

2012/13  
年報 Annual Report

年報○Annual Report

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### The Communications Authority

The Communications Authority (the Authority) serves the people of Hong Kong in its capacity as an independent regulator of broadcasting and telecommunications services.



#### VISION

Our vision is that Hong Kong has the world-class communications services to meet the challenges of the information age.



#### MISSION

- fostering an environment that supports a vibrant communications sector to enhance Hong Kong's position as a communications hub in the region;
- encouraging innovation and investment in the communications market;
- promoting competition and adoption of best practices in the communications market for the benefit of the industry and consumers; and
- acting in a manner consistent with the provisions of the Hong Kong Bill of Rights Ordinance (Cap. 383).



**Since its introduction in December 2007, the coverage of the DTT network reached at least 98% of the population by the end of 2012.**

As the Chairman of the Communications Authority (the Authority), it gives me great pleasure to present our first annual report which covers the period from April 2012 to March 2013. During the first year of its establishment, as the unified regulator overseeing the broadcasting and telecommunications sectors, the Authority has made every endeavour in maintaining Hong Kong's prominent position as the communications centre in the region. This report provides a good opportunity to review the tasks undertaken as well as the challenges that lie ahead.

### **A Thriving Broadcasting Market**

#### **Domestic Free Television Programme Services**

Digital terrestrial television (DTT) broadcasting, which offers an improved picture quality, has been generally well received and accepted by the viewing public in Hong Kong since its introduction in December 2007. The coverage of the DTT network reached at least 98% of the population by the end of 2012. The digital take-up rate was about 82% of all households as at April 2013. As at end March 2013, there were a total of eleven digital free-to-air channels, of which six were round-the-clock high definition television (HDTV) channels including a news channel. These digital channels offer more choices for the viewers.

#### **Domestic Pay Television Programme Services**

Over the period under review, the domestic pay television market continued to grow in terms of programming variety and service development. Despite a slight decrease (0.4% or approximately 9 000 subscribers) in the aggregate number of subscribers of licensed pay television services, the total number of pay television channels offered



by the three domestic pay television programme service licensees increased by 3.9% from 358 to 372. It has become a general trend for pay television programmes to be produced in HDTV format to enhance viewing pleasure. The total number of HDTV channels offered by the licensees increased by 52% from 23 as at March 2012 to 35 as at March 2013.

### **Roll-out of Digital Audio Broadcasting (DAB) Services**

The three DAB licensees, viz. Digital Broadcasting Corporation Hong Kong Limited (DBC), Metro Broadcast Corporation Limited (Metro) and Phoenix U Radio Limited (Phoenix U Radio) formally launched DAB services in 2012. As at end March 2013, the DAB licensees and Radio Television Hong Kong (RTHK) provided a total of 15 round-the-clock DAB channels. The number of DAB channels will increase to 18 by 2014. The introduction of DAB services has enhanced programming choices and provided better sound quality as compared to analogue broadcasting.

## **Rapid Growth of the Telecommunications Market**

### **Availability of 4G services has given a further boost to mobile data usage**

Thanks to the promising growth of fourth generation (4G) mobile services, Hong Kong's telecommunications market continues to flourish during the year under review. By March 2013, the number of mobile subscribers rose to almost 16.4 million, among whom over 10 million were users of third generation (3G)/4G services. All mobile network operators are offering 4G services at affordable prices. Mobile data services are available at downlink speeds of up to 100 Mbps using Long

**Thanks to the promising growth of 4G mobile services, Hong Kong's telecommunications market continues to flourish during the year under review.**

Term Evolution (LTE) technology. In March 2013, the monthly mobile data usage further surged to 8 983 Terabytes, representing 1.8 times and 3.8 times the monthly usage over the same period in 2011 and 2010 respectively. The average mobile data usage of each 2.5G/3G/4G mobile user rose to 840 Megabytes per month in March 2013, compared with 588 Megabytes in March 2012 and 343 Megabytes in March 2011. The increasing popularity of 4G mobile services has further boosted mobile data usage. The Authority will continue to take the necessary measures to facilitate the robust development of the mobile services market.

## Development of the fixed-broadband service market

The fixed-broadband service market also experienced a steady growth. Broadband access to various applications and content services has become an integral part of the life of Hong Kong people. As of March 2013, there were around 2.3 million residential and commercial fixed broadband subscribers, with a household penetration rate of 86%. Over 90% of fixed broadband subscribers are using broadband services with a speed of 10Mbps or above. Furthermore, broadband services are available at speeds up to 1 Gbps.

## Enhanced Consumer Protection

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

One of the Authority's key responsibilities is to enhance consumer protection. With the enactment and implementation of the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Amended Ordinance), the coverage of the Trade Descriptions Ordinance (Cap. 362) (TDO) has been extended from goods to services and specified unfair trade practices are prohibited. Having conferred concurrent jurisdiction with the Customs and Excise Department (C&ED), the Authority is responsible for enforcing the fair-trading sections of the TDO in relation to the commercial practices of licensees for the provision of telecommunications service and broadcasting service under the Telecommunications Ordinance (Cap. 106) (TO) and the Broadcasting Ordinance (Cap. 562) (BO) respectively. The Amended Ordinance came into effect on 19 July 2013.

## Launch of the Customer Complaint Settlement Scheme

From time to time, the Office of the Communications Authority (OFCA) receives complaints about unresolved billing disputes between telecommunications service providers and their customers. To provide a channel for the resolution through mediation of these disputes in deadlock, OFCA sponsors a voluntary Customer Complaint Settlement Scheme (CCSS) for the telecommunications industry with the mediation service provided by an independent service centre operated under the Communications Association of Hong Kong (CAHK). The CCSS has commenced operation since November 2012 for a trial period of two years. The Authority will closely monitor the operation of the scheme and conduct a review in deciding on the way forward upon completion of the trial scheme.

## Review of the Regulatory Regime

### Consultation on Re-assignment Arrangements for the Frequency Spectrum in the 1.9 – 2.2 GHz Band

The frequency spectrum in the 1.9-2.2 GHz band (3G spectrum) was assigned to four mobile network operators in October 2001. As the current assignment for the 3G spectrum will expire in October 2016, the Secretary for Commerce and Economic Development (SCED) and the Authority jointly conducted two rounds of public consultations in March and December 2012 to collect views from the industry and other interested parties on the re-assignment arrangements of the 3G spectrum. After the first consultation, a hybrid option, which offers incumbent 3G operators the right of first refusal for two-thirds of the 3G spectrum and re-auctioning the remaining one-third, was put forward for further consultation. While the Spectrum Utilisation Fee (SUF) of the re-auctioned spectrum would be



determined by the auction outcome, the second consultation paper sought views and comments on the two proposed methods for setting the SUF of the right-of-first-refusal spectrum. We would examine the views and comments received carefully in mapping out the way forward.

## Major Tasks and Challenges in the Coming Year

On the broadcasting side, licence renewal will be a key activity in 2013/2014. The Authority will commence licence renewal exercises in respect of the domestic free television programme service licences of Asia Television Limited (ATV) and Television Broadcasts Limited (TVB), and the domestic pay television programme service licence of PCCW Media Limited (PCCW Media), which will expire in the second half of 2015. The Authority plans to commission opinion surveys and conduct public hearings to gauge the public's views on the television programme services concerned with a view to making recommendations to the Chief Executive in Council (CE in C) around the second half of 2014.

On the telecommunications side, the decision making on the re-assignment arrangements of the 3G spectrum would be another challenge for the Authority. There have been recent developments on the subject the details of which will be reported in the next annual report of the Authority.

Hong Kong's cross-sector competition law, the Competition Ordinance (Cap. 619) (CO), was enacted in June 2012. The Competition Commission (CC) has been established since then to enforce the CO, and concurrent jurisdiction has been conferred on the Authority to enforce the CO in respect of the conduct of telecommunications and broadcasting licensees. In the coming year, the Authority will work closely with the CC regarding the preparatory work required for the implementation of the CO, including drafting the relevant guidelines on enforcement, as well as a memorandum of understanding to coordinate the performance of the functions of the CC and the Authority under the CO.

The work that lies ahead will no doubt be as challenging, interesting and fulfilling as that in 2012/2013. I would like to extend my deepest gratitude to members of the Authority for their expertise and commitment through the inaugural year. I would also like to thank the colleagues in OFCA for their hard work and professionalism in supporting the Authority. With their dedication, the Authority will continue to strengthen Hong Kong's position as Asia's most attractive and competitive communications hub.

## Chapter 3: Members of the Communications Authority (April 2012 – March 2013)



**Mr Ambrose HO**  
Chairman, Communications Authority



**Miss Elizabeth TSE Man-ye, JP**  
(until 24 July 2012)  
**Vice-Chairman, Communications Authority**  
Permanent Secretary for Commerce and  
Economic Development  
(Communications and Technology)



**Miss Susie HO Shuk-ye, JP**  
(from 8 October 2012 onwards)  
**Vice-Chairman, Communications Authority**  
Permanent Secretary for Commerce and  
Economic Development  
(Communications and Technology)



**Mr AU Man-ho, SBS**  
Member



**Ms Alice KWOK Yim-ming**  
Member



**Mrs Lucia LI Li Ka-lai, SBS**  
Member



**Mr Alan LUI Siu-lun**  
Member



**Mr Hubert NG Ching-wah**  
Member



**Dr Anthony William SEETO Yiu-wai**  
Member



**Dr Carlye TSUI Wai-ling, BBS, MBE, JP**  
Member



**Mr Adrian WONG Koon-man, MH, JP**  
Member



**Mr Raymond Roy WONG, SBS**  
Member



**Miss Eliza LEE Man-ching, JP**  
Member  
Director-General of Communications



### The Communications Authority

Rapid advancement in technology is blurring the traditional boundaries between telecommunications and broadcasting, leading to the convergence of the two markets. Hong Kong needs to restructure its regulatory institutional arrangements and review the overall regulatory regime and legislation in order to keep pace with changes in these sectors. To meet the regulatory challenges brought about by rapid technological advancements and media convergence, the Communications Authority was established on 1 April 2012 as an independent statutory body under the Communications Authority Ordinance (Cap. 616) (CAO), taking over fully the functions and powers of the former Telecommunications Authority (TA) and the Broadcasting Authority (BA). Its role is to regulate the broadcasting and telecommunications industries in Hong Kong in accordance with the Broadcasting Ordinance (Cap. 562) (BO), the Telecommunications Ordinance (Cap. 106) (TO), the CAO, and the Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391) (B(MP)O). It also enforces the Unsolicited Electronic Messages Ordinance (Cap. 593) (UEMO).

The Authority has the following functions:

- to tender advice to SCED on any legislation, legislative proposals and regulatory policies relating to telecommunications, broadcasting, anti-spamming or activities connected with the telecommunications or broadcasting sectors;
- to make recommendations to the CE in C on applications for and renewal of domestic free television programme service licences, domestic pay television programme service licences and sound broadcasting licences;
- to grant and renew non-domestic television programme service licences and other licensable television programme service licences;
- to prepare and revise codes of practice setting programme, advertising and technical standards for television and radio;
- to deal with complaints about broadcasting and telecommunications services and impose sanctions on the broadcasters and telecommunications operators for contravening the various provisions and requirements;
- to handle the licensing, financial monitoring and regulation of telecommunications and broadcasting licensees in Hong Kong;
- to manage and administer the radio frequency spectrum and the telecommunications numbers;
- to develop technical standards and conduct equipment testing in line with international best practices, and ensure satisfactory performance of the certification bodies in carrying out certification and test against the prescribed technical standards;
- to facilitate fixed operators to access buildings to install in-building telecommunications facilities for the conveyance of telecommunications and broadcasting services;
- to conduct examination and issue certificates for the operating personnel of radiocommunications systems;
- to enforce the prohibition of misleading or deceptive provisions in the TO;
- to enforce the competition provisions under the BO and TO; and
- to enforce the UEMO.

## Organisation

Members of the Authority are appointed by the Chief Executive of the Hong Kong Special Administrative Region. During the period from April 2012 to March 2013, there were a total of 12 members comprising 10 non-official members, including the Chairman, and two public officers, viz. the Permanent Secretary for Commerce and Economic Development (Communications and Technology) and the Director-General of Communications (DG Com).

The Authority has appointed three committees to assist it in discharging part of its major duties:

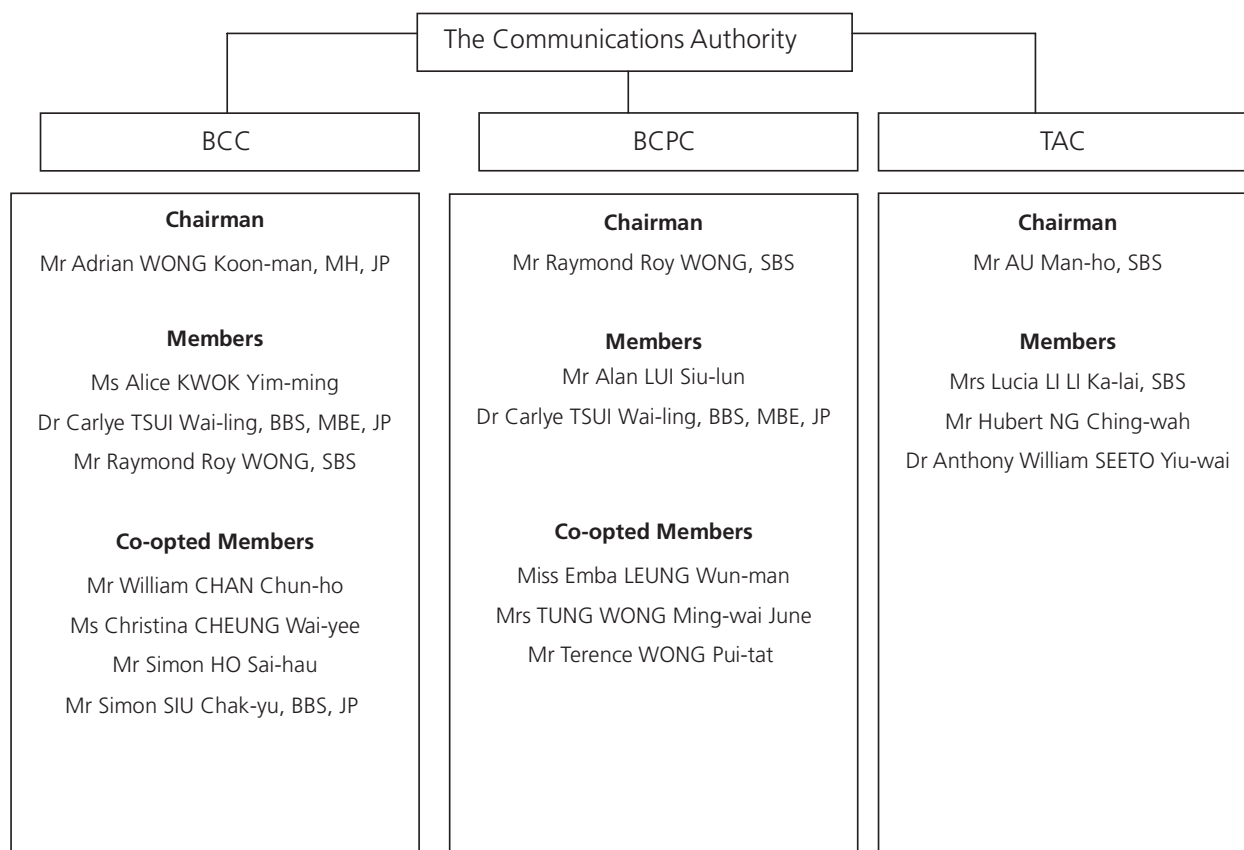
- the *Broadcast Complaints Committee*;
- the *Broadcast Codes of Practice Committee*; and
- the *Telecommunications Affairs Committee*.

The *Broadcast Complaints Committee (BCC)* is responsible for considering complaints about broadcasting issues and making recommendations to the Authority regarding such complaints. It comprises four Authority members and four co-opted non-official members.

The *Broadcast Codes of Practice Committee (BCPC)* is responsible for keeping the television and radio broadcasting standards under regular review and amending the codes of practice when necessary. It comprises three Authority members and three co-opted members.

The *Telecommunications Affairs Committee (TAC)* is responsible for offering advice and reporting to the Authority on telecommunications matters. It comprises four Authority members.

OFCA serves as the executive arm and secretariat of the Authority.



## Broadcasting

### 5.1 An Overview of Developments in the Broadcasting Market

#### 5.1.1 Number of Licensees and Channels

##### Television Programme Services

As at March 2013, the total number of domestic free, domestic pay and non-domestic television programme service licensees was 23. They provided 647 television channels,<sup>1</sup> of which 429 were receivable in Hong Kong, representing an increase of 6.6% and 5.1% respectively since March 2012. An overview of channels provided by the television programme service licensees is shown in [Figure 1](#).

As at March 2013, there were two **domestic free television programme service licensees**, viz. ATV and TVB. They provided a total of 15 channels. Four channels (ATV Home, ATV World, TVB Jade and TVB Pearl) were simulcast in both analogue and digital formats and seven were digital channels. ATV's digital channels comprised one HDTV channel "Asia" and three standard definition television (SDTV) channels, namely "ATV Classic", "CCTV 1" and "Shenzhen Satellite".<sup>2</sup> TVB's digital channels comprised three HDTV channels, namely "HD Jade", "iNews" and "J2".

As at March 2013, there were three **domestic pay television programme service licensees**, viz. Hong Kong Cable Television Limited (HKCTV), PCCW Media and TVB Network Vision Limited (TVBNV) (formerly TVB Pay Vision Limited). The three domestic pay television programme service licensees provided a total of 372 pay television channels, representing an increase of 3.9% since March 2012. The total number of HDTV channels provided by the three licensees also increased by 52% from 23 to 35.

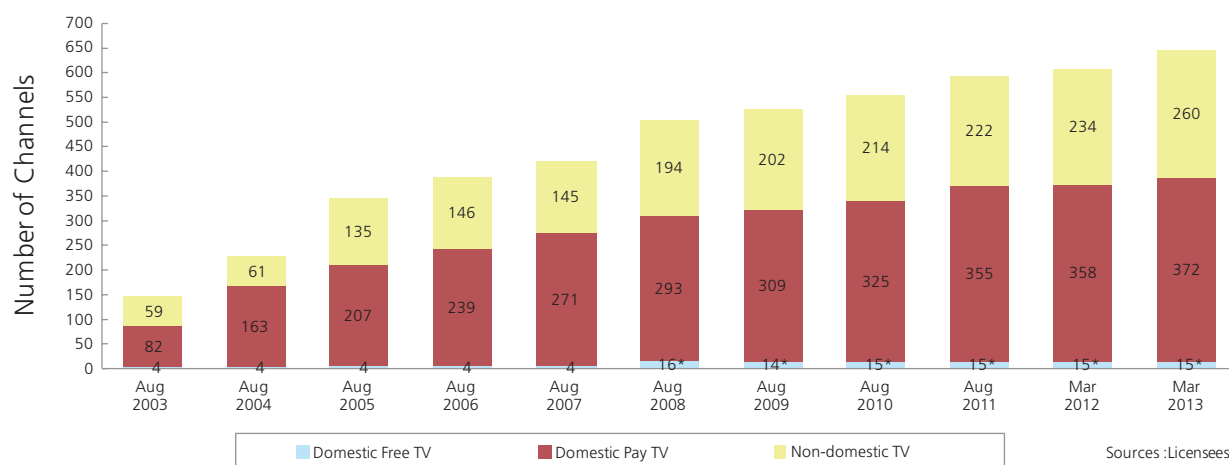
From April 2012 to March 2013, the number of **non-domestic television programme service licensees** increased by one to 18, providing a total of 260 television channels, representing an increase of 11% since March 2012. Of them, 42 channels were available to Hong Kong viewers.

During the period under review, the number of **other licensable television programme service licensees** providing television programme services in hotels in Hong Kong decreased by two to 26. Altogether they provided services to 76 hotels.

<sup>1</sup> Some channels were provided by more than one licensee at the same time.

<sup>2</sup> ATV formerly provided three SDTV channels, namely "CCTV 1", "CTI Asia" and "TVS". In December 2012, ATV launched the SDTV channel "ATV Classic" in place of "TVS" which ceased to broadcast in October 2012.



**Figure 1: Television Channels Provided by Television Programme Service Licensees in Hong Kong**

\* The four simulcast channels of ATV and TVB are counted for both the analogue and digital platforms.

In addition to the television channels provided by television programme service licensees, Hong Kong viewers are free to receive unencrypted satellite television programme channels uplinked from outside Hong Kong. As at March 2013, there were more than 500 such free-to-air satellite television channels available for reception in Hong Kong via the Satellite Master Antenna Television (SMATV) systems. The list of channels currently available can be downloaded at –

[http://www.ofca.gov.hk/filemanager/ofca/en/content\\_295/st\\_smatv.pdf](http://www.ofca.gov.hk/filemanager/ofca/en/content_295/st_smatv.pdf).

### Sound Broadcasting Services

The number of **sound broadcasting licensees** remained at four during the period under review, namely Hong Kong Commercial Broadcasting Company Limited (CRHK), DBC, Metro<sup>3</sup> and Phoenix U Radio. RTHK is the public service broadcaster in Hong Kong.

As at March 2013, the number of analogue radio channels remained at 13 (three by CRHK, three by Metro and seven by RTHK). On DAB services, DBC, Metro and Phoenix U Radio formally launched their DAB services in 2012 in accordance with the licence requirements. As at March 2013, the three DAB licensees and RTHK provided a total of 15 DAB channels (seven by DBC, one by Metro, two by Phoenix U Radio and five by RTHK).

All analogue and DAB channels provided by the three licensees and RTHK were broadcast round-the-clock.

In addition to radio broadcasting, RTHK also produces television programmes for broadcast by the domestic free and domestic pay television programme service licensees.

<sup>3</sup> Metro held two sound broadcasting licences, one for providing AM and FM services and one for providing DAB service.

## 5.1.2 Transmission Modes

### Television

The regulatory regime for television programme services in Hong Kong as enshrined in the BO is technology-neutral.<sup>4</sup> Licensees are free to choose their transmission arrangements for delivery of television services. Broadcasters can build their own transmission networks to deliver their services and, in such cases, they need to apply for a carrier licence from the Authority to cover the transmission network. Alternatively, they can engage any of the existing carrier licensees to provide the transmission service. Licensees can also provide their television programme services via multiple transmission platforms so as to maximise the coverage.

The transmission modes employed by the television programme service licensees are set out in [Figure 2](#).

**Figure 2: Transmission Modes Employed by the Television Licensees**

Licensee	Transmission Mode	Network Coverage as at March 2013
<b>Domestic Free Television</b>		
ATV and TVB	(a) Analogue PAL-I format; and	(a) 99% of population
	(b) Digital National Standard format	(b) 98% of population (as at Dec 2012)
<b>Domestic Pay Television</b>		
HKCTV	HFC <sup>6</sup> , MMDS <sup>7</sup> and satellite (Digital)	97% of total households (about 2.3 million households)
PCCW Media	PON and DSL <sup>8</sup> Broadband network (Digital)	Near 100% of total households
TVBNV	Satellite and broadband network (Digital)	Near 100% of total households
<b>Non-domestic Television</b>		
All the 18 licensees	Satellite (Digital)	35% of total households (839 514 households)

<sup>4</sup> An exception is that a service consists only of a service provided on the Internet is exempted from the regulatory regime under the BO.

<sup>5</sup> Ultra High Frequency.

<sup>6</sup> Hybrid Fibre Coaxial Cable.

<sup>7</sup> Microwave Multipoint Distribution System.

<sup>8</sup> Passive Optical Network and Digital Subscriber Line.

### Penetration of Different Broadcasting Services

In March 2013, out of a total of 2.39 million households in Hong Kong,<sup>9</sup> 2.38 million television households<sup>10</sup> or 6.4 million viewers (aged 4 or above)<sup>11</sup> were receiving analogue broadcasting of free-to-air television, representing a penetration rate of about 99%. As regards DTT services, the take-up rate was about 82% of all households in April 2013.<sup>12</sup>

The penetration of licensed domestic pay television services was nearly 100%<sup>13</sup> of the total households as at end of March 2013. The total number of subscribers to licensed pay television services decreased slightly from 2 440 000 in March 2012 to 2 431 000 in March 2013 (a decrease of 0.4%).<sup>14</sup> The changes in total number of subscribers from 2004 to 2013 are shown in [Figure 3](#).

<sup>9</sup> Source: Census and Statistics Department.

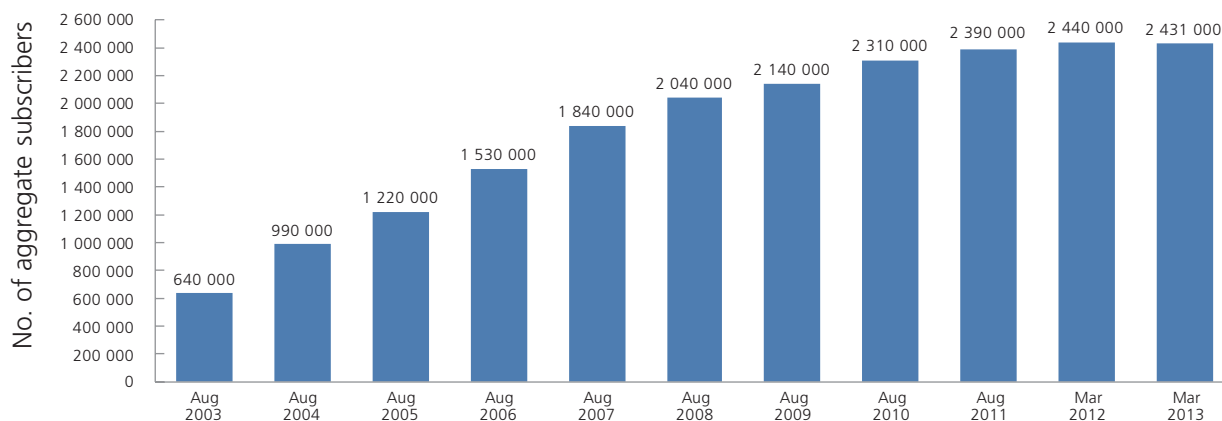
<sup>10</sup> "Television households" means households with at least one TV set currently in working order; or with one not in working order but will repair or renew in near future. Data Source: Television Broadcasts Limited.

<sup>11</sup> Data Source: Television Broadcasts Limited.

<sup>12</sup> According to a public survey conducted in April 2013, about 82% of households in Hong Kong were receiving DTT services.

<sup>13</sup> Penetration of licensed domestic pay television services is calculated by dividing the total number of subscribers of licensed domestic pay television services by the total number of households. Some subscribers were counted more than once if they subscribed to more than one pay television service.

<sup>14</sup> Some subscribers were counted more than once if they subscribed to more than one service.

**Figure 3: Subscribers to Licensed Pay Television Services in Hong Kong**

Sources : Licensees

## Sound Broadcasting

During the period under review, the analogue radio broadcasters provided their services in FM and AM modes. Seven FM programme services were provided through seven hilltop sites. In addition, six AM programme services were broadcast from two other hilltop sites, supplemented by six low-power AM/FM gap-fillers to improve the AM programme services. The services practically covered the whole territory of Hong Kong.

The DAB broadcasters adopted DAB+ standard for transmission of DAB services. The DAB transmission network comprising seven principal transmitting<sup>15</sup> stations was officially launched in June 2012. As at March 2013, the network coverage of the DAB service stood at around 70%.

## 5.1.3 Broadcasting Revenues and Investment

Licensed broadcasting services contributed an estimated \$8 billion<sup>16</sup> to the Hong Kong economy, which represented about 0.4% of the gross domestic product (GDP) in 2012. There are two main sources of revenues for the provision of broadcasting services, viz. advertising and subscription. The income of domestic free television programme service licensees and sound broadcasting licensees mainly come from sales of advertising spots within programme breaks. Domestic pay television programme service licensees, on the other hand, derive their incomes mainly from subscription fees while sales of advertising spots remains a secondary income source.

<sup>15</sup> Beacon Hill, Castle Peak, Cloudy Hill, Golden Hill, Kowloon Peak, Lamma Island and Mount Gough.

<sup>16</sup> Source : Company reports of major broadcasting licensees.



## Advertising Revenue

According to the estimate of AdmanGo Limited, the advertising expenditures on television and radio<sup>17</sup> accounted for 31.4% (\$32 billion) and 3.5% (\$3.56 billion) respectively of the estimated \$101.7 billion total advertising expenditure in the media in 2012.

In 2012, the actual advertising revenue of TVB was around \$3.2 billion.<sup>18</sup> The actual advertising revenues of the other licensees were not publicly available.

Changes in the estimated advertising expenditure from 2003 to 2012 on television and radio are shown in [Figure 4](#).

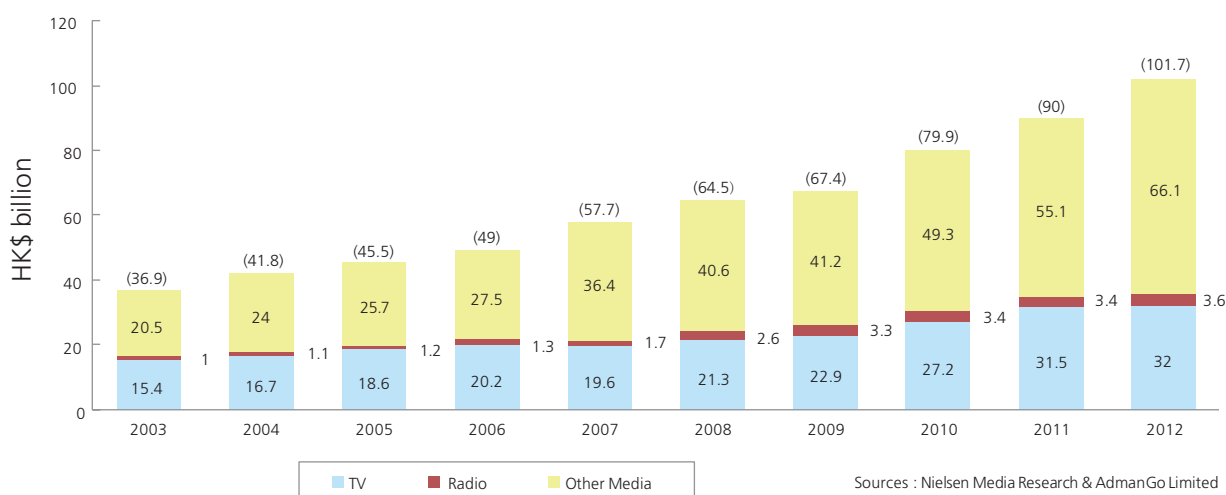
## Subscription Revenue

According to the annual report of i-Cable Communications Limited (i-Cable), the parent company of HKCTV, HKCTV's turnover (including mainly subscription revenue and also some advertising revenue) increased from \$1.75 billion in 2011 to \$1.76 billion in 2012.

According to the annual report of PCCW Limited (PCCW), the holding company of PCCW Media, the turnover of its television and content segment was \$2.81 billion in 2012, representing an increase of 4% over the figure in 2011. The increase is mainly attributable to growth of subscribers and advertising revenue.

The subscription revenue of TVBNV is not publicly available.

**Figure 4: Estimated Media Advertising Expenditure from 2003 to 2012**



<sup>17</sup> The advertising expenditure was measured based on published rate cards. Actual expenditure might differ because the discounted rates were not taken into account. Advertising expenditure on television includes the advertising expenditure on domestic free television programme services and the domestic pay television programme services provided by HKCTV and PCCW Media. Advertising expenditure on radio included the advertising expenditure on the sound broadcasting services provided by CRHK and Metro.

<sup>18</sup> According to TVB's annual report 2012, the turnover from the Hong Kong television broadcasting business segment was \$3,167 million, which comprised advertising revenue from the Group's free and pay television channels.

## Investment in Broadcasting Industry

Key investment projects in the television industry in recent years include digitisation of the terrestrial broadcasting network, HDTV content and production technology, interactive television services, and regular network upgrades and maintenance that are required to maintain or expand the ever-advancing scope of services. In addition, with the increasingly competitive television industry, the exclusive rights to broadcast premium contents such as sports events become a major attraction to viewers.

The two domestic free television programme service licensees, ATV and TVB, have committed to investing a total of \$2.4 billion and \$6.3 billion respectively for the six-year period from 2010 to 2015. Specifically, TVB will upgrade its digital production and broadcasting equipment to cater for HDTV productions. ATV will focus on installation of HDTV production equipment. In addition, during the mid-term review in 2010, ATV has committed to providing a minimum of 60 hours of HDTV programming per week for 2010-2015, while TVB has committed to increasing, on an incremental basis, the amount of HDTV programming to 120 hours per week by 2015. As at March 2013, ATV and TVB provided a total of 62 hours and 586 hours respectively of HDTV programmes per week.

As regards the domestic pay television programme service market, i-Cable, the parent company of HKCTV, reported in its 2012 Final Results Announcement that the capital expenditure of the group for the year had increased from \$199 million in 2011 to \$209 million in 2012. Its major items of investment included HDTV set-top-boxes, broadband network upgrade and television production and broadcast facilities for HDTV channels. i-Cable also invested in in-house production of news, entertainment and variety programmes. According to the 2012 Annual Results of PCCW, the parent company of PCCW Media, the capital expenditure for the year on its television and content business was \$113 million, representing a decrease of 30.2% over the figure in previous year.

TVBNV has committed to investing a total of \$2.003 billion for the six-year period from 2013 to 2019. The investment commitment of TVBNV covers HDTV programming, set-top-boxes and broadcast facilities upgrading.

CRHK and Metro have committed to investing a total of \$827 million and \$677 million respectively for the period from 2010-2016 for the provision of analogue sound broadcasting services. The investment commitment of CRHK and Metro covers staff developments, facilities upgrading, programming improvement and other development brought by technological advancement to further enhance their service quality. The three DAB licensees, namely DBC, Metro and Phoenix U Radio, have committed to investing a total of \$391 million, \$96.1 million and \$107.3 million respectively for the period from 2011-2017. Their investment commitment mainly covers construction of DAB network and studio facilities and production of DAB programmes.

## 5.1.4 Programme Variety and Positive Programme Requirements

### (a) Programme Variety and Diversity

#### Number of Broadcast Hours and Hours of Station Productions

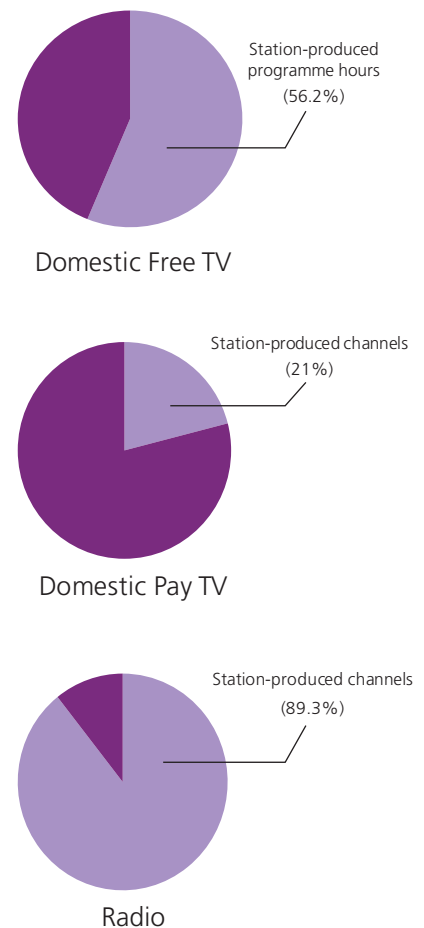
As at March 2013, the licensees broadcast about 66 121 hours of television programmes a week.<sup>19</sup> Among them, ATV and TVB provided a total of 671 broadcast hours per week on the four analogue channels and 1 845 broadcast hours per week on the 11 digital channels, while the 372 channels of domestic pay television programme service licensees provided a total of 56 549 broadcast hours per week. As at 31 March 2013, the 42 channels of non-domestic television programme service licensees receivable in Hong Kong provided a total of 7 056 hours per week.

With the launch of 15 DAB channels, the weekly number of broadcast hours for sound broadcasting services (including RTHK) as at March 2013 was 4 704. The 13 analogue channels of sound broadcasting operators provided a total of 2 184 broadcast hours per week while the 15 digital channels provided a total of 2 520 broadcast hours per week.

For the period under review, there were a total of 63 710 hours of station productions broadcast on ATV and TVB, of which 18 592 hours were on analogue channels and 45 118 on digital channels.<sup>20</sup> Of the 372 channels provided by the domestic pay television programme service licensees, 79 channels (21%) were produced by the licensees themselves.

As for sound broadcasting services, with the exception of RTHK's relay of BBC World Service on Radio 6 and its digital radio services, and programmes of "China National Radio" on its digital radio services, the other 12 analogue radio channels and 13 digital radio channels (89.3%) were produced by the broadcasters themselves.

**Figure 5: Proportion of Station Production in March 2013**



Sources : Licensees

<sup>19</sup> The weekly number is based on a sample week in March 2013.

<sup>20</sup> This excludes ATV's CCTV 1 and Shenzhen Satellite SDTV channels which were direct re-transmission channels.

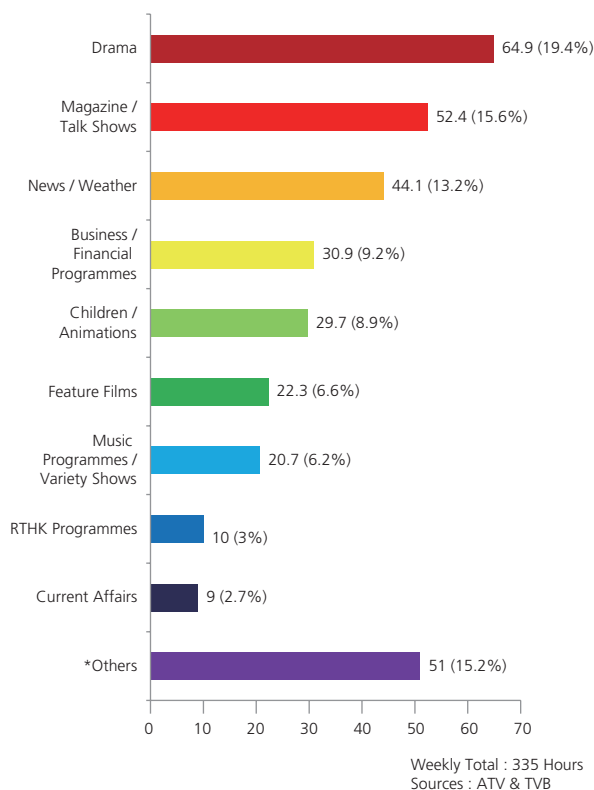


## Domestic Free Television Programme Services

### *Analogue Channels and Digital Simulcast Channels*

During the period under review, drama series remained the dominating programme genre during prime time on the Cantonese channels. Generally speaking, drama series on ATV were mainly imported from the Mainland and Korea, while those on TVB were mostly in-house productions. Both licensees broadcast Korean and Japanese drama series. Apart from drama series, magazine/talk shows, news/weather programmes, business/financial programmes, feature films and music programmes, etc. were also broadcast during prime time on the Cantonese channels.

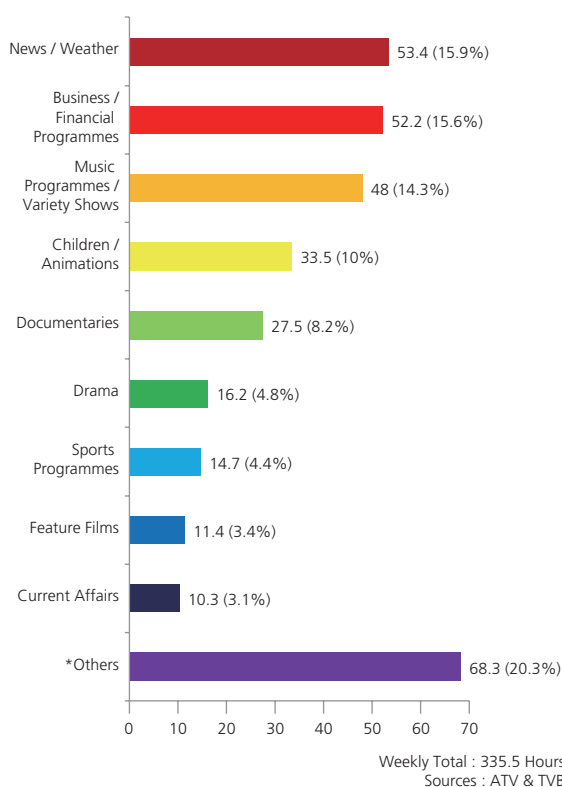
**Figure 6: Weekly Hours of Different Programme Types Broadcast on ATV Home and TVB Jade as at March 2013**



\* Other programmes include horse-racing, documentary and cooking programmes

The two English channels broadcast a wide range of programmes, including business/financial programmes, news/weather programmes, music programmes/variety shows, children's animations, imported popular drama series, documentaries, sports programmes, feature films and current affairs programmes.

**Figure 7: Weekly Hours of Different Programme Types Broadcast on ATV World and TVB Pearl as at March 2013**



\* Other programmes include arts & culture programmes, travelogues and talk shows, etc.

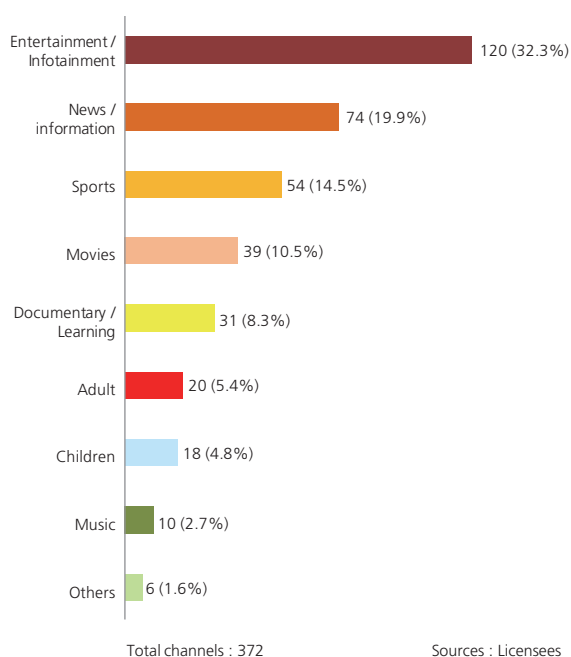
### Digital Channels

Since the launch of DTT services, ATV and TVB have been introducing new varieties of programmes to Hong Kong viewers. As at March 2013, ATV provided HDTV Asia channel, ATV Classic, CCTV 1 and Shenzhen Satellite, all of which were general entertainment channels providing different programme genres such as news, documentaries, current affairs, dramas and infotainment programmes, etc. On the other hand, TVB provided dramas, variety shows, news, talk shows and game shows, etc. via HD Jade, i-News and J2 (a general entertainment channel targeting young audience).

### Domestic Pay Television Programme Services

During the period under review, a wide variety of channels were offered on domestic pay television programme services, including entertainment and infotainment channels (32.3%), news and information channels (19.9%), sports channels (14.5%), movie channels (10.5%), and documentaries/learning channels (8.3%).

**Figure 8: Nature of Domestic Pay Television Channels as at March 2013**



As at March 2013, HKCTV offered a basic package consisting of 77 basic channels and 43 other premium channels (including 12 HDTV channels) in more than 10 languages. PCCW Media's "now TV" service offered 170 channels (including 24 HDTV channels) and 37 video-on-demand services, while TVBNV's service comprised 45 channels, of which 19 were also carried on PCCW Media's platform.

### Sound Broadcasting

#### Analogue Channels

As at March 2013, CRHK operated two FM Cantonese language services, viz. CR1 and CR2, and one AM English language service, AM 864. CR1 provided mainly news, current affairs, financial and personal view programmes. CR2 was mainly an entertainment channel featuring pop culture and music targeting young listeners. AM864 was primarily a music channel.

Metro operated two FM Cantonese language services, viz. Metro Finance and Metro Info, and one AM English language service, viz. Metro Plus. Metro Finance provided real-time, market-moving news and information about financial markets around the world. Metro Info provided music and entertainment programmes as well as programmes on lifestyle, health, market news and other information of interest to the public. Metro Plus was a music channel which also provided programmes for ethnic groups including the Filipino, Indian and Indonesian communities in Hong Kong.

RTHK operated seven radio channels, providing Cantonese, English and Putonghua services. It offered a variety of thematic channels ranging from information to general entertainment and culture. A list of channels of RTHK is in [Figure 9](#).

### **Figure 9: RTHK's Radio Services**

- Radio 1 Chinese news, information and general programming
- Radio 2 Chinese youth, entertainment and popular music programmes
- Radio 3 English news, information and general programming
- Radio 4 Bilingual programmes on classical music and fine arts
- Radio 5 Chinese elderly, cultural and education programmes
- Radio 6 BBC World Service relay
- Radio 7 Putonghua general programming, news and finance

#### *Digital Channels*

DBC formally launched DAB service in September 2012. As at end March 2013, it operated seven channels comprising one Talk Radio channel, one Ethnic Minorities channel and five Music channels. The Talk Radio channel offered current affairs and commentary programmes, news, talk shows, music programmes, etc. while the Ethnic Minorities channel provided programmes in Tagalog, Indonesian, Hindi, Nepali, Thai and Urdu. The five music channels provided Chinese oldies, English oldies, foreign music, classical music and Chinese opera.

Metro commenced DAB service in September 2012, providing one DAB channel "Metro Finance Digital". The channel primarily offered finance programmes, talk shows and music shows principally in Cantonese.

Phoenix U Radio formally commenced DAB service in January 2012. As at end March 2013, it operated two channels called "U Radio 22" and "U Radio 26", offering a variety of programmes, including news, current affairs programmes, financial programmes, music programmes, health programmes and cultural programmes, mainly in Putonghua.

RTHK formally launched DAB service in September 2012. As at end March 2013, it operated five channels, four of which principally simulcast existing AM channels and the remaining one was a dedicated channel produced by "China National Radio" for RTHK.

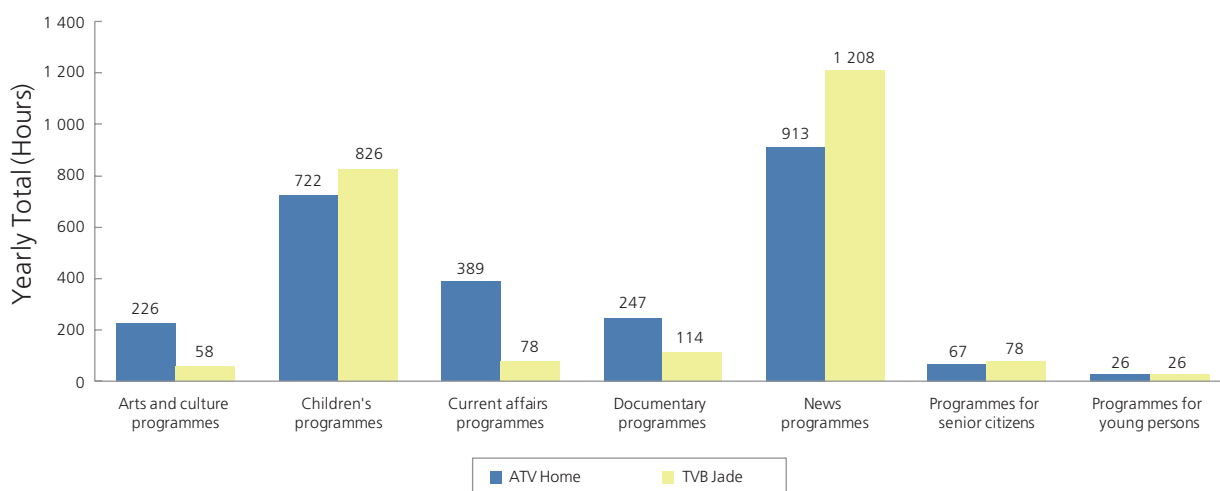
### **(b) Positive Programme Requirements**

During the period under review, domestic free television programme service licensees were required to broadcast at least 41.5 hours of positive programmes<sup>21</sup> per week. Both ATV and TVB met the requirements during the period under review. In aggregate, ATV and TVB each broadcast a weekly average of 110.3 hours of positive programmes.

The reports of the licensees submitted to the Authority on the four types of positive programmes, i.e. children's programmes, programmes for young persons, programmes for senior citizens and arts and culture programmes, are available at [http://www.ofca.gov.hk/en/pub\\_report/compliance\\_reports/index.html](http://www.ofca.gov.hk/en/pub_report/compliance_reports/index.html).

<sup>21</sup> The "positive programmes" that ATV and TVB were required to broadcast were news, current affairs programmes, documentary, art and culture programmes, children's programmes and programmes for senior citizens and young persons.



**Figure 10: Broadcast of Positive Programmes on Cantonese Television Channels as at March 2013**

ATV and TVB were required to provide Chinese subtitles for all news, current affairs, weather reports and emergency announcements as well as programmes during prime time (7:00p.m.-11:00 p.m.) on Cantonese channels, and English subtitles for all news, current affairs, weather programmes, emergency announcements and educational programmes for teenagers (two hours per week) on English channels. Overall, both ATV and TVB complied with the requirements on provision of subtitles.

Pursuant to licence requirements, both licensees were required to broadcast one minute of Announcements in Public Interest (APIs) in each hour and two minutes of publicity material for the Authority each week. During the period under review, the licensees broadcast a total of 2 028 hours of the two types of materials.

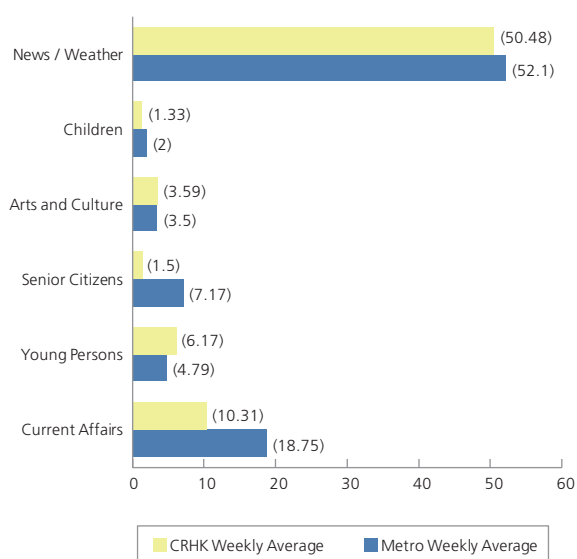
Following the mid-term review in 2010, ATV and TVB were required to provide an additional 120 minutes per week of programmes for senior citizens and programmes on arts and culture, or an additional 90 minutes of government (RTHK) programmes per week. In addition, ATV and TVB were required to broadcast an additional 60 minutes of RTHK programmes during weekends. For the hearing impaired, ATV and TVB were also required to provide Chinese subtitling for all drama programmes on Cantonese channels starting 31 December 2010 and English subtitling for all programmes broadcast on English channels between 8:00p.m. and 11:30p.m. starting 31 December 2012.

As regards sound broadcasting services, analogue sound broadcasting licensees were required to broadcast at least 28.5 hours of positive programmes<sup>22</sup> per week. Overall, both CRHK and Metro complied with the licence conditions on broadcast of positive programmes.

<sup>22</sup> The "positive programmes" that CRHK and Metro were required to broadcast were news and weather programmes, current affairs programmes, art and culture programmes and advisory programmes, viz. programmes for young persons, senior citizens and children.

All sound broadcasting licensees (including DAB licensees) were required to broadcast one minute of APIs in each hour and not more than five minutes of publicity material for the Authority each week. Overall, all licensees complied with the requirements.

**Figure 11: Provision of Positive Programmes on Sound Broadcasting Services as at March 2013**



### 5.1.5 Hong Kong as a Regional Broadcasting Hub

Hong Kong is a broadcasting hub in the Asia-Pacific region with 18 non-domestic television programme service licensees operating in and broadcasting from Hong Kong. Altogether they offered a total of 260 satellite television channels serving over 300 million viewers in the Asia-Pacific region, Europe and Africa, of which 42 channels were receivable in Hong Kong. A summary of non-domestic television programme services as at March 2013 is at Annex 1.

## Telecommunications

### 5.2 An Overview of the Telecommunications Market

Hong Kong has one of the most sophisticated and successful telecommunications markets in the world. This has been an important factor in Hong Kong's development as a leading business and financial centre. In 2011, the total telecommunications services revenue of the telecommunications sector amounted to HK\$63.4 billion and around 18 000 persons were employed.

All sectors of Hong Kong's telecommunications market have been liberalised with no foreign ownership restrictions. The government's objectives are to maintain a level playing field in the open and competitive telecommunications market and ensure that consumers get the best services available in terms of capacity, quality and price.

#### 5.2.1 The Telecommunications Regulatory Regime

##### Carrier Licences

The Authority issues carrier licences for facility-based operators. Facility-based operators are authorised to establish and maintain telecommunications networks and facilities, which may cross unleased Government land and public streets, for the provision of public telecommunications services.

The unified carrier licensing regime has been implemented since 1 August 2008 as the single licensing vehicle for the provision of facility-based fixed, mobile and/or converged telecommunications services in Hong Kong.

A Unified Carrier Licence (UCL) for the provision of local fixed service authorises the licensee to establish and maintain fixed network, wireline-based or wireless-based or a combination of both where applicable, to provide all local telecommunications services between fixed points within Hong Kong. A UCL for the provision of external fixed service authorises the licensee to provide external facilities as well as external services operated over external facilities. A UCL for the provision of mobile service enables the licensee to provide two-way communications between moving locations or between a moving location and a fixed location in Hong Kong. The issue of new UCL for the provision of mobile service is subject to the availability of radio spectrum for assignment.

Fixed Carrier Licences (FCLs) and Mobile Carrier Licences (MCLs) which were issued before the introduction of the UCL remain valid until their expiry dates. The holders of FCL and MCL may apply to the Authority for UCL to replace their licences.

As at March 2013, there were a total of 58 carrier licensees, providing fixed internal services, cable-based fixed external services, non cable-based fixed external services, mobile services and other services.

#### **Public Radiocommunications Service Licences**

For the provision of public radiocommunications services (PRS), an operator has to apply for a PRS Licence. As radiocommunications services require the assignment of operating frequencies, PRS Licences are granted only when the required radio spectrum is available.

Services which may be authorised under the PRS Licence include radio paging, community repeater (trunked radio) services, vehicle location information services, one-way data message services and public mobile radio data services.

As at March 2013, there were a total of 10 PRS licensees.

#### **Services-based Operator Licences**

Services-based Operators (SBO) may provide public telecommunications services by using the transmission facilities provided by licensed facility-based carriers or establishing or maintaining their own transmission facilities which do not cross public streets or unleased Government lands.

SBO licence covers three types of services, namely, Class 1 and Class 2 local voice telephony services, and Class 3 services which may include external telecommunications services, Internet access service, international value-added network service, mobile virtual network operator service, private payphone service, public radio communications relay service, security and fire alarm signals transmission service, teleconferencing service, mobile communications service on board an aircraft, etc.

As at March 2013, there were a total of 540 SBO licensees.

## Class Licences

The class licensing regime does not require any licence application. Parties meeting the specified eligibility criteria and conditions would automatically become the class licensees, and are required to fulfil the conditions set out in the relevant Class Licence as well as the TO. Currently, seven types of Class Licences are under the purview of the Authority:

- Class Licence for Citizens Band Radio Station
- Class Licence for In-building Telecommunications Systems
- Class Licence for Medical Implant Communication System Device
- Class Licence for Short Range Device
- Class Licence for Taxi Mobile Station
- Class Licence for Offer of Telecommunications Services
- Class Licence for Provision of Public Wireless Local Area Network Services

## Other Licences

Apart from the licences mentioned above, there are a number of miscellaneous licences under the purview of the Authority.

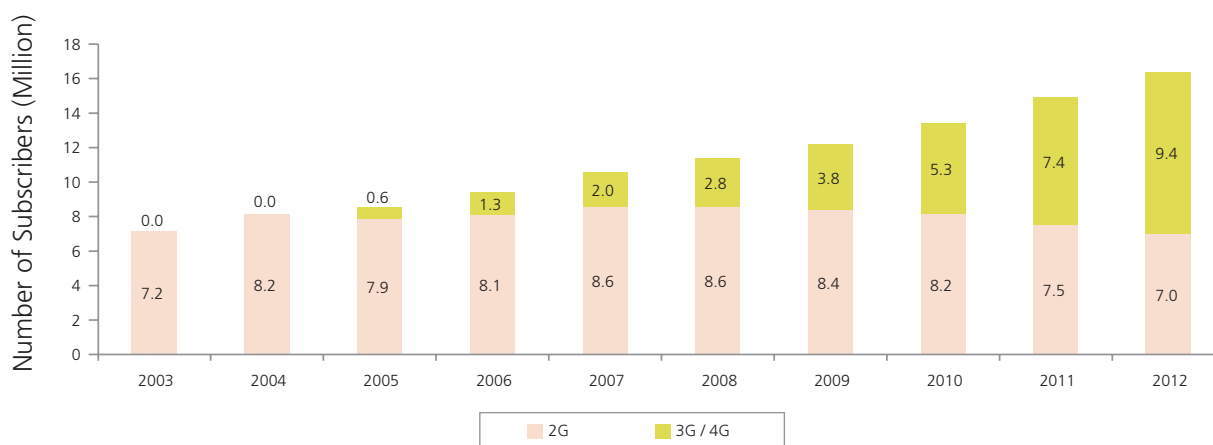
A breakdown of the type and number of all telecommunications licences can be found at Annex 2.

## 5.2.2 Developments in the Telecommunications Market and Technology Trends

### Mobile Communications Services

Competition in public mobile services is keen. As at March 2013, there were five mobile network operators, namely, China Mobile Hong Kong Company Limited (CMHK), CSL Limited (CSL), Hong Kong Telecommunications (HKT) Limited, Hutchison

**Figure 12: 2G, 3G and 4G subscriber trends from 2003 to 2012**



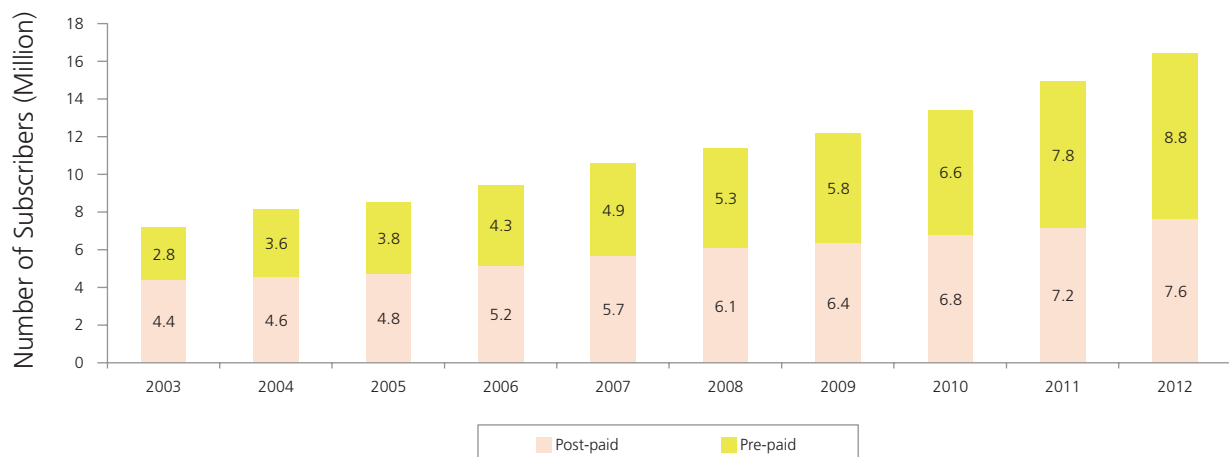


Telephone Company Limited and SmarTone Mobile Communications Limited (SmarTone), providing a wide range of public mobile services. The availability of mobile number portability service since March 1999 has contributed to promoting effective competition among the mobile network operators as it allows customers to retain their telephone numbers when they switch to another mobile network operator.

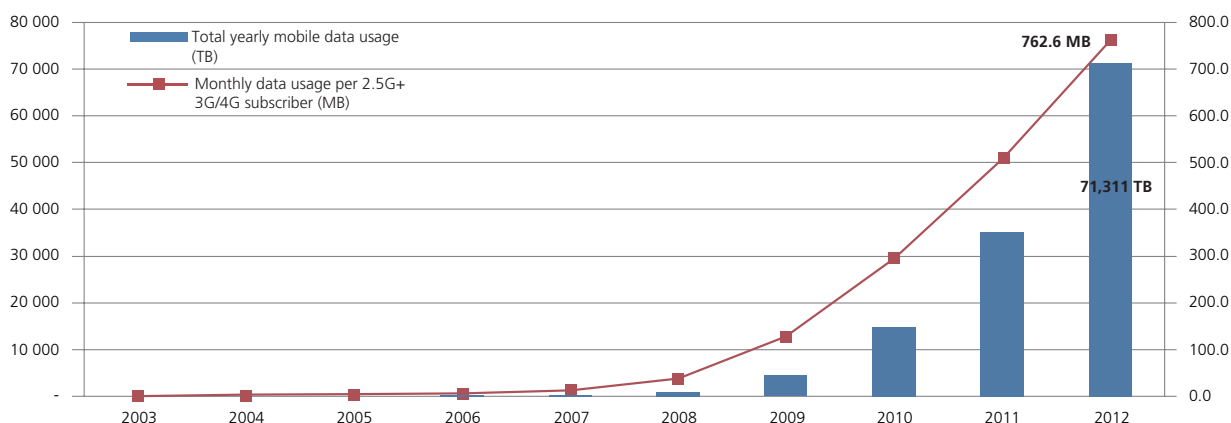
The five mobile network operators provide second generation (2G), 3G and 4G services in the city. As at March 2013, there were over 16.3 million subscribers to mobile communications services. This represents a population penetration of 228.4%, one of the highest in the world. The number of 3G/4G users also continued to rise and reached 10.27 million in March 2013.

During the period under review, the development of 4G mobile services has accelerated. All five mobile network operators have been offering 4G services with affordable prices. Operating in 1800 MHz and/or 2.5/2.6 GHz frequency bands, mobile data services are available at downlink speeds of up to 100 Mbps using LTE technology. With the increasing popularity of smart phones, particularly 4G mobile handsets, which were readily available in the market, the monthly mobile data usage surged to 8 983 Terabytes in March 2013, representing 1.8 times and 3.8 times the monthly usage over the same period in 2012 and 2011 respectively. On average, each 2.5G/3G/4G mobile user used 840 Mbytes per month, compared with 588 Mbytes in March 2012 and 343 Mbytes in March 2011. It is believed that the proliferation of 4G mobile services has further boosted the mobile data usage.

**Figure 13: Mobile customers using postpaid and prepaid SIM from 2003 to 2012**



**Figure 14: Monthly mobile usage trend per customer from 2003 to 2012**



### Fixed Communications Services

The local fixed communications services market was fully liberalised in 2003. There is no preset limit on the number of licences to be issued for fixed services, or any deadline for the submission of licence applications. Furthermore, there is no specific requirement on network rollout or investment, which are determined by the market.

As of March 2013, there were 18 local fixed carriers, providing around 103 fixed lines per 100 households, one of the highest in the world. They are:

- PCCW-HKT Telephone Limited and Hong Kong Telecommunications (HKT) Limited
- New World Telecommunications Limited
- Wharf T&T Limited
- Hutchison Global Communications Limited
- Hong Kong Broadband Network Limited
- Towngas Telecommunications Fixed Network Limited
- ComNet Telecom (HK) Limited
- TraxComm Limited
- HKC Network Limited
- Hong Kong Cable Television Limited
- Reach Networks Hong Kong Limited and Reach Cable Networks Limited
- Telstra International HK Limited and Telstra International Limited
- Verizon Hong Kong Limited
- SmarTone Communications Limited
- Cable and Wireless Global Network (Hong Kong) Limited
- CSL Limited
- China Mobile Hong Kong Company Limited
- 21 ViaNet Group Limited

As a result of full liberalisation in the local fixed carrier services market, the active network rollout by fixed carriers since 1995 and the Authority's initiative to encourage further network rollout by the withdrawal of mandatory Type II interconnection policy at the end of June 2008, 86.7% and 76.3% of households were able to enjoy a choice of at least two and three self-built customer access networks respectively as at March 2013. It is expected that the figure will keep growing as the operators continue to roll out their networks.

Local fixed carriers are required to facilitate fixed number portability which enables consumers to switch to another local fixed operator without having to change their telephone numbers.

#### Fixed broadband services

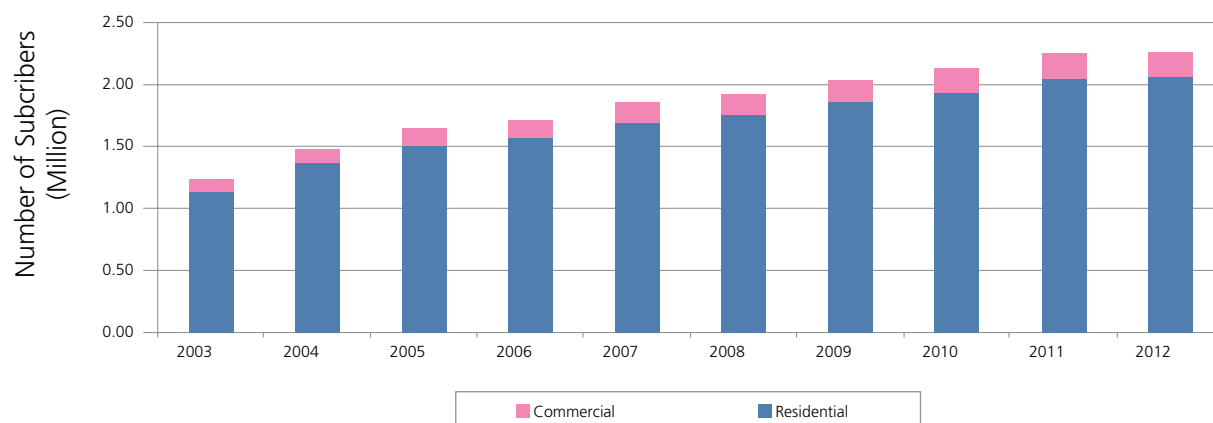
As at March 2013, there were 18 facility-based operators and 173 service-based operators authorised to provide broadband Internet access services in Hong Kong. With the ubiquitous availability of broadband services whether using asymmetric digital subscriber line (ADSL), fibre-

to-the-building (FTTB), fibre-to-the-home (FTTH), hybrid fibre coaxial cable and other technologies, the Hong Kong community is able to enjoy broadband access almost everywhere at home, in the office or outdoors. Broadband access to various applications and content services has become an integral part of the life of people in Hong Kong. As at March 2013, there were around 2.3 million residential and commercial fixed broadband subscribers, with a household penetration rate of 86%. Broadband services are available at speeds up to 1 Gbps. About 90% broadband subscribers are using service plans with speeds at 10Mbps or above. The statistics of fixed broadband subscribers as at March 2013 and the statistics for the past 10 years are shown in [Figure 15](#) and [Figure 16](#) respectively.

**Figure 15: Statistics of fixed broadband subscribers as at March 2013**

	No. of subscribers	%
Total No. of broadband subscribers	2 255 039	
Broadband speed of 10 Mbps or above	2 040 060	90.5%
Broadband speed below 10 Mbps	214 979	9.5%
Residential	2 039 980	90.5%
Commercial	215 059	9.5%

**Figure 16: Fixed Broadband Subscribers Trend from 2003 to 2012**



### *Development of Next Generation Networks*

Traditional telecommunications networks are built around circuit-switched technologies and are primarily designed for the conveyance and provision of standalone services. With the advent of new technologies, it is now possible to build a single network for the conveyance and provision of a variety of services, including fixed voice telephony service, data service, mobile service and television service. Such new networks are commonly referred to as next generation networks (NGNs).

In Hong Kong, the development of NGNs has always been driven by commercial considerations of carriers, without any government funding. Some carriers have already launched their NGNs, while others are in the process of migrating their existing networks to NGNs. With the advent of NGN, it is necessary for the Authority to remain vigilant about the challenges to be brought about by NGN and ensure that the regulatory framework remains updated and appropriate in the NGN era. After the completion of a consultancy study commissioned to study the implication of NGN development on the regulatory framework in Hong Kong, the NGN working group set up under OFCA, with members coming from the industry as well as various professional associations, has been deliberating on various issues pertinent to NGN, including NGN interconnection trial among operators, migration of number portability from existing networks to an IP-based NGN environment, the provision of in-building horizontal fibres by operators for NGN services, etc.

### **Public Wi-Fi Services**

Operators have been vigorously rolling out Wi-Fi networks. There are 5 fixed network operators and 35 class licensees authorised to provide public Wi-Fi services. As at March 2013, there were more than 18 800 public Wi-Fi hotspots in the city and the number continued to grow. As at March 2013, free Wi-Fi services were available to the public in about 400 government premises.

### **External Telecommunications Services**

The external telecommunications facilities market was fully liberalised in 2000. As of March 2013, 41 fixed carriers were authorised to provide cable-based and/or non-cable-based external telecommunications facilities. During the year, one new submarine cable system namely Asia Submarine-Cable Express and one new cable landing station located in Tseung Kwan O commenced operation. As at March 2013, Hong Kong had a total of seven cable landing stations: two in Tong Fuk, two in Tseung Kwan O and one each in Deep Water Bay, Chung Hom Kok and Cape D'Aguilar, making it a major telecommunications and internet hub in the region.





In March 2013, Hong Kong was connected to eight regional and trans-Pacific submarine cable systems. They are Asia-America Gateway Cable System (AAG), Asia Pacific Cable Network 2 (APCN-2), Asia Submarine-Cable Express (ASE), EAC-C2C, FLAG Europe Asia (FEA), FLAG North Asia Loop (FNAL), REACH North Asia Loop (RNAL), Sea-Me-We 3 (SMW3) and TGN-Intra Asia Cable System (TGN-IA). Among them, the ASE system started its operation in Hong Kong in February 2013. It was also connected to the Mainland's three overland cable networks. As at March 2013, the total equipped external capacity exceeded 10 300 Gbps. Total external telephone traffic was 10 453 456 000 minutes for the period from 1 April 2012 to 31 March 2013.

### Satellite Services

Hong Kong adopts the open sky policy in regulating the provision of satellite services. Satellite-based telecommunications and television broadcasting services are provided via a multitude of satellites in the region with 185 satellite earth station antennas operated by a number of fixed carriers and broadcasters.

For operation of satellites and associated facilities, however, licences are required. As at March 2013, two Hong Kong companies were licensed to operate and provide satellite communication services, namely Asia Satellite Telecommunications Company Limited (AsiaSat) and APT Satellite Holdings Limited (APT).

AsiaSat and APT now operate nine satellites while some of the existing satellites will soon reach the end of their designed operation lives. The two companies have entered into a new investment cycle of launching new satellites for replacement and provision of new business. It is anticipated that two new satellites will be launched in 2014.

### Broadcast-type Mobile TV Services

To enable the use of broadcast-type technologies which deliver audio-visual content to a much larger number of consumers, the radio spectrum in the 678-686 MHz band was auctioned in June 2010 for the provision of broadcast-type mobile television (mobile TV) services. The services were launched by CMHK in February 2012. Both local residents and tourists are able to enjoy the broadcast-type mobile TV programmes by the use of suitable receiving devices.

According to the relevant regulatory framework for the development of broadcast-type mobile TV services, the content of mobile TV, either local broadcast-type or streaming-type, is not subject to regulations by the BO but the general laws. As a self-regulation initiative, the industry issued a code of practice for the provision of mobile TV services in August 2012. The code of practice includes the requirement of access control with a view to protecting public morals and children.

### Broadcasting

#### 6.1 Extending the Coverage of DTT Broadcasting with a View to Further Improving the Service Coverage

Since the commencement of DTT services in end 2007, the two domestic free television programme service licensees, namely ATV and TVB, have completed a total of 29 digital broadcasting stations by phases, enabling the overall DTT coverage to reach about 98% of the Hong Kong population.

In June 2012, the Authority approved the applications of ATV and TVB to extend the period for exemption from the territory-wide coverage of their DTT services up to 31 December 2013, subject to the conditions, among others, that their DTT services should extend to cover at least 98% of the population by 31 December 2012, and that the coverage of DTT services should be on a par with that of analogue television services, viz. at least 99% of the population, with effect from 30 September 2013. The Authority will continue to closely monitor the performance of ATV and TVB to ensure that, by diligently implementing their plans, they would be able to extend the DTT coverage to at least 99% of the population by September 2013. At the same time, OFCA is examining, together with the two licensees, how to address the problem of television reception in those areas currently suffering from unsatisfactory television reception.

#### 6.2 Monitoring the Roll-out of DAB Services

The three DAB licensees, viz. DBC, Metro and Phoenix U Radio were required under their licences to formally commence DAB services by September 2012 and to launch by phases a total of 13 channels (three each for Metro and Phoenix U Radio and seven for DBC) with a wide variety of programmes. The three DAB licensees formally launched DAB services in 2012 in accordance with the licence requirements. As at end March 2013, the three licensees and RTHK provided a total of 15 DAB channels (seven by DBC, one by Metro, two by Phoenix U Radio and five by RTHK).

Between October 2012 and January 2013, DBC suspended its DAB service arising from a dispute among shareholders. The Authority took regulatory action against DBC and imposed on it financial penalties totalling \$280,000 for breaches of licence conditions. To resolve the dispute among shareholders, DBC proposed for the Authority's approval shareholding changes. Having taken into account DBC's submissions, the Authority was satisfied that with the changes in its shareholding structure, DBC would be able to comply with the applicable regulatory requirements. Accordingly, the Authority approved DBC's application for changes in its shareholding structures in January 2013. DBC resumed its full-fledged broadcasting service in January 2013.

### 6.3 Grant and Renewal of Non-domestic and Other Licensable Television Programme Service Licences

During the period under review, the Authority granted one non-domestic television programme service licence each to Health TV Company Limited and One TV Media Global Limited, and approved the application of Showers of Blessing Evangelistic Ministry (Hong Kong) Limited for the renewal of its other licensable television programme service licence for the provision of television programme service in hotel rooms in Hong Kong.

The Authority also accepted the surrender of a non-domestic television programme service licence by Real Global Broadcasting Hong Kong Limited and the surrender of two other licensable television programme service licences by Marriott Hong Kong Limited and Royal Park Hotel Management Limited due to the commercial decisions of the licensees.

### 6.4 Collection of Public Views on Domestic Free Television Services

In the context of the mid-term review of the domestic free television programme service licences in 2010, the CE in C approved, among other things, the recommendations of the then BA to engage the public, on a regular basis, to collect their views on the quality and variety of the television programmes provided by the licensees. The first public engagement exercise was conducted in 2011. During the period from February to May 2013, the Authority conducted the second public engagement exercise.

The 2013 public engagement exercise adopted a two-stage format. In stage one, members of the public were invited to submit written views on the variety and quality of free television programmes. About 7 600 written submissions were received. In stage two, members of the public, including academics, television production veterans and representatives from concern groups, etc. were invited to participate in two focus group discussions. Representatives of the two licensees attended both sessions to listen to the opinions of the participants.

The public engagement exercise was completed in May 2013. The views expressed were diverse. The more notable suggestions/comments received included –

- (a) a greater variety of programmes should be provided;
- (b) more programmes for the elderly should be provided;
- (c) ATV should provide more locally/station-produced programmes;
- (d) ATV should reduce the amount of re-run/repeat programmes and avoid making frequent changes to programme schedules;
- (e) programmes on current affairs on ATV should be impartial;
- (f) the quality of game shows on TVB should be improved;
- (g) TVB should produce more dramas of new and/or positive themes; and
- (h) there were too many cuisine and gourmet programmes on TVB which encouraged a luxurious lifestyle.

The Authority forwarded all the views collected in the two stages of the public engagement exercise to the two free television licensees. The major responses of the two licensees were as follows –

- (a) On programme variety, ATV responded that the variety of its programming has become more diversified during prime time as it gradually replaced the two lines of serial dramas by non-drama programmes. TVB responded that it has been providing a broad range of choice and diversity in programming;
- (b) On programmes for the elderly, ATV responded that it has scheduled Cantonese opera to cater for the needs of the elderly and would continue to provide more programmes for the elderly. TVB responded that it would consider the public's request for more programmes for the elderly in future reviews of programme scheduling;
- (c) On the public views on (c) to (e) above, ATV responded that –
  - (i) the percentage of the broadcast of local production during prime time had increased by about 30% from 2009 to 2012;
  - (ii) the re-runs of programmes were to cater for those who missed the first run due to long working hours and in view of criticisms from the public, ATV had adjusted the re-run schedule; and
  - (iii) programme hosts and guests should enjoy freedom of expression; and programmes on current affairs and hot topics, when classified as personal view programmes ("PVPs"), would be exempted from the provision governing due impartiality in the codes of practice issued by the Authority. Nonetheless, ATV had taken measures to ensure that a broad range of views was to be expressed in PVPs.

- (d) On the public views on (f) to (h) above, TVB responded that –

- (i) it would continue to source and produce top quality game shows and was totally prepared to listen to viewers' opinions;
- (ii) it would continue to explore and break new grounds in dramas and was and would remain vigilant about scenes in dramas which had a negative impact on young audience; and
- (iii) while it produced a wide variety of cuisine and gourmet programmes, it had not intended to advocate or encourage an undesirable lifestyle in such programmes.

The Authority had the following observations on the licensees' responses –

- (a) ATV had submitted that the percentage of the broadcast of local production during prime time had increased. However, the Authority noted that the programmes broadcast during non-prime time comprised much more repeat programmes and the percentage of first-run locally-produced programmes during non-prime time was still on the low side;
- (b) on repeat programmes, ATV had only offered to reduce the number of repeats from four to three times a day. As to its proposal to reshuffle the time slots of the re-runs, it was not apparent as to how that could help ATV meet the public demand for fewer repeat programmes. In sum, ATV's proposed improvement measures fell far short of addressing the public concern in this regard;
- (c) regarding the impartiality standards of PVPs, the Authority noted that all PVPs had to comply with some ground rules as set out in the codes of practice, viz. providing a suitable opportunity for response and the need for a sufficiently broad range of views; and



- (d) the quality of game shows on TVB had been a major concern in both the current and the last public engagement exercises. The Authority considered that TVB should more fully take into account the public views on its game shows in its future productions.

Regarding (a) and (b) above, there was currently no general requirement governing local productions and repeat programmes on domestic free television programme services. The Authority might revisit these issues in considering the applications from ATV and TVB for renewal of their domestic free television programme service licences. Regarding (c), the Authority was reviewing the provisions governing PVPs in the codes of practice in order to address the public concern.

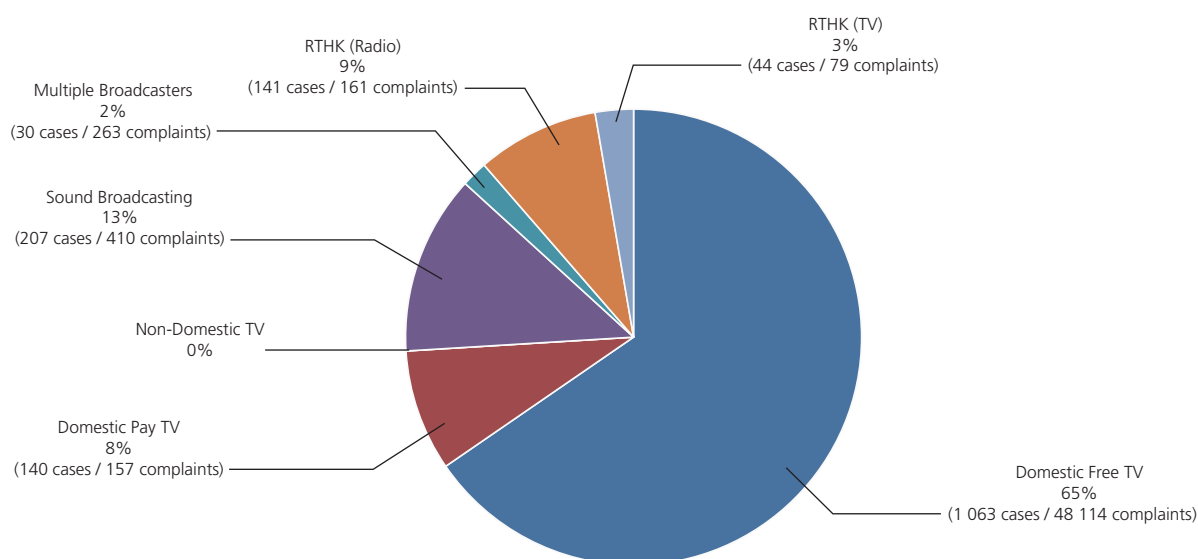
A report on the results of the exercise was issued and is available at [http://www.coms-auth.hk/filemanager/common/other/public\\_engagement\\_exercise\\_en.pdf](http://www.coms-auth.hk/filemanager/common/other/public_engagement_exercise_en.pdf).

## 6.5 Processing Complaints relating to Broadcasting Services

### Overview of the Complaints Processed

During the period from April 2012 to March 2013, the Authority processed a total of 1 625 cases (49 184 complaints) about the materials broadcast by broadcasters, which represented a decrease of about 19% in the number of cases but a 13-fold increase (1 334%) in the number of complaints as compared to the numbers recorded during the same period in the previous year (2 002 cases, 3 429 complaints) handled by the former BA. The drastic increase in the number of complaints was attributed to a controversial case against a personal view programme broadcast on ATV which attracted over 42 000 complaints. Breakdown of all the complaint cases by broadcasting service and broadcaster processed during the period is shown in [Figure 17](#) and [Figure 18](#) respectively.

**Figure 17: Distribution of All Complaint Cases by Broadcasting Service Processed in 2012-2013**



**Figure 18: Distribution of All Complaint Cases by Broadcaster Processed in 2012-2013**

Broadcasters	No. of Complaint Cases	No. of Complaints
ATV	217	44 719
TVB	820	3 355
HKCTV	68	81
PCCW Media	63	67
TVBNV	8	8
CRHK	166	365
Metro	32	36
DBC	9	9
RTHK (TV)	44	79
RTHK (Radio)	141	161
Multiple Broadcasters	57	304
<b>Total</b>	<b>1 625</b>	<b>49 184</b>

Among all the complaint cases processed, the DG Com handled 1 584 cases (3 432 complaints) under delegated power of the Authority. These complaints were related to breaches of minor nature, or allegations which did not constitute any breach or were outside section 11(1) of the B(MP)O, i.e. the substance of the complaint did not involve a contravention of the legislation, licence conditions or codes of practice. The Authority dealt with 41 cases (45 752 complaints). Details of the outcomes of all the complaints processed during this period are at [Figure 19](#).

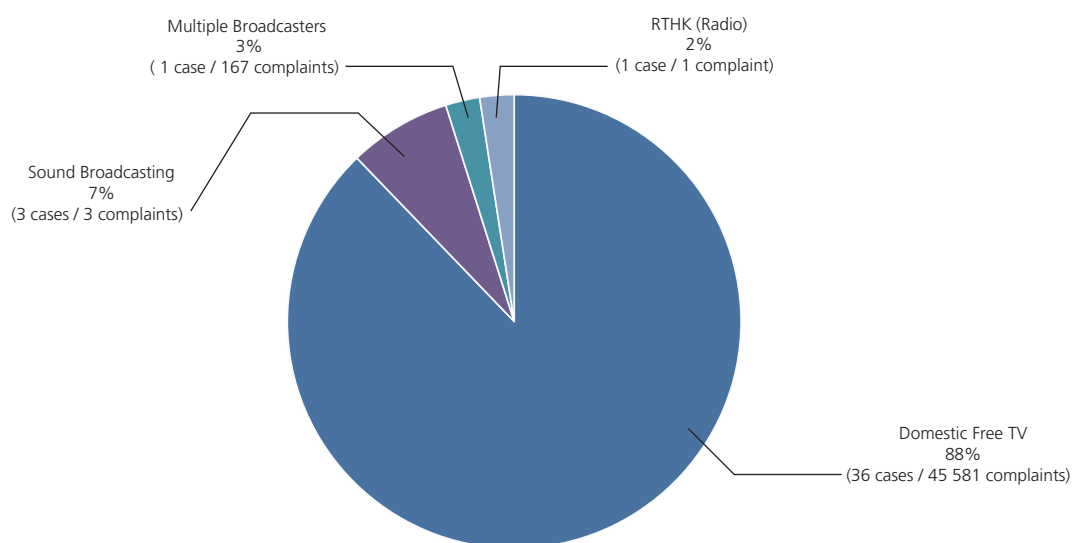
**Figure 19: Outcomes of all the Complaints dealt with by the Authority and DG Com**

	Within Section (11)1 of B(MP)O				Outside Section (11)1 of B(MP)O	Total
	Substantiated		Unsubstantiated		DG Com	
	The Authority	DG Com	The Authority	DG Com		
No. of Cases	35	74	6	916	594	1 625
No. of Complaints	44 587	89	1 165	1 853	1 490	49 184

## Complaints Dealt with by the Authority

Among the 41 complaint cases dealt with by the Authority, 88% were related to the domestic free television programme services. Breakdown of these complaint cases by broadcasting service is at [Figure 20](#).

**Figure 20: Breakdown of Complaint Cases Dealt With by the Authority by Broadcasting Service**



Regarding the nature of the broadcast materials under complaint, 37 out of the 41 complaint cases dealt with by the Authority were related to programmes, three on advertisements and one on station promotional materials. 35 complaint cases were substantiated. Among the substantiated cases, the main substance of complaints of 17 cases were related to the mingling of programme and advertising material or the embedding of advertising material within programme content. Five cases were related to programmes dealing with controversial issues of public importance in Hong Kong which were identified as personal view programmes or segments dealing with such issues in factual programmes and were in breach of the relevant requirements of accuracy and impartiality applicable to the specific types of programmes or segments. Others included inaccurate or misleading factual contents in news programmes, misleading advertising claims, denigration, inclusion of promotional materials for the station within programme, failure to identify advertising material as such, violence and dangerous acts, inappropriate

broadcast time, unsuitable for children, failure to provide recordings to the Authority for investigation of complaints, broadcast of liquor advertising during the family viewing hours, etc.

The Authority imposed financial penalties ranging from \$50,000 to \$80,000 on seven occasions, issued four serious warnings, 10 warnings, six pieces of strong advice and six pieces of advice, and classified two cases as minor breaches. A breakdown of the decisions of the Authority on complaints dealt with in 2012-2013 is at [Figure 21](#).

**Figure 21: Decision of the Authority on Complaint Cases during 2012-2013**

Decision of the Authority	ATV	TVB	TVBNV	CRHK	Metro	RTHK	Total
No Further Action	0	6	1	0	0	0	7 <sup>note</sup>
Minor Breach	1	0	0	0	1	0	2
Advice	1	4	0	0	0	1	6
Strong Advice	3	1	0	2	0	0	6
Warning	7	3	0	0	0	0	10
Serious Warning	2	2	0	0	0	0	4
Financial Penalty	6	1	0	0	0	0	7
<b>Total</b>	<b>20</b>	<b>17</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>42 <sup>note</sup></b>

Note: One complaint case involved broadcasts on two licensees and hence there were two decisions on the same case.

## 6.6 Review of Codes of Practice

The Authority conducts regular reviews of its Codes of Practice to provide guidance to broadcasters on programme, advertising and technical standards. During the period under review, the Authority approved amendments to the existing Codes as set out below.

### Change of Video Coding for Digital Terrestrial Television

In response to a joint application from ATV and TVB, the Authority amended the Generic Code of Practice on Television Technical Standards to allow the licensees to switch from MPEG-2 to H.264 as the video coding for the four simulcast television programme channels. The use of H.264 coding enhances the picture quality of the four simulcast channels and opens up the possibility of providing more programme channels, introducing HDTV or three-dimensional television services.

### Amendments to Codes of Practice Governing Programme and Advertising Standards

The Authority amended the Generic Codes of practice on Television Programme Standards and Advertising Standards (TV Programme and Advertising Codes) to extend the exemption for domestic pay and other licensable television programme services on the prohibition of commercial references within programmes on channels acquired for direct re-transmission to domestic free television programme service, subject to the specified conditions. The amendments provide more flexibility for domestic free television programme service licensees on a multi-channel DTT platform.

The Authority also amended the TV Advertising Code to require licensees to superimpose the caption "advertisement" or "advertising magazine" on screen throughout the broadcast of an advertisement adopting a programme style taking into consideration the new presentation style of advertisements and the need to better inform the public of the nature of materials they are watching.

To enhance clarity of the provisions governing advertising materials, the Authority also amended the TV and Radio Advertising Codes to make it clear that promos for advertisements are advertising materials and should be counted towards the aggregate time limits applicable to domestic free television programme service and sound broadcasting licensees.



## Telecommunications

### 6.7 Consultation on Re-assignment of the 3G Spectrum in the 1.9-2.2 GHz Band

Frequency spectrum in the 1.9-2.2 GHz band (3G spectrum) was assigned through auction to four mobile network operators in 2001 for a term of 15 years until October 2016. The four incumbent 3G operators, namely CSL, Hong Kong Telecommunications (HKT) Limited, Hutchison Telephone Company Limited, and SmarTone, are using the 3G spectrum for the provision of 3G mobile services. According to the Radio Spectrum Policy Framework promulgated by the Government in April 2007, there is no legitimate expectation on the part of the spectrum assignees of any right of renewal or right of first refusal of any frequency assignment upon its expiry.

The Authority and the Government jointly conducted the first consultation on re-assignment of the 3G spectrum during April to mid-July 2012, where three options for re-assignment arrangement were proposed, viz. (1) an administratively-assigned approach to offer right of first refusal of all the relevant spectrum to the incumbent 3G operators; (2) a full-fledged market-based approach to re-auction all the relevant spectrum; and (3) a hybrid of Options 1 and 2.

Taking into account the views and comments received, as well as the multiple objectives in spectrum re-assignment, Option 3 was put forward for further consultation in the second consultation paper published on 28 December 2012, with the consultation period ending on 11 April 2013. It is the plan of the Authority to announce its decision on the re-assignment arrangements around October 2013.

### 6.8 Auction of Additional Radio Spectrum in the 2.5/2.6 GHz Band

Making use of auction for assignment of radio spectrum with competing demand for commercial use is a well-established spectrum management mechanism of the Authority in accordance with the Radio Spectrum Policy Framework. Auction ensures economically efficient assignment of radio spectrum as a scarce public resource to the operators which value it the most and are able to put it to the most efficient use.

With the increasing popularity of smart phones, notepads and other advanced communications devices, public demand in Hong Kong for quality mobile services have continued to grow rapidly in recent years. Adequate and timely supply of radio spectrum to support the deployment of new mobile technologies and applications and to meet the incessant demand for additional network capacity is not only necessary but also critical to the healthy development of the mobile industry. In March 2013, OFCA conducted an auction for the release of an additional 50 MHz of radio spectrum in the 2.5/2.6 GHz band capable for the deployment of 4G services.<sup>23</sup> The spectrum was successfully acquired by four incumbent mobile network operators,

<sup>23</sup> This was the eighth auction that had been conducted since 2001. For the provision of 4G mobile telecommunications services in Hong Kong, OFCA's predecessor, namely the Office of the Telecommunications Authority auctioned off 90 MHz of radio spectrum in the 2.5/2.6 GHz band in January 2009, and another 90 MHz in the 2.3 GHz band in February 2012.

namely CMHK, CSL, Genius Brand Limited<sup>24</sup> and SmarTone at a total spectrum utilisation fee of HK\$1.54 billion. The assignment of the additional radio spectrum through this auction would enable the incumbent operators to deploy state of the art mobile broadband technologies and provide the necessary network capacities to further develop 4G mobile telecommunications service in Hong Kong.

### 6.9 Spectrum swap between SmarTone and China Mobile

In November 2012, CMHK and SmarTone submitted a joint application seeking the Authority's permission to swap 2 x 1.6 MHz of frequency blocks of their assigned spectrum in the 1 800 MHz band.

As this was a swap of an equal amount of spectrum, it would not result in any change in the total amount of spectrum assigned to the two mobile network operators. The Authority considered that the proposed spectrum swap would result in more efficient use of spectrum and consumers would benefit from improved voice quality and network capacity. The Authority therefore approved the proposed spectrum swap, subject to the conditions that there was no monetary exchange and harmful interference caused to other mobile network operators and that any service impact on customers should be minimised.

### 6.10 Reduction of Telecommunications Licence Fees

In June 2012, the Authority and the SCED jointly issued a consultation paper to invite members of the public to make representations on a licence fees reduction proposal, viz. to reduce the customer connection fee level of UCLs from \$800 to \$700 for each 100 customer connections and to reduce the mobile station fee level of PRS Licences (Paging) and SBO Licences (Class 3) from \$800 to \$700 for each 100 mobile stations.

Having duly considered the views and comments received in context of the consultation exercise, the Authority and the SCED issued a joint statement in November 2012 to promulgate their decision to proceed with the proposal to reduce the licence fees for UCLs, PRS (Paging) and SBO (Class 3) Licences as proposed. Following completion of the legislative procedure, the new licence fees took effect on 1 March 2013.

### 6.11 Review of Regulatory Guidance on the Charging Principles of Interconnection between Fixed Carriers

Charges of narrowband interconnection between fixed carriers are the only type of carrier-to-carrier local interconnection charges which are still subject to regulatory guidance. For fixed-fixed broadband interconnection charges, mobile-mobile interconnection charges and fixed-mobile interconnection charges, they are not subject to any regulatory guidance at present and are solely determined through commercial negotiations between telecommunications operators.

<sup>24</sup> Genius Brand Limited is indirectly owned by Hong Kong Telecommunications (HKT) Limited and Hutchison Telephone Company Limited.

Taking into account the significant changes and developments in the market and technology over the past two decades, regulatory guidance which applies to narrowband interconnection between fixed carriers is increasingly out of place when broadband interconnection is not subject to similar regulatory guidance. To review whether the regulatory guidance should be maintained or withdrawn under the present day circumstances, a public consultation was conducted during November 2012 to January 2013. The Authority would decide on the way forward with the regulatory guidance in the second quarter of 2013.

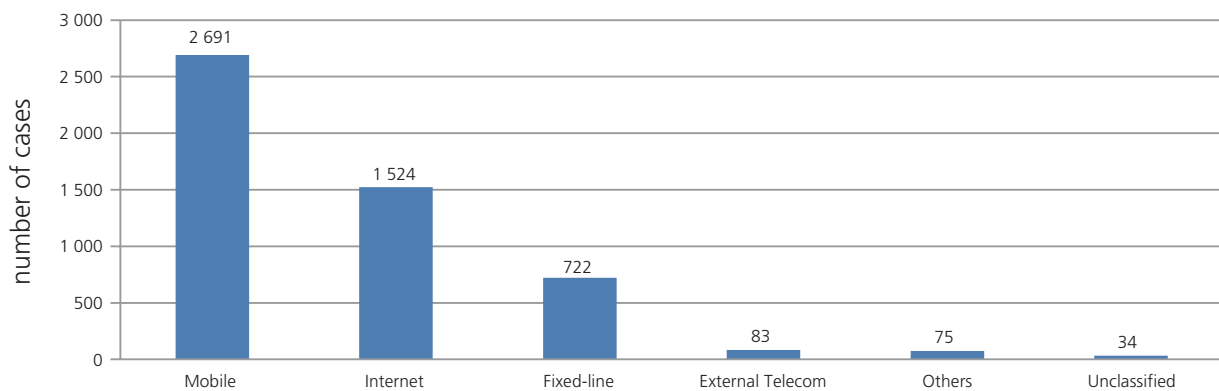
### **6.12 Processing Complaints relating to Telecommunications Services**

As the telecommunications market is fully liberalised and highly competitive, the Authority has adopted a light-handed regulatory approach. Though the Authority does not have any statutory responsibility for consumer protection, it investigates consumer complaints against telecommunications operators if there is sufficient evidence to establish a prima facie case on possible breaches of any provisions under the TO or licence conditions. For other consumer complaints not involving any breach of telecommunications laws or regulations, it is the responsibility of the telecommunications operators to settle matters with their customers. The Authority will take note of and monitor all consumer complaints received. Appropriate actions would be taken if any abnormal trends in consumer complaint are observed.

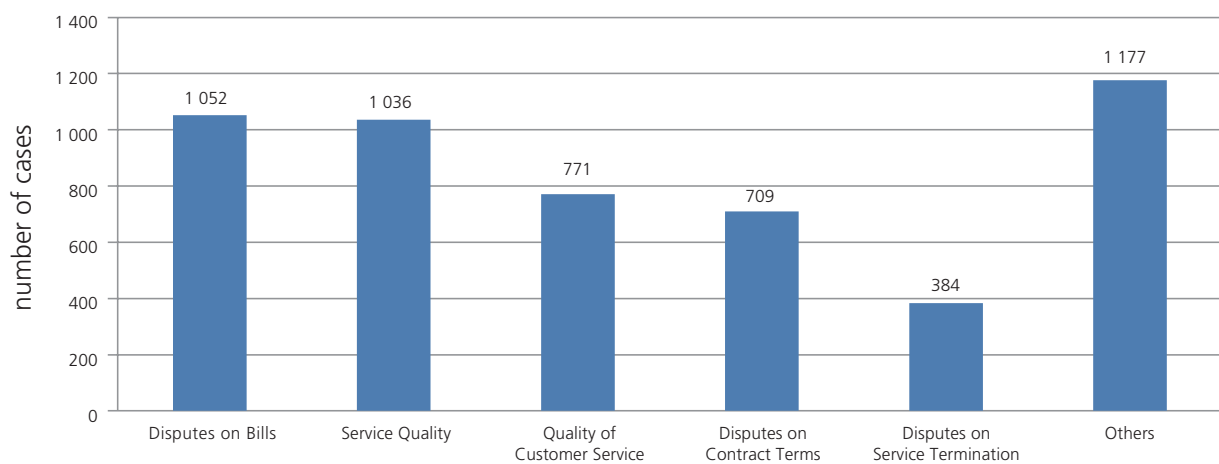
During the year under review, the Authority received a total of 5 129 consumer complaints with regard to telecommunications services. Among them, 2 691 cases (52.5%) were related to mobile services, 1 524 cases (29.7%) were related to Internet services, 722 cases (14.1%) were related to fixed-line services and 192 cases (3.7%) were related to external communications and other services. On the complaint nature, the number of bill disputes complaints ranked the highest among the total number of complaints received (1 052 cases or 20.5%), while complaints about service quality (1 036 cases or 20.2%) and customer service quality (771 cases or 15.0%) ranked second and third respectively.

Breakdown of complaint cases by types of telecommunications services and complaint natures received by the Authority during the period are shown in [Figure 22](#) and [Figure 23](#) respectively.

**Figure 22: Distribution of Complaint Cases by types of Telecommunications Service received by the Authority (April 2012 to March 2013)**



**Figure 23: Distribution of Complaint Cases by Complaint Nature received by the Authority (April 2012 to March 2013)**



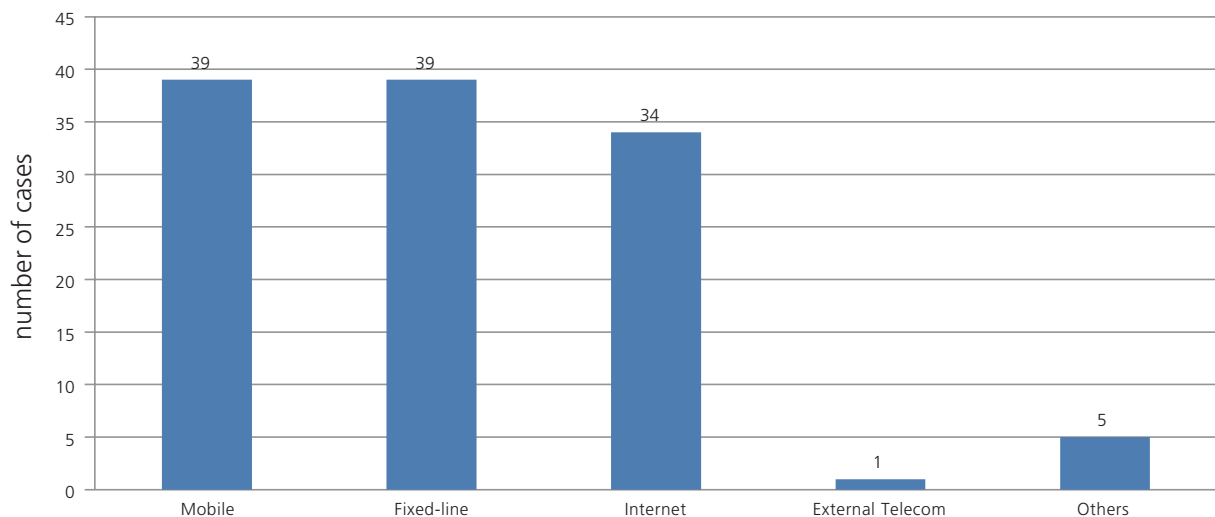


Among the 5 129 complaint cases received, 5 011 cases (97.7%) were found to be outside the Authority's jurisdiction. For the remaining 118 cases (2.3%), they might have breached the TO or licence conditions. The majority of these cases were related to sales conduct, suspected anti-competitive behavior, abuse of market power, and the difficulty of telecommunications operators in accessing buildings to provide services. Regulatory actions

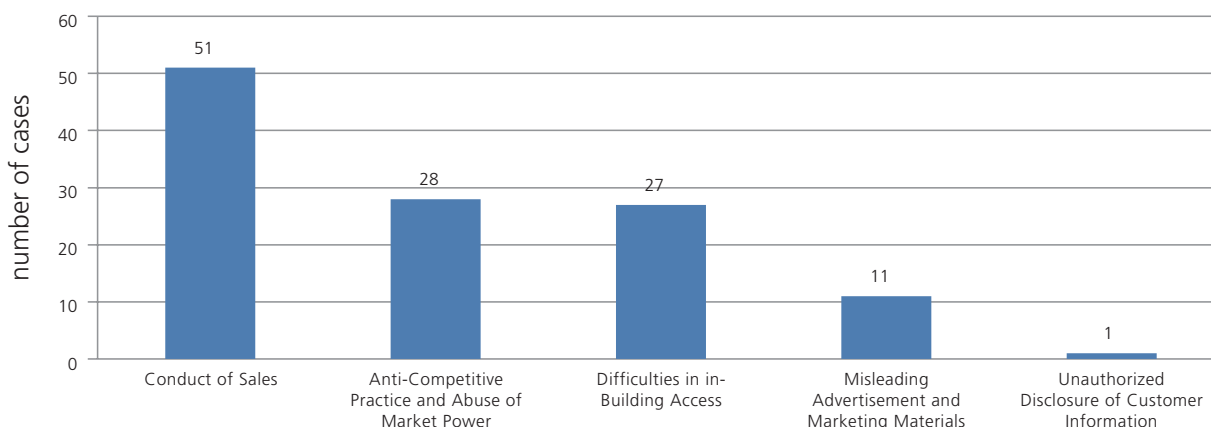
will be taken against the telecommunications operators concerned if the complaints are found to be substantiated after investigations.

Breakdown of complaint cases that might involve possible breach of the TO or licence conditions by types and natures received by the Authority during the year under review are at [Figure 24](#) and [Figure 25](#) respectively.

**Figure 24: Distribution of Complaint Cases by types of Telecommunications Service received by the Authority (April 2012 to March 2013)**



**Figure 25: Distribution of Complaint Cases by Complaint Nature received by the Authority (April 2012 to March 2013)**



In the past few years, the Authority noted some major trends of consumer complaint. They were mainly on telecommunications service contractual disputes, mobile bill shock, chargeable mobile content services and Fair Usage Policy. In collaboration with the telecommunications industry, various measures have already been implemented to address these complaints. These include the issue of voluntary code of practice for telecommunications service contracts, implementation of mobile bill shock preventive measures, the set up of an Administrative Agency by the CAHK to govern the service delivery by mobile content services providers, and the promulgation of a set of mandatory guidelines governing the implementation of Fair Usage Policy. The breakdown of complaint cases received on the complaint trends mentioned above during the year under review is at [Figure 26](#).

**Figure 26: Number of Complaint Cases on Significant Trends in Consumer Complaint received by the Authority (April 2012 to March 2013)**

Significant Trends in Consumer Complaint	No. of Complaint Cases
Contractual disputes	1 093
Mobile bill shock	467
Chargeable mobile content services	39
Fair Usage Policy	35

### **6.13 Sponsoring the Operation of Customer Complaint Settlement Scheme**

In November 2012, OFCA worked with the CAHK to launch the CCSS for a trial period of two years. The CCSS is an alternate dispute resolution scheme which aims at resolving billing disputes in deadlock between telecommunications service providers and their residential/personal customers by means of mediation. All major telecommunications service providers participate in the scheme on a voluntary basis. OFCA sponsors the operation of the CCSS by contributing the necessary funding and has been playing an active role in monitoring the performance and the governance of the scheme, and providing other administrative support. OFCA is also responsible for assessing mediation applications and referring accepted cases to the independent mediation service centre set up under the CAHK for follow-up actions. As of March 2013, OFCA received 236 enquiries for application. Among them, 36 cases were within the scope of the CCSS, of which 27 were satisfactorily settled before submission to the service centre, six cases were satisfactorily settled after OFCA's referral, and the remaining three cases were being processed by the service centre.

### **6.14 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 extends the coverage of the TDO to services, prohibits specified unfair trade practices, and provides for an enhanced enforcement mechanism (collectively known as "fair-trading sections"). The Authority is conferred jurisdiction concurrent with 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 Authority has worked closely with the Commerce and Economic Development Bureau (CEDB) and C&ED on the preparatory work for the implementation of the amended TDO, including the consultation and issue of enforcement guidelines and the signing of a memorandum of understanding with the Commissioner of Customs and Excise to co-ordinate the performance of their functions under the amended TDO.

### **6.15 Preparation for the Implementation of the Competition Ordinance**

The CO was passed by the Legislative Council on 14 June 2012, providing for a cross-sector 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 Authority is conferred jurisdiction concurrent with the new CC 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 follow up with CEDB and the CC and assist the Authority in undertaking the preparatory work required before the commencement of the CO.

## 6.16 Enforcement of the Unsolicited Electronic Messages Ordinance

The UEMO came into full force on 22 December 2007. The UEMO sets out the rules of sending commercial electronic messages (CEMs), including the requirements to provide accurate sender information and honour unsubscribe requests. Under the UEMO, the Authority has established three Do-Not-Call (DNC) registers for free registration by members of the public in respect of their choice not to receive commercial facsimile messages, short messages and/or pre-recorded telephone messages. By the end of March 2013, more than 2.47 million numbers had been registered under these DNC registers.

To facilitate compliance of the law requirements by CEM senders, the Authority issued a consultation paper in March 2013 to consult the public and CEM senders on the proposed revisions of the Code of Practice (CoP) issued under the UEMO for providing practical and updated guidance on the sending of CEMs. The Authority will finalise the revised CoP taking into account all views and comments received and issue the revised CoP in the third quarter of 2013.

The Authority will monitor the compliance with the UEMO by CEM senders and streamline the procedures for more effective enforcement to cope with changes in situations.

## Major Regulatory Actions

### 6.17 Sanctions against Broadcasting Licensees

#### Broadcast Content Complaints

During the period of 1 April 2012 to 31 March 2013, the Authority considered complaints against various broadcast contents and imposed financial penalties ranging from \$50,000 to \$80,000 on seven occasions on the two domestic free television programme service licensees, viz. ATV and TVB, for their respective non-compliance with the relevant provisions in the codes of practice on programme and advertising codes concerning –

- (a) indirect advertising and the exposure or use of the sponsor's product(s) or service(s) within a programme;
- (b) accuracy, impartiality and fairness in factual programmes;
- (c) the rules applying to personal view programmes (PVP) which include (i) facts must be respected and the opinion expressed should not rest upon false evidence; (ii) the provision of a suitable opportunity for response to the programme; & (iii) the need of a sufficiently broad range of views to be expressed in any series of PVPs; and
- (d) clear identification of advertising material and substantiation of the factual claim therein.

Among the seven cases, TVB was imposed a financial penalty of \$60,000 for a case of indirect advertising and contravention of the product/service sponsorship provisions, whereas the other six cases concerning various contraventions were all related to the materials broadcast by ATV.



### Disruptions to/Cessation of DBC's DAB service

Between October 2012 and January 2013, DBC was unable to provide its service in accordance with the licence due to problems of financing. The Authority imposed financial penalties of \$280,000 in total on DBC for the disruptions to/cessation of DBC's service during the period concerned. DBC resumed a full-fledged broadcasting service from January 2013 onwards.

## 6.18 Sanctions against telecommunications licensees

### Misleading or Deceptive Conducts of Telecommunications Operators

During the period of 1 April 2012 to 31 March 2013, five complaint cases under section 7M of the TO, which prohibits misleading or deceptive conduct by telecommunications licensees, were confirmed as infringements of the TO with financial penalties ranging from HK\$50,000 to HK\$300,000 imposed on three telecommunications licensees.

In August 2012, the Authority considered a complaint against SmarTone for breaching section 7M of the TO. The complainant alleged that the representations made in SmarTone's website about the charges for browsing SmarTone iN! WAP pages were misleading or deceptive. Having considered the investigation findings, the Authority was of the view that SmarTone had engaged in misleading or deceptive conduct in breach of section 7M of the TO. The Authority imposed a financial penalty of HK\$100,000 on SmarTone in relation to the breach concerned.

In August 2012, the Authority also considered a complaint against Intelligence Telecom Marketing Limited (ITM) for breaching section 7M of the TO. ITM is a class licensee under section 8(1)(aa) of the TO for the offer of IDD1560 service operated by its associated company, P&P Corporation Limited, a services-based operator licensee. CMHK made a complaint in June 2011 that a number of its customers had received phone calls from salespersons who identified themselves to be "PEOPLES' representatives", "PEOPLES' staff" or "PEOPLES' ex-staff"<sup>25</sup> and who then promoted to these customers the IDD1560 or other IDD services which were not provided by CMHK. CMHK alleged that neither its own staff nor any of its agents had made any such phone calls, and requested OFCA to look into these suspected cases of misleading or deceptive sales conduct. Having considered the investigation findings, the Authority was of the view that ITM had engaged in misleading or deceptive conduct in breach of section 7M of the TO. The Authority imposed a financial penalty of HK\$50,000 on ITM in relation to the breach concerned.

In November 2012, the Authority considered a complaint against Hong Kong Broadband Network Limited (HKBN) for breaching section 7M of the TO. The complainants alleged that the representations made in some of HKBN's advertisements and promotional materials in relation to the transmission speed of its "1000M" broadband service were misleading or deceptive. Having considered the investigation findings, the Authority was of the view that HKBN had engaged in misleading or deceptive conduct in breach of section 7M of the TO. The Authority imposed a financial penalty of HK\$300,000 on HKBN in relation to the breach concerned.

<sup>25</sup> "PEOPLES" used to be brand name used by CMHK to operate its mobile services in Hong Kong.

In November 2012, the Authority considered another complaint against ITM for breaching section 7M of the TO. The complainant alleged that the representations in relation to the call rates for making IDD calls made by the salespersons of ITM in promoting the IDD1560 service were misleading or deceptive. Having considered the investigation findings, the Authority was of the view that ITM had engaged in misleading or deceptive conduct in breach of section 7M of the TO. The Authority imposed a financial penalty of HK\$80,000 on ITM in relation to the breach concerned.

In January 2013, the Authority considered another complaint against HKBN for breaching section 7M of the TO. The complainant alleged that the representations made by HKBN in its advertising campaign on "Exclusive Switching Offer to PCCW Residential Fixed Line Customers at Only HK\$9.9/month" were misleading or deceptive. Having considered the investigation findings, the Authority was of the view that HKBN had engaged in misleading or deceptive conduct in breach of section 7M of the TO. The Authority imposed a financial penalty of HK\$120,000 on HKBN in relation to the breach concerned.

### **Network Outage of SmarTone**

On 9 April 2012, there was an outage of the network of SmarTone Communications Limited and SmarTone Mobile Communications Limited (collectively "SmarTone Limited"), causing disruption to its mobile voice services, mobile internet services, short message services and some data services (including mobile content services, voice mail services and stock quotes services). After considering the assessment of OFCA, the Authority concluded that SmarTone Limited had contravened General Condition 5.1 of its licences which required it to operate, maintain and provide a good, efficient and continuous service in a manner satisfactory to the Authority. Having considered carefully the

circumstances of the case and taken all factors into account, the Authority imposed a financial penalty of \$130,000 on SmarTone Limited.

### **Billing Error of PCCW-HKT Telephone Limited and Hong Kong Telecommunications (HKT) Limited**

The Authority also handled a case regarding the billing error of a licensee during the period. In November 2012, PCCW-HKT Telephone Limited and Hong Kong Telecommunications (HKT) Limited (collectively "HKT") made incorrect charge entries (through the bank) to the credit card accounts of a number of its customers for broadband service and Now TV service. After considering the assessment of OFCA, the Authority concluded that HKT had failed to comply with Special Condition (SC) 9.1 of its licence, requiring it to take all reasonable steps to ensure that the billing system used in connection with the service is accurate and reliable. In addition, HKT had failed to comply with the requirement of paragraph 10 of the Code of Practice in relation to Billing Information and Payment Collection for Telecommunications Services with which HKT had pledged to comply, to take all reasonable, necessary and practical steps to ensure that the information used for collection of payment from customers is authentic and error-free. Having considered the circumstances of the case and taken all factors into account, the Authority concluded that HKT should be strongly advised to observe more closely SC 9.1 of its licence. HKT was also reminded to observe more closely paragraph 10 of the above-mentioned Code of Practice.

### **Illegal Bypass of Local Access Charge by Alcom Hong Kong Limited**

In addition to the above, the Authority also completed the investigation into a case regarding illegal bypass of local access charge. Alcom Hong Kong Limited, a licensee for ETS, was imposed a financial penalty of HK\$65,000 for having committed a breach of SC 7.1 and 8.1 of its licence.

### **6.19 Sanctions against Senders of Commercial Electronic Messages**

From April 2012 to March 2013, the Authority received 2 410 reports on suspected contraventions of the UEMO, representing a drop of around 8% as compared with the figure of the previous year. In dealing with these reports, OFCA would, depending on the situation, issue advisory letters to the first time offenders explaining the law requirements or issue warning letters to the concerned senders. During the period under review, 401 advisory or warning letters were issued. In the event of repeated contraventions by a particular sender, the Authority would issue an enforcement notice pursuant to the UEMO directing the concerned sender to take steps to remedy the offences. Any person who fails to comply with the enforcement notice may be liable to a fine of up to HK\$100,000 on the first conviction. In 2012/13, eight enforcement notices were issued. As the concerned senders ceased their contravention of the UEMO after receiving the enforcement notices, no prosecution was needed.



## Chapter 7: Acknowledgement

The Communications Authority would like to express its appreciation for the cooperation and support given by the following organisations in preparing the Report:

Asia Television Limited

Television Broadcasts Limited

Hong Kong Cable Television Limited

PCCW Media Limited

TVB Network Vision Limited

Starvision Hong Kong Limited

APT Satellite TV Development Limited

Starbucks (HK) Limited

China Entertainment Television Broadcast Limited

Turner International Asia Pacific Limited

Sun Television Cybernetworks Enterprise Limited

GlobeCast Hong Kong Limited

Auspicious Colour Limited

Phoenix Satellite Television Company Limited

Times International Media Group Limited

Asia Times Online Limited



China Satellite TV Group Company Limited

Power Star Limited

Hong Kong TV International Media Group Limited

Health TV Company Limited

One TV Media Global Limited

Hong Kong Commercial Broadcasting Company Limited

Metro Broadcast Corporation Limited

Digital Broadcasting Corporation Hong Kong Limited

Phoenix U Radio Limited

Hong Kong Broadband Network Limited

AdmanGo Limited

Commerce and Economic Development Bureau  
(Communications and Technology Branch)

Office of the Communications Authority

Information Services Department

Radio Television Hong Kong

## Annex 1: Summary of non-domestic television programme services

<b>Licensee</b>	<b>Date of Launch of Service</b>	<b>No. of Channels (no. receivable in HK)</b>	<b>Nature of Channels</b>	<b>Target Markets</b>	<b>Satellite</b>
1. Starvision Hong Kong Limited	4.1991	46 (0)	General entertainment, movie, music, sports & news etc.	Asian region including the Mainland, India & Middle East	AsiaSat 3S AsiaSat 5 Measat 3
2. TVB Network Vision Limited	8.1998	23 (1)	Drama, general entertainment, movie & news etc.	Asian region, Australia & Europe	AsiaSat 3S Intelsat 8
3. APT Satellite TV Development Limited	8.2000	47 (0)	General entertainment, news, movies & sports	Indo-China, Taiwan & Macau	Apstar V Apstar VI
4. Starbucks (HK) Limited	6.2000	1 (1)	Weather, sports, music and finance etc.	Asia-Pacific region	AsiaSat 3S
5. China Entertainment Television Broadcast Limited	3.1995	1 (1)	General entertainment	Mainland, Southeast Asia & Asia-Pacific region	AsiaSat 3S
6. Turner International Asia Pacific Limited	1989	13 (6)	News, finance, movie, children & family programmes	Asia-Pacific region & South Asia	AsiaSat 3S Intelsat 8 Intelsat10 Measat 3
7. Sun Television Cybernetworks Enterprise Limited	8.2000	1 (1)	History & culture-related documentaries	Asia-Pacific region	AsiaSat 3S

<b>Licensee</b>	<b>Date of Launch of Service</b>	<b>No. of Channels (no. receivable in HK)</b>	<b>Nature of Channels</b>	<b>Target Markets</b>	<b>Satellite</b>
8. GlobeCast Hong Kong Limited (formerly Pacific Century Matrix (HK) Limited)	11.2001	31 (15)	General entertainment, sports, finance & news	Asia-Pacific region	AsiaSat 3S MeaSat3
9. Asia Television Limited	1.2005	1 (0)	General entertainment & infotainment	Mainland	Apstar V
10. Auspicious Colour Limited	1.2006	7 (4)	General entertainment, infotainment & music	Asia-Pacific region	Intelsat 8 AsiaSat 5 AsiaSat 3S
11. Phoenix Satellite Television Company Limited	5.2006	4 (3)	General entertainment, news and movie	Asia-Pacific region	AsiaSat 3S
12. Times International Media Group Limited	To be confirmed	N.A.	N.A.	Asia-Pacific region	N.A.
13. Asia Times Online Limited	1.1.2008	7 (7)	News, finance and infotainment	Southeast Asia	NSS 6
14. China Satellite TV Group Company Limited	11.2009	1 (1)	Infotainment	Asia-Pacific region	AsiaSat 3S
15. Power Star Limited	1.6.2010	74 (0)	News, movie, infotainment & children's programmes	Taiwan, Macau and South China	AsiaSat 4

<b>Licensee</b>	<b>Date of Launch of Service</b>	<b>No. of Channels (no. receivable in HK)</b>	<b>Nature of Channels</b>	<b>Target Markets</b>	<b>Satellite</b>
16. Hong Kong TV International Media Group Limited	3.2011	2 (2)	Infotainment	Asia-Pacific region	Apstar VI
17. Health TV Company Limited	2.2013	1 (0)	Health information programmes, documentaries and general entertainment	Asia-Pacific region	Apstar V
18. One TV Media Global Limited	4.2013	N.A.	News, finance, entertainment and sports	Asia-Pacific region	Apstar V



## Annex 2: Breakdown of type and number of telecommunications licences

As at 31 March 2013

Type of Licences	No. of Licences
Academic Institution Self-Provided Telecommunications Installation	2
Aeronautical VHF Fixed Station	33
Aircraft Station	300
Amateur Station	2 612
Broadcast Radio Relay Station & Broadcast Relay Station	15
Experimental Station	95
Fixed Carrier, Fixed Carrier (Restricted) & Fixed Telecommunications Network Services	22
Hotel Television (Transmission)	140
Industrial, Scientific & Medical Electronic Machine	779
Maritime Radio (Local Vessel)	702
Mobile Carrier & Mobile Carrier (Restricted)	2
Mobile Radio System Fixed Station	19
Mobile Radio System Mobile Station	2 337
Private Mobile Radio System	2 153
Private Radio Paging System	17
Public Radiocommunications Service	10
Radio Dealers (Unrestricted)	2 920
Radiocommunications School	7
Radiodetermination and Conveyance of Commands, Status and Data	117
Satellite Master Antenna Television	78
Self-Provided External Telecommunications System	9
Services-Based Operator <sup>Note 1</sup>	540
Ship Station	2 126
Space Station Carrier	11
Taxi Radiocommunications Service	27
Unified Carrier <sup>Note 2</sup>	34
Wide Band Link & Relay Station	66
<b>Total</b>	<b>15 173</b>

Note 1: Include all services-based operator licences of Class 1 service, Class 2 service, Class 3 service and services other than Class 1, Class 2 or Class 3 services.

Note 2: Include all unified carrier licences of mobile services and fixed internal/external services.