



# **CA Chairman's Tea Gathering with the Media**

**Communications Authority**

11 April 2016

# Overview of the Development of the Broadcasting Market in 2015

## *TV Programme Services (up to December 2015)*

- The two free TV programme service licensees provided:
  - 15 free TV channels
  - The coverage rate reached 99%
  
- The three domestic pay TV programme service licensees provided:
  - About 400 pay TV programme channels
  - The penetration rate was over 80%
  
- In January 2014, the Radio Television Hong Kong (“RTHK”) commenced a trial run of its digital channels

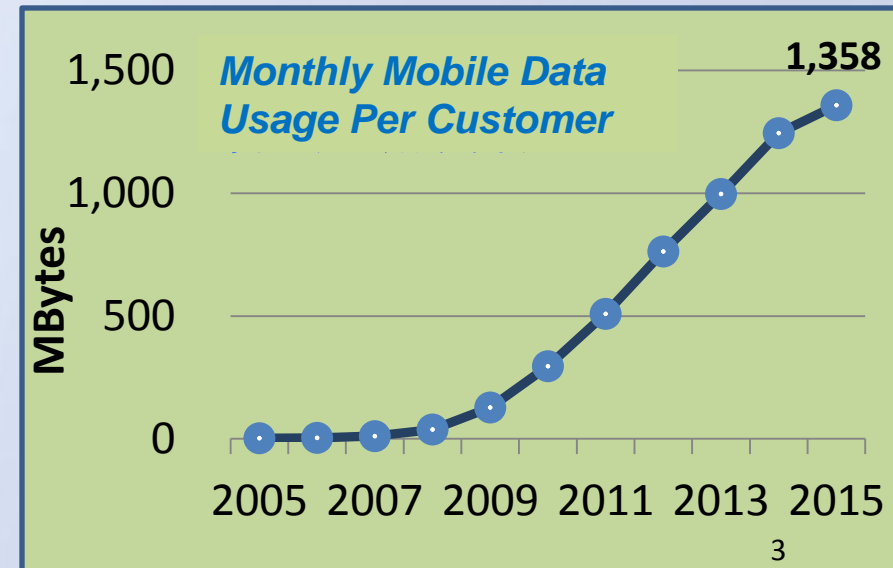
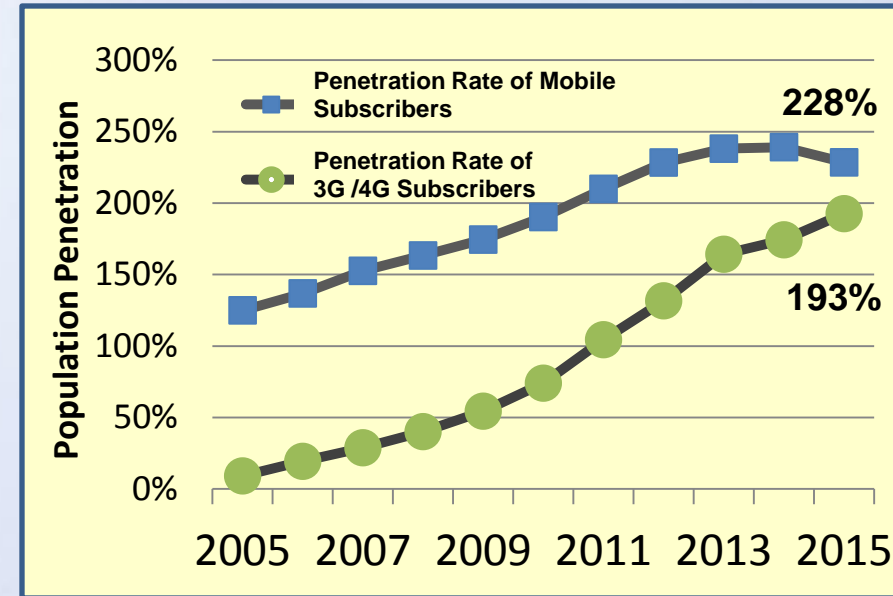
## *Sound Broadcasting Services (up to December 2015)*

- The three broadcasting licensees and RTHK provided 13 analogue channels and 15 digital channels
- The coverage rate reached 86% of the population

# Overview of the Development of the Telecommunications Market in 2015

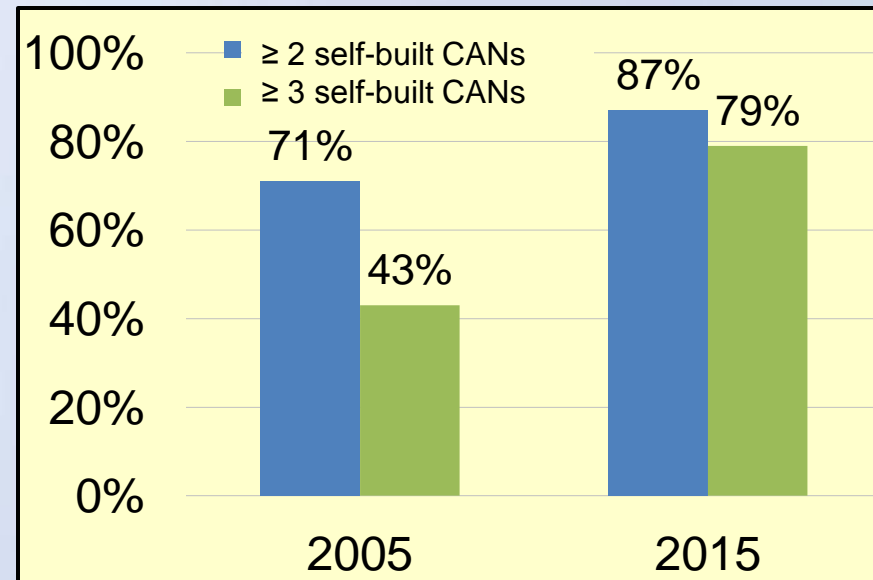
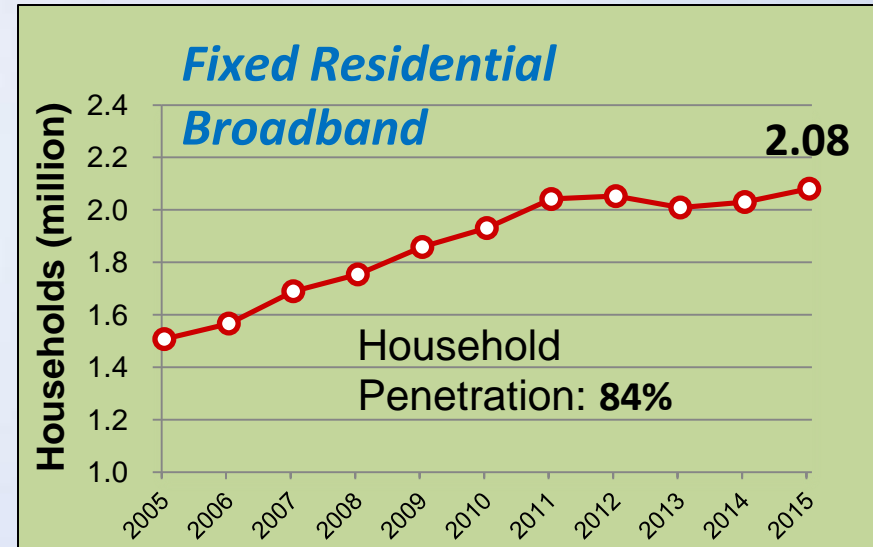
## Mobile Services

- The number of mobile subscribers has reached 16.74 million, representing a penetration rate of 228%
- The number of 3G and 4G mobile subscribers has reached 14.11 million, representing a penetration rate of 193%
- Four mobile network operators all offer 4G services with download speed up to 300 Mbps
- Monthly mobile data usage per customer has reached 1 358 MBytes



# Fixed Services

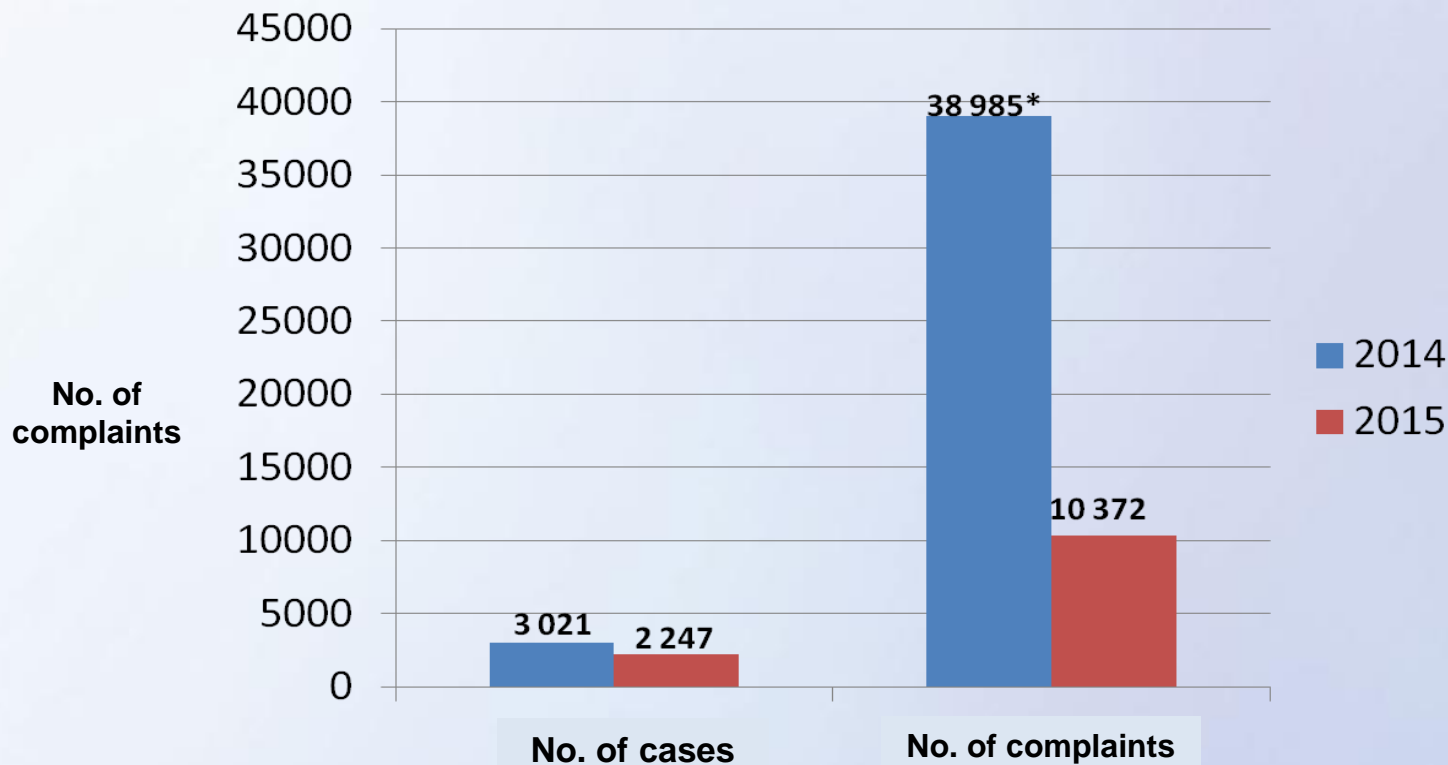
- Coverage: 98% of households enjoy a broadband speed of at least 1.5 Mbps
- Average peak connection speed of 101.1 Mbps\* is one of the highest in the world
- Facilities-based competition:
  - 25 local fixed network operators
  - Penetration rate of residential fixed line: 95%
  - Penetration rate of residential broadband: 84%
  - 7 self-built customer access networks (“CANs”)
    - 79% of households have a choice of at least 3 CANs
    - 87% of households have a choice of at least 2 CANs
- 89% of residential broadband subscribers subscribe to service plans with speed of 10 Mbps or above



# Complaints Against Broadcasters in 2015

*(January to December 2015)*

- 2014 : 3 021 cases (38 985 complaints\*)
- 2015 : 2 247 cases (10 372 complaints)

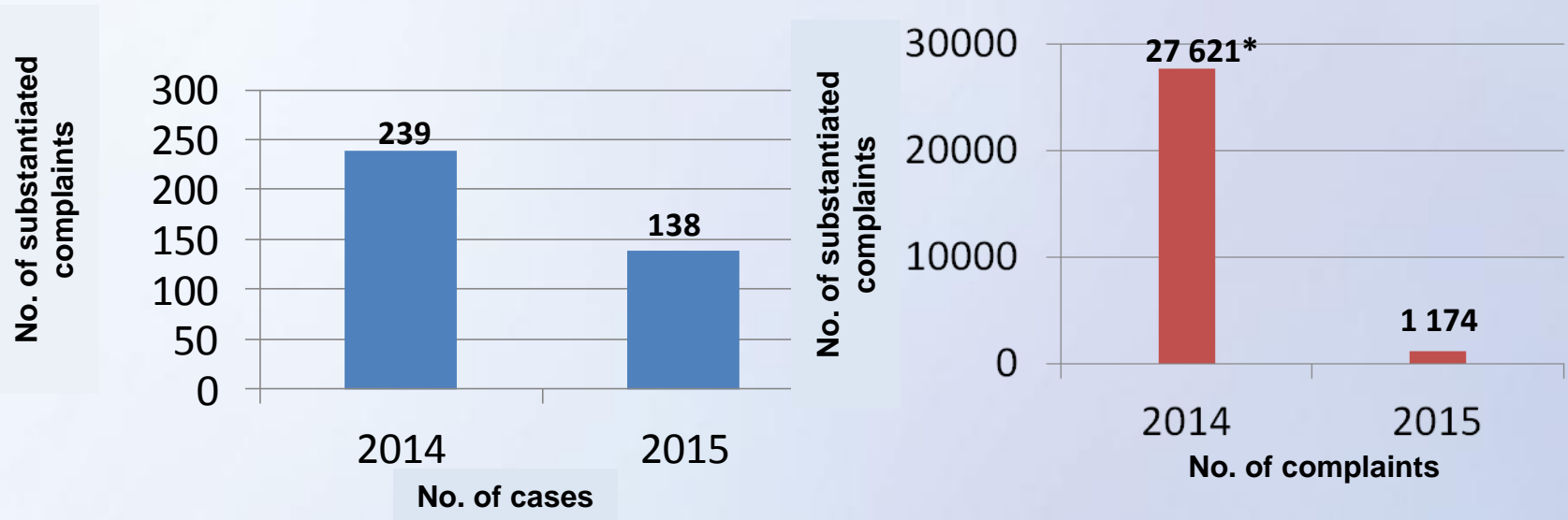


\* Including over 27 000 complaints against “Scoop” (東張西望-電視牌照風雲)

# Complaints against Broadcasters (January to December 2015)

Substantiated cases: 138 cases (1 174 complaints)

which were about 6.1% of the complaint cases handled in 2015



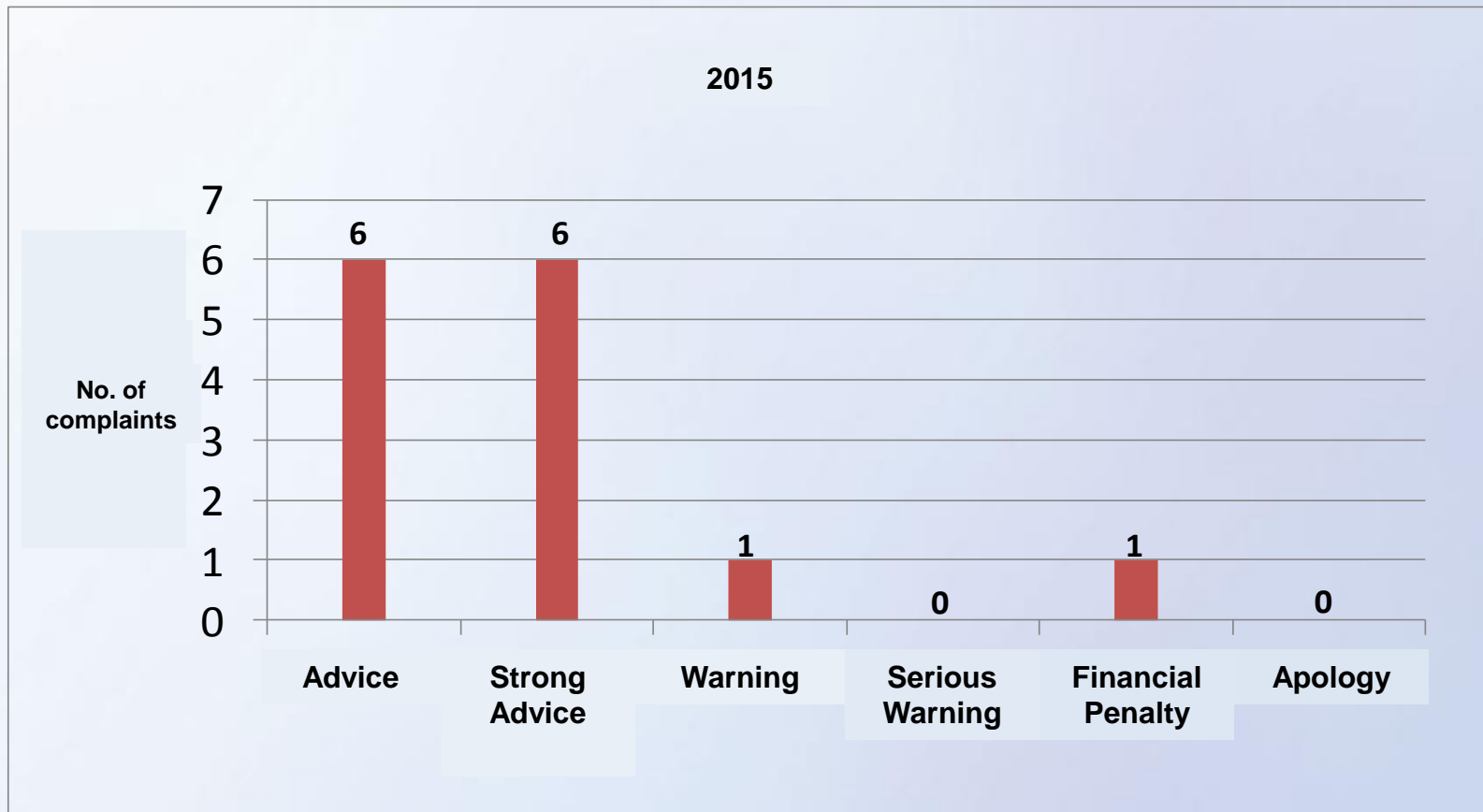
\* Including over 27 000 complaints against “Scoop” (東張西望- 電視牌照風雲)

# **Complaints against Broadcasters** *(January to December 2015 )*

- Among the 138 substantiated cases (1 174 complaints), a total of 13 cases (1 027 complaints) were considered by the Broadcast Complaints Committee. The main areas of complaint include:
  - Programme contents being inaccurate, partial and misleading; or
  - Programme contents amounting to indirect advertising
  
- The remaining 125 substantiated cases (147 complaints) were classified as minor breaches. Most of them were relating to minor inaccurate programme contents, such as:
  - minor inaccuracies in information or incorrect subtitles in news programmes; or
  - minor errors in weather reports

# Complaints against Broadcasters (January to December 2015)

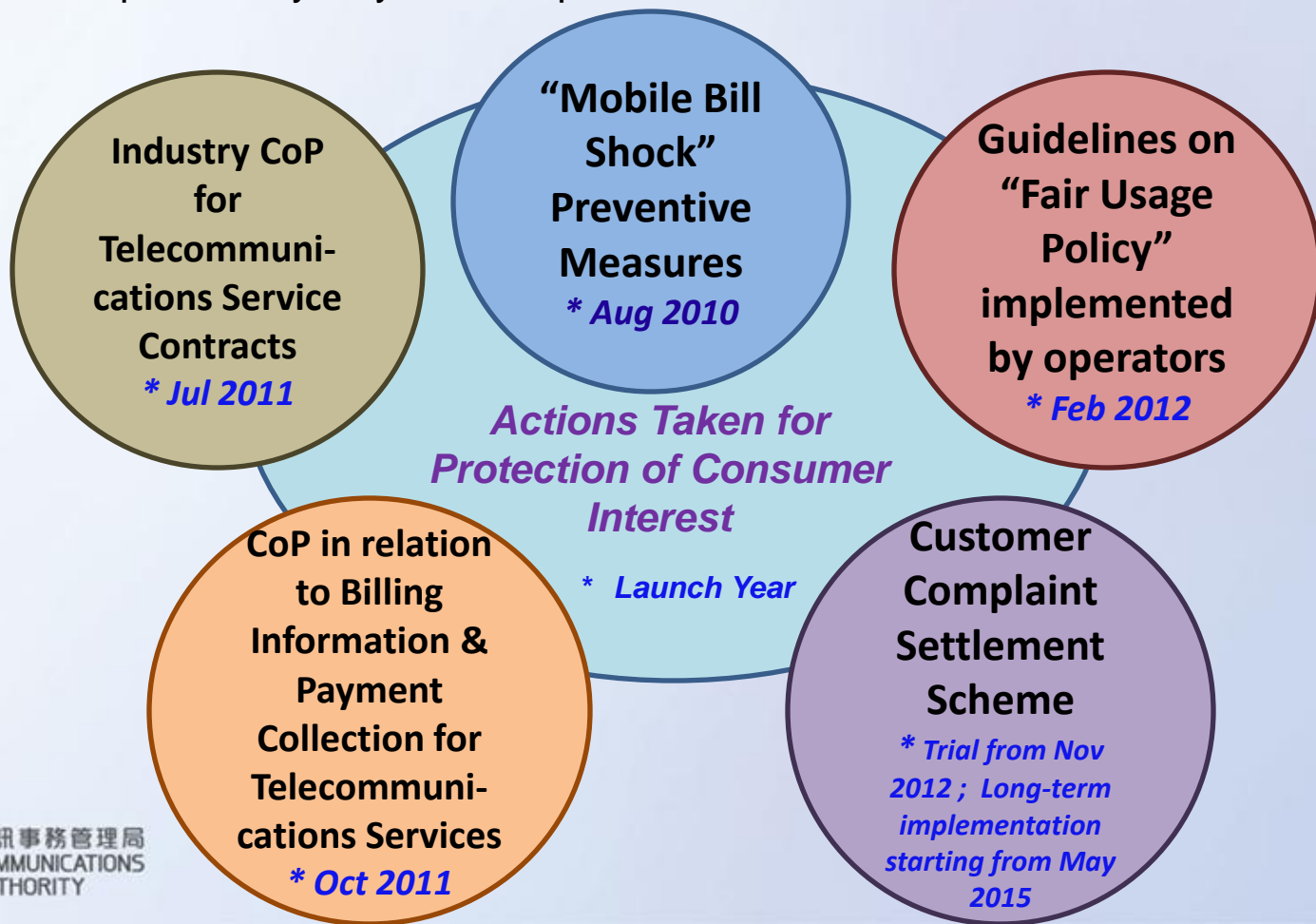
Sanctions imposed on broadcasters for breaches relating to their broadcasting contents:





# Complaints concerning Telecommunications Services in 2015

- Notwithstanding that the Telecommunications Ordinance does not confer statutory power on the CA to intervene in individual billing and contractual disputes between telecommunications operators and their customers, we have been monitoring the number and trend of consumer complaints closely, and would formulate feasible solutions expeditiously if systematic patterns are found

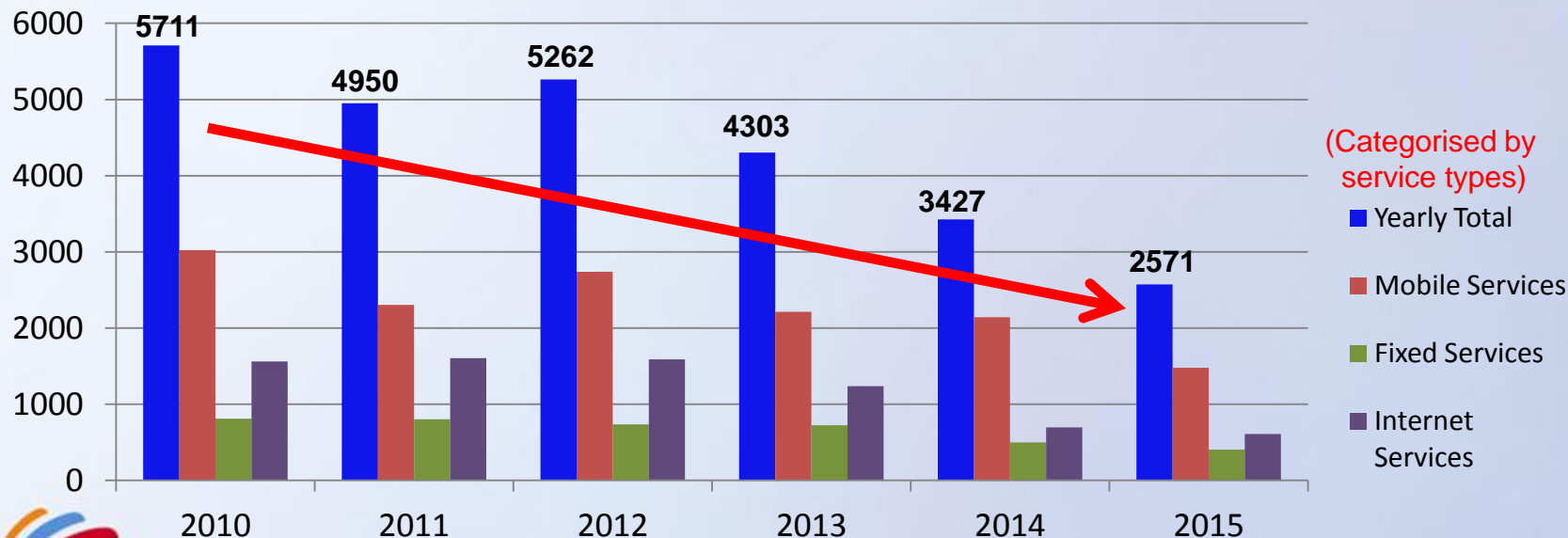


# Complaints on Telecommunications Services

(Categorised by  
service types)

	<u>2013</u>	<u>2014</u>	<u>2015</u>	
<b>Total No. of</b>				
<b>Consumer Complaints</b>	<b>4 303</b>	<b>3 427</b>	<b>2 571</b>	<b>(-25%)</b>
• Mobile Services	2 213	2 140	1 479	(-31%)
• Fixed Services	724	498	402	(-19%)
• Internet Services	1 237	695	610	(-12%)

No. of Complaints

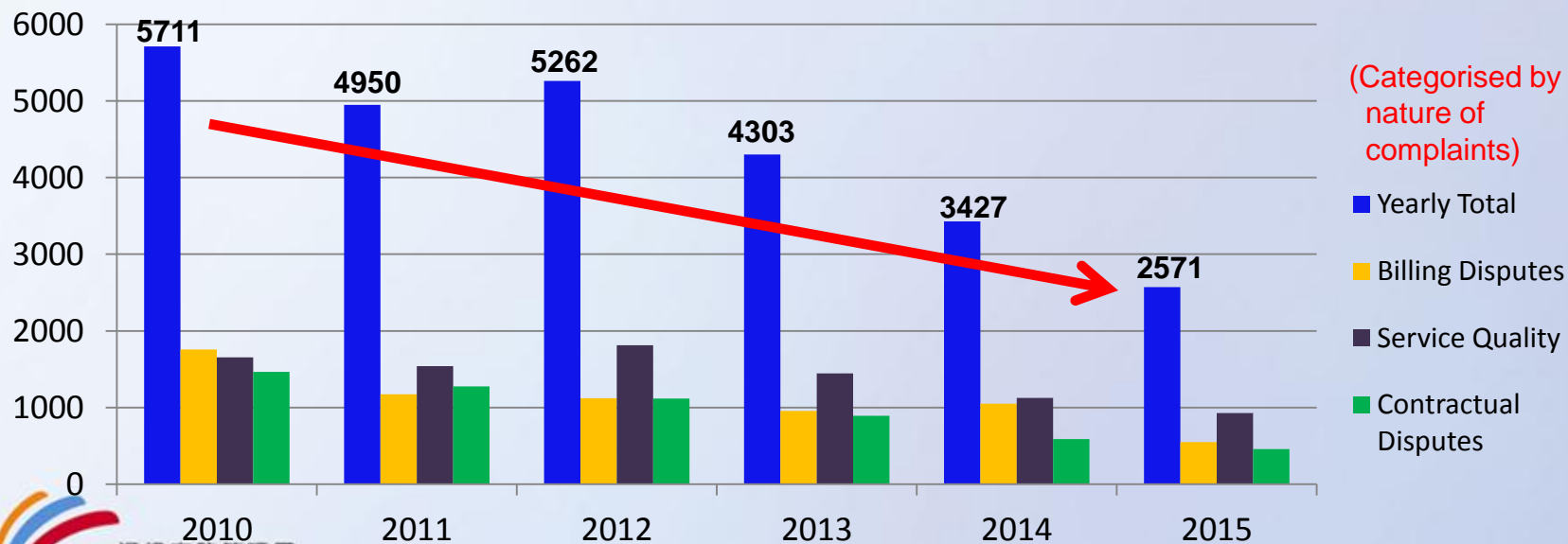


# Complaints on Telecommunications Services

(Categorised by  
nature of complaints )

	<u>2013</u>	<u>2014</u>	<u>2015</u>	
<b>Total No. of</b>				
<b>Consumer Complaints</b>	<b>4 303</b>	<b>3 427</b>	<b>2 571</b>	<b>(-25%)</b>
• Billing disputes	954	1 049	548	(-48%)
• Service quality	1 447	1 127	929	(-18%)
• Contractual disputes	894	588	458	(-22%)

No. of Complaints

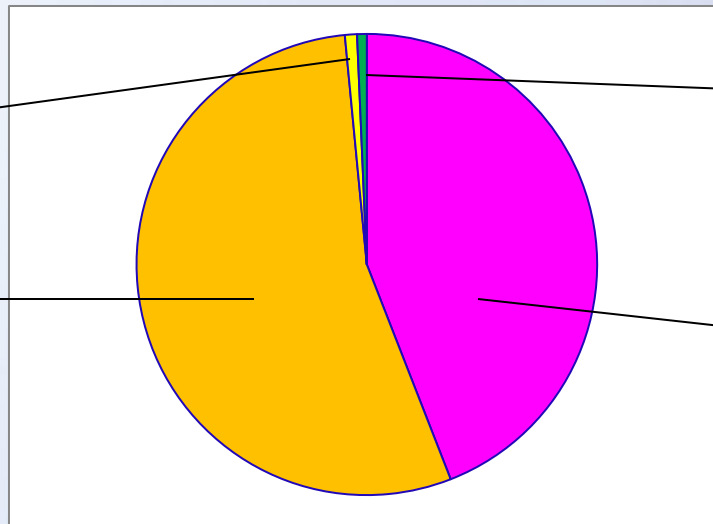


# Customer Complaint Settlement Scheme (“CCSS”)

- The **CCSS**, which is sponsored and monitored by OFCA and operated by the Communications Association of Hong Kong (“CAHK”), helps resolve billing disputes in deadlock between consumers and their telecommunications operators by means of mediation
- Following a two-year trial operation and a review thereafter, the CCSS has been implemented on a long-term basis commencing from May 2015
- From the commencement of the two-year trial in November 2012 till March 2016, a total of 589 eligible applications were received:

**6 cases:  
agreement could  
not be reached**

**313 cases:  
satisfactorily settled  
after referral to the  
CCSS Centre**



**4 cases: pending  
mediation**

**266 cases: settled  
before referral to the  
CCSS Centre for follow-  
up action**

- Of the 585 cases handled, 579 cases were satisfactorily settled. The successful rate was close to 100%

# Consumer Education

- Consumer education: smart and safe use of mobile devices
- Activities include:
  - TV and radio APIs, short videos
  - Roving exhibitions
  - Public seminars and roving drama for schools
  - Mobile phone wall paper design competition
  - Publication of consumer information on the use of communications services in the form of comic strips on newspapers

外遊時  
謹慎使用 流動數據  
Be Mindful of  
Using 漫遊服務  
Mobile Data Roaming Services  
While You are Travelling



外遊時想保持輕鬆上網及避免巨額數據漫遊費用，你可以：  
To enjoy mobile data service and avoid exorbitant data roaming charges while you are travelling, you may:

- 考慮購買可於目的地使用的預付智能卡用作上網  
Consider purchasing a prepaid SIM card usable at the destination for internet access
- 關閉手機軟件及應用程式的自動更新功能  
Switch off automatic update functions for handset software and apps
- 如外遊時不需要數據服務，離港前關閉手機的流動數據及數據漫遊功能。  
If you do not require data service while travelling, remember to switch off mobile data and data roaming.
- 考慮選用設有收費上限的數據漫遊計劃  
Consider choosing a charge-capped data roaming plan

第一節及最後一節的帳單計算方法

2014年7月1日起，電網公司將實施新的漫遊收費標準。由2015年5月1日起，電網公司第一節漫遊收費標準將由每MB \$15.4調整為每MB \$10.4。電網公司最後一節漫遊收費標準將由每MB \$15.4調整為每MB \$10.4。

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# Major Tasks in 2015/16 – Broadcasting

*(1 April 2015 to 31 March 2016)*

1. Work Relating to Non-renewal of Asia Television Limited (“ATV”)’s Licence
2. Work Relating to the Licence Granted to HK Television Entertainment Company Limited (“HKTVE”)
3. Assignment of Broadcasting Spectrum Withdrawn from ATV
4. Applications for Domestic Free TV Programme Service (“Free TV”) Licence
5. Application for Renewal of Domestic Pay TV Programme Service Licence
6. Applications for Renewal of Analogue Sound Broadcasting Service Licences

# ***1. Work Relating to Non-renewal of ATV's Licence***

- ATV remained to be a licensee before the expiry of its free TV licence on 1 April 2016, and thus had the obligation to provide free TV service in compliance with the regulatory requirements of the Broadcasting Ordinance (“BO”) and licence conditions
- The CA had been monitoring ATV’s compliance with the BO and licence conditions
- Where there were contraventions, the CA had not hesitated to impose sanctions on ATV which were commensurate with the nature and severity of the breaches

# 1. *Work Relating to Non-renewal of ATV's Licence*

## Invoke the licence suspension procedures:

- In view of the serious breaches of the statutory and licence requirements by ATV, the CA, having considered the full circumstances of the cases, the representations of ATV and the statutory requirements under the BO, decided on 22 February 2016 to invoke the procedures under the BO to suspend the free TV licence of ATV for a period of 30 days
- The CA was conscious that the procedures for suspension of licence would take time and it would be rather unlikely that the procedures could be completed in time for any licence suspension to take effect before the expiry of ATV's free TV licence
- As a regulator, the CA was duty bound to perform its statutory functions, including imposing on licensees sanctions which were commensurate with the nature and severity of the breaches of ATV
- In order to uphold the integrity of the regulatory regime and to give a correct message to the broadcasting industry, the CA considered that invoking the licence suspension procedures against ATV was a proper sanction which was commensurate with the nature and severity of its breaches



# 1. *Work Relating to Non-renewal of ATV's Licence*

## Not to proceed further with the licence suspension procedures:

- The CA decided on 24 March not to proceed further with the procedures to suspend ATV's licence
- In making the above decision, the CA had taken into account the procedural requirements under the BO pertaining to licence suspension and the overall timeline. Pragmatically speaking, there were real practical constraints for the CA to complete all the licence suspension procedures before the expiry of ATV's TV licence
- In addition, as ATV would soon cease its service, even if CA did make a decision to suspend ATV's licence, it would be meaningless to enforce such a decision as ATV no longer had any valid licence to be suspended
- The CA had put ATV on clear notice that the severity and repeated nature of the breaches of statutory and licence requirements by ATV would form part of the business record of ATV and the persons exercising control of it
- The CA would consider the aforesaid business record on future occasions when the need arises for assessing the fitness and properness of ATV and persons exercising control of it

# 1. Work Relating to Non-renewal of ATV's licence

## Why didn't the CA invoke the licence suspension procedures earlier?

- Licence suspension is the most severe sanction that the CA may impose on a licensee under the BO, and the BO clearly stipulates the circumstances under which the CA may suspend a licence
- As a statutory regulator, the CA cannot take such a step lightly. Licence suspension as a sanction must be commensurate with the nature and severity of the contraventions committed by the licensee. There is no question of the CA invoking the licence suspension procedures on ATV earlier to better dovetailing the timing of the licence suspension with ATV's licence expiry on 1 April 2016
- The CA remains firmly of the view that, given the severity and repeated nature of ATV's breaches of the statutory provisions and licence conditions in February 2016, it would be more than justified to impose on ATV the most severe sanction it may impose under the BO on a licensee. As such, the CA decided on 22 February 2016 to invoke the procedures to suspend the licence of ATV for a period of 30 days

# 1. *Work Relating to Non-renewal of ATV's licence*

## **ATV's failures in effecting wage payment:**

- As a statutory regulator, the CA must act according to the power conferred by law
- Despite its lack of statutory oversight on wage payment matters, the CA is highly concerned about the implications of the repeated failures of ATV to effect wage payment to its staff in a timely manner under the Employment Ordinance on its staffing situation and its ability to provide free TV service
- The CA had, on more than one occasion, permitted ATV to pay outstanding licence fees by instalments in the hope that such arrangements would help ease ATV's cash flow problem and facilitate timely payment of wages to its staff
- To preserve the integrity of the broadcasting regulatory regime, the CA had to impose, where it was justified under the circumstances, financial penalty on ATV for its serious contravention

## 2. *Work Relating to the Licence Granted to HKTVE*

- The Chief Executive in Council (“CE in Council”) formally granted a free TV licence to HKTVE on 1 April 2015. The licence will be valid for 12 years until March 2027
- In view of the agreement of HKTVE to comply with all the additional conditions the CA imposed, the CA approved in January 2016 HKTVE’s application for using spectrum as an additional transmission means, and assigned to HKTVE half of the transmission capacity of a Multiple Frequency Network (“MFN”) multiplex withdrawn from ATV for the provision of its licensed free TV service with effect from 2 April 2016
- HKTVE has started transmitting its ViuTV Channel 99 through spectrum from 2 April. HKTVE is required to broadcast an English channel within 24 months from licence grant (viz. by 31 March 2017)

### ***3. Assignment of Broadcasting Spectrum Withdrawn from ATV***

- Following the expiry of ATV's licence on 1 April 2016, the 1.5 digital multiplexes and two sets of analogue TV frequency channels assigned to ATV were withdrawn on 2 April 2016
- The CA has announced the principles and arrangement to assign the 1.5 digital multiplexes withdrawn from ATV as follows:
  - an administrative approach should be adopted to assign the broadcasting spectrum
  - spectrum utilisation fee will not be applicable to broadcasting spectrum
  - only free TV licensees should be eligible for assignment of broadcasting spectrum
  - the amount of the broadcasting spectrum assigned should be commensurate with the licensed service needs

### ***3. Assignment of Broadcasting Spectrum Withdrawn from ATV***

#### **HKTVE**

- The CA assigned half of the transmission capacity of a MFN multiplex to HKTVE for the provision of its licensed free TV service in accordance with the assignment principles and arrangements

#### **Other free TV licensees**

- The CA will consider assigning the remaining one Single Frequency Network multiplex to other new free TV licensees for the provision of their licensed free TV service in accordance with the assignment principles and arrangements

## 4. Applications for Domestic Free TV Programme Service Licence

### ➤ Follow-up work relating to the free TV licence application of Fantastic Television Limited (“Fantastic TV”):

- The CE in Council granted approval-in-principle to Fantastic TV for its free TV licence application on 15 October 2013 and the CA submitted its recommendations to the CE in Council as to whether or not a licence should be formally granted to Fantastic TV on 19 January 2015
- At the request of Fantastic TV, the CE in Council thrice granted Fantastic TV additional time to provide to the CA supplementary information on its free TV licence application, and invited the CA to consider the supplementary information provided by Fantastic TV and to submit further recommendations to the CE in Council
- As requested by the CE in Council, the CA is now considering the supplementary information provided by Fantastic TV on 11 March 2016 and will submit its recommendations and comments to the CE in Council

## 4. Applications for Domestic Free TV Programme Service Licence

### ➤ Hong Kong Television Network Limited (“HKTV”)

- In respect of HKTV’s free TV licence application submitted in April 2014, the CA has completed the assessment of the application in accordance with the BO and established procedures, and submitted its recommendations on the application to the CE in Council on 22 January 2016

### ➤ Forever Top (Asia) Limited (“Forever Top”)

- The CA received Forever Top’s free TV licence application and supplementary information in April and July 2015 respectively. The CA completed a six-week public consultation on Forever Top’s application in October 2015, and commissioned an independent consultant to conduct market analysis and prepare a consultancy report for assessing the possible impacts of the application on the local television market and broadcasting landscape
- The CA is examining Forever Top’s application in accordance with the BO and established procedures. The CA will examine the application carefully and submit its recommendations to the CE in Council as soon as practicable



## 5. *Application for Renewal of Domestic Pay TV Programme Service Licence*

### ➤ **Domestic pay TV programme service licence of Hong Kong Cable Television Limited (“HKCTV”)**

- HKCTV’s licence will expire on 31 May 2017. HKCTV has submitted its licence renewal application to the CA
- The CA conducted a public consultation from 22 July to 21 August 2015 to collect public views on HKCTV’s performance
- The CA will conduct a comprehensive assessment of HKCTV’s performance and take into account public views before making recommendations to the CE in Council on the licence renewal application of HKCTV by the end of May 2016 pursuant to the BO

## 6. *Applications for Renewal of Analogue Sound Broadcasting Licences*

### ➤ **Analogue sound broadcasting licences of Hong Kong Commercial Broadcasting Company (“CRHK”) and Metro Broadcast Corporation Limited (“Metro”):**

- The CE in Council decided on 22 March 2016 to approve the licence renewal applications of CRHK and Metro for a period of 12 years from 26 August 2016 to 25 August 2028
- Following the decision of the CE in Council, the CA announced on the same day the adoption of an administrative approach to reassign to CRHK and Metro the analogue sound broadcasting spectrum they currently hold for the provision of their licensed analogue sound broadcasting services during the validity of their renewed analogue sound broadcasting licences

# Updates of Major Tasks: Telecommunications and Other Issues

*(1 April 2015 to 31 March 2016)*

1. **Spectrum Assignment for Telecommunications Services**
2. **Hong Kong Telecommunications Numbering Plan**
3. **Full Commencement of Competition Ordinance**
4. **Regulatory Actions against Breach of Statutory Requirements**

# 1. Spectrum Assignment for Telecommunications Services

## ➤ 3G Spectrum Re-assignment

- The existing assignments of the 3G spectrum are due to expire in October 2016. The CA announced in November 2013 the decision to adopt a “hybrid approach” to re-assign the spectrum concerned
- Under the “hybrid approach”, the CA has re-assigned 69.2 MHz and 49.2 MHz of 3G spectrum through right of first refusal and auction respectively. Operators will have sufficient time to adjust their networks and spectrum to ensure that the service quality will not be affected as a result of the spectrum handover
- New assignment term for the 3G spectrum: from 22 October 2016 to 21 October 2031 (15 years)
- OFCA has introduced to the public through a series of promotional activities (including broadcasting TV API) the arrangements for 3G spectrum re-assignment in October 2016. In addition, the working group set up by OFCA with 4 four mobile network operators has held a number of meetings to discuss and coordinate actively the transitional arrangements and the technical issues involved in the handover of some of the spectrum

# 1. Spectrum Assignment for Telecommunications Services

## ➤ Re-assignment of Spectrum in the 900 MHz and 1800 MHz Bands

- The existing assignments of spectrum totalling 198.6 MHz, which accounts for 36% of the total spectrum assigned for public mobile services, will expire in the period from November 2020 to September 2021
- On 3 February 2016, the CA and the Secretary for Commerce and Economic Development jointly issued a consultation paper to launch a two and a half months public consultation on the arrangements for the re-assignment of spectrum and the spectrum utilisation fee
- The re-assignment of spectrum will be based on the guiding principle of the Radio Spectrum Policy Framework promulgated in 2007:
  - If the CA considers that there are likely competing demands for the spectrum, a market-based approach should be adopted for its re-assignment unless there are overriding public policy reasons to do otherwise
  - If the CA decides to vary or withdraw the assignments, insofar as it is practical in the circumstances, a notice period of three years should be provided to the incumbent spectrum assignees
- Public policy reasons: As 2G services can only be provided using the 900/1800 MHz spectrum, whether there is a need to ensure the continuity of 2G services

# 1. Spectrum Assignment for Telecommunications Services

## ➤ Re-assignment of Spectrum in the 900 MHz and 1800 MHz Bands

- The consultation paper put forward three spectrum re-assignment options:
  - Option 1: a full-fledged administratively-assigned approach
  - Option 2: a full-fledged market-based approach
  - Option 3: a hybrid approach
- Objectives of spectrum re-assignment:
  - Ensuring customer service continuity
  - Efficient spectrum utilisation
  - Promotion of effective competition
  - Encouragement of investment and promotion of innovative services
- The public consultation will close on 18 May 2016. The CA and the Secretary for Commerce and Economic Development, will consider the submissions received and the findings of a consultancy study, and put forward a more concrete proposal in the second round of public consultation to be conducted later

## 2. *Hong Kong Telecommunications Numbering Plan*

- With the continuous growth of mobile services, it is estimated that the number resources available for mobile services can last until 2018
- In the 4th quarter 2015, the CA launched a public consultation on measures for making available additional telephone number resources for allocation to mobile services through more efficient utilisation of the existing 8-digit numbering plan
- A total of 20 submissions were received during the consultation period (8 were submitted by telecommunications operators and 12 by individuals). The respondents in general supported the objective of more efficient utilisation of the existing 8-digit numbering plan
- The CA will carefully consider all the views and comments received before making a decision on the measures to be taken and the implementation timeframe

### 3. Full Commencement of the Competition Ordinance

- The Competition Ordinance (“CO”) commenced full operation on 14 December 2015
- The CO prohibits anti-competitive conduct in all sectors mainly through three competition rules, namely the First Conduct Rule, the Second Conduct Rule and the Merger Rule
- **Concurrent Jurisdiction:**
  - The CA is conferred concurrent jurisdiction with the Competition Commission (“Commission”) to enforce the CO in respect of anti-competitive conduct in the telecommunications and broadcasting sectors
  - The CA and the Commission have signed a Memorandum of Understanding to coordinate the performance of their functions under the CO
  - For cases involving the telecommunications or broadcasting sectors and falling within the concurrent jurisdiction, the CA will ordinarily take the role of the lead authority, which will assume responsibility for exercising the relevant powers and functions conferred upon it under the CO
- **Enquiries / Complaints:** As of 31 March 2016, the CA received a total of 45 enquiries or complaints

## 4. Regulatory Actions against Breach of Statutory Requirements

### ➤ Unfair Trade Practices

#### Trade Descriptions Ordinance

- The amended Trade Descriptions Ordinance (“TDO”) has come into implementation since 19 July 2013. As of December 2015, a total of 2 045 complaints were received in relation to licensees’ suspected contravention of TDO in providing telecommunications and/or broadcasting services:

	<u>2013</u>	<u>2014</u>	<u>2015</u>
<b>Total No. of Complaints</b>	<b>188</b>	<b>1 135</b>	<b>722</b>
- Complaints related to telecommunications services	154	1 089	668
- Complaints related to broadcasting services	29	40	47
- Complaints related to bundled telecommunications & broadcasting services	5	6	7

- The handling status of the above complaints: (as of 31 March 2016)
  - ✓ Under prosecution: 1 complaint
  - ✓ Under review or investigation: 10 complaints
  - ✓ Advisory letters issued: 124 complaints
  - ✓ No action was required: 1 910 complaints



## 4. *Regulatory Actions against Breach of Statutory Requirements*

### ➤ **Contravention of Telecommunications Licence Requirements**

**Involving: illegal local access charge bypass,  
telecommunications network outage,  
breach of minimum depth requirement in road opening  
works, etc.**

- No. of substantiated cases in 2016 (Jan to Mar): 0  
in 2015: 3
- Involving 8 telecommunications service licensees
- Penalty: issued advisory letter, fines ranging from \$65,000 to \$100,000

## 4. *Regulatory Actions against Breach of Statutory Requirements*

### ➤ **Sending of Unsolicited Commercial Electronic Messages**

#### **Non-compliance with Unsolicited Electronic Messages Ordinance**

In 2015 (Jan to Dec):

- No. of reports received: 2 096
- Issued: 150 advisory letters  
28 warning letters  
2 enforcement notices
- The latest raid operation was conducted in January 2016
- The Court granted orders directing related persons to provide information to facilitate OFCA's investigation: 1 case

# Major Tasks and Challenges in the Coming Year

## *Broadcasting Regulatory Work*

- To monitor the progress of HKTVE's launch of its free TV programme service
- To follow up on HKCTV's licence renewal application
- To process Forever Top's free TV licence application

## Telecommunications Regulatory Work

- OFCA will continue to introduce to the public through a series of promotional activities the arrangements for 3G spectrum re-assignment in October 2016 and will discuss and coordinate actively through the working group set up together with four mobile network operators the transitional arrangements and the technical issues involved in the handover of some of the spectrum so as to ensure that the spectrum will be handed over smoothly without affecting the services for 3G subscribers
- Upon completion of the first round of public consultation on the re-assignment of spectrum in the 900 MHz and 1800 MHz bands, the CA will consider the submissions received and the findings of the consultancy study in order to prepare for the launch of the second round of public consultation by end 2016 or early 2017. The CA's objective is to announce the decisions on the arrangements for re-assignment of spectrum and the related spectrum utilisation fee by November 2017 so as to allow incumbent spectrum assignees sufficient time to make transitional arrangements for possible variation to their assignments
- Regarding the measures for more efficient use of the existing 8-digit numbering plan to make available additional number resources for mobile services, CA is currently considering the comments and suggestions received in the public consultation. It is expected that a decision will be made on the way forward within this year

# Thank you!