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

### 處理和調查電訊與廣播業的競爭投訴 及電訊業的合併與收購個案

《競爭條例》（第619章）為跨行業的競爭法例，旨在禁止各行業從事反競爭行為。根據《競爭條例》，通訊局與競爭事務委員會（競委會）獲賦予共享管轄權，就在電訊及廣播業營運的業務實體的行為，包括涉及電訊業傳送者牌照持有人的合併與收購活動，執行《競爭條例》。

根據通訊局與競委會簽訂的諒解備忘錄，對於屬於共享管轄權範圍內的事宜，通訊局一般會擔任主導機關。如某些事宜既涉及屬於共享管轄權的範圍，又涉及不屬於共享管轄權的範圍，通訊局與競委會將因應個別情況，討論和協定處理有關事宜的最佳做法。

在2021年4月1日至2022年3月31日期間，通訊辦共接獲20宗根據《競爭條例》提出的投訴及查詢個案，當中19宗個案已經結案而無須作進一步跟進，有一宗個案則仍在處理中。

年內，通訊辦亦協助通訊局根據《競爭條例》的合併守則檢視三宗交易，並認為無須就這些交易作進一步跟進。

### 處理和調查有關電訊與廣播業不良營 商手法的投訴

《商品說明條例》（第362章）的公平營商條文禁止商戶在向消費者提供貨品和服務時作出某些訂明的不良營商手法。

通訊局與香港海關獲賦予共享管轄權，就《電訊條例》和《廣播條例》（第562章）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，按《商品說明條例》的公平營商條文執法。兩個執法機關已簽訂諒解備忘錄，以協調雙方在《商品說明條例》的公平營商條文下履行各自的職能，並已發出一套執法指引，就公平營商條文的實施向商戶和消費者提供指引。

在2021年4月1日至2022年3月31日期間，通訊辦共處理317宗根據《商品說明條例》提出的投訴，其中有257宗因證據不足以證實違反《商品說明條例》或因不屬《商品說明條例》的規管範圍而結案，一宗個案在向有關持牌人發出警告信後結案，八宗個案在通訊局向有關持牌人發出勸諭信敦促其注意有關事宜，並改善向消費者銷售、供應或推廣電訊服務或廣播服務的相關營業行為後亦已結案，餘下的51宗個案則仍在處理中。





## Handling of and Investigations into Competition Complaints in the Telecommunications and Broadcasting Sectors, and Merger & Acquisition Cases in the Telecommunications Sector

The Competition Ordinance (Cap. 619) (CO) provides for a cross-sectoral competition law prohibiting anti-competitive conduct in all sectors. Under the CO, the CA is conferred concurrent jurisdiction with the Competition Commission to enforce the CO in respect of the conduct of undertakings operating in the telecommunications and broadcasting sectors, including merger and acquisition activities involving carrier licensees in the telecommunications sector.

Pursuant to the memorandum of understanding signed by the CA and the Competition Commission, the CA will ordinarily assume the role of the lead authority for matters falling within the concurrent jurisdiction. For matters involving issues that are partly within and partly outside the concurrent jurisdiction, the CA and the Competition Commission will discuss and agree on how best to process the matter on a case-by-case basis.

From 1 April 2021 to 31 March 2022, a total of 20 complaints and enquiries were received under the CO, with 19 cases closed without the need for further action and one case is under processing.

During the year, OFCA also assisted the CA in reviewing three transactions under the merger rule of the CO, and no further action was considered necessary in respect of the transactions.



## Handling of and Investigations into Complaints about Unfair Trade Practices in the Telecommunications and Broadcasting Sectors

The fair trading sections of the Trade Descriptions Ordinance (Cap. 362) (TDO) prohibit certain specified unfair trade practices by traders in the provision of goods and services to consumers.

The CA is conferred concurrent jurisdiction with the Customs and Excise Department to enforce the fair trading sections of the TDO regarding the commercial practices of licensees under the TO and the Broadcasting Ordinance (Cap. 562) directly connected with the provision of telecommunications and broadcasting services. The two enforcement agencies have entered into a memorandum of understanding to coordinate the performance of their functions under the fair trading sections of the TDO and have issued a set of enforcement guidelines to provide guidance for traders and consumers regarding the operation of the fair trading sections.

From 1 April 2021 to 31 March 2022, OFCA handled a total of 317 complaints under the TDO, of which 257 were closed due to insufficient evidence to establish a contravention or because they fell outside the scope of the TDO; one was closed with the issue of a warning letter to the licensee concerned; eight were closed after the CA issued advisory letters to the licensees concerned to bring the subject matter to their attention and advise them of the need to improve their relevant commercial practices in relation to the sale, supply or promotion of telecommunications or broadcasting services to consumers; and the remaining 51 were under processing.

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### 《非應邀電子訊息條例》的執行事宜

#### 《拒收訊息登記冊》

通訊局根據《非應邀電子訊息條例》（第593章）設立了分別適用於傳真訊息、短訊和預錄電話訊息的三份《拒收訊息登記冊》。除非發送人已取得電話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電話號碼。截至2022年3月，已有超過260萬個電話號碼登記在三份登記冊上。除不可發送商業電子訊息予已在登記冊上登記的電話號碼外，商業電子訊息發送人亦須遵從《非應邀電子訊息條例》所訂明的多項規則，例如發送人必須在商業電子訊息內向收訊人提供聯絡資料和「取消接收選項」，讓收訊人可以聯絡有關發送人和取消接收商業電子訊息。

通訊辦在2021/22年度接獲520宗有關懷疑違反《非應邀電子訊息條例》的舉報，較去年減少約8%。在這些舉報中，大部分與短訊、預錄電話訊息和電郵有關。通訊辦會繼續監察各類訊息及平台上的發送人遵守有關規定的情況，並優化程序，以便更有效執法。

#### 執法工作

當通訊辦收到針對某發送人的舉報個案，若數目不超過某個數額，會發出勸諭信，要求發送人遵守《非應邀電子訊息條例》的規定。若通訊辦收到針對某發送人的舉報數目超過某數額，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，並可能向有關發送人發出警告信。在2021/22年度，通訊辦共發出69封勸諭信和17封警告信。

如發現商業電子訊息發送人持續違反《非應邀電子訊息條例》，通訊局會根據該條例第38條發出執行通知，指示發送人採取措施糾正違例行為。任何人不服從向其送達的執行通知，第一次定罪最高可處罰款港幣十萬元。

### 繼續加強保障電訊服務消費者

#### 業界自願實施的自行規管措施

為保障電訊服務消費者的權益，通訊辦積極實施各項消費者保障措施，並與業界合作制定和推行自行規管措施，以處理可能不時出現的新消費者事宜。

這些措施包括由代表業界的香港通訊業聯會負責管理、屬自願性質的「解決顧客投訴計劃」。該計劃旨在以調解方式協助電訊服務供應商與其顧客解決已陷入僵局的計帳爭議。

其他由業界自願實施的自行規管措施包括公布《電訊服務合約業界實務守則》，令電訊服務合約的條文更清晰；以及公布《收費流動內容服務守則》，以規管第三方內容服務供應商的行為。

其他例子包括實施預防流動通訊服務帳單震撼的措施，以及在通訊辦網站刊載主要家居寬頻服務供應商就消費者提出終止服務申請所採取的安排。

通訊辦會繼續監察所採取的各項消費者保障措施的實施情況及成效，並在有需要時邀請業界參與進一步改善現行措施或推出新措施。





## Enforcement of the Unsolicited Electronic Messages Ordinance

### *Do-Not-Call Registers*

The CA has established three Do-Not-Call (DNC) Registers, for facsimile messages, short messages and pre-recorded telephone messages respectively under the Unsolicited Electronic Messages Ordinance (Cap. 593) (UEMO). Commercial electronic messages (CEMs) must not be sent to registered telephone numbers unless the senders have obtained consent from the registered users. As of March 2022, more than 2.6 million telephone numbers were registered with these three DNC Registers. Apart from not sending CEMs to the registered telephone numbers on the DNC Registers, senders of CEMs are also required under the UEMO to comply with a number of rules. For example, they must provide the recipients with their contact information and an “unsubscribe facility” in their CEMs so that the recipients can approach the senders and unsubscribe from receiving their CEMs.

In 2021/22, OFCA received 520 reports regarding suspected contraventions of the UEMO, a reduction of about 8% from the previous year. A majority of these reports were related to short messages, pre-recorded telephone messages and email messages. OFCA will continue to monitor the compliance situation on various messages and platforms and streamline the procedures for more effective enforcement.

### *Enforcement*

For cases where the number of reports received against a sender is below a certain threshold, OFCA will issue an advisory letter reminding the sender to observe the requirements under the UEMO. As regards cases where the number of reports received against a sender exceeds the threshold, or if OFCA continues to receive reports against the same sender after the issuance of an advisory letter, OFCA will

conduct formal investigation and may issue warning letter to that sender. In 2021/22, a total of 69 advisory letters and 17 warning letters were issued.

In the event of repeated contraventions by the senders of CEMs, the CA may issue enforcement notices in accordance with section 38 of the UEMO directing the senders to take steps to remedy the contraventions. Anyone who fails to comply with an enforcement notice may be liable to a fine of up to HK\$100,000 on the first conviction.

## Continued Efforts to Strengthen Consumer Protection in the Use of Telecommunications Services

### *Self-Regulatory Measures Voluntarily Implemented by the Industry*

In order to safeguard consumer interests in the use of telecommunications services, OFCA takes proactive actions to implement various consumer protection measures and works with the industry to draw up and implement self-regulatory measures for addressing new consumer issues that may arise from time to time.

These measures include the voluntary Customer Complaint Settlement Scheme (CCSS) administered by the Communications Association of Hong Kong representing the industry. The CCSS aims to help resolve billing disputes in deadlock between telecommunications service providers and their customers through mediation.

Other self-regulatory measures voluntarily implemented by the industry include the promulgation of the Code of Practice for Telecommunications Service Contracts to improve the clarity of provisions in the telecommunications service contracts as well as the Code for the Provision of Chargeable Mobile Content Services to govern the practices of third-party content service providers.

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### 寬頻表現測試系統

自2010年12月起，通訊辦提供寬頻表現測試系統，讓寬頻用戶測量其寬頻服務的連接表現，包括下載和上載速度、網絡時延、封包遺失和抖動。除桌面和手提電腦用戶外，採用iOS和Android作業系統的智能電話和平板電腦用戶也可使用該測試系統。

通訊辦不時檢討和提升測試系統，以加強系統的測試能力和表現。現時，測試系統支援桌面和手提電腦進行高達每秒10吉比特的速度測試，而iOS和Android系統流動裝置亦可進行高達每秒3吉比特的速度測試。自推出服務至2022年6月為止，已透過系統進行超過1.13億次寬頻表現測試。

### 消費者教育活動

年內，通訊辦繼續舉辦宣傳活動，以提高公眾對精明使用通訊服務的認識。一年一度的消費者教育活動由2021年8月至2022年3月舉行，透過各式各樣的節目及活動（例如

巡迴展覽和社區講座），向公眾傳遞不同消費者訊息。新設的通訊學習園地網上平台亦於2022年4月推出，向中小學生提供有關如何精明使用通訊服務的教育訊息。網上平台提供的學習資源包括短片、漫畫、問答及工作紙，可供學校和學生使用。另外，兩套主題為「家長指引及合家欣賞時間」和「精明使用電訊服務 慎防受騙你做得好」的全新電視宣傳短片，於2021年8月正式推出。

為了令大眾更加了解「鼓勵及早使用5G技術資助計劃」及5G應用的龐大潛力，通訊辦在年內推出了一系列宣傳項目，包括在Facebook、Google和不同的資訊科技網站登載廣告。此外，通訊辦亦與獲計劃資助的機構合作製作並推出三套短片，重點說明如何運用5G技術改善業務運作，並為整個社會帶來裨益。

年內，通訊辦繼續宣傳六個數碼地面電視節目台轉用新發射頻率，包括發布新聞公告和消費者注意事項、在通訊辦的社交媒體平台和免費報章登載廣告、播放電視宣傳短片及電台宣傳聲帶，以及向公眾派發海報和單張。有關的數碼地面電視頻道已於2021年12月1日順利完成遷移。



通訊辦每年均積極舉辦消費者教育活動，增加公眾對精明使用通訊服務的認識。

OFCA actively organises the consumer education campaign every year to enhance public knowledge about smart use of communications services.



Some other examples include the implementation of mobile bill shock preventive measures as well as publication on OFCA's website details of the arrangements adopted by major residential broadband service providers to handle service termination requests from consumers.

OFCA will continue to monitor the implementation and effectiveness of the various consumer protection measures adopted and where necessary engage the industry to seek further improvement of the existing measures or introduce new measures.

### *Broadband Performance Test System*

Since December 2010, OFCA has been providing a broadband performance test system enabling broadband service users to measure the performance of their broadband connections, including download and upload speeds, network latency, packet loss and jitter. Apart from users of desktop and notebook computers, users of smart phones and tablets running iOS and Android operating systems may also make use of the test system.

From time to time, OFCA reviews and upgrades the test system to enhance its capability and performance. Currently, it supports speed tests of up to 10 Gbps for desktop and notebook computers and up to 3 Gbps for iOS-based and Android-based mobile devices. From service launch until June 2022, more than 113 million broadband performance tests were conducted via the system.

### **Consumer Education Programmes**

OFCA continued its publicity effort in enhancing public awareness of smart use of communications services during the year. Under the annual Consumer

Education Campaign, which was held from August 2021 to March 2022, various consumer messages were conveyed to the public through an array of programmes and activities, such as roving exhibitions and community talks. The Learning Corner, a newly designed online portal, was also launched in April 2022 to provide primary and secondary students with educational messages on how to use communications services smartly. Learning resources, including short videos, comic strips, quizzes and worksheets are available at the online portal for the use of schools and students. In addition, two new TV APIs with the themes of "Parental Guidance and Family Viewing Hours" and "Use Telecoms Services Smartly. Stay Vigilant against Fraudulent Calls" were launched in August 2021.

In order to enhance public awareness of the "Subsidy Scheme for Encouraging the Early Deployment of 5G" and tremendous potentials of 5G applications, a series of publicity programmes, including advertisements on Facebook, Google and various IT websites were launched during the year. In collaboration with the grantees of the scheme, three short videos were also produced and launched to highlight how the 5G technology could be used to improve business operations and bring benefits to the society as a whole.

During the year, OFCA continued to publicise the migration of six DTT programme channels to new transmitting frequencies through publication of press releases and consumer alerts, placement of advertisements on OFCA's social media platforms and in free newspapers, and broadcast of TV and radio APIs as well as distribution of posters and flyers to the public. The migration was successfully completed on 1 December 2021.