



I am pleased to present the second annual report of the Communications Authority (the Authority) covering the period from April 2013 to March 2014. The year under review has been another challenging year for the Authority. In this report, I shall review the efforts made and results achieved by the Authority in carrying out its mission amidst Hong Kong's fast-evolving broadcasting and telecommunications landscape, 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 has reached at least 99% of the population, i.e. on a par with that of analogue television broadcasting, by September 2013. The digital take-up rate was about 80% of all the households as at March 2014. As at end March 2014, there were a total of 11 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.



In October 2013, the Chief Executive in Council (CE in C) approved in principle the applications of Fantastic Television Limited (Fantastic TV) and HK Television Entertainment Company Limited (HKTVE) for domestic free television programme service licences. The Authority has been following up with the two applicants on the licence applications with a view to submitting to the CE in C recommendations on whether new licences should be formally granted to Fantastic TV and HKTVE and the associated licence conditions.

In November 2013, the two domestic free television programme service licensees, Asia Television Limited (ATV) and Television Broadcasts Limited (TVB) submitted applications for renewal of their licences, which are due to expire in November 2015. The Authority has been carrying out a comprehensive assessment of the performance of the two licensees, and conducted an extensive public consultation exercise, including three public hearings and an independent survey, in the first half of 2014 to collect public views. Having regard to the overall assessment of the two licensees and the public views received, the Authority will make recommendations on the licence renewal applications to the CE in C by November 2014.

### **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. While there was a slight increase (0.7% or approximately 17 000 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 7.5% from 372 to 400. At the same time, the total number of HDTV channels offered by the licensees has shown a significant increase (86%) from 35 to 65 within the same period.

In September 2013, PCCW Media Limited (PCCW Media) submitted to the CA an application for renewal of its licence, which is due to expire in September 2015. The Authority has been carrying out a comprehensive assessment of the performance of the licensee, and conducted a public consultation exercise to collect public views. Having regard to the overall assessment of the licensee and the public views received, the Authority will make recommendations on the licence renewal application to the CE in C by September 2014.

### **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 2014, the DAB licensees and Radio Television Hong Kong (RTHK) provided a total of 16 round-the-clock DAB channels, and the number of DAB channels is expected to increase to 18. 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 2014, the number of mobile subscribers rose to 17.1 million, among which over 12.4 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 150 megabits per second (Mbps) using Long Term Evolution (LTE) technology. In March 2014, the monthly mobile data usage further surged to 12 975 Terabytes, representing 1.4 times and 2.6 times the monthly usage over the same period in 2013 and 2012 respectively. The average mobile data usage of each 2.5G/3G/4G mobile user rose to 1 036 Megabytes per month in March 2014, compared with 840 Megabytes in March 2013 and 588 Megabytes in March 2012. 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

Broadband access to various applications and content services has become an integral part of the life of Hong Kong people. As of March 2014, there were around 2.2 million residential and commercial fixed broadband subscribers, with a household penetration rate of 83%. Broadband services are available at speeds up to 1 gigabit per second (Gbps). Over 92% of broadband subscribers are using service plans with speeds at 10 Mbps or above.

## ENHANCED CONSUMER PROTECTION

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

Under the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012, which came into effect on 19 July 2013, the Authority is conferred concurrent jurisdiction with the Customs and Excise Department to enforce the Trade Descriptions Ordinance (TDO) in relation to commercial practices of licensees under the Telecommunications Ordinance (Cap. 106) (TO) and the Broadcasting Ordinance (Cap. 562) (BO) directly connected with the provision of telecommunications and broadcasting services. Between 19 July 2013 and 31 March 2014, in exercising the powers delegated by the Authority, the Office of the Communications Authority (OFCA) received and handled a total of 359 complaints under the TDO. Among these complaints, 160 were closed for there being insufficient evidence to suspect/establish a contravention or falling outside the scope of the TDO, five complaints were closed after advisory letters were issued to the licensees concerned with a view to improving the relevant commercial practices in relation to the supply of telecommunications or broadcasting services to consumers, and the rest were under process at various stages.



## REGULATORY AFFAIRS IN THE TELECOMMUNICATIONS MARKET

### Re-assignment of Frequency Spectrum in the 1.9–2.2 GHz Band

The existing assignments of the frequency spectrum in the 1.9–2.2 GHz band (3G Spectrum) will expire in October 2016. The Authority announced in November 2013 the decision to adopt a hybrid administratively-assigned cum market-based approach to re-assign 2 x 60 MHz of 3G Spectrum. Under the hybrid approach, each of the incumbent 3G mobile network operators will be offered a right of first refusal to be re-assigned two-thirds of the 3G Spectrum. The remaining 3G Spectrum will be re-assigned by way of auction. It is considered that the hybrid approach would best serve the multiple objectives in spectrum re-assignment, viz. ensuring customer service continuity, efficient spectrum utilisation, promote effective competition, and encourage investment and promote innovative services.

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

After a public consultation, the Authority announced in April 2013 that the regulatory guidance on charging principles for narrowband interconnection between fixed carriers, first promulgated in 1995, should be phased out after an 18-month transitional period. With effect from 16 October 2014, charging principles for all types of carrier-to-carrier local interconnection charges will no longer be subject to any regulatory guidance, and are solely determined through commercial negotiations between the carriers.

### Merger and Acquisition

Section 7P of the TO oversees merger and acquisition activities involving carrier licensees from the competition law perspective. In December 2013, HKT Limited, the parent company of Hong Kong Telecommunications (HKT) Limited (HKT), a fixed and mobile carrier licensee, submitted an application to the Authority seeking its prior consent to its proposed acquisition of CSL New World Mobility Limited (CSLNWM), the parent company of CSL Limited (CSL), a mobile carrier licensee, pursuant to section 7P of the TO.

After careful considerations of all available evidence before the Authority, including but not limited to representations received from the public consultation on the proposed transaction, and the economic analysis conducted by the external economic consultant commissioned by the Authority, the Authority formed the opinion that the proposed transaction would have, or be likely to have the effect of substantially lessening competition (SLC) in two relevant telecommunications markets, but considered that remedies were available to eliminate or avoid such effect of SLC. Accordingly, the Authority decided to give consent to the proposed transaction, with conditions imposed that HKT and CSL, as carrier licensees concerned, should take certain necessary actions, including divestment of certain 3G Spectrum, to eliminate or avoid the effect of SLC identified. The Authority's decision was published on 2 May 2014.





## MAJOR TASKS AND CHALLENGES IN THE COMING YEAR

On the broadcasting side, licence renewal applications and applications for grant of licence continue to be major activities in 2014/2015. The Authority will continue to process the licence renewal applications of ATV, TVB and PCCW Media, and take follow-up actions relating to the applications for domestic free television programme service licences by Fantastic TV and HKTVE in a fair and prudent manner. Hong Kong Television Network Limited (HKTV) submitted an application for a domestic free television programme service licence in April 2014. The Authority will handle HKTV's application in accordance with the BO and established procedures. The Authority will also commence the licence renewal exercise in respect of the analogue sound broadcasting service of Hong Kong Commercial Broadcasting Company Limited (CRHK) and Metro, the licences of which will expire in the second half of 2016. It plans to conduct a public consultation exercise to gauge the public's views on the analogue sound broadcasting service concerned with a view to making recommendations to the CE in C in the second quarter of 2015.

On the telecommunications side, we are taking steps to implement the decision on re-assignment of the 3G Spectrum. We will offer the right of first refusal to the incumbent 3G operators in July 2014 for them to be re-assigned in total 2 x 35 MHz of the 3G Spectrum upon expiry of the existing assignments in October 2016, and conduct an auction towards the end of 2014 to re-assign the remaining 3G Spectrum.

There are a number of licence conditions in carrier licences imposing requirements which duplicate with those introduced under cross-sectoral legislation and/or regulation over the past years. The Authority will conduct a joint public consultation with the Secretary for Commerce and Economic Development (SCED) to review these licence conditions and seek views on the way forward.

The two-year trial period of the Customer Complaint Settlement Scheme (CCSS) will end in October 2014. The effectiveness of the CCSS will be reviewed so as to determine the way forward of the scheme.

The Authority is conferred concurrent jurisdiction with the Competition Commission (CC) to enforce the cross sector competition law, the Competition Ordinance (Cap. 619) (CO), in respect of the conduct of telecommunications and broadcasting licensees. The Authority will continue its close liaison with the CC on the preparatory work required before the full commencement of the CO, including preparation of the guidelines on the enforcement of the CO for public consultation, and preparation of the memorandum of understanding to be signed between the Authority and the CC to coordinate the performance of their functions under the concurrent jurisdiction arrangement.