

CHAPTER

6

# Review of the Communications Authority's Major Tasks



## BROADCASTING

### 6.1 Mid-term Review of Free TV and Sound Broadcasting Licences

In 2021/22, the Authority embarked on the mid-term review of the free TV licences of HKTVE, TVB and Fantastic TV and the sound broadcasting licences of CRHK and Metro to examine their performance during the first six years of their respective licences, including the licensees' compliance with the statutory requirements, licence conditions and codes of practice as well as their investment commitments in the past six years and the coming six years. To gauge public views, the Authority conducted a public consultation exercise in the second half of 2021, including public opinion survey<sup>29</sup>, online consultation session<sup>30</sup> and focus group discussion<sup>31</sup>. Based on the assessment results of the licensees' performance and the views of the public and the industry, the Authority will make recommendations regarding licence conditions and service requirements for the remaining period of the licences to the CE in C.

### 6.2 Migration of Six Digital Television Programme Channels to New Transmitting Frequencies

On 1 December 2021, six digital television programme channels operating in the 600/700 MHz bands were migrated to the 500 MHz band. These six television programme channels were Jade 81 of TVB, ViuTVsix 96 and ViuTV 99 of HKTVE, and RTHK TV 31, RTHK TV 32 and RTHK TV 33 of RTHK. In the course of preparation for the migration, OFCA launched a series of publicity programmes, including issuing circular letters to building management offices, incorporated owners of buildings and other parties maintaining/operating common antenna broadcast distribution systems; putting up posters and distributing flyers to residents of public and private housing estates; as well as launching TV and radio API in order to enhance public understanding of the migration and the necessary preparatory work. With the concerted effort of the stakeholders, the migration was successfully completed on 1 December 2021. The vacated spectrum in the 600/700 MHz bands has been assigned/reserved for the provision of high value-added mobile telecommunications services, including 5G services.

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29 The opinion survey commissioned by the Authority covered about 1 600 respondents. The objectives of the opinion survey are to identify any changing viewing and listening habits of the public and to gauge public views on the existing regulatory controls imposed on the licensees.

30 For the first time in the Authority's public consultation exercise, an online public consultation session was held on 25 September 2021 to collect views from the public, with 54 members of the public giving their views via online conferencing or by phone. To promote transparency, the session was livecast on a dedicated webpage and RTHK TV 32.

31 A focus group discussion session with members of the Television and Radio Consultative Group was conducted in October 2021 to obtain more in-depth views on the licensees' services.

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### 6.3 Formal Approval for Fantastic TV's Application for Using Spectrum as an Additional Transmission Means

In February 2022, the Authority formally approved Fantastic TV's application to use spectrum, on top of fixed network, for transmission of its free TV service. This approval was given following Fantastic TV had satisfied all the requirements set out in the Authority's approval-in-principle that was issued to Fantastic TV in April 2021.

The Authority noted that assigning spectrum to Fantastic TV for transmission of its free TV service would enable Fantastic TV to increase its service coverage and ultimately provide additional programme choices to more households. Starting from 1 April 2022, the spectrum-based service covered 75% of the Hong Kong population. Fantastic TV will expand its service coverage<sup>32</sup> and target to launch a new television programme channel by 24 November 2022.

### 6.4 Renewal of Other Licensable TV Licences

During the period under review, the Authority approved two applications for renewal of other licensable TV licences for the provision of television programme services in hotel rooms in Hong Kong by Guest Tek Asia Pacific Limited and MVI Systems Limited.

### 6.5 Processing Complaints Relating to Broadcasting Services

#### Overview of the Complaints Processed

During the period from April 2021 to March 2022, the Authority processed a total of 1 552 cases (8 575 complaints)<sup>33</sup> relating to the materials broadcast by broadcasters, representing a reduction of 21% in the number of cases<sup>34</sup> and a reduction of 57% in the number of complaints processed<sup>35</sup>, as compared with the figures during the same period in the previous year (1 964 cases, 19 980 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.

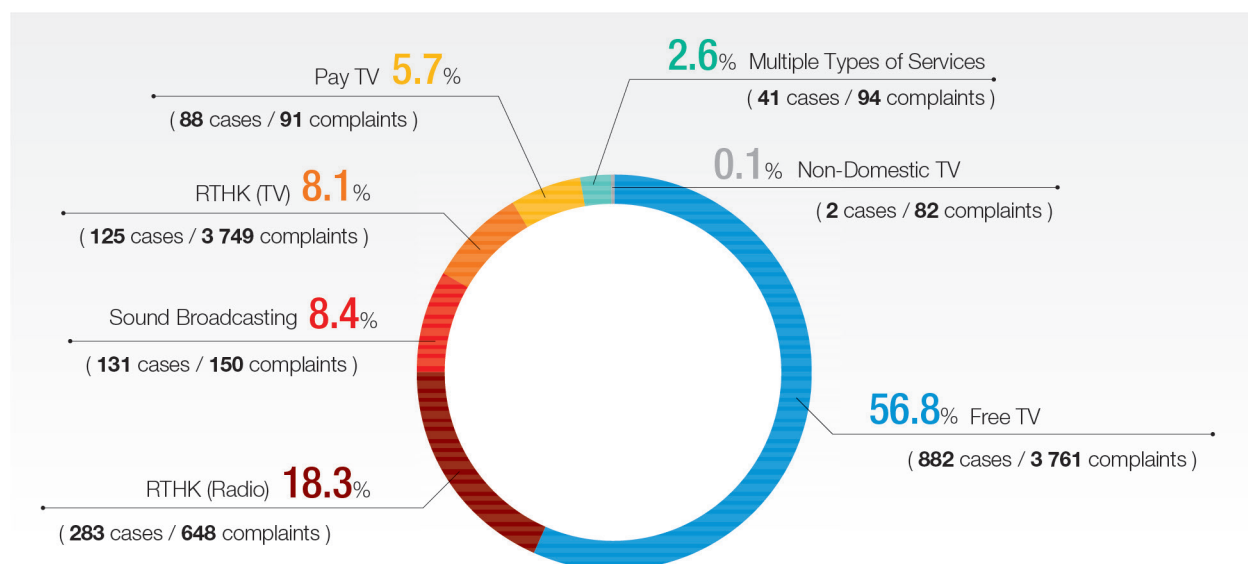
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<sup>32</sup> Please refer to footnote 8.

<sup>33</sup> To ensure operational efficiency, complaints with similar allegations relating to the same issue or broadcast material are handled together and counted as a single case.

<sup>34</sup> The decrease in the number of complaint cases processed in 2021/22 was mainly due to the fact that a substantial number of complaint cases (over 600) concerning social unrest had been processed in 2020/21.

<sup>35</sup> The decrease in the number of complaints processed in 2021/22 was mainly due to the fact that in 2020/21, there were two complaint cases concerning social unrest and three complaint cases concerning programmes broadcast respectively on TVB and RTHK, which gave rise to a substantial number of complaints (over 9 000 complaints in total).

**Figure 15: Distribution of All Complaint Cases by Broadcasting Service Processed in 2021/22****Figure 16: Distribution of All Complaint Cases by Broadcaster Processed in 2021/22**

Broadcasters Involved	No. of Complaint Cases	No. of Complaints Involved
TVB	793	3 478
HKTVE	50	232
Fantastic TV	33	38
HKCTV	62	63
PCCW Media	26	28
CRHK	108	124
Metro	23	26
RTHK (TV)	125	3 749
RTHK (Radio)	283	648
Phoenix Satellite Television Company Limited	2	82
Multiple Broadcasters	47	107
<b>Total</b>	<b>1 552</b>	<b>8 575</b>

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Among all the complaint cases processed by the Authority, DG Com handled 1 543 cases (8 284 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 nine cases (291 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	8	112	1	1 069	362	1 552
No. of Complaints	81	129	210	7 685	470	8 575

### Complaints Dealt with by the Authority

Among the nine complaint cases dealt with by the Authority, two concerned free TV services (involving 72 complaints, which accounted for 24.7% 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	2	72
Sound Broadcasting	3	4
RTHK (TV)	1	210
RTHK (Radio)	2	3
Multiple Types of Services	1	2

Regarding the nature of the broadcast materials involved in the nine complaint cases dealt with by the Authority, eight of them were related to programmes while one was on advertisement. Eight of them were substantiated, among which three cases were related to the use of foul language or objectionable term; one case concerned the failure to indicate the source and date of the relevant assessment or research in the advertisement; one case concerned accuracy in news programme; one case concerned broadcast of advertising material in news programme; one case concerned the failure to schedule the programme with sensitivity, decency and treatment/depiction of sex; and the remaining one was related to denigrating remarks. The Authority issued one warning, three pieces of strong advice and five pieces of advice to the broadcasters concerned. A breakdown of the decisions of the Authority on the complaints dealt with in 2021/22 is shown in **Figure 19**.



**Figure 19: Decision of the Authority on Complaint Cases in 2021/22**

Decision of the Authority	TVB	HKTVE	PCCW MEDIA	CRHK	RTHK	Total
No Further Action	0	0	0	0	1	<b>1</b>
Advice	1	1	1	2	0	<b>5</b> <small>Note 1</small>
Strong Advice	0	1	0	1	1	<b>3</b>
Warning	0	0	0	0	1	<b>1</b>
Serious Warning	0	0	0	0	0	<b>0</b>
Financial Penalty	0	0	0	0	0	<b>0</b>
<b>Total</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>3</b>	<b>3</b>	<b>10</b>

Note 1: There was one substantiated complaint case involving two broadcasters (viz. HKTVE and PCCW Media) and an advice was issued to each of them.



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### TELECOMMUNICATIONS

#### 6.6 Making Spectrum Available in Multiple Frequency Bands for 5G Services

In 2019, the Authority assigned a total of 1 980 MHz of radio spectrum in the 3.3 GHz, 3.5 GHz, 4.9 GHz, and 26 GHz and 28 GHz bands (26/28 GHz bands) in a timely manner for public mobile telecommunications use, including the provision of 5G services. Separately, 400 MHz of shared spectrum in the 26/28 GHz bands was assigned to the Airport Authority for innovative 5G applications in support of smart airport development in October 2019 and would be available for assignment to other parties for use on a sharing basis for the provision of local wireless broadband services. Starting from April 2020, MNOs have launched their commercial 5G services in Hong Kong. As at March 2022, 5G coverage in Hong Kong reached over 90% of the population, and even up to 99% in core business districts, covering major locations in the urban areas and all Mass Transit Railway lines.

##### Making Available Additional 5G Spectrum to Meet the Demand of Operators

In order to meet the growing demands of various 5G applications in terms of speed, capacity and coverage, the Authority released more spectrum in different frequency bands to the market. Following the promulgation of the decisions of the Authority and SCED by way of joint statements on 30 March 2021 on the arrangements for frequency allocation and assignment of additional spectrum for 5G services, and the related SUF, OFCA conducted a spectrum auction in October 2021 and the Authority assigned 80 MHz of spectrum in the 4.9 GHz band in December 2021, and 70 MHz of spectrum in the 700 MHz band in June 2022 according to the auction results.

With the sustained enhancement of 5G services and the growing availability of 5G equipment and consumer products, 5G services are revolutionising mobile users' experience with empowerment by its excellent technical capabilities of high speed, high capacity, high reliability, massive connectivity and low latency communications. 5G technology is widely expected to continue to open up vast potential for various commercial and smart city applications.



## **Amendments of Network and Service Rollout Obligations for Spectrum Assigned in the 26 GHz and 28 GHz Bands**

Three incumbent MNOs were each assigned 400 MHz of spectrum in the 26/28 GHz bands for the provision of large scale public mobile services in April 2019. They were each under a network and service obligation to install and put into use a total of 2 500 radio units in three phases, by April 2022, April 2023 and April 2024 respectively. In April 2021, the three MNOs made a joint request to the Authority on postponement of deadlines to fulfil the network and service rollout milestones by two years, due to the later-than-expected availability of the relevant network equipment and handsets supporting the 26/28 GHz bands. Taking into account the MNOs' submission and OFCA's assessment, the Authority decided in November 2021 to amend the network and service rollout obligations imposed on them by postponing each of the three network and service rollout milestones by two years from 2022–24 to 2024–26. Notwithstanding the postponement of the milestones, the total minimum number of 2 500 radio units required to be installed and put into use remains unchanged.

### **6.7 Facilitating the Rollout of 5G Networks**

For the deployment of 5G services in Hong Kong, MNOs are required to establish a larger number of radio base stations (RBSs) as compared with previous generations of mobile services. To facilitate the expedient and effective rollout of 5G networks, the Authority supported the Government in launching a pilot scheme in March 2019 to open up more than 1 000 suitable government premises for MNOs to install RBSs with a streamlined approval process and at a nominal rent of \$1 per year. 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<sup>36</sup>. In January 2022, OFCA launched the second phase of the Pilot Scheme by further opening up about 500 government premises under a “demand-led” model for MNOs.

OFCA has also been working closely with the industry to identify suitable street level furniture and public facilities for the installation of RBSs, such as public payphone kiosks, sheltered bus stops, smart lampposts, etc. In respect of public payphone kiosks and sheltered bus stops, the Authority issued the “Guidelines on the Use of Public Payphone Kiosks for the Installation of Radio Base Stations for Provision of Public Mobile Services” and the “Guidelines on the Use of Sheltered Bus Stops for the Installation of Radio Base Stations for Provision of Public Mobile Services” in April and November 2020 respectively. OFCA will continue to work with the industry and the relevant government departments in identifying other suitable street furniture and public facilities for installation of RBSs.

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<sup>36</sup> As at October 2022, 179 applications had been received under the scheme, of which 107 were approved.



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### 6.8 Conduct of a Technical Study on Non-Ionising Radiation Safety of Radio Base Stations

The Authority acting through OFCA commissioned a consultancy study on non-ionising radiation (NIR) safety of RBSs, including 5G RBSs. The study examined technical matters in relation to NIR, in particular those for 5G RBSs employing new technology like massive multiple-input-multiple-output antennas, reviewed the methodology for assessment of NIR for different RBS deployment scenarios and the existing regulatory measures, and made recommendations on practical measures to control the radiation safety of various types of RBSs so as to facilitate the on-going development of public mobile services. The study was commenced in April 2021 and completed in June 2022.

### 6.9 Facilitating Development of WIoT Services and Localised Wireless Broadband Services/Systems

Since the creation of a new licensing regime in December 2017 for the provision of WIoT platforms and services using the shared frequency band of 920 – 925 MHz by the Authority, three WIoT licences were issued as at March 2022. Meanwhile, the existing MNOs may also make use of the frequency spectrum assigned to them under their UCLs to provide WIoT services by adopting mobile technologies such as Narrowband Internet of Things and 5G technologies that enable massive IoT connections. The Authority will continue to facilitate the development and competitive supply of WIoT services in Hong Kong.

The 5G technologies support the development of new telecommunications infrastructure to cater for a wide variety of innovative services and applications. The Authority created a new Localised Wireless Broadband Service Licence (LWBS Licence) in July 2019 to enable the use of 400 MHz of spectrum in the frequency range of 27.95 – 28.35 GHz on a geographically shared basis (Shared Spectrum) for the provision of innovative wireless broadband services. The Authority issued the first LWBS Licence to the Airport Authority in October 2019 for implementation of smart airport initiatives.

In order to facilitate the use of the Shared Spectrum for the establishment of 5G systems for private use by different entities in the community, the Authority created the Localised Wireless Broadband System (Private) Licence (LWBS (Private) Licence) in December 2021. The LWBS (Private) Licence is subject to a more light-handed regulation and lower level of licence fee compared with LWBS Licence, given that its scope of operation is limited to private use and is of a smaller scale.

OFCA will process any new applications for LWBS Licence and LWBS (Private) Licence with a view to facilitating the development of innovative 5G and smart city applications at different locations, such as university campuses, industrial estates and technology parks.

## **6.10      Re-assignment of Frequency Spectrum in the 850 MHz, 1800 MHz and 2.5/2.6 GHz Bands**

On 30 September 2021, a new 15-year term of assignment commenced for 150 MHz of spectrum in the 1 800 MHz band upon expiry of the previous term. As some of the frequency assignments in the 1 800 MHz band changed hands upon commencement of the new 15-year term of assignments, OFCA had coordinated with the MNOs to ensure a smooth change-over of the spectrum in September 2021.

The current assignment of 90 MHz of spectrum in the 2.5/2.6 GHz band will expire in March 2024. Separately, 15 MHz of spectrum in the 850 MHz band, with the previous assignment originally due to expire in November 2023, was returned by the spectrum assignee in June 2021 upon approval granted by the Authority. Following the issue of the joint statements by the Authority and SCED on 30 March 2021 announcing the arrangements for re-assignment of the spectrum in the 850 MHz and 2.5/2.6 GHz bands and the related SUF upon expiry of the existing assignments, OFCA assisted the Authority in implementing the decisions to re-assign a total amount of 105 MHz of spectrum in the 850 MHz and 2.5/2.6 GHz bands, together with 150 MHz of new spectrum in the 700 MHz and 4.9 GHz bands as mentioned earlier, by way of a single auction held and concluded in October 2021. Pursuant to the auction results, the Authority re-assigned 15 MHz of spectrum in the 850 MHz band in December 2021, and will re-assign 90 MHz of spectrum in the 2.5/2.6 GHz band upon the expiry of the existing assignments in March 2024.

## **6.11      Consent Granted to Hutchison Telephone Company Limited to Phase Out 2G Services**

OFCA received an application from Hutchison to seek the Authority's approval to cease its provision of 2G services in September 2021. Under the relevant licence condition, MNOs are required to make proper and appropriate arrangements for the affected customers to the satisfaction of the Authority before ceasing to provide a generation of mobile service. The Authority granted consent in July 2021 to Hutchison to cease the provision of all its 2G services starting from 30 September 2021, having taken into account relevant considerations including the extremely low percentage of customers to be affected by the 2G service cessation; incentive offers provided by Hutchison to the affected customers to migrate to higher generations of mobile services; favourable termination arrangements for those who chose not to continue the subscription, as well as sufficient time of notification and customer support to the affected customers. Hutchison ceased its 2G services as scheduled.

The Authority will consider applications from other MNOs and carefully examine the proposed arrangements for the affected customers before approval.

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### 6.12 Implementation of Real-name Registration Programme for SIM Cards

The Telecommunications (Registration of SIM Cards) Regulation (Registration Regulation) took effect on 1 September 2021 to implement the Real-name Registration Programme for SIM cards (Real-name Registration Programme).

Pursuant to section 14 of the Registration Regulation, the Authority issued the “Guidelines on Implementation of Real-name Registration for SIM Cards” (SIM Guidelines) on 20 August 2021 to provide practical and administrative guidance to licensees for implementation of the Real-name Registration Programme in compliance with the Registration Regulation.

In accordance with the Registration Regulation and the SIM Guidelines, all relevant licensees were required to put in place an electronic registration platform before 1 March 2022. OFCA has been closely monitoring the implementation of the Real-name Registration Programme. Five Licensees failed to establish the electronic registration system by the statutory deadline. Having considered OFCA’s assessment and the licensees’ representations, the Authority issued directions to the five licensees on 8 March 2022 to do so no later than 29 March 2022. Of the five licensees, four of them have complied with the directions to the satisfaction of the Authority. The remaining licensee, viz. Ultra Data Technology Limited (Ultra Data), failed to comply with the direction. After considering its representations, the Authority decided to suspend Ultra Data’s offer of local mobile service through SIM cards for a period of 12 months with effect from 7 June 2022.

The Authority will, with the support from OFCA, ensure that all relevant licensees are compliant with the Registration Regulation and the SIM Guidelines. In particular, the Authority will closely monitor the registration situation and work with the Government to step up publicity and assistance measures to ensure that all relevant users can complete real-name registration by the statutory deadline, i.e. 23 February 2023.

### 6.13 Implementation of the Protection of Underground Telecommunications Infrastructure

The Telecommunications (Amendment) Bill 2021 that sought to amend relevant provisions of the TO to, among others, enhance the protection of underground telecommunications lines was passed by the Legislative Council on 21 October 2021, and the new TO provisions came into operation on 24 June 2022.

Under the new section 18A of the TO, it is a criminal offence for any person who does not take reasonable steps to protect or fails to prevent damage to an underground telecommunications line when carrying out any work below ground level near the line. In this regard, after consultation with industry stakeholders, the Authority issued the “Guidelines on Work near Underground Telecommunications Lines” (UTL Guidelines) on 25 February 2022 to provide relevant stakeholders with practical guidance for compliance with section 18A. According to the UTL Guidelines, the working party shall appoint a competent person to carry out the detection work for the underground telecommunications lines. In this connection, OFCA has liaised with two training course providers, namely the Hong Kong Institute of Construction and the Hong Kong Institute of Vocational Education, to offer relevant training courses since March 2022. Applicants who have completed the training and met the relevant qualification requirements may apply to OFCA to become competent persons. The list of competent persons is published on OFCA’s website for public information.

#### **6.14      Enhancement of the Registration System for Class Licence for Offer of Telecommunications Services**

The Class Licence for Offer of Telecommunications Services (CLOTS) regulates persons who offer telecommunications services to the general public without the establishment of any means of telecommunications. Under the previous version of the “Guidelines for Administration of CLOTS” (CLOTS Guidelines), only CLOTS licensees with a customer base of 10 000 subscriptions or more were required to register their business information with the Authority. To tie in with the implementation of the Real-name Registration Programme, the Authority updated the CLOTS Guidelines to require all CLOTS licensees intending to offer SIM services during the course of business, irrespective of the size of their customer base, to register their information with the Authority before commencing the offer of SIM services. To facilitate CLOTS licensees to register with the Authority under the updated requirements, an automated electronic platform was launched to allow the licensees to submit and update their business information online. As of 31 March 2022, 56 CLOTS licensees had been registered.

#### **6.15      Creation of a Class Licence for Regulating the Use of and Trade in 6 GHz Devices for Wireless Local Area Network**

With the advent of technology, there are emerging new Wireless Local Area Network (WLAN) devices operating in the 5 925 – 6 425 MHz band (such as the commonly known Wi-Fi 6E devices and collectively referred to as the “6 GHz devices”) which support communications of faster data rates and lower latency, and hence better performance. To enable the introduction of 6 GHz devices into Hong Kong, with the support of OFCA, the Authority conducted a public consultation during November and December 2021 to solicit views of the industry and interested parties on the creation of a class licence for regulating the use of and trade in 6 GHz devices for WLAN and variation to the existing class licence for provision of public WLAN services to allow the use of 6 GHz devices for provision of public WLAN services. Taking into account the feedback received in response to the public consultation, the Authority promulgated the decisions on the creation and variation of class licences for 6 GHz devices in April 2022.

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### 6.16 Review of the Number of Public Payphones under the Universal Service Obligation

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

The review was completed in 2019 in accordance with the guiding principles laid down by the Authority. For in-building type public payphones, the Authority decided to exclude 515 in-building type public payphones (about 35% of the total number of in-building type public payphones) from the USO. All the excluded in-building type public payphones have been removed by the USP.

For kiosk type public payphones, the Authority decided to exclude 765 kiosk type public payphones (about 50% of the total number of kiosk type public payphones) from the USO. As at March 2022, the USP has removed 740 excluded payphones from various locations. Meanwhile, the USP decided to retain a small number of excluded payphones at its own cost.

### 6.17 Processing Complaints Relating to Telecommunications Services

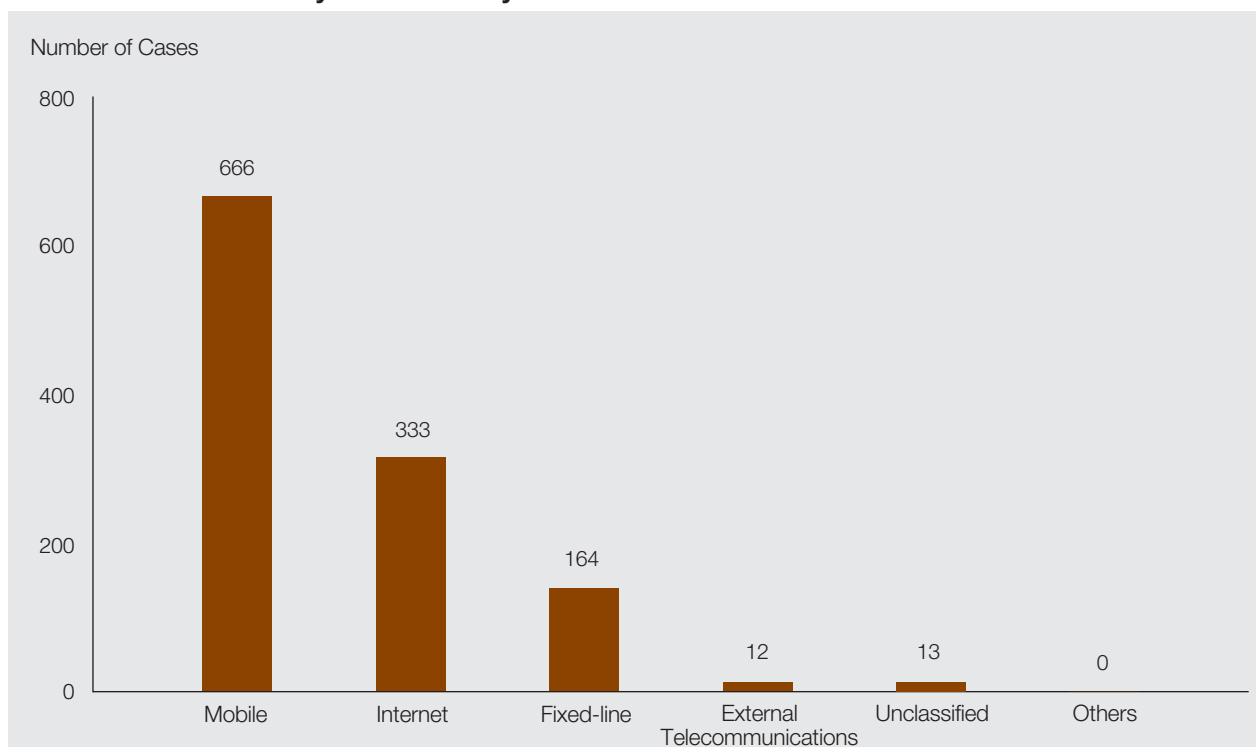
As the telecommunications market is fully liberalised and highly competitive, the Authority has adopted a light-handed regulatory approach. The Authority investigates consumer complaints against telecommunications operators if there is sufficient evidence to establish a prima facie case on possible breaches 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 will 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 1 188 consumer complaints relating to telecommunications services, representing a reduction of 1.8% compared to 1 210 complaints in the previous year. Among them, 666 cases (56.1%) were related to mobile services, 333 cases (28%) were related to Internet services, 164 cases (13.8%) were related to fixed-line services and 12 cases (1%) were related to external telecommunications. On the nature of complaints, the Authority received the largest number of complaints relating to customer service quality (326 cases or 27.4%), while complaints about service quality (275 cases or 23.1%) and disputes on contract terms (152 cases or 12.8%) ranked second and third respectively.

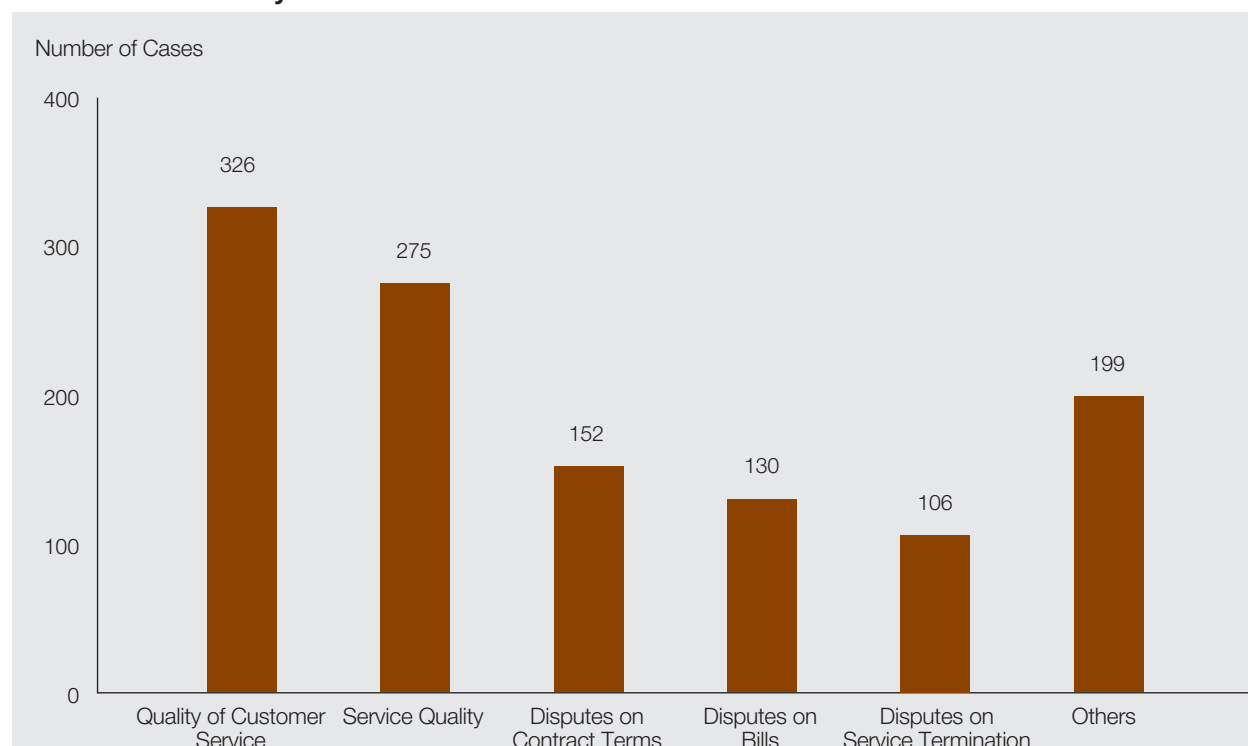
Breakdown of complaint cases by types of telecommunications services and nature of complaints received by the Authority during the period are shown in **Figure 20** and **Figure 21** respectively.

**Figure 20:** Distribution of Complaint Cases by Types of Telecommunications Services Received by the Authority in 2021/22



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**Figure 21:** Distribution of Complaint Cases by Nature of Complaints Received by the Authority in 2021/22



Note: Types of complaint cases grouped under “others” include cases involving collection of overdue payment, porting of telecommunications numbers, application or suspension of telecommunications services, etc.

All the 1 188 complaint cases received were outside the Authority’s jurisdiction. No case was found to be in breach of TO or licence conditions after investigation.

### 6.18 Strengthening Consumer Protection in the Use of Telecommunications Services

#### Consumer Protection Measures Adopted in the Telecommunications Industry

In order to safeguard consumer interests in the use of telecommunications services, OFCA has taken proactive actions to implement various consumer protection measures and works with the industry to draw up and implement self-regulatory measures for addressing new consumer issues that may arise from time to time.

These measures include the voluntary Customer Complaint Settlement Scheme (CCSS) administered by the Communications Association of Hong Kong representing the industry. The CCSS aims to help resolve billing disputes in deadlock between telecommunications service providers and their customers through mediation.

Other self-regulatory measures voluntarily implemented by the industry include the promulgation of the Code of Practice for Telecommunications Service Contracts to improve the clarity of provisions in the telecommunications service contracts as well as the Code for the Provision of Chargeable Mobile Content Services to govern the practices of third-party content service providers.

Other measures include the implementation of mobile bill shock preventive measures by mobile service providers as well as publication of details of the arrangements adopted by major residential broadband service providers to handle service termination requests from consumers on OFCA's website.

OFCA will continue to monitor the implementation and effectiveness of the various consumer protection measures adopted and where necessary engage the industry to seek further improvement of the existing measures or introduce new measures.

### **Broadband Performance Test System**

Since December 2010, OFCA has been providing a broadband performance test system enabling users of fixed and mobile broadband service to measure the performance of their broadband connections, including download and upload speeds, network latency, packet loss and jitter. Apart from users of desktop and notebook computers, users of smart phones and tablets running iOS and Android operating systems may also make use of the test system.

From time to time, OFCA reviews and upgrades the test system to further enhance its capability and performance. From April 2021 onwards, it supports speed tests of up to 10 Gbps for desktop and notebook computers and up to 3 Gbps for iOS-based and Android-based mobile devices. As at March 2022, more than 112 million tests were performed.

### **Consumer Education Programmes**

During the year, the Authority continued to arrange publicity activities and disseminate consumer messages through different media channels. Apart from the well-established Facebook fan page "Communications Master · OFCA", a new social media channel on Instagram was launched in February 2021 primarily for the younger generation. Various consumer information and tips were conveyed to the public through these two social media platforms to enable better understanding on smart use of communications services.

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### 6.19 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 coordinate 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 2021 to 31 March 2022, the Authority handled a total of 317 complaints under the TDO, of which 257 were closed for insufficient evidence to suspect/establish a contravention or falling outside the scope of the TDO; one was closed with the issue of a warning letter to the licensee concerned that the misconduct must be ceased/discontinued immediately and not be repeated; eight 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 51 were under processing.

### 6.20 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 2021 to 31 March 2022, a total of 20 complaints and/or enquiries were received under the CO, with 19 cases closed without the need for further action and one case is under processing. During the year, three transactions were reviewed under the merger rule of the CO. No further action was considered necessary in respect of the transactions.

## **6.21      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 has established three Do-Not-Call Registers (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. As of March 2022, more than 2.6 million numbers were 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**

### **6.22      Sanctions against Broadcasting Licensees**

There was no major sanction against broadcasting licensees during the reporting period.

### **6.23      Sanctions against Telecommunications Licensees**

#### **Illegal Bypass of Local Access Charge by Skycall Telecom International Limited**

OFCA completed an investigation into a suspected breach by Skycall Telecom International Limited (Skycall), an SBO licensee authorised for the provision of external telecommunications services (ETS), regarding illegal bypass of local access charge (LAC). Taking into account OFCA's investigation, the Authority imposed a financial penalty of \$65,000 on Skycall on 31 May 2021 for its failure to comply with the requirement of Regulatory Guide for Calling Line Identification Format, HKCA 3101 issued by the Authority on the delivery of ETS traffic from overseas to Hong Kong and pay LAC to the relevant local network operator in respect of the ETS traffic, in breach of Special Conditions 7.1 and 8.1 of its SBO licence.



## Review of the Communications Authority's Major Tasks

### **Breach by IDD1628 Limited for Failure to Provide Satisfactory Customer Service and Other Licence Obligations**

Between December 2020 and June 2021, OFCA received 11 consumer complaints alleging that IDD1628 Limited (IDD1628), an SBO licensee authorised for the provision of ETS, could not be reached through its customer service channels and failed to handle customers' requests for termination of its International Direct Dialling services. Taking into account OFCA's investigation, the Authority concluded on 24 February 2022 that IDD1628 was in breach of General Condition 5.1 of its SBO licence, which required it to provide a good, efficient and continuous service in a manner satisfactory to the Authority, and imposed a financial penalty of \$70,000 on IDD1628.

IDD1628 failed to pay the financial penalty and continued failing to respond to OFCA's requests made subsequently for information relating to its business under various licence conditions. Taking into account OFCA's further investigation, the Authority concluded on 14 June 2022 that IDD1628 had been in continuous breach of General Condition 5.1 and in breach of the Special Conditions 3.1 and 13.2 of its SBO licence, and decided that its licence should be suspended with immediate effect until expiry on 30 November 2022.

### **Breach by Hong Kong uCloudlink Network Technology Limited, Neware Info Technology Limited, Truphone (Hong Kong) Limited, Uhuibao International Business Co., Limited, and Ultra Data (collectively the Five Licensees) for Failure to Comply with the SIM Guidelines**

As a result of OFCA's close monitoring of the implementation of the Real-name Registration Programme by the relevant licensees since September 2021, OFCA noted that the Five Licensees failed to put in place in a timely manner an electronic registration platform in accordance with the SIM Guidelines. Taking into account OFCA's investigation, the Authority concluded on 8 March 2022 that they had breached the SIM Guidelines and the relevant condition of their licences and issued directions pursuant to section 36B(1)(a) of the TO to the Five Licensees, requiring them to rectify their breach of the SIM Guidelines and the relevant condition of their licences.

Whilst four of the Five Licensees adopted rectification measures to comply with the aforesaid directions, the SIM Guidelines and the relevant condition under their respective licences, Ultra Data failed to do so. Taking into account OFCA's further investigation, the Authority decided on 7 April 2022 to suspend part of Ultra Data's CLOTS in respect of offering local mobile service through SIM cards subject to the real-name registration requirements for a period of 12 months with effect from 7 June 2022.



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

From April 2021 to March 2022, the Authority received 520 reports on suspected contraventions of the UEMO, representing a decrease of about 8% as compared to the 565 reports received in the previous year. The majority of these 520 reports was related to short messages, pre-recorded telephone messages and email messages. In dealing with these reports, the Authority would, depending on the circumstances, issue advisory letters to senders of CEMs requesting them to observe the requirements of the UEMO or issue warning letters to those involved in more serious cases. During the period under review, 69 advisory letters and 17 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 person who fails to comply with an enforcement notice may be liable to a fine of up to \$100,000 on the first conviction. In 2021/22, no enforcement notice was issued.