

Review of the Communications Authority's Major Tasks



Broadcasting

6.1 Review of Television and Sound Broadcasting Regulatory Frameworks by the Government and Implementation of Measures by the Authority to Streamline Administrative Requirements

In 2018/19, the Authority provided support to CEDB in the latter's review of the television and sound broadcasting regulatory frameworks with the aim of modernising the regulatory frameworks in response to market needs and technological advancement. Upon completion of the review, CEDB proposed to relax cross-media ownership restrictions in relation to free TV, pay TV and sound broadcasting licences; and foreign control restrictions in relation to free TV licences. CEDB also proposed to remove the requirement that a free TV or sound broadcasting licensee must be a non-subsidiary company. In March 2019, CEDB introduced into the Legislative Council the Broadcasting and Telecommunications Legislation (Amendment) Bill 2019 proposing legislative amendments to give effect to the above relaxation measures. Scrutiny of the Bill by the Bills Committee was completed in May 2019.

Apart from the above legislative amendments pursued by CEDB, the Authority also implemented non-legislative measures as part of the multipronged approach to facilitate the development of the broadcasting industry. In July 2018, the Authority revised codes of practice to relax the regulation of indirect advertising in television programme services and to lift the prohibition on the broadcast of advertisements for undertakers and associated services. Such measures enable the industry to diversify their source of advertising while still safeguarding viewers'

interests. The Authority also streamlined certain administrative requirements, thereby further easing the regulatory burdens on the broadcasting industry. Specifically, the reporting requirements were relaxed in January 2019 by allowing pay TV and sound broadcasting licensees to submit reports on comments/complaints received on a quarterly basis instead of on a monthly basis, and waiving the requirement for free TV licensees to submit the types and schedules of children's programmes. Furthermore, the period for broadcasting licensees to make representations to the Broadcast Complaints Committee under the Authority in response to public complaints has been extended from seven working days to 14 working days with effect from February 2019. The Authority also implemented in March 2019 changes to administrative measures for enforcing foreign control restrictions applicable to free TV licensees by simplifying the prescribed form for a declaration on voting control by shareholders before a general meeting, adjusting the deadlines for submission of a declaration, and disclosing to licensees the approval of applications for acquiring/holding shares by unqualified voting controllers subject to consent of an applicant.

6.2 Non-domestic and Other Licensable TV Licences

During the period under review, the Authority rejected an application for a new non-domestic TV licence, and approved the applications for renewal of the following other licensable TV licences for the provision of television programme services in hotel rooms in Hong Kong.

- Movielink (Hong Kong) Limited
- The Peninsula Hotel Limited
- Ricobem Limited



- Langham Hotels International Limited
- Kowloon Panda Hotel Limited
- Gala Hotels Limited
- Shangri-La Hotel (Kowloon) Limited
- Bauhinia Hotels Limited
- Sheraton International (Hong Kong) Limited

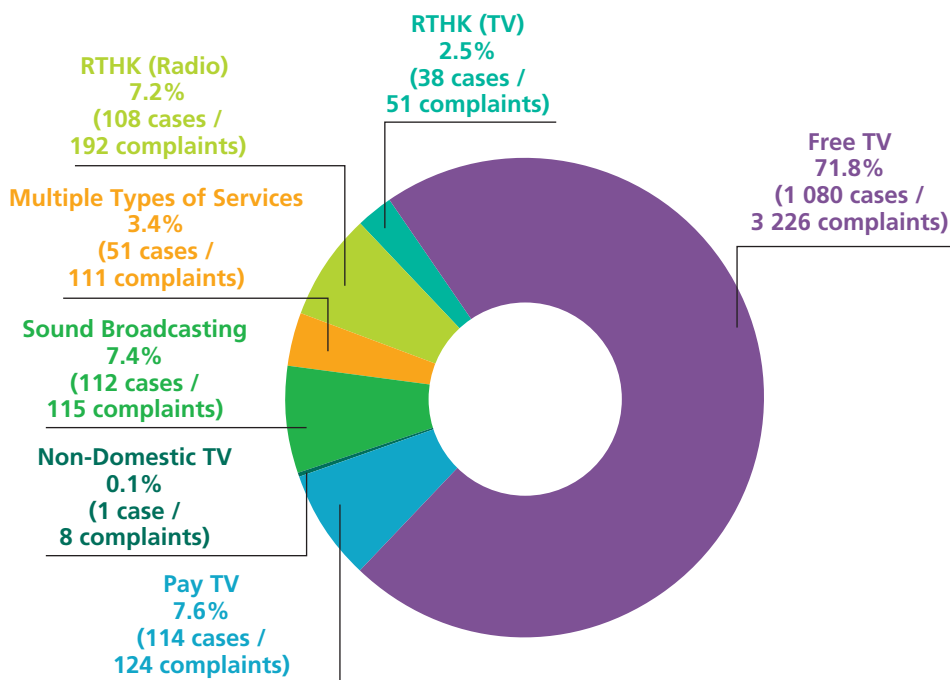
The Authority also accepted the surrender of a non-domestic TV licence by GLOBECAST HONG KONG LIMITED (Globecast) based on its own commercial decision²⁷.

6.3 Processing Complaints Relating to Broadcasting Services

Overview of the Complaints Processed

During the period from April 2018 to March 2019, the Authority processed a total of 1 504 cases (3 827 complaints)²⁸ relating to the materials broadcast by broadcasters, representing a reduction of 19% in the number of cases and a reduction of 12% in the number of complaints processed, as compared with the figures recorded during the same period in the previous year (1 866 cases, 4 342 complaints). Breakdown of all the complaint cases by broadcasting service and broadcaster processed during the period is shown in **Figure 15** and **Figure 16** respectively.

Figure 15: Distribution of All Complaint Cases by Broadcasting Service Processed in 2018/19



²⁷ In March 2019, the Authority approved the application of Globecast to terminate its non-domestic TV licence with effect from 5 May 2019.

²⁸ To ensure operational efficiency, complaints with similar allegations against the same issue or broadcast material are handled together and counted as a single case.

**Figure 16: Distribution of All Complaint Cases by Broadcaster Processed in 2018/19**

Broadcasters Involved	No. of Complaint Cases	No. of Complaints Involved
TVB	975	3 106
HKTVE	73	83
Fantastic TV	29	29
HKCTV	69	72
PCCW Media	44	50
CRHK	103	106
Metro	9	9
RTHK (TV)	38	51
RTHK (Radio)	108	192
Globecast	1	8
Multiple Broadcasters	55	121
Total	1 504	3 827

Among all the complaint cases processed by the Authority, DG Com handled 1 487 cases (3 404 complaints) under the powers delegated by the Authority. These complaints involved breaches of a minor nature, or contained allegations which did not constitute any breach or were outside the remit of section 11(1) of the

B(MP)O (i.e. the allegations concerned matters not regulated under the relevant legislation, licence conditions or codes of practice). The Authority dealt with 17 cases (423 complaints). Outcomes of all the complaints processed by the Authority during this period are listed in **Figure 17**.

Figure 17: 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			
	The Authority	DG Com	The Authority	DG Com	DG Com	
No. of Cases	12	139	5	1 030	318	1 504
No. of Complaints	153	255	270	2 777	372	3 827



Complaints Dealt with by the Authority

Among the 17 complaint cases dealt with by the Authority, 12 concerned free TV services (involving 331 complaints, which accounted

for 78.3% of the total number of complaints dealt with by the Authority). A breakdown of these complaint cases by broadcasting service is shown in **Figure 18**.

Figure 18: Breakdown of Complaint Cases Dealt With by the Authority by Broadcasting Service

Types of Broadcasting Service	No. of Complaint Cases	No. of Complaints Involved
Free TV	12	331
Pay TV	1	2
Non-domestic TV	1	8
RTHK (TV)	1	1
RTHK (Radio)	1	79
Multiple Types of Broadcasting Service	1	2

Regarding the nature of the broadcast materials involved in the 17 complaint cases dealt with by the Authority, 14 of them were related to programmes while three were on advertisements. 12 of them were substantiated. Among these substantiated cases, five cases were related to indirect advertising; three cases concerned sponsorship of, inaccurate factual contents or breach of election-related guidelines in news programmes; one case concerned programme materials sponsored by a liquor product broadcast during the family viewing hours; one case involved use of language in programme; one case concerned the lack of indication of the source and date of the assessment(s)/

test(s) for substantiating the factual claims in advertisement; and one case involved the licensee's non-compliance with certain requirements in its licence in broadcasting the programmes under complaint and in responding to the Authority's request for information in connection with the complaints.

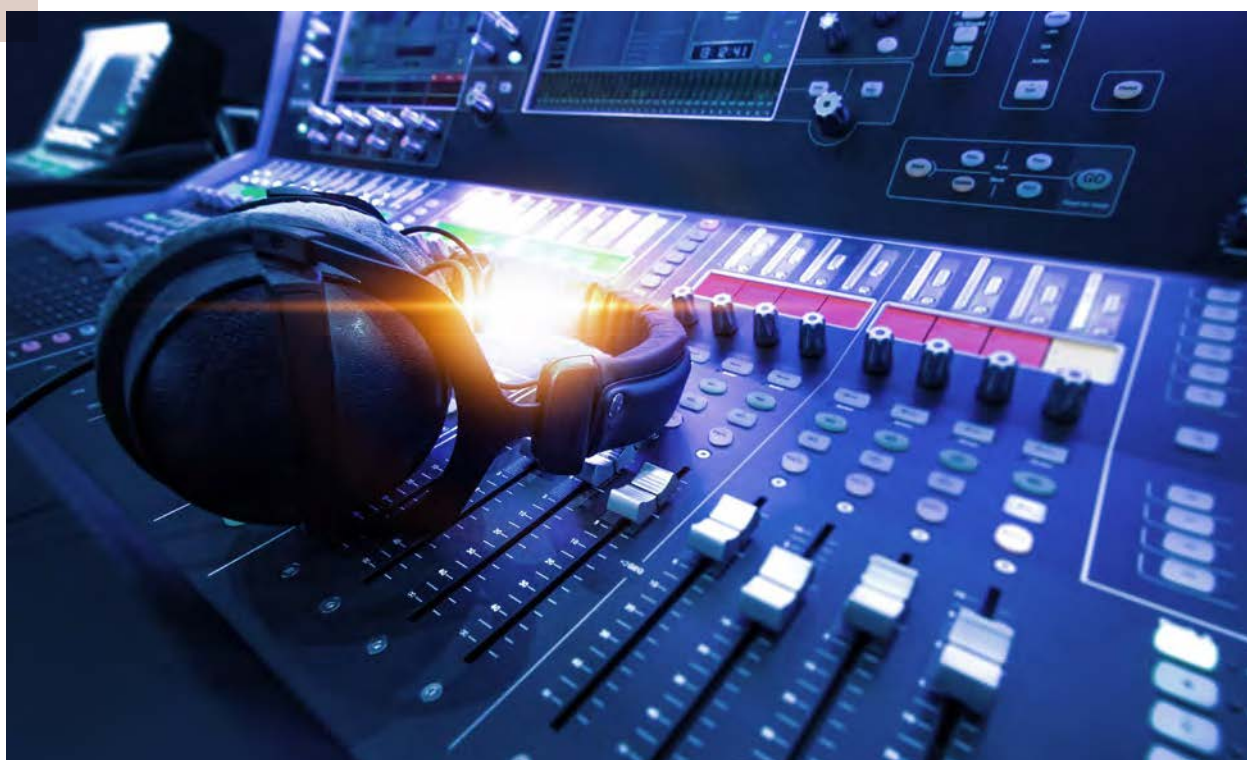
The Authority imposed a financial penalty, and issued one serious warning, three warnings, one piece of strong advice and seven pieces of advice to the broadcasters concerned. A breakdown of the decisions of the Authority on the complaints dealt with in 2018/19 is shown in **Figure 19**.



Figure 19: Decision of the Authority on Complaint Cases in 2018/19

Decision of the Authority	TVB	Fantastic TV	PCCW Media	RTHK	Globecast	Total
No Further Action	4	1	0	0	0	5
Advice	2	1	2	2	0	7 ^{Note}
Strong Advice	1	0	0	0	0	1
Warning	2	0	0	0	1	3
Serious Warning	1	0	0	0	0	1
Financial Penalty	1	0	0	0	0	1
Total	11	2	2	2	1	18 ^{Note}

Note: As one substantiated complaint case involved two licensees (viz. Fantastic TV and PCCW Media), a piece of advice was issued to each of them.



Telecommunications

6.4 Making Additional Spectrum Available for 5G Services

Making 5G Spectrum Available in Multiple Frequency Bands

Following the supply of 5G spectrum as elaborated in the ensuing paragraphs and the gradual availability of commercial 5G equipment and consumer products, commercial 5G services are expected to be launched in Hong Kong in 2020. 5G services will revolutionise mobile user experience as empowered by its excellent technical capabilities for high speed, high capacity, high reliability, massive connectivity, and low latency communications. It is widely expected that 5G will open up vast potential for various commercial and smart city applications.

Between May and September 2018, the Authority conducted three separate joint

public consultations with SCED in relation to frequency allocation, assignment arrangements and the related SUF for the respective spectrum in the 3.5 GHz band, 26 GHz and 28 GHz bands, 3.3 GHz and 4.9 GHz bands. Having thoroughly considered the views and comments received in the public consultations, the Authority and SCED promulgated three joint statements on 13 December 2018 to announce their respective decisions on the frequency allocation and assignment arrangements for the spectrum in these frequency bands, as well as the related SUF.

In gist, an additional total amount of about 4 500 MHz of spectrum in multiple frequency bands has been made available for the provision of 5G services. Regarding the assignment methods, the Authority has decided to release 4 100 MHz of spectrum in the 26 GHz and 28 GHz bands through an administrative means whereas 380 MHz of spectrum in the 3.3 GHz, 3.5 GHz and 4.9 GHz bands by way of auctions.





Re-allocation of the 3.5 GHz Band

At present, the 3.5 GHz band is being used for fixed satellite services. The Authority has decided to re-allocate the band to mobile services from April 2020. As set out in the Authority's statement issued on 28 March 2018, to enable the co-existence of the existing satellite stations and future mobile stations operating in the same and adjacent bands, relevant mitigating measures should be adopted before the re-allocation.

Among others, restriction zones will have to be set up around the existing satellite earth stations for telemetry, tracking and control of the licensed satellites in orbit (TT&C stations). To address the concerns raised by the mobile

industry on the restriction zones, a working group was established in June 2018 to study technical arrangements for the deployment of radio base stations operating in the 3.5 GHz band within the restriction zones. The working group comprised relevant stakeholders including representatives of MNOs, operators of the TT&C stations, Hong Kong Science and Technology Park, and Hong Kong Applied Science and Technology Research Institute. The working group explored different mitigating measures and conducted field trials to verify the feasibility of such measures to allow controlled co-existence of the TT&C stations and radio base stations inside the restriction zones. The Authority endorsed the working group's report with recommended guidelines on the implementation of mitigating measures in June 2019.



Assignment of the Spectrum in 26 GHz and 28 GHz Bands

Among the 4 100 MHz of spectrum in the 26 GHz and 28 GHz bands, 3 700 MHz of spectrum has been set aside as non-shared spectrum for the provision of large scale public mobile services. The Authority invited applications for administrative spectrum assignment in the two bands in December 2018, and a total of three applications from incumbent MNOs were received. In March 2019, the Authority decided to offer the assignment of 400 MHz of spectrum to each of the three applicants as per their applications. A UCL was granted to each of them in April 2019 to effect the assignment of spectrum for the provision of large scale 5G services.

The remaining 400 MHz of spectrum in the 26 GHz and 28 GHz bands is set aside for assignment in the second half of 2019 on a geographically shared basis for providing localised wireless broadband services in specified locations such as the airport, university campuses, industrial estates and technology parks, etc. Such a sharing arrangement will facilitate the development of innovative 5G and smart city applications.

Spectrum in 600 MHz and 700 MHz Bands

The Authority plans to make available a total of 160 MHz of spectrum in the 600 MHz (617 – 698 MHz) and 700 MHz (703 – 803 MHz) bands after the switch-off of analogue television services on 30 November 2020 for the provision of indoor public mobile services, including 20 MHz of spectrum in the 700 MHz band for outdoor use. More spectrum in the 700 MHz band may be allocated for outdoor use by 5G services subject to completion of frequency coordination with the Mainland authorities.

New Frequency Bands for 5G Services

The Authority will continue its efforts in identifying more spectrum to support the development of 5G services in Hong Kong. In particular, the Authority will keep in view the outcome of the World Radiocommunication Conference to be convened in end 2019 on, among others, identification of frequency bands between 24.25 GHz and 86 GHz for 5G services. Subject to market demand, the Authority will consider making available the newly identified spectrum to the industry.



6.5 Facilitating the Rollout of 5G Services

Facilitating the Industry to Conduct Trials for 5G Technologies and Applications

To prepare for the launch of 5G services, as of 31 March 2019, the Authority had issued a total of 25 trial permits to MNOs and equipment vendors with temporary spectrum assignments free-of-charge for test purposes. The Authority welcomes applications from any interested parties for conducting further 5G trials.

Facilitating the Rollout of 5G Networks

For deployment of 5G services in Hong Kong, MNOs will need to establish a larger number of radio base stations as compared with previous generations of mobile services. To facilitate the expedient and effective rollout of 5G networks, the Authority supported the Government for launching a pilot scheme in March 2019 to open up more than 1 000 suitable government premises for MNOs to install radio base stations with a streamlined approval process. OFCA has set up a dedicated team to coordinate with MNOs and relevant government departments on the matters concerned, and issued the "Guidance Notes for Submission of Applications under the Pilot Scheme for Installation of Radio Base Stations at Selected Government Venues" to set out the principles, requirements and streamlined procedures in respect of the applications under the scheme. The scheme has been well received by the industry.



OFCA has also been working closely with the industry to identify suitable street level furniture and facilities for the installation of radio base stations, such as at public payphone kiosks, bus passenger shelters, etc., and is coordinating with relevant government departments to facilitate the conduct of technical trials, formulation of relevant procedures and sorting out of approval requirements for use of these street level furniture and facilities to install radio base stations.

6.6 Re-assignment of Frequency Spectrum in the 900 MHz and 1 800 MHz Bands

In December 2017, the Authority announced its decision to adopt a hybrid administratively-assigned and market-based approach to re-assign 50 MHz of spectrum in the 900 MHz band and 150 MHz of spectrum in the 1 800 MHz band upon expiry of the existing assignments in January and September 2021 respectively. Pursuant to the hybrid approach, 80 MHz of spectrum in the 1 800 MHz band was administratively re-assigned to the four incumbent spectrum assignees through the exercise of their rights of first refusal in September 2018, whilst the remaining 120 MHz of spectrum in the 900 MHz and 1 800 MHz bands were put to auction in December 2018. The SUF of the 80 MHz of administratively re-assigned spectrum and the 120 MHz of auctioned spectrum were \$4.32 billion and \$6 billion respectively. In sum, the spectrum assignees are required to pay a total SUF of \$10.32 billion for the new 15-year term of assignments. OFCA will coordinate with all incumbent and new spectrum assignees to ensure a seamless transition when some of the spectrum is changed hands in 2021.

6.7 Facilitating Development of Wireless Internet of Things Services

Upon creation of a new licensing framework for the provision of WIoT platforms and services using the shared frequency band of 920 – 925 MHz by the Authority in December 2017, three WIoT licences were issued as at March 2019. Meanwhile, the existing MNOs may also provide WIoT services by adopting mobile technology such as Narrowband Internet of Things with the use of their frequency spectrum assigned under the UCL. With the introduction of a new WIoT device fee under UCL from 31 January 2019, any WIoT devices operated under UCL are subject to a fee level of \$2 for each WIoT device, which is set at the same level

as the fee under WIoT licence. The Authority will continue to facilitate the development and competitive supply of WIoT services in Hong Kong.

6.8 Review of the Telecommunications Regulatory Framework by the Government

In 2018/19, CEDB commenced a review of the telecommunications regulatory framework under the TO with a view to embracing the arrival of 5G and IoT technologies and facilitating the trade. The Authority will continue to provide necessary support to CEDB in its review on and any future legislative amendments to the TO having regard to





stakeholders' views received in the exercise. In parallel, the Authority will introduce some streamlined administrative measures with the aim of further facilitating the operation of the industry.

6.9 Review of the Class Licence Framework for Offer of Telecommunications Services

The Class Licence for Offer of Telecommunications Services (CLOTS) created by the Authority pursuant to section 8(1)(aa) of the TO authorises persons meeting the criteria or conditions set out therein to offer any telecommunications services to the general public without establishment, operation or maintenance of any means of telecommunications. In view of the emergence of new technologies and the adoption of new business models and commercial practices by market players, the Authority conducted a public consultation in January 2019 to solicit views and comments from the public on its proposals to update the relevant conditions of CLOTS, including the introduction of a registration requirement for CLOTS licensees serving a large customer base. Taking into account the views and comments received therein, the Authority issued a statement on 26 April 2019 to promulgate its decision to vary the conditions in CLOTS with a view to enhancing regulatory oversight and consumer protection.

The revised CLOTS has taken effect from 26 October 2019. To allow existing CLOTS licensees sufficient time to make necessary adjustments to their business systems and procedures for compliance with the new registration requirement, a further three-month grace period is allowed.

6.10 Implementation of Measures to More Efficiently Utilise the 8-digit Numbering Plan

To ensure that adequate number resources would be made available to cope with the development of 5G mobile technologies in the coming years, the Authority, after public consultation, announced on 24 June 2016 its decision to adopt measures for implementation in three phases. Phases 1 and 2 were successfully implemented on 1 January and 1 July 2017 respectively. The Authority commenced allocating mobile numbers with new prefixes '4', '7' and '8' to mobile service providers from July 2017. As of 31 March 2019, a total of 270 000 mobile numbers with the abovementioned new prefixes have been allocated to operators for their assignment to the end customers. With the implementation of the measures in three phases, a total of additional 15.72 million numbers will become available for allocation to mobile services. It is expected that the additional numbers will be able to cope with the demand from mobile services in the foreseeable future.

6.11 Reduction of Telecommunications Licence Fees

On 8 June 2018, the Authority and SCED conducted a joint public consultation on proposals to reduce the licence fees payable by holders of five types of licences issued under the TO and to introduce a new fee component for WIoT under UCLs to facilitate the development of WIoT services. Having carefully considered the views and comments received during the consultation exercise, the Authority and SCED jointly promulgated their decisions in October 2018 to proceed with the fees reduction proposals and introduction of the WIoT fee component under UCLs. Upon the commencement of the Telecommunications



(Carrier Licences) (Amendment) Regulation 2018 on 31 January 2019, the customer connection fee under UCLs has been reduced from \$700 to \$500 for each 100 customer connections; and the new fee component under UCLs at \$200 for each 100 WIoT devices has been introduced. In line with the reduction of the customer connection fee under UCLs, mobile station fee of PRS licences for public radio paging services and SBO licences (Class 3) (MVNOs) has been reduced from \$700 to \$500 for each set of 100 mobile stations. For mobile radio system mobile station licences and private mobile radio system licences, the licence fee for each mobile station is reduced from \$270 to \$220.

6.12 Review of the Number of Public Payphones under the Universal Service Obligation (USO)

Public payphone is a basic telephone service which the universal service provider (USP) is required under its USO to provide. The cost of providing a public payphone service subject to the USO is shared by the fixed and mobile services operators. In view of the diminishing demand for public payphone service in recent years, the Authority announced on 29 June 2017 to embark on a review to determine the reasonable number of public payphones that should be subject to the USO.

Regarding in-building type public payphones, consultations with owners/managers of the sites were completed in February 2018. Based on the feedback received, the Authority decided to exclude about 35% (515) of the in-building type public payphones from the USO. As for kiosk type public payphones, consultations with all 18 District Councils were completed in March 2019. Based on the feedback received, the Authority decided to exclude about 50% (765) of the kiosk type public payphones from the USO.



The USP of the public payphones may continue to operate the public payphones that are excluded from the USO at its own cost. For in-building type public payphones, the USP has decided to remove all the excluded payphones from the sites concerned. For kiosk type public payphones, the USP plans to retain a number of excluded payphones at its own cost and remove the rest of the excluded payphones from the districts concerned.

6.13 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. The Authority 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, licence conditions or other relevant legislation which the Authority has jurisdiction to enforce, namely, TDO and CO. For other consumer complaints not involving any breach of the TO, licence conditions or other relevant legislation, it is the responsibility of the telecommunications operators to resolve the matters under complaint with their customers. The Authority would take note of their handling of the consumer complaints received and take necessary actions if any systemic issue is identified.



During the year under review, the Authority received a total of 1 546 consumer complaints relating to telecommunications services, representing a reduction of 21.9% compared to 1 980 complaints in the previous year. Among them, 876 cases (56.7%) were related to mobile services, 388 cases (25.1%) were related to Internet services, 259 cases (16.8%) were related to fixed-line services, 15 cases (1%) were related to external telecommunications and three cases (0.2%) were related to other services. On the nature of

complaints, the Authority received the largest number of complaints relating to customer service quality (444 cases or 28.7%), while complaints about billing disputes (251 cases or 16.2%) and service quality (244 cases or 15.8%) ranked second and third respectively.

Breakdown of complaint cases by types of telecommunications services and nature of complaints received by the Authority during the period are shown in **Figure 20** and **Figure 21** respectively.

Figure 20: Distribution of Complaint Cases by Types of Telecommunications Services Received by the Authority in 2018/19

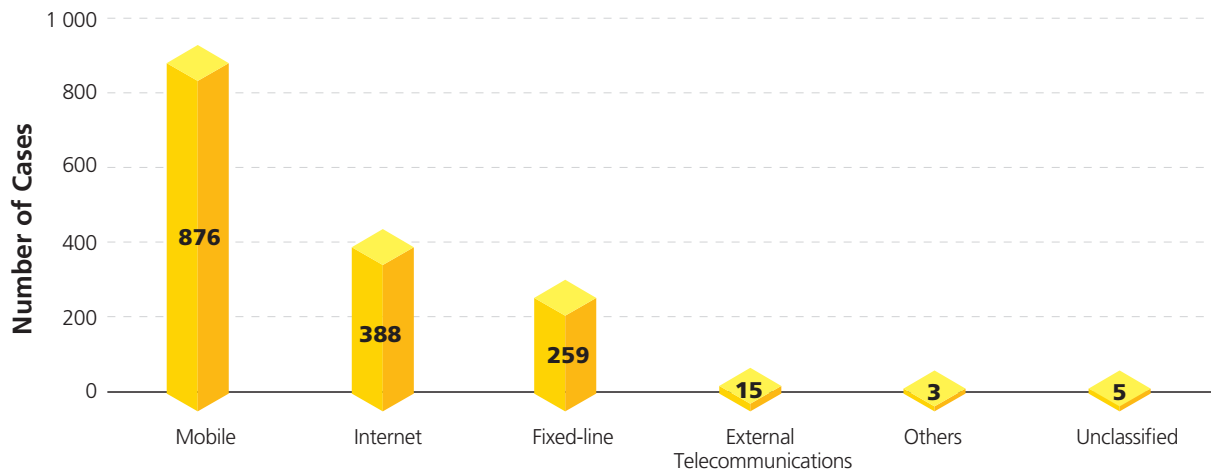
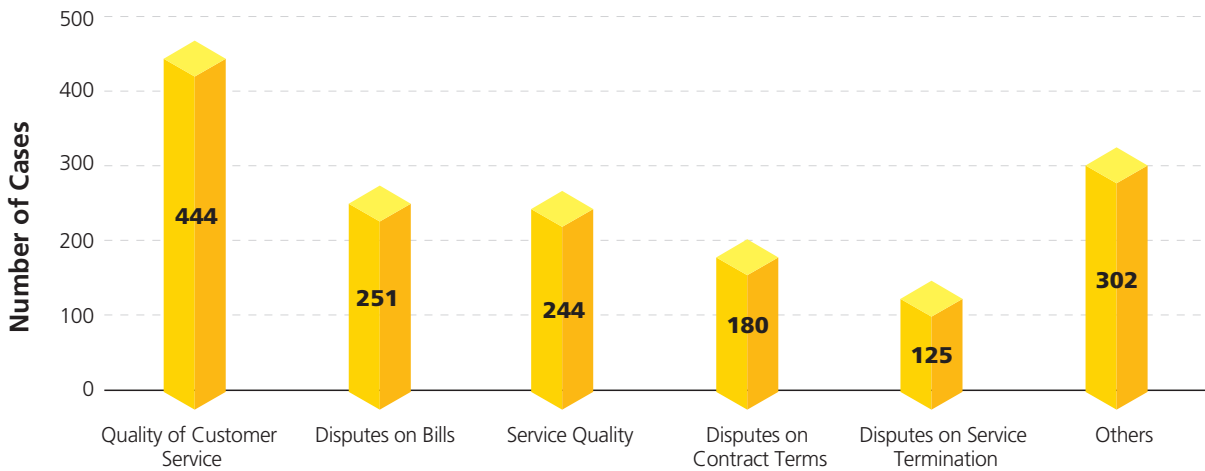


Figure 21: Distribution of Complaint Cases by Nature of Complaints Received by the Authority in 2018/19



Among the 1 546 complaint cases received, 1 542 (99.7%) were outside the Authority’s jurisdiction. For the remaining four cases (0.3%), they involved allegations regarding failure to send international SMS through prepaid mobile SIM, disclosure of personal data to a third party, failure to provide a good and continuous service and exploitative conduct in relation to service bundling. No case was found

to be in breach of TO or licence conditions after investigation.

Breakdown of complaint cases that involved alleged breach of the TO or licence conditions by types of telecommunications services and nature of complaints received by the Authority during the year under review are shown in **Figure 22** and **Figure 23** respectively.

Figure 22: Distribution of Complaint Cases by Types of Telecommunications Services Received by the Authority in 2018/19

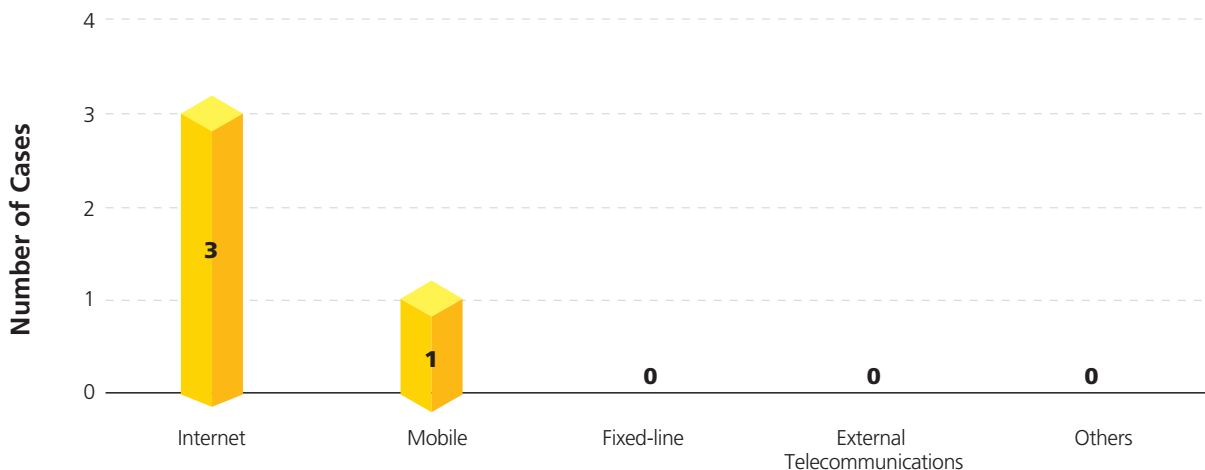
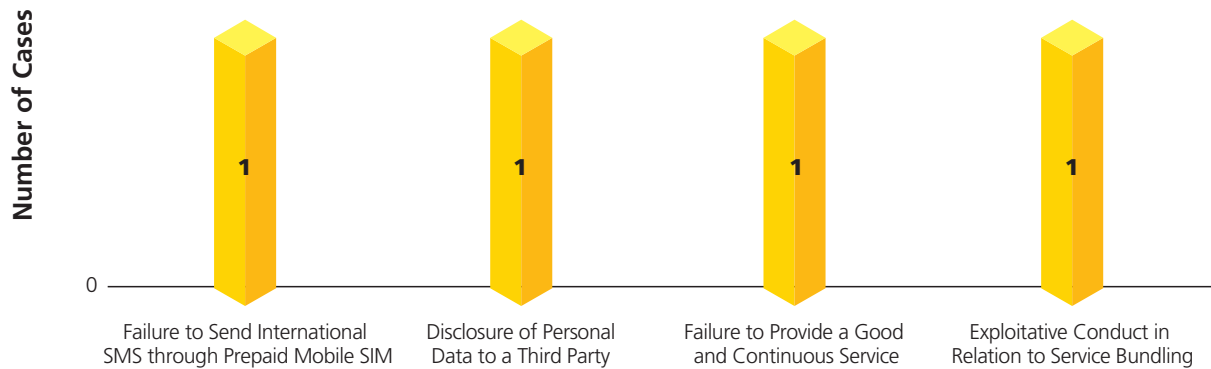




Figure 23: Distribution of Complaint Cases by Nature of Complaints Received by the Authority in 2018/19



In the past few years, the Authority noted that consumer complaints were mainly on telecommunications service contractual disputes, mobile bill shock, chargeable mobile content services and Fair Usage Policy. In collaboration with the telecommunications industry and the Communications Association of Hong Kong (CAHK), various measures have already been implemented to address these complaints. These include issue of an industry code of practice for voluntary compliance by telecommunications licensees on service contracts, implementation of mobile bill

shock preventive measures, promulgation of a set of mandatory guidelines governing the implementation of Fair Usage Policy by telecommunications service providers, issue of a voluntary industry code of practice to govern the service delivery by mobile content services providers, and publication on OFCA's website details of the arrangements adopted by major residential broadband service providers to handle service termination requests from consumers. The number of complaint cases of the types mentioned above received during the year under review is shown in **Figure 24**.



Figure 24: Number of Consumer Complaint Cases Received by the Authority in 2018/19

Types of Consumer Complaint	No. of Complaint Cases
Contractual Disputes	305
Mobile Bill Shock	91
Fair Usage Policy	6
Chargeable Mobile Content Services	4

6.14 Long Term Implementation of Customer Complaint Settlement Scheme (CCSS)

The CCSS is an alternative dispute resolution scheme which aims at resolving billing disputes in deadlock between telecommunications service providers and their residential/personal customers by means of mediation. The mediation service is provided by an independent mediation service centre (CCSS Centre) set up under the CAHK, with voluntary participation of all major telecommunications service providers in Hong Kong. OFCA supports the CCSS by contributing the necessary funding, vetting the CCSS applications against the acceptance criteria, and monitoring the performance and the governance of the scheme.

Between 1 April 2018 and 31 March 2019, there were 54 eligible applications, 33 of which were resolved before referral to the CCSS Centre, 20 were satisfactorily settled upon referral to the CCSS Centre and only one case was not settled after mediation.

6.15 Enforcement of the Fair Trading Sections of the Trade Descriptions Ordinance

The fair trading sections of the TDO prohibit certain specified unfair trade practices by traders in the provision of goods and services to consumers. The Authority is conferred concurrent jurisdiction with the C&ED to enforce the fair trading sections of the TDO in relation to the commercial practices of licensees under the TO and the BO directly connected with the provision of telecommunications and broadcasting services. The two enforcement agencies have entered into a memorandum of understanding (MoU) to co-ordinate the performance of their functions under the fair trading sections of the TDO and have issued a set of enforcement guidelines to provide guidance for traders and consumers as to the operation of the fair trading sections.

From 1 April 2018 to 31 March 2019, the Authority handled a total of 356 complaint cases under the TDO. Of these cases, 303 were closed for there being insufficient evidence to suspect/establish a contravention



or falling outside the scope of the TDO, 13 cases were closed after the issue of advisory letters to the licensees concerned to draw their attention to the need to improve the relevant commercial practices in relation to the sale, supply or promotion of telecommunications or broadcasting services to consumers, and the remaining 40 cases were under processing at various stages.

6.16 Enforcement of the Competition Ordinance

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

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

From 1 April 2018 to 31 March 2019, a total of 42 complaints and/or enquiries were received under the CO, with 39 cases closed without the need for further actions and three cases under processing. During the year, the Authority also reviewed two transactions under the merger rule of the CO. While no further action was considered necessary in respect of one transaction, the Authority identified competition issues in the other transaction concerning the proposed acquisition of WTT Holding Corp. announced by HKBN Ltd. in August 2018. In this case, the merging parties offered commitments to the Authority in January 2019 under section 60 of the CO to address the Authority's competition concerns, in return for the Authority not commencing an investigation or bringing proceedings in the Competition Tribunal in relation to the transaction. Pursuant to the requirements under the CO, the Authority sought representations from the industry and interested parties regarding its proposed acceptance of the merging parties' proposed commitments. Having considered the representations received, the Authority took the view that the proposed commitments would need to be revised to address certain matters raised in the representations. The merging parties then offered a set of revised commitments in March 2019. The Authority announced its decision in April 2019 to accept the revised commitments under section 60 of the CO and not to commence an investigation into the transaction under section 39 of the CO as the revised commitments were considered sufficient to effectively address its competition concerns.



6.17 Enforcement of the Unsolicited Electronic Messages Ordinance

The UEMO sets out the rules about sending CEMs, including the requirements to provide accurate sender information and honour unsubscribe requests. Under the UEMO, the Authority established three Do-Not-Call (DNC) registers to allow members of the public to register their numbers to indicate their choice of not receiving commercial facsimile messages, short messages and/or pre-recorded telephone messages. By the end of March 2019, more than 2.7 million numbers had been registered under these DNC registers.

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

Major Regulatory Actions

6.18 Sanctions against Broadcasting Licensees

Breach of Code of Practice by TVB

In May 2018, the Authority decided to impose a financial penalty of \$300,000 on TVB for its non-compliance with the provisions on indirect advertising prevailing at that time in the broadcast of four programmes collectively. The Authority considered that the exposures of and/or references to a mobile app service, which was provided by a corporate entity separate from TVB, in the programmes under complaint gave undue prominence to the service and constituted mingling of programmes and advertising materials.





Breach of Licence Conditions by a Non-domestic TV Licensee

In January 2019, the Authority decided to impose a financial penalty of \$100,000 on Times International Media Group Limited, a non-domestic TV licensee, for failing to provide service in accordance with its Licensee's Proposal between 1 January 2018 and 15 January 2019; and for failing to provide and maintain adequate standby equipment to avoid or minimise service interruption, which contravened Conditions 10.1 and 26 of its non-domestic TV licence.

6.19 Sanctions against Telecommunications Licensees

Disruptions of the Telecommunications Services of China Unicom (Hong Kong) Operations Limited (China Unicom)

On 27 February and 31 March 2018, there were two incidents of network outage of China Unicom, causing disruptions to its telecommunications services including mobile voice services, short message services and mobile data services. Having considered all the facts and circumstances of the case including OFCA's assessment and China Unicom's representations, the Authority concluded that China Unicom had failed to comply with General Condition 5.1 of its SBO Licence (Licence No. 922), which required it to operate, maintain and provide a good, efficient and continuous service in a manner satisfactory to the Authority. The Authority imposed a financial penalty of \$160,000 on China Unicom.

Breach by SmarTone in Relation to Mobile Number Porting

Between February and March 2018, 11 consumer complaints were received relating to porting of mobile numbers from the original mobile service providers to Birdie Mobile Limited, a reseller of SmarTone's mobile services, without the consent of the consumers concerned. Having considered all the facts and circumstances of the case including OFCA's assessment and SmarTone's representations, the Authority concluded that SmarTone had failed to comply with Special Condition 4.4 of its UCL (Licence No. 018) in relation to the requirements on mobile number porting. The Authority issued a warning to SmarTone.

6.20 Sanctions against Senders of Commercial Electronic Messages

From April 2018 to March 2019, the Authority received 637 reports on suspected contraventions of the UEMO, representing a decrease of about 6% as compared to the 677 reports received in the previous year. In dealing with these reports, the Authority would, depending on the circumstances, issue advisory letters to first time offenders explaining the requirements of the UEMO or issue warning letters to other CEM senders in more serious cases. During the period under review, 97 advisory letters and 24 warning letters were issued. In the event of repeated contraventions by a particular sender, the Authority may issue enforcement notices pursuant to the UEMO directing the sender to take steps to remedy the contraventions. Any persons who fail to comply with an enforcement notice may be liable to a fine of up to \$100,000 on the first conviction. In 2018/19, no enforcement notice was issued.

