

**For discussion
on 12 March 2001**

**Legislative Council
Information Technology and Broadcasting Panel**

**Proposal to Enhance the Directorate Structure of
The Office of Telecommunications Authority**

PURPOSE

This paper briefs Members on our proposal to enhance the directorate structure of the Office of Telecommunications Authority (OFTA) to cope with its expanded responsibilities and increased complexity of work. We would like to consult Members before we submit our proposals to the next Establishment Sub-committee meeting on 2 May 2001.

PROPOSAL

2. We propose to enhance OFTA's directorate structure by upgrading the Director-General of Telecommunications (DG-Tel) post from D5 to D6, changing the post of Senior Assistant Director of Telecommunications (SAD-Tel) to Deputy Director-General of Telecommunications (DDG-Tel), and creating a new post of Assistant Director of Telecommunications (AD-Tel) (D2).

JUSTIFICATION

Encl.1 3. OFTA has been charged to oversee the regulation of the telecommunications sector in Hong Kong. The present organisation of OFTA is shown in the organisation chart at Enclosure 1. With the increasing level, scope and complexity of responsibilities borne by the department, it is considered that the staffing structure at the directorate level should be enhanced. The proposed Encl.2 organisation chart of the department is at Enclosure 2.

Recent Developments

(a) Further Liberalisation in the Telecommunications Market

4. With our pro-competition policy and the advent of new technology, the telecommunications market has been progressively liberalised in recent years. Following the termination of Hong Kong Telecom International's exclusive licence for external telecommunications services and facilities in March 1998, we have introduced further competition in various telecommunications sectors. We now have:

- i) a total of ten local fixed telecommunications networks services (LFTNS) operators, including five new wireless FTNS operators and the operator of subscription television broadcasting services using cable modem technologies. We will be inviting new wireline-based FTNS licence applications in 2001;
- ii) a total of 192 external telecommunications services (ETS) licences;
- iii) over 30 successful applicants for external fixed telecommunications network services (EFTNS) licences, in addition to the four wireline-based FTNS operators licensed to provide external facilities; and
- iv) over 400 telecommunications licences of other categories, e.g. Public Non-Exclusive Telecommunications Service (PNETS) Licences.

5. The thriving competition in the market has brought about tremendous benefits to both the economy and consumers. It has led to greater capital investment and employment opportunities, and wider choice of services and at lower prices. For example, the weighted average of IDD prices in the twelve months ending December 1999 dropped 30%, which saved the consumers \$4.2 billion in IDD expenditure.

6. The liberalisation of local telecommunications market has however greatly increased OFTA's workload. To ensure a level playing field amongst the licensees, OFTA needs to establish an effective regime for interconnection and pro-competition measures. The increase in workload can be reflected in the rising number of formal instruments and licences issued. In the past three years, OFTA issued 149 pieces of formal documents, including guidelines, policy statements, determinations, consultation papers, reports and directions. The number is more than double that for the period from 1994 to 1997. We anticipate an even greater number of formal documents in the coming years in response to changing market demand and as a result of enforcement of existing regulations. As regards the number of public service licences issued, OFTA recorded 542 last year, which was more than four times the number of 128 when the department was established in 1993.

7. The workload of OFTA has not just increased substantially in quantity but also in complexity. This is due to a number of factors. The industry structure of the telecommunications sector has become more complex as a result of the rapid pace of the market and technological developments. OFTA needs to tackle new issues using fresh approaches and concepts. Examples of complex tasks handled by OFTA in the past year include the development of regulatory frameworks for broadband interconnection and third-generation mobile services. In both cases, extensive industry consultation had to be conducted and the regulatory frameworks were formulated only after careful consideration, responding to the divergent views expressed by the public and the industry. In discharging their responsibilities, OFTA has to break new ground in many cases, as regulators in other jurisdictions are also grappling with similar issues.

(b) The Telecommunications (Amendment) Ordinance 2000

8. With the enactment of the Telecommunication (Amendment) Ordinance 2000 in June 2000, the TA has been empowered to enforce the fair competition regime, which previously took the form of licence conditions. The penalty that TA may now levy for breaches of the statutory provisions has been increased ten-fold and the maximum fine is up to \$1 million. As a result of the enhancement of the fair competition provisions in the primary legislation, TA is effectively the competition authority in the telecommunications sector. The level of responsibility of OFTA's work is reflected by the significance of the TA's decisions in this area which will have considerable impact on the development of fair and effective competition in the telecommunications market.

(c) The new Broadcasting Ordinance 2000

9. Technology development has blurred the boundary between broadcasting and telecommunications. Broadcasting services may now be delivered over what had been regarded as telecommunications networks (e.g. video-on-demand service over fixed telecommunications networks) while telecommunications services may also be delivered over broadcasting networks (e.g. cable modem service over cable TV network). The Broadcasting Ordinance newly enacted in June 2000 has separated the regulation of broadcasting transmission facilities and service provision. OFTA has taken over from Television and Licensing Authority (TELA) the responsibility of regulating broadcasting transmission facilities while TELA will focus on regulating service provisions. As the conveyance of broadcasting signals will now be regulated under separate licences issued by the TA under the Telecommunications Ordinance, this will require OFTA to administer additional carrier licences. Besides, the Broadcasting Ordinance has also brought in fair competition provisions. The Broadcasting Authority also intends to engage the services of OFTA to support the Authority in the enforcement of the competition provisions in the Broadcasting Ordinance. All these have increased OFTA's workload.

Need to strengthen the directorate structure in OFTA

10. Since its establishment in 1993, OFTA has undergone a series of organizational changes to position itself in meeting the rapidly changing telecommunications market. Except for an additional AD post created in 1997 to oversee the Economic Regulation Division, no other directorate post had been created in the past eight years. In view of the recent developments explained in paragraphs 3–9 above, OFTA needs to strengthen the directorate structure to take on new roles and increased complexity of work.

(a) Upgrading the Director-General of Telecommunications post from D5 to D6

11. DG-Tel is required to assist the policy bureau in the formulation of telecommunications and broadcasting policies. He is also called upon to advise extensively on the application of the directions issued by international bodies to Hong Kong, in particular the compliance with the World Trade Organisation agreements, and to represent Hong Kong at high-level international conferences, such as in International Telecommunications Union (ITU) which is the most important international organization dealing with telecommunications under the auspices of the United Nations. DG-Tel represented Hong Kong at high-level international meetings and conferences in 2000. For example, on the invitation of the Secretary General of ITU, he chairs the ITU Workshop on IP Telephony, the ITU Expert Group Meeting and the ITU World Telecommunications Policy Forum, and serves as vice-chair of the Focus Group on the Reform of the Accounting Rate System under the auspices of ITU Study Group as well as member of the Steering Committee of the ITU Centre of Excellence for Asia.

12. DG-Tel's role has become increasingly important due to the fast-changing local telecommunications sector, e.g. the licensing of third generation mobile services, the consideration of acquisition and merger activities in the telecommunications industry and the handling of complaints on anti-competition practices. In discharging the role of the TA, DG-Tel needs to determine conditions of licences. The decisions DG-Tel makes will greatly determine the

future development of the local telecommunications industry, which in turn has a bearing on Hong Kong's continued attractiveness as a business, financial and information centre.

13. Given these, OFTA requires a strong directorate leadership. It is essential for DG-Tel to be a person of high calibre, with the necessary status and experience in telecommunications to win the confidence and respect of the telecommunications industry locally and overseas. We consider that the present D5 rank of the DG-Tel post does not reflect adequately its level of responsibility. We propose to create a new permanent post at D6 level to replace the present post at D5 level. A job description of the DG-Tel's post at the new D6 level is at Enclosure 3.

Encl.3

(b) Changing the Senior Assistant Director of Telecommunications post to Deputy Director General of Telecommunications

14. With OFTA's enhanced responsibilities, we consider that DG-Tel should be provided with adequate senior directorate support. A deputy director would assist DG-Tel to take forward the work involved and deputise him in internal matters, such as staff relations, liaison with industry operators and top executives of international organizations, formulating departmental development strategies, as well as explaining policies to legislators, professional bodies, concern groups, the media and members of the public.

15. We propose to change the SAD-Tel post to DDG-Tel post, with the rank maintaining at D3 level. The new DDG-Tel post will deputize DG-Tel in managing the department, carrying out the statutory functions of TA and overseeing all the four new branches in OFTA. To reflect the responsibilities required, we propose to create a new rank and a permanent post of DDG-Tel at D3 level. A proposed job description of DDG-Tel is at Enclosure 4. With the re-organization of the Regulatory Affairs Branch and the proposed additional AD (Competition) to head the new Competition Affairs Branch, we consider that the post of SAD-Tel can be deleted and the incumbent SAD-Tel who is the branch head of the RAB can be deployed to fill the proposed post of DDG-Tel.

Encl.4

(c) Creation of an Assistant Director of Telecommunications (D2) post

16. The work of the Regulatory Affairs Branch has grown very substantially because of the regulatory work required arising from a progressively liberalising and fast-developing telecommunications industry. Apart from the Economic Regulation Division and Technical Regulation Division, OFTA created in October 1998 a third division called the Competition Policy Division under the Regulatory Affairs Branch. It is justifiable to spin off the work related to competition to a new branch, the Competition Affairs Branch, and substantially augment the resources for this increasingly complex area of work.

17. The new Competition Affairs Branch will be responsible for the enforcement of fair competition, which will include the monitoring of the telecommunications market, investigation of complaints on anti-competition practices, preparation of guidelines on the interpretation and enforcement of fair competition provisions. To ensure that the responsibilities of the new Competition Affairs Branch will be discharged effectively, we propose to create a new post at AD level, to be named AD (Competition), to head the new branch. The post-holder is required to possess in-depth expertise in competition law and the appreciation of the development of the industry. He is expected to steer the work of the Competition Affairs Branch, to contribute in the formulation of competition related regulation and strategies, and to enforce the strengthened pro-competition regime under the Telecommunications Ordinance and Broadcasting Ordinance. The head of the Competition Affairs Branch has therefore to be at sufficiently senior level. As competition law/economics is new in Hong Kong and the required expertise is not readily available within OFTA, it is also proposed that the post be filled initially by a non civil service contract staff. A proposed job description of the new AD (Competition) is at Enclosure 5.

Encl.5

18. After the proposed restructuring, the Regulatory Affairs Branch will focus on providing legal and financial advice on telecommunications regulation and monitor the performance of public telecommunications operators. A revised job description of AD (Regulatory) is at Enclosure 6. The existing and proposed organization charts of the Regulatory Affairs Branch and the proposed organization chart of the new Competition Affairs Branch are at Enclosures 7, 8 and 9 respectively.

Encl.6

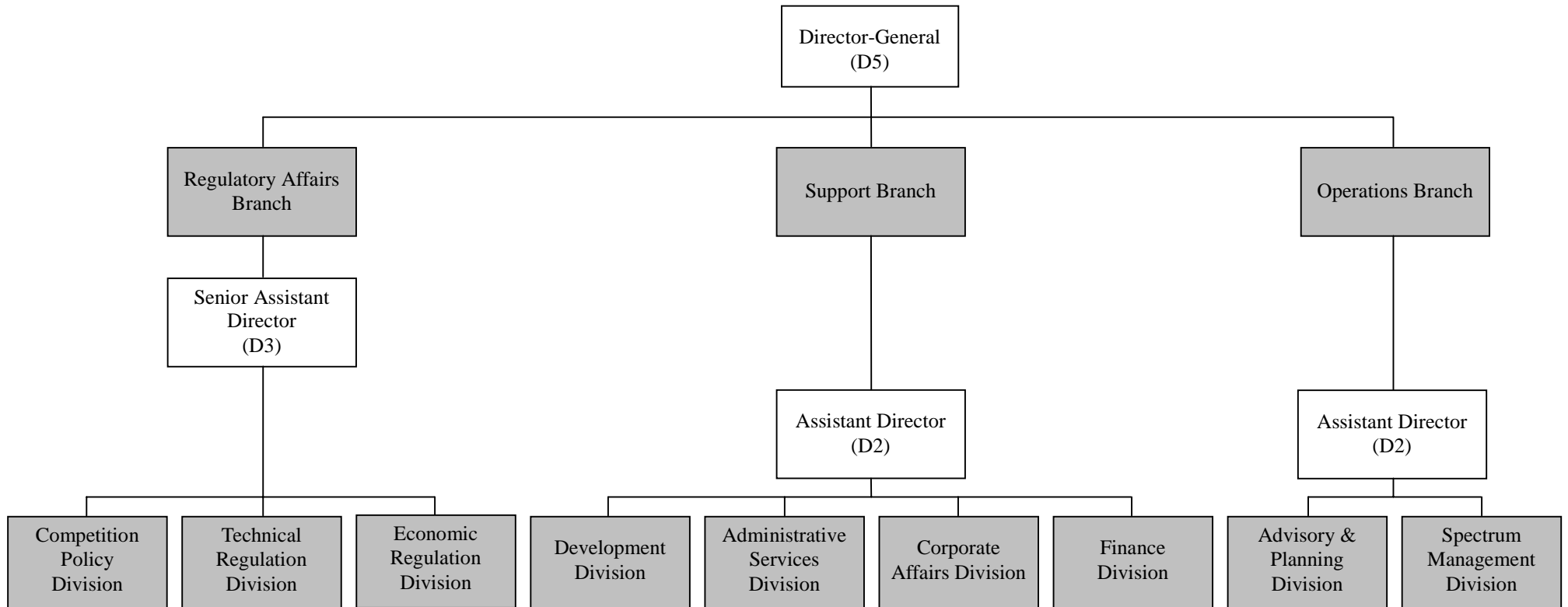
Encls.7-9

WAY FORWARD

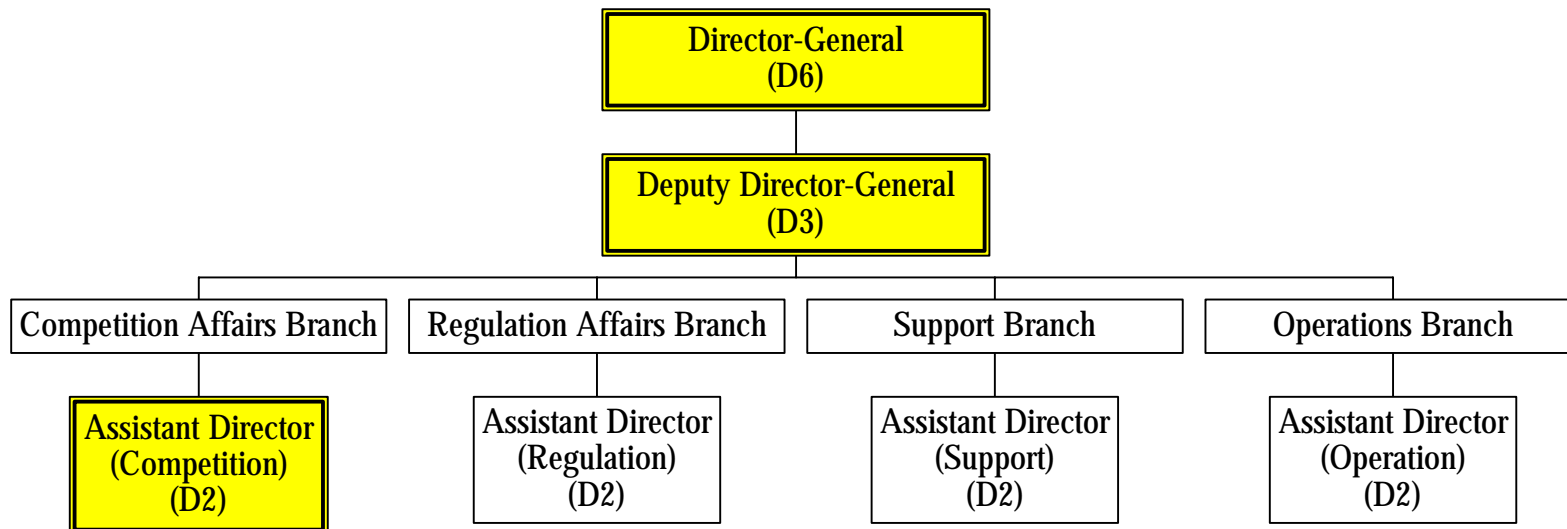
19. Subject to Members' view, we will seek Establishment Subcommittee's support for the proposal at its meeting on 2 May 2001 and Finance Committee's approval at its meeting on 21 May 2001.

Information Technology and Broadcasting Bureau
March 2001

Existing Organisation Chart of OFTA



Proposed Organisation Chart of OFTA



 New posts

**Proposed Job Description for
Director-General of Telecommunications**

Rank: Director-General of Telecommunications (D6)

Main Duties and Responsibilities -

Responsible to the Secretary for Information Technology and Broadcasting for the following main duties –

- (1) to promote fair and effective competition in the telecommunications sector;
- (2) to ensure continued provision of a high quality telecommunications service on an efficient and equitable basis;
- (3) to protect telecommunication consumer interests, through the handling and investigation of consumer complaints, the administration of price and service regulation, the monitoring of anti-competitive behavior by telecommunications licensees and the establishment of consultative mechanisms to reflect consumer views;
- (4) to liaise and co-ordinate with overseas regulatory agencies, to represent Hong Kong in the International Telecommunication Union and other international telecommunications fora, and to ensure compliance with relevant international agreements;
- (5) to provide advice as required to SITB on telecommunications issues and on technical aspects of broadcasting;

- (6) to provide advice as required to the CTEL and SITB on competition related aspects of broadcasting;
- (7) to consider and issue licences to telecommunications service providers;
- (8) to set price control arrangements for the dominant telecommunications carriers in Hong Kong and monitoring these arrangement;
- (9) to serve on the Broadcasting Authority as an ex-officio member;
- (10) to manage the Office of Telecommunications Authority Trading Fund; and
- (11) to report annually to the Legislative Council on the work of OFTA.

**Proposed Job Description for
Deputy Director-General of Telecommunications**

Rank: Deputy Director-General of Telecommunications (D3)

Main Duties and Responsibilities -

Responsible to the Director-General of Telecommunications for the following main duties –

- (1) to assist the Director-General in direction setting and policy and strategy formulation of the Department;
- (2) to manage and co-ordinate the work of the four branches, viz the Regulatory Affairs Branch, the Operations branch, the Support Branch, Competition Affairs Branch;
- (3) to monitor the performance and the programme of activities of the Department against targets and objectives and to oversee the implementation of proposals for improvement;
- (4) to represent the Director-General on departmental boards and committees as directed;
- (5) to assist the Director-General in carrying statutory functions as the Telecommunications Authority in ensuring the effective, efficient and impartial administration of the Telecommunications Ordinance;
- (6) to deputise the Director-General;

- (7) to take responsibility for the management of the major regulatory projects within OFTA
- (8) to represent OFTA on advisory panels set up to advise on regulatory issues; and
- (9) to liaise with overseas regulatory bodies.

**Proposed Job Description for
Assistant Director of Telecommunications (Competition)**

Rank: Assistant Director of Telecommunications (D2)

Main Duties and Responsibilities -

Responsible to the Deputy Director-General of Telecommunications for the following main duties -

- (1) to supervise and coordinate the work in the promotion and protection of fair competition in the operation of public telecommunications services;
- (2) to monitor market behaviors, identify anti-competitive practices, initiate investigations either proactively or in response to complaints, and to take actions against anti-competitive practices;
- (3) to provide support in the mediation of inter-operator disputes and in determinations on matters of interconnection and sharing facilities in relation to competitive issues;
- (4) to review regulatory frameworks, conduct industry or public consultation where appropriate, and to issue guidelines for the enforcement of the competition provisions in the legislation and licence conditions;
- (5) to provide advice, support and recommendations in the review of telecommunications policy and legislation, particularly in the areas of fair competition;

- (6) to provide support on competition issues in the Broadcasting sector as and when required; and
- (7) to support the Telecommunications Authority (TA) in handling and defending cases of appeals against the decisions of the TA concerning fair competition provisions.

**Proposed Job Description for
Assistant Director of Telecommunications (Regulatory)**

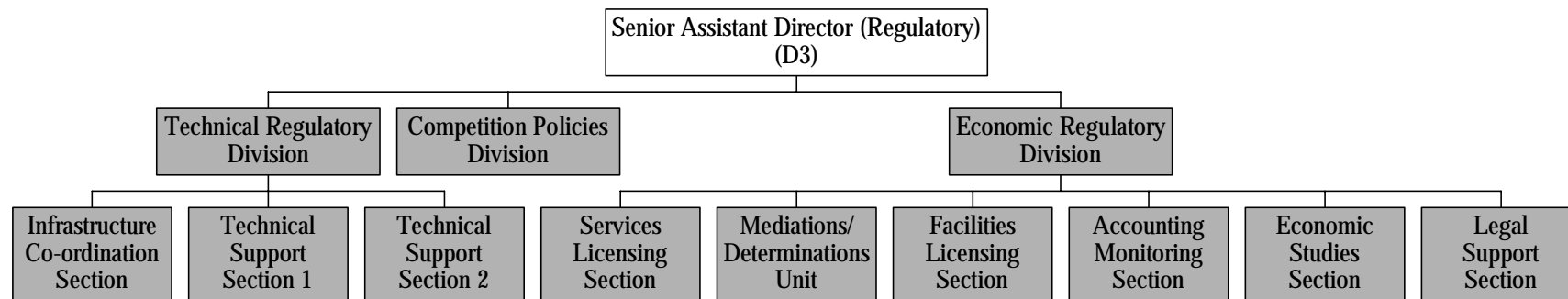
Rank: Assistant Director of Telecommunications (D2)

Main Duties and Responsibilities -

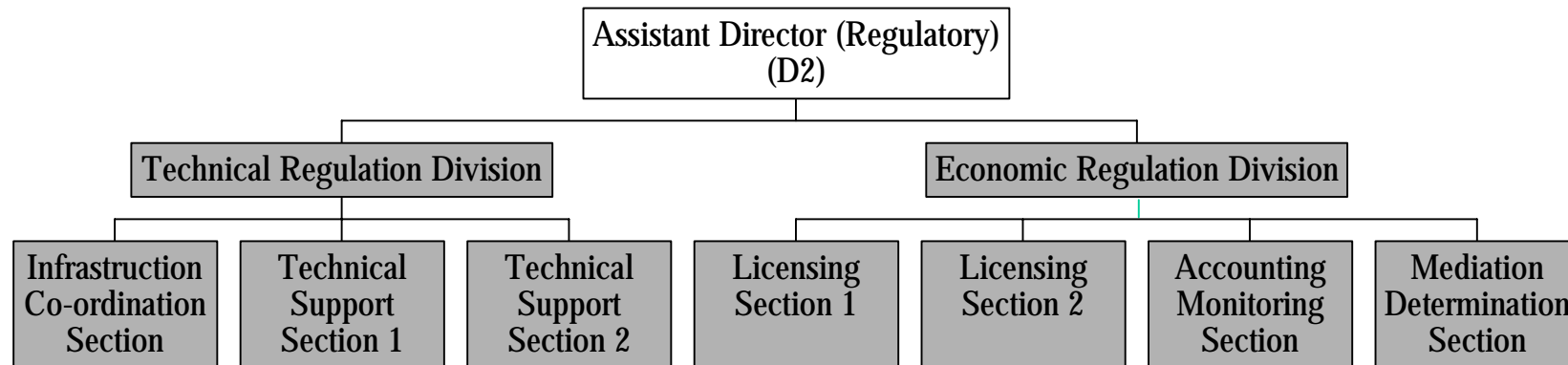
Responsible to the Deputy Director-General of Telecommunications for the following main duties -

- (1) to supervise and coordinate the work of the Regulatory Affairs Branch which will provide detailed legal and financial advice on telecommunications regulation to the Telecommunications Authority;
- (2) to monitor the performance of public telecommunications operators and to prepare reports on quality of service issues;
- (3) to supervise consultancies on legal, economic and accounting matters related to public telecommunications;
- (4) to supervise investigations on complaints regarding public telecommunications services;
- (5) to provide support to OFTA's interventions and determinations on disputes among networks operators on interconnection and other issues;
- (6) to chair and oversee the running of OFTA's Advisory Committees on regulatory issues; and
- (7) to supervise the evaluation of licence and service applications on public telecommunications services.

Existing Organization Chart of the Regulatory Affairs Branch



Proposed Organizational Chart of the Regulatory Affairs Branch



Proposed Organization Chart of Competition Affairs Branch

