得選擇和善用通訊服務，通訊辦在2012年7月至2013年3月舉辦了一項消費者教育活動，推出一系列以「做個精明通訊服務用家」為主題的活動及節目，重點之一是在全港不同地點舉行六場巡迴展覽，包括以展板向市民提供實用的消費者貼士、設置遊戲攤位和攝影區。此外，我們舉辦了九場公眾講座和學校講座、四格漫畫創作比賽和網上有獎問答遊戲，以互動形式鼓勵公眾參與活動，並在不同媒體播放一系列短片，介紹如何避免流動通訊「帳單震撼」和簽訂電訊服務合約應注意事項。除了上述消費者教育活動外，通訊辦於2012/13年度發出兩則消費者注意事項，教導公眾如何使其消費者權益得到更佳保障。



通訊辦以「做個精明通訊服務用家」為主題，於2012/13年度舉辦一系列消費者教育活動及節目。

With the theme of "Smart Use of Communications Services", a number of consumer education activities and programmes were organised in 2012/13.

在2012年年中，為宣傳通訊局的成立，通訊辦製作了全新的電視宣傳短片和電台宣傳聲帶，現於不同媒體播放，包括本地免費及收費電視頻道，以及電台頻道。相關的宣傳海報亦張貼於不同場地的公用地方，如民政事務處和公共屋邨。這些宣傳活動將於2013/14年度繼續進行。



通訊辦舉辦消費者教育講座，加深市民對善用通訊服務的認識。OFCA organises consumer education seminars to raise public awareness of how to use communications services properly.

## Consumer Education Programmes

In July 2012, in order to enhance public awareness of how to select and use communications services effectively, OFCA launched a consumer education campaign lasting until March 2013. With the theme of “Smart Use of Communications Services”, a number of consumer education activities and programmes were organised during the period. One of the highlights was the launch of six rounds of a roving exhibition, featuring display panels which provided useful consumer tips to the public, and a game booth and photo corner, at different venues across the territory. In addition, nine public seminars and school talks, a 4-panel comic drawing competition and an online quiz game were held to encourage interactive participation by the community. A series of short videos on how to prevent

“mobile bill shock” and matters to take note of when entering into telecommunications service contracts were also broadcast on different media channels. In addition to these consumer education activities, two consumer alerts were issued by OFCA in 2012/13 to educate the public on how to better protect their consumer rights.

In mid-2012, OFCA produced new television and radio Announcements in Public Interest (APIs) to publicise the establishment of the CA. The APIs are broadcast on different media channels, including local free and pay television channels, as well as radio channels. Publicity posters on the same subject have also been produced and displayed in the common areas of various premises, such as District Offices and public housing estates. The publicity programmes will continue in 2013/14.



通訊辦製作了全新的電視宣傳短片、電台宣傳聲帶和海報，宣傳通訊局的成立。

OFCA produced a new set of television and radio announcements and a poster to publicise the establishment of the CA.