

Overview of the Development of Broadcasting & Telecommunications Sectors in 2013/14

Communications Authority

24 April 2014

Overview of the Development of the Broadcasting Market in 2013

TV Programme Services

- The digital terrestrial television broadcasting was officially launched in 2007
The two free TV programme service licensees provide:
 - 15 free TV channels
 - The coverage rate reaches 99%

- The three domestic pay TV programme service licensees provide:
 - More than 390 pay TV channels
 - The penetration rate is over 80%

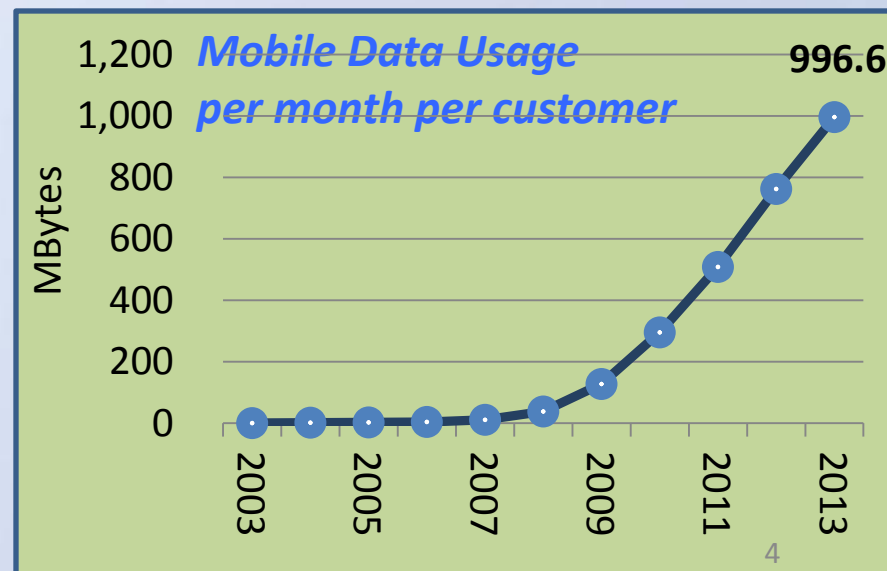
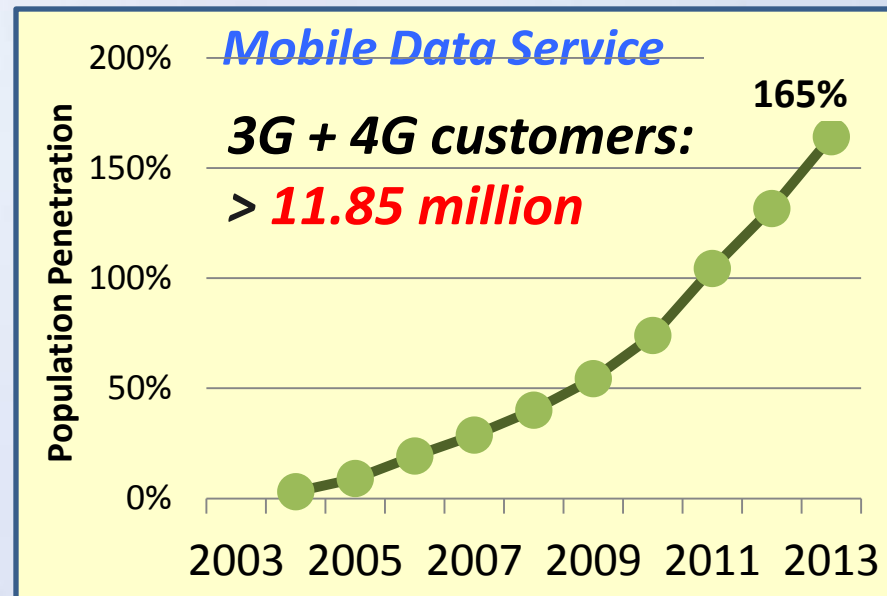
Sound Broadcasting Services

- 2011: three commercial broadcasters were granted 12-year sound broadcasting licences for the provision of digital audio broadcasting (“DAB”) services
- September 2012: the three commercial digital broadcasters and RTHK formally launched their DAB services
- The four broadcasting licensees and RTHK now provide:
 - 13 analogue channels and 16 DAB channels
 - The coverage rate is 70%

Overview of the Development of the Telecommunications Market in 2013

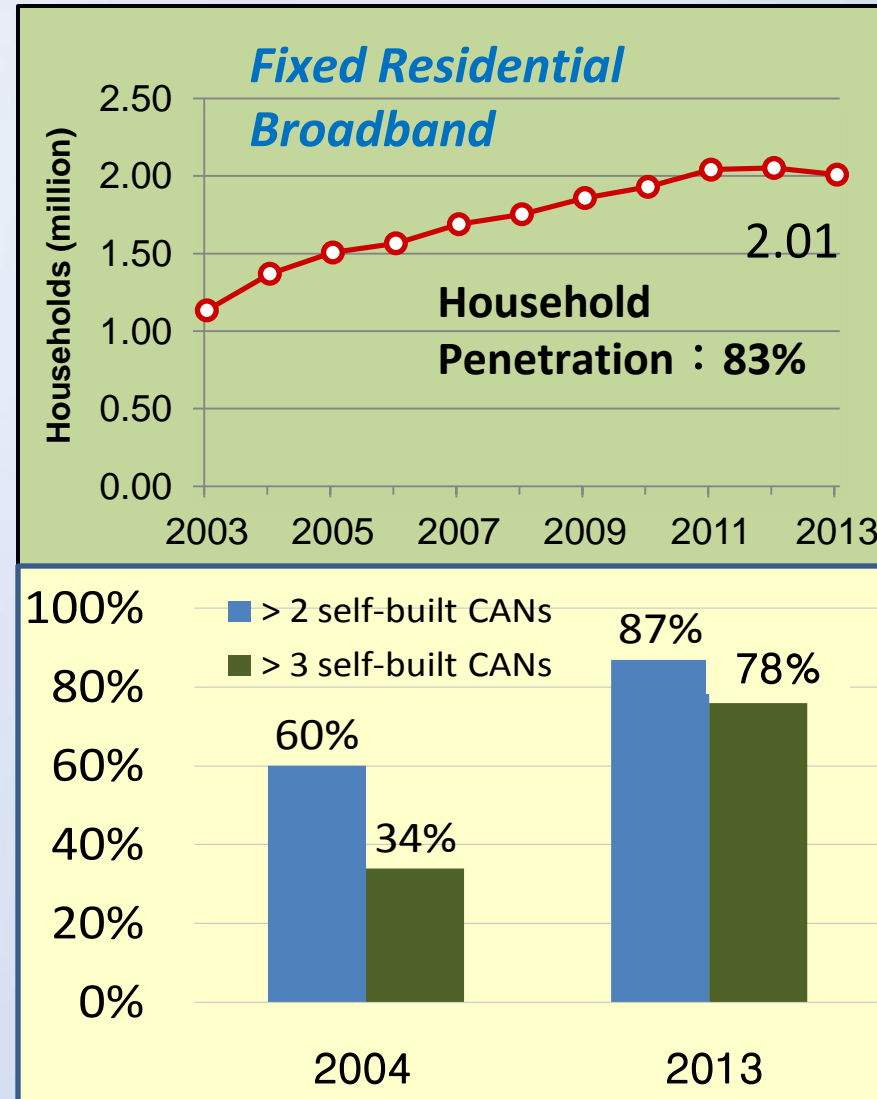
Mobile Data Service

- Five mobile network operators all offer 3G and 4G services
- Introducing 4G LTE technology with a download speed of up to 100Mbps theoretically



Fixed Broadband Service

- Coverage: 97% of households enjoy a broadband speed of at least 1.5 Mbps
- Average peak connection speed of 65.4Mbps* is the highest in the world
- Facility-based competition:
 - 21 local fixed network operators
 - 7 of them with self-built customer access networks (“CANs”)
 - Technologies used: DSL, HFC, FTTH, FTTB
 - 78% of households have a choice of at least 3 CANs
- Over 90% of customers subscribe to service plans with speed of 10 Mbps or above



* According to the State of the Internet 3rd Quarter, 2013 Report published by the Internet content delivery provider Akamai

Major Tasks in 2013/14 - Broadcasting

1. **Renewal of Broadcasting Licences**
2. **Follow Up Work Relating to Applications for Domestic Free Television Programme Service Licences**
3. **Digital Audio Broadcasting Services**
4. **Public Engagement Exercise - Quality and Variety of Domestic Free Television Programmes**
5. **Revision to Television and Radio Codes of Practice**
6. **Complaints against Broadcasters and Cases of Non-compliance**

Major Tasks in 2013/14 - Telecommunications

7. 3G Spectrum Re-assignment
8. Application to the CA for Prior Consent under Section 7P of the Telecommunications Ordinance in respect of HKT's Proposed Acquisition of CSL
9. Regulation of Broadcast-type Mobile Television Services
10. Implementation of "Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012"
11. Complaints on Telecom Services
12. Actions Taken to Address Consumer Complaints on Telecom Services
13. Regulatory Actions against Breach of Statutory Requirements

1. *Renewal of Broadcasting Licences*

- The domestic pay television programme service licence of PCCW Media:
 - Will expire on 25 September 2015 and PCCW Media has submitted its application for licence renewal to the CA;

- The domestic free television programme service licences of TVB and ATV:
 - Will expire on 30 November 2015 and both licensees have submitted their applications for licence renewal to the CA;

- The CA is, according to established procedures, assessing the performance of the licensees in relation to their compliance with the statutory requirements, licence conditions and codes of practice, and taking into account their operational, financial and technical capability, programming arrangements, future commitments as well as public views collected during the public consultation;

- Public consultation exercise is largely completed. The CA is reviewing the performance of the licensees with a view to submitting recommendations to the Chief Executive in Council (“CE in Council”) in the second half of 2014.

2. Follow Up Work Relating to Applications for Domestic Free Television Programme Service Licences

- The CA is reviewing the further information provided by Fantastic TV and HKTVE and their applications;
- The CA is awaiting Fantastic TV and HKTVE's submissions of further information covering a number of issues;
- The CA has issued the draft licences to the two applicants;
- The CA will complete the assessment prudently and expeditiously and will submit to the CE in Council recommendations on whether free TV licences should be formally granted to the two applicants respectively and the associated licence conditions.

3. Digital Audio Broadcasting Services

- The CA to ensure that the licensees rolled out their channels in accordance with the licence requirements;
- The CA approved DBC's application for changes in its shareholding structure.

4. *Public Engagement Exercise - Quality and Variety of Domestic Free Television Programmes*

- The CA conducted a mid-term review of the licences of the two free TV licensees in 2010 and decided to consult the public on the quality and variety of their programmes on a regular basis;
- The 2013 public engagement exercise:
 - Completed in May last year. The CA received about 7 600 written submissions and conducted two focus group discussions. The views collected were sent to ATV and TVB for feedback and follow-up;
- The CA notes the public's concern over the local productions, re-run programmes and personal view programmes provided by the two free TV stations. There is no regulation governing local productions and re-run programmes. The CA will revisit these issues when handling the applications for licence renewal by ATV and TVB.

5. Revision to Television and Radio Codes of Practice

- The CA suggests revising the provisions in the Television and Radio Programme Codes governing editorial programmes and personal view programmes (“PVPs”). The main suggestions are:
 - Editorial programmes should be regarded as one type of PVPs and subject to the existing rules applicable to PVPs;
 - A suitable announcement should be made at the start of the programme if it contains the views of a television/radio station; and
 - A suitable opportunity for response to a PVP should be provided on the same platform.
- The CA conducted a two-month public consultation on the proposed revisions from December 2013 to February 2014 and will make a decision on way forward after considering all the views collected and the recommendations of the Broadcast Codes of Practice Committee.

6. *Complaints against Broadcasters and Cases of Non-compliance (January to December 2013)*

- The CA released the findings of the investigation into the control and management of ATV on 23 August 2013;
- The CA decided that Mr Wong Ching had unduly interfered with the day-to-day management and operations, and in so doing exercised de facto control, of ATV. The CA decided to impose a financial penalty of HK\$1,000,000 on ATV and issued a direction that ATV should require Mr James Shing to cease acting as a person exercising control (including directorship) of ATV within seven days; and that ATV should take immediate rectification action to ensure that the management of ATV should not be performed by any persons other than the directors and principal officers of ATV and persons duly authorised by ATV;
- ATV is required to submit a proposal to the CA setting out in detail the steps that ATV should take to improve its corporate governance standards to a level which is expected of a licensee and thereafter submit annual progress report until the CA is satisfied that the proposed improvement measures have been fully and effectively implemented;
- ATV lodged an appeal against the CA's decision by way of petition to the CE in Council on 23 September 2013;
- We will handle the appeal according to established procedures.

6. *Complaints against Broadcasters and Cases of Non-compliance (January to December 2013)*

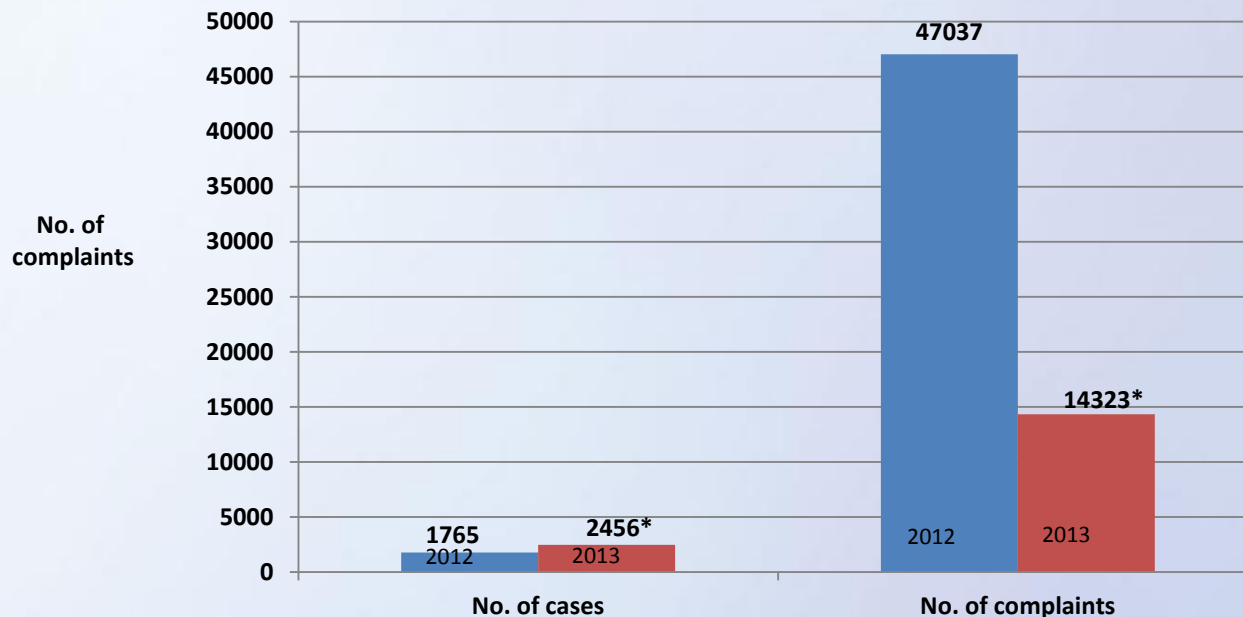
- On 19 September 2013, the CA published the findings of the investigation into the complaint against TVB's violations of the competition provisions of the Broadcasting Ordinance ("BO");
- The CA found that TVB had committed an infringement of s.13 and s.14 of the BO by prohibiting its occasional use artistes or singers from, or requiring such artistes or singers to seek consent for, appearing on or providing services to other TV stations in Hong Kong; and adopting the no original voice, no promotion and no Cantonese policies. The CA decided to impose a fine of \$900,000 on TVB, and to direct TVB to bring to an end the infringement; refrain from repeating or engaging in any act or conduct which has an equivalent purpose or effect to the infringing conduct; and abandon the infringing contractual clauses and policies;
- TVB has lodged an appeal to the CE in Council and applied for a judicial review against the CA's decision;
- We will handle the appeal and the judicial review according to established procedures.

6. Complaints against Broadcasters and Cases of Non-compliance (January to December 2013)

- The CA also handled a number of non-compliance cases of licensees. In view of the nature, severity and duration of the breach involved in the following cases, the CA decided to impose financial penalties on the licensees concerned:
- Disruptions to/cessation of DBC broadcasting service from 21 October 2012 to 11 January 2013. A financial penalty of \$200,000 was imposed;
 - Late payment of licence fees of the Domestic Free Television Programme Service Licence and Fixed Carrier Licence for the Licence Year 2012/2013 by ATV. A financial penalty of HK\$100,000 was imposed (i.e. \$50,000 for each contravention);
 - Failure of ATV and TVB to comply with the requirement to share equally the transmission capacity in the Multiple Frequency Network, which contravened a Special Condition of their Fixed Carrier Licences. A financial penalty of \$200,000 was imposed on ATV and TVB respectively;
 - Failure of ATV to submit the audited accounts for four accounting years from 2009 to 2012, which contravened the provision of its licence. A financial penalty of \$200,000 was imposed (i.e. \$50,000 for each contravention per accounting year).

6. Complaints against Broadcasters and Cases of Non-compliance (January to December 2013)

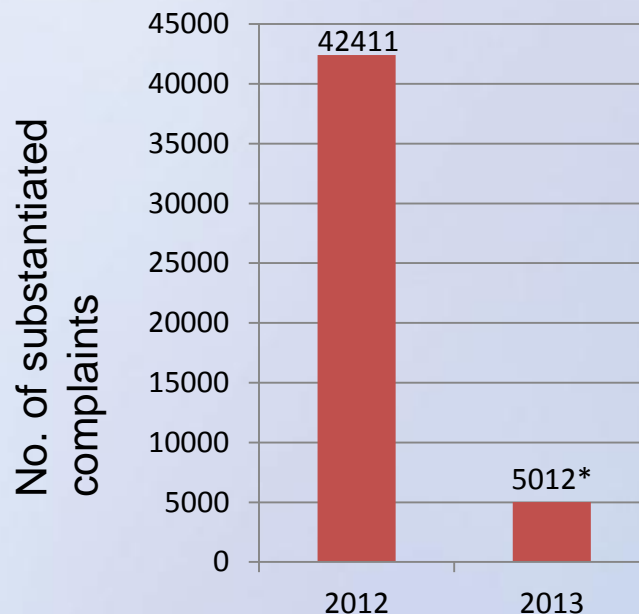
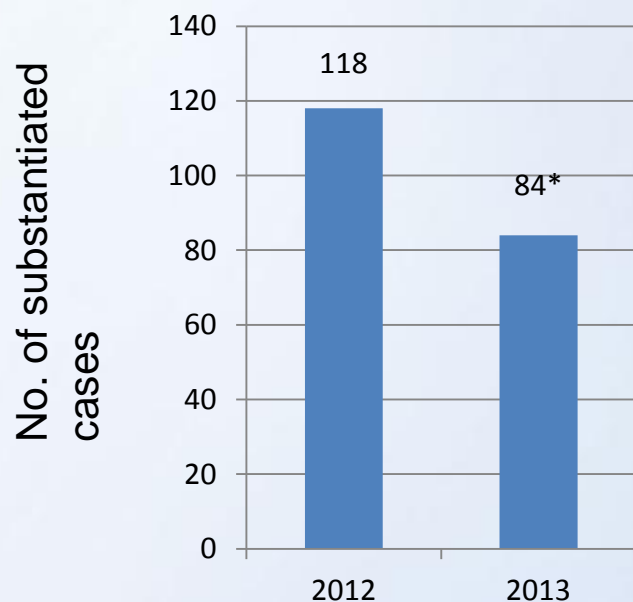
- Handling complaints about the materials broadcast by broadcasters (January to December 2013):
- 2012: 1 765 cases (47 037 complaints)
 - 2013: 2 456* cases (14 323* complaints)



*figures updated in March 2015

6. Complaints against Broadcasters and Cases of Non-compliance (January to December 2013)

- There were 84* substantiated cases (5 012* complaints), amounting to 3.4%* of the cases handled in 2013, and around 35%* of the total number of complaints handled.



*figures updated in March 2015

6. *Complaints against Broadcasters and Cases of Non-compliance (January to December 2013)*

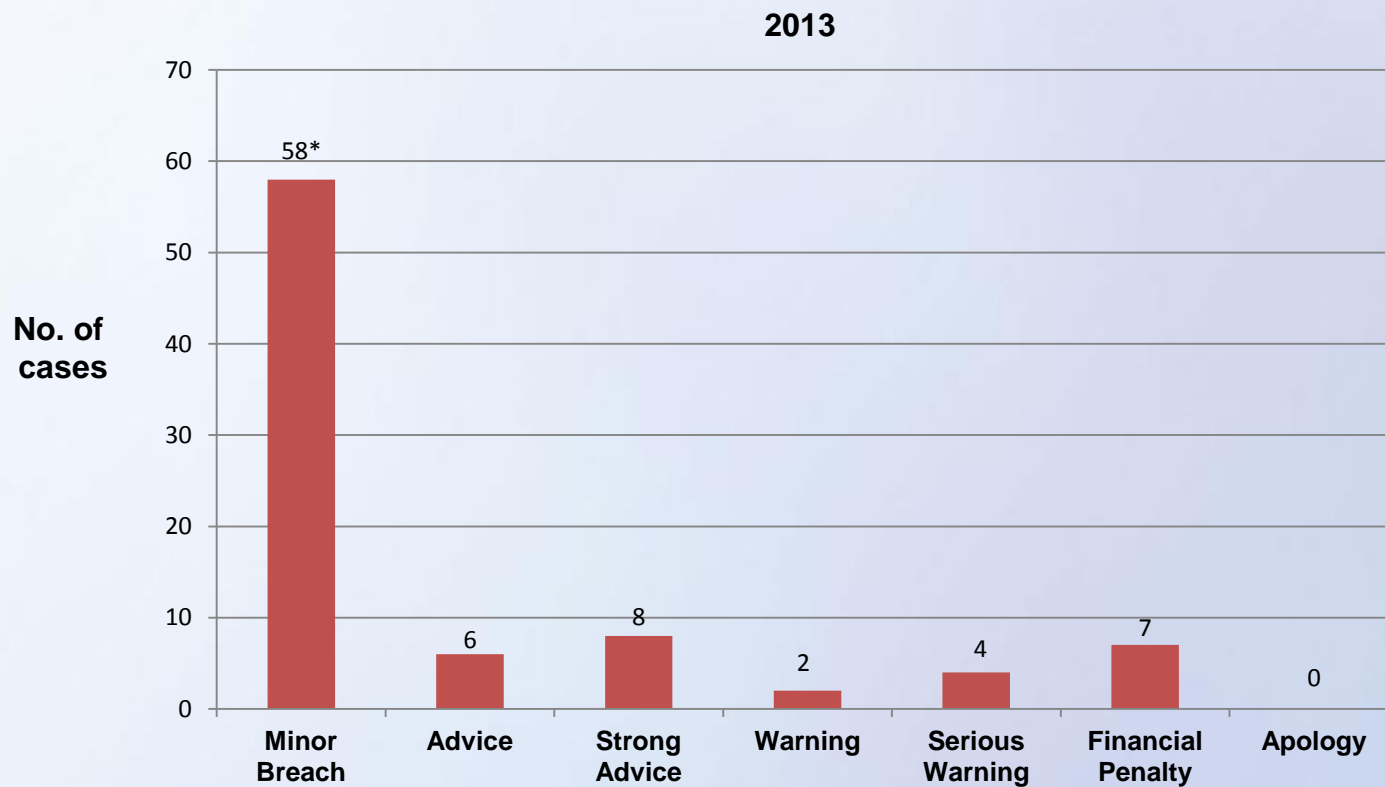
- Among the 84* substantiated cases (5 012* complaints), a total of 28 cases (4 657 complaints) were considered by the Broadcast Complaints Committee. The main allegations made include:
 - Programmes being partial, misleading and unfair
 - Programmes involving product placement
 - Programme contents not suitable for children

- For the remaining 56* substantiated cases (355* complaints) , most of them were relating to inaccurate contents of which the impact was minor, such as:
 - Incorrect subtitles in news programmes
 - Minor errors in weather reports

*figures updated in March 2015

6. Complaints against Broadcasters and Cases of Non-compliance (January to December 2013)

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



*figure updated in March 2015

6. Complaints against Broadcasters and Cases of Non-compliance (January to December 2013)

- **Increase in the number of complaints:**
 - The **number of complaints** concerning broadcasting contents **on the increase consistently** in recent years. Compared with 2011, the **total number of complaints received** in 2013 has **increased substantially by over 10 times**:
 - 2011 : 3 626 complaints
 - 2012 : 50 366 complaints
 - 2013 : 39 183 complaints

- **To ensure effective handling of complaints, when lodging their complaints, members of the public should:**
 - Clearly state the broadcast channel, date and time, name of the programme / advertisement and allegation(s);
 - Use the CA's complaint form as far as possible;
 - Make their complaints in Chinese or English. Ethnic minorities may contact the CA for support if they are in need.

7. 3G Spectrum Re-assignment

- 3G frequency assignments of 2 x 60 MHz currently held by four mobile network operators, namely CSL, HKT, Hutchison and SmarTone, will expire on 21 October 2016;
- After two rounds of public consultation, the CA announced in November 2013 its adoption of a hybrid approach to re-assign the 3G spectrum, whilst the Secretary for Commerce and Economic Development announced the method for determining the spectrum utilisation fee;
- Under the hybrid approach, the incumbent 3G operators will be offered the right of first refusal for 2/3 of the 3G Spectrum they are now holding, while the remaining spectrum will be re-assigned via auction. Any interested parties may participate in the auction;
- We consider that the hybrid approach can best achieve the multiple objectives of spectrum re-assignment, viz. ensuring customer service continuity, efficient spectrum utilisation, promotion of effective competition, and encouragement of investment and promotion of innovative services.

8. Application to the CA for Prior Consent under Section 7P of the Telecommunications Ordinance in respect of HKT's Proposed Acquisition of CSL

- Proposed acquisition of CSL New World Mobility Limited (parent company of CSL Limited) by HKT Limited (parent company of Hong Kong Telecommunications (HKT) Limited):
 - HKT and CSL each holds a unified carrier licence to provide mobile telecommunications services;
 - The proposed acquisition constitutes “a change in relation to a carrier licensee” under section 7P of the Telecommunications Ordinance.
- Section 7P regulates merger and acquisition activities involving a carrier licensee. The considerations are whether the proposed transaction would have, or likely to have:
 - The effect of substantially lessening competition (“SLC”) in the telecommunications market; and
 - A benefit to the public that would outweigh any detriment to the public that would be, or would likely to be, constituted by any such SLC effect.

8. Application to the CA for Prior Consent under Section 7P of the Telecommunications Ordinance in respect of HKT's Proposed Acquisition of CSL

- The CA issued a consultation paper on 23 December 2013 to invite representations from all carrier licensees and any interested person pursuant to section 7P(8) of the Telecommunications Ordinance:
 - 27 representations were received by the close of consultation on 4 February 2014;
- The CA is processing the application carefully and expeditiously according to the law and the “Guidelines on Mergers and Acquisitions in Hong Kong Telecommunications Markets”.

9. Regulation of Broadcast-type Mobile Television Services

- Since the launch of broadcast-type mobile television service in 2012, the CMMB transmission standard has been used as the transmission standard. Hong Kong Television Network Limited (“HKTV”) announced on 20 December 2013 the completion of its acquisition of all shares of the original licensee, the operator (which was subsequently renamed as Hong Kong Mobile Television Network Limited” (“HKMTV”)) indicated to OFCA its proposal to switch from its original transmission standard to DTMB;
- Given the fact that DTMB is the same transmission standard adopted for the provision of free television services in Hong Kong, HKMTV’s switch to DTMB standard without implementing effective measures to ensure its mobile TV service would not be “available for reception by an audience of more than 5000 specified premises in Hong Kong” will trigger the licensing requirement under the Broadcasting Ordinance (“BO”) in relation to a domestic free TV programme service licence and/or domestic pay TV programme service licence;
- HKMTV disagrees to the view that mobile TV service should be subject to the regulation by the BO. On 11 April 2014, HKMTV filed an application to the court for judicial review. The CA will handle the issues concerned in accordance with legal procedures.

10. Implementation of Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012

July 2013:

- The Amendment Ordinance came into effect on 19 July 2013;
- Issued “Enforcement Guidelines” after public consultation;
- CA signed a Memorandum of Understanding with Customs & Excise Department (“C&ED”);
- OFCA organised seminars to brief the industry on the implementation of the Amendment Ordinance;
- Section 7M of the Telecommunications Ordinance was repealed.

As of
March
2014:

- A total of 359 complaints received in relation to licensees’ suspected contravention of the Amendment Ordinance while providing telecommunications/broadcasting services:
 - 311 cases: related to telecommunications services
 - 41 cases: related to broadcasting services
 - 7 cases: related to bundled telecommunications and broadcasting services

Follow-up status of the cases:

- 165 cases concluded (among which advisory letters were issued for 5 cases; 2 cases were referred to C&ED for follow-up actions)
- 194 cases under investigation, legal advice is being sought for some of the cases

11. Complaints on Telecom Services (January to December 2013)

Telecom Complaints: Decreased by 18%

(Categorised by service types)

	<u>2011</u>	<u>2012</u>	<u>2013</u>	
Total No. of Consumer Complaints	4 950	5 262	4 303	(-18%)
• Mobile services	2 302	2 738	2 213	(-19%)
• Fixed services	801	735	724	(-2%)
• Internet services	1 603	1 590	1 237	(-22%)

➤ **Decrease in mobile service complaints despite the continuous growth of mobile users and usage:**

• Mobile phone users	14.93m	16.40m	17.19m	(+5%)
• Mobile data service users	8.13m	10.07m	12.12m	(+20%)
• Mobile data traffic	4 134TBytes	7 674TBytes	12 073TBytes	(+57%)

11. Complaints on Telecom Services (January to December 2013)

Telecom Complaints: Decreased by 18%

*(Categorised by
nature of complaints)*

	<u>2011</u>	<u>2012</u>	<u>2013</u>	
Total No. of				
Consumer Complaints	4 950	5 262	4 303	(-18%)
• Billing disputes	1 171	1 121	954	(-15%)
• Contractual disputes	1 277	1 116	894	(-20%)
• Service quality	1 540	1 812	1 447	(-20%)

- Complaints on service quality still tops the list, but the number has decreased when compared with the figure in 2012. Substance of complaints include: stability of mobile Internet connection, connection speeds, voice clarity, customer service quality, etc.

12. *Actions Taken to Address Consumer Complaints on Telecom Services*

Mobile Bill Shock

- August 2010: Mobile service operators launched a series of “mobile bill shock” preventive measures
- No. of complaints:
526 (2011) → 475 (2012) → 422 (2013)

Contractual Disputes

- July 2011: The industry implemented the “Industry Code of Practice for Telecommunications Service Contracts”
- No. of complaints:
1 277 (2011) → 1 116 (2012) → 894 (2013)

Billing Disputes

- October 2011: Issued the “Code of Practice in Relation to Billing Information and Payment Collection for Telecommunications Services”
- No. of complaints:
1 171 (2011) → 1 121 (2012) → 945 (2013)

Fair Usage Policy

- February 2012: Mandatory “Fair Usage Policy Guidelines” came into effect
- No. of complaints:
78 (2011) → 46 (2012) → 38 (2013)

12. *Actions Taken to Address Consumer Complaints on Telecom Services*

Customer Complaint Settlement Scheme (CCSS)

- OFCA has sponsored and monitored the operation of the **CCSS** by the Communications Association of Hong Kong (“CAHK”):
 - Two-year trial period from 1 November 2012 to help resolve billing disputes in deadlock between consumers and their telecommunications operators by means of mediation;
 - All major fixed, mobile and mobile virtual network operators participate in the CCSS;
 - OFCA would assess the applications and refer accepted cases to the CCSS mediation service centre (“the Centre”) set up by CAHK for follow-up actions;
- During the first 16 months of the trial period (i.e. from November 2012 to February 2014):
 - 161 cases were within CCSS’s scope, among which 94 cases were settled through further negotiations between both sides before referral to the Centre, 65 cases were satisfactorily settled after referral to the Centre, and the remaining 2 cases are being arranged for mediation;
- The way forward of the scheme is subject to the review of its effectiveness during the two-year trial period.

12. Actions Taken to Address Consumer Complaints on Telecom Services

- Consumer education: smart use of different communications services;
- Activities include:
 - TV and radio APIs, short videos
 - Roving exhibitions
 - Public seminars and school talks
 - Online games, poster design competition
 - Issue and update Consumer Alerts



13. Regulatory Actions against Breach of Statutory Requirements

Against Misleading Consumer Practices

- **Suspected Contravention of Section 7M of the Telecommunications Ordinance (misleading or deceptive conduct)**
 - No. of substantiated cases: 2014 (Jan to Mar) : 1
2013 : 6
 - Involving 6 telecommunications service licensees
 - Penalty: Fines ranging from \$50,000 to \$120,000

Against Contravention of Telecommunications Licence Requirements

- **Involving: Illegal local access charge bypass, breakdown of telecom network, illegal setting up of radio transmitting stations etc.**
 - No. of substantiated cases: 2014 (Jan to Mar) : 0
2013 : 10
 - Involving 9 telecommunications service licensees
 - Penalty: Issued advice and warnings; fines ranging from \$65,000 to \$130,000

13. Regulatory Actions against Breach of Statutory Requirements

Against Sending of Unsolicited Commercial Electronic Messages

➤ Non-compliance with the Unsolicited Electronic Messages Ordinance

- No. of Reports received in 2013: 2 046
- Issued in 2013: 138 advisory letters
97 warning letters
8 enforcement notices
- Raid operations in 2013: 3
- Prosecution cases in 2013: 0
(Note: the first case of prosecution instituted in January 2014)

Major Tasks and Challenges in the Coming Year

Broadcasting Regulatory Work

- To complete the following as soon as possible in a fair and prudent manner:
 - Licence renewal applications by ATV, TVB and PCCW Media
 - Follow up work relating to applications for domestic free TV programme service licences

- To handle HKTV's application for domestic free TV programme service licence;

- To handle the licence renewal of the following sound broadcasting licensees:
 - Commercial Radio
 - Metro

Including conducting public hearings on licence renewal and commissioning a survey firm to conduct a broadcasting service survey to collect public views on the performance of the licensees;

- To implement the newly amended provisions in the Television and Radio Programme Codes governing the regulation of editorial programmes and PVPs.

Telecommunications Regulatory Work and Other Issues

- To complete processing of the application of HKT's proposed acquisition of CSL according to Section 7P of the Telecommunications Ordinance and announce its decision;
- To handle HKMTV's application to the court for judicial review;
- To offer the incumbent 3G operators the right of first refusal ("RFR") upon completion of the necessary legislative procedures, so that they can decide if they would exercise their RFR to acquire the 3G Spectrum to be re-assigned. Any remaining spectrum will be pooled with the "Re-auctioned Spectrum" for re-assignment through auction;
- Auction for the 3G Spectrum is expected to be conducted at the end of 2014;
- To review the effectiveness of the CCSS in Q4 2014 so as to determine the way forward of the scheme;

Telecommunications Regulatory Work and Other Issues

- To continue enforcing the new provisions of the amended TDO, regulating the unfair trade practices of the broadcasting and telecommunications services so as to protect consumer interests;
- To prepare for the implementation of the new cross-sector competition law, including cooperating with the Competition Commission to complete the drafting of relevant guidelines and conduct consultation;
- To co-operate fully with the policy bureau in conducting the review of the Telecommunications Ordinance and Broadcasting Ordinance.

Thank you!