

Consumer Council

Submission to LegCo Panel on information Technology and Broadcasting Interconnection Arrangements in promoting competition and the role of the Telecommunications Authority

Introduction

1. The Consumer Council is pleased to present its views regarding the current interconnection arrangements in promoting competition in the fixed telecommunications network services market and the regulatory role of the Telecommunications Authority (TA).
2. The Council's comments in this submission raise 3 issues
 - Appropriate interconnection pricing principles;
 - Measuring competitive outcomes; and
 - Council initiatives in regard to misleading marketing practices and market surveys on consumer choices.

Appropriate interconnect pricing

3. As noted in a previous submission to LegCo in November 2001, the Council considers that the TA must approach its task in relation to interconnection by focusing on the assumption that facilities based competition was, and still is the best way of promoting competition, and thereby meeting the objectives of the Government
4. Interconnection policy can play a key role in signalling to firms when to invest in network infrastructure bringing about long run, dynamic efficiency to the economy, thereby benefiting consumer welfare. In principle, this requires that instead of providing a static choice of "build versus buy", interconnection charges should be set at a level that on average compensates operators for efficient investment in network facilities, and encourages market participants to invest in their own networks.
5. Sufficient two-way interconnection only arises when there are separate access networks with comparable size interconnect. However, whether entry occurs on any significant scale providing wide spectrum of services will be heavily influenced by the degree to which dynamic efficiency is favoured over static efficiency, in the policy setting.
6. A high degree of competition amongst networks in the supply of access would reduce the role of the TA in determining interconnection charges. Sufficient competition in this area would also drive the interconnection charge to an efficient market determined level.
7. Accordingly, the Council considers that in reviewing the methodology by which it applies its regulatory powers, emphasis should be placed on ensuring that the Government's objective of facilities based competition for all users emerges in the near future. In particular, the Council believes that the forward-looking cost approach is more appropriate in guiding operators to focus on efficient network investment, which will facilitate competition in the future.

Measuring competition objectives

8. In previous Council submissions to LegCo regarding the extent of service coverage of telecommunications networks, it was stated that competition goals such as reported market share figures for new entrants, should be set as a benchmark against which the effectiveness of the interconnection arrangement would be tested. Reporting of the incremental advances of new entrants, in terms of market shares, and area coverage, at regular intervals, would provide a degree of transparency for consumers, to assure them that the regulatory regime designed to facilitate competition is working.

9. In undertaking this task, the Council has previously stressed the need for the TA to recognise the importance of ensuring that competitive advances are made across all sectors of telecommunications users. Despite the fact that market shares are used to measure the extent of competition, geographic and user profile dimensions should also be used to reflect the overall objective of the Government.

10. The Council notes that the recent Audit Commission's 20 March 2002 Report on 'Liberalisation of the Fixed Telecommunications Market' made similar comments regarding the need for increased market information to gain a better understanding of the nature, extent and impact of competition. The Audit Commission noted that regulatory authorities of some advanced countries publish a wide variety of information in this regard. For example, apart from market share, such information typically includes the quality of service provided by the operators, consumer satisfaction and consumer benefits obtained as a result of competition.

11. In the UK, the telecommunications regulator, OFTEL, lists as effective competition indicators a range of factors, including:

(A) Consumer outcomes.

- Consumers enjoying "best or near best deal" in comparison with consumers in similar economies
- A wide range of services available to consumers
- Consumers satisfied with quality of service they receive
- Sets of prices, which broadly reflect underlying costs (i.e. absence of persistent excessive profits)

(B) Consumer behaviour.

- Consumers able to access information to help make effective choices.
- Consumer confident/knowledgeable in using information and in taking advantage of market opportunities.
- Absence of barriers for consumers to switch suppliers.

(C) Supplier behaviour.

- Active competition in price and quality and innovation
- Absence of anti-competitive behaviour
- Absence of collusion
- Meeting consumer needs
- Efficient provision of services
- Recent entry of new competitors

(D) Market structure.

- Limited entry barriers for potential competitors.
- Absence of inefficient suppliers.
- Limited ability of operators with market power in related markets to lever this market power into the particular market segment.
- Changes in market structure over time, especially a tendency to reduce concentration.

Council initiatives

Market surveys

12. For its part the Council has conducted consumer and market place surveys to obtain some information on market options for consumers, and information to assist consumers in making informed decisions.

13. The Council's April 2002 issue of 'Choice' magazine published details on the range of Internet broadband access services available to consumers, with information about service providers such as

- (a) the broadband technologies utilised;
- (b) capacity;
- (c) population coverage;
- (d) customer services;
- (e) bandwidth;
- (f) whether services are direct access or share-based;
- (g) upload and download speed; and
- (h) pricing.

14. From our study, the average retail price for the range of 100 hours of usage per month was found to be between \$160.50 and \$418.00.

Complaints handling

15. Through its complaints handling role, the Council has also collected information on the extent of consumer satisfaction in accessing telecommunications (including broadband) services.

16. Consumer complaints for fixed lines and Internet access for the year 2002 currently represent 11% of total complaints made to the Council (up until 22 May 2002). Of those complaints, 40% were related to broadband services.

17. Examples of the subject matter of the complaints are:

- (a) dissatisfaction with the quality of services;
- (b) billing disputes;
- (c) unconscionable contract terms; and
- (d) questionable sales tactics and advertised claims of service providers did not match the products offered, for example, misrepresentations on the speed of Internet access.

18. According to our April 2002 Choice magazine survey, most operators claim to reach a download speed up to 1.5Mbps. However, as the Council noted in its survey there are substantial differences in domestic and international gateway capacity between service providers. Therefore it probably would be difficult for consumers with different service providers to achieve the same speed level (1.5Mbps) while surfing domestic and overseas sites.

19. The Council is increasingly concerned with marketing practices in the industry and it has provided comments to OFTA in the course of OFTA developing guidelines for administering Section 7M of the Telecommunications Ordinance, which governs misleading or deceptive conduct. The Council trusts that the guidelines will be issued shortly to enable licensees to understand their obligations when marketing their telecommunications services.

20. The Council also considers that part of the solution to improving marketing conduct will be found through OFTA examining the extent and effect of licensees' in-house training and compliance programs to ensure staff awareness of licensees' obligations.

Consumer Council
June 2002