

**For discussion
on 10 March 2008**

**Legislative Council Panel
on Information Technology and Broadcasting**

**The Provision of Consumer Information in relation to
Residential Broadband Use in Hong Kong**

Purpose

At the meeting of July 2007, Members were informed of the results of a consumer survey commissioned by the Office of the Telecommunications Authority (OFTA) on residential broadband services in Hong Kong (the Survey). This paper aims to brief Members of the consequent initiatives undertaken by OFTA to enhance consumers' information and understanding of the available broadband services in order that an informed choice can be made.

Background

2. At the meeting of July 2007, OFTA informed Members of the results of the Survey that the vast majority of residential users (some 87%) were found to be reasonably satisfied with the broadband service they received, but there is a general demand for more information on quality of service (QoS) to be made available. The Survey also showed that average users are not fully conversant with the use of computers and the Internet, which might result in less than optimal use of their broadband service.

3. To enhance consumers' information and understanding of the broadband services being offered and marketed so that they can make better informed choice, OFTA has identified three areas where efforts should be directed. They are:

- (a) improved provision of service information by the Internet service providers (ISPs) themselves;

- (b) targeted consumer education about the use of computers, the Internet and related services, and how consumers should go about negotiating a broadband contract; and
- (c) prevention of misleading and deceptive marketing of broadband services on an on-going basis.

Performance Pledges published by the ISPs

4. On improving the provision of service information, OFTA initiated discussions with the ISPs and sought their co-operation in developing measures to increase the transparency of QoS information, with a view to facilitating consumers to make better informed choices in the selection of broadband services offered by different ISPs. OFTA further suggested that ISPs could consider disclosing and making performance pledges about service restoration time, customer hotline performance, and the claimed speed for the relevant network segment along the Internet pathway.

5. OFTA is pleased to report to Members that following intensive discussions individually with the five major broadband ISPs in Hong Kong, Hong Kong Broadband Network Limited (HKBN), Hutchison Global Communications Limited (HGC), New World Telecommunications Limited (NWT), PCCW IMS Limited (PCCW-IMS) and Hong Kong Cable Television Limited (HKCTV)¹ have agreed to develop specific performance pledges for their broadband services for general information. From 25 January 2008, the performance pledges have been posted on their respective websites². The Telecommunications Authority (TA) also published a statement about the issue of performance pledges by broadband ISPs (**Annex A**) on 20 January 2008.

6. The pledges are generally aimed at five areas identified by the Survey³ as either important or very important to consumers

¹ According to OFTA statistics, they together serviced 97% of the residential broadband customers in Hong Kong as at October 2007.

² Hyperlinks to these companies' relevant web pages are provided at OFTA's website at http://www.ofta.gov.hk/en/consumer_interest/pp-broadband.html.

³ See Telecommunications Authority Statement entitled "Survey on residential broadband internet access services" dated 2 May 2007.

when choosing an ISP. These areas include network reliability, service restoration, customer hotline performance, customer complaint handling and technical performance. Although the pledges are not service guarantees, they are the commitments of these companies to their customers that they will make their best endeavour to ensure that their broadband services will meet the pledged service standards. Based on the information, consumers can get an understanding of the normal service quality which they can reasonably expect to experience if they choose a particular broadband service. The information will be useful to consumers, particularly in relation to the selection of ISP.

7. Further to the publication of the pledges, HKBN, HGC, NWT, PCCW-IMS and HKCTV will also publish their actual performance statistics against the pledges on a quarterly basis. This information will enable consumers to monitor the companies' performance and to verify whether they are meeting their pledged service standards. The performance statistics will be published by the companies on their respective websites within one month after the end of each quarter ending in March, June, September and December. It is expected that the first reports will be available in April 2008.

8. OFTA welcomes the cooperation of HKBN, HGC, NWT, PCCW-IMS and HKCTV in committing to the ongoing publication of performance pledges and performance statistics for residential broadband services. OFTA will continue to encourage other ISPs to follow the same practice and to provide assistance to them if necessary.

Consumer Education on Internet and Computer use

9. OFTA has been actively pursuing the initiative to improve the understanding level of consumers over the broadband services they receive through a consumer education programme. In this respect, OFTA has discussed the programme with relevant organizations and Government agencies, including the Communications Association of Hong Kong (CAHK), the Hong Kong Internet Society, the Consumer Council, the Education Bureau and the Office of the Government Chief Information Officer.

These organizations and Government agencies have responded positively and indicated either their willingness to provide professional advice or to contribute their efforts in the development of and participation in the education programme. The programme will likely consist of a variety of means to reach the target audience such as through the production of DVDs for distribution and short TV programmes for broadcast. OFTA aims at conducting the programme in the second half of 2008.

Best Practice Indicators for the Selling of Residential Broadband Internet Access Services

10. Complementary to the above two initiatives, OFTA has also developed five best practice indicators, which set out simple and practical measures for the ISPs to observe in the selling and marketing of broadband services, thereby making it much less likely that the operators would find themselves in breach of section 7M of the Telecommunications Ordinance (TO) which prohibits misleading or deceptive conduct by telecommunications licensees in relation to, among other things, the promotion, marketing and advertising of telecommunications services.

11. The TA statement about the five best practice indicators, which was published on 27 February 2008, is attached at **Annex B**. The indicators focus on the approach the operators should take when they choose to promote the technical aspects of their broadband services to the customers, in both direct sales and mass marketing situations, i.e.:

- paying attention to the needs and level of understanding of the potential audience;
- providing clear and relevant technical information;
- including relevant qualifications concerning the technical performance;
- avoiding commonly misunderstood terms; and

- disclosing bundling effects.

12. The best practice indicators place emphasis on the technical side of the broadband services because according to the Survey, many residential Internet users do not yet have an adequate grasp of the technical issues and therefore this is the area which broadband ISPs should pay particular attention to when they make representations to the customers. The services providers run the risks of committing a breach of section 7M of the TO if the best practice indicators are not observed.

13. The TA considers that the best practice indicators will provide the clearest possible signal to the industry about the kind of representations that risk infringing section 7M of the TO. OFTA will continue to monitor the market to ensure that broadband ISPs' selling and marketing activities observe the requirements of the law.

Way Forward

14. OFTA will continue to monitor the market situation and review the effectiveness of the above initiatives from time to time to ensure that consumers can make a better informed decision in choosing ISPs.

Office of the Telecommunications Authority
March 2008

**PUBLICATION OF PERFORMANCE PLEDGES BY
BROADBAND INTERNET SERVICE PROVIDERS**

Statement of the Telecommunications Authority

20 January 2008

In the Telecommunications Authority Statement “*Survey on residential broadband internet access services*” of 2 May 2007, the Telecommunications Authority (the “Authority”) reported the results of a comprehensive consumer survey of the residential broadband internet access services. The survey showed that the vast majority of residential users were satisfied with the services on offer, but that there were gaps in the public’s understanding and in the information available to compare services.

2. The Authority has continued to work with the industry on ways and means to improve the availability of meaningful information about the main service parameters of broadband services so that consumer choice is better informed. The environment in which broadband services are being provided in Hong Kong is however an intensively competitive one where each of the different service providers must distinguish themselves from their competitors by employing different technologies and different marketing strategies. Communications is also a field in which new technologies and new service applications are constantly emerging. Accordingly the Authority has been concerned not to endorse overly uniform or rigid consumer information requirements which might inhibit competitive individuality and innovation in the provision of services.

3. In recent months, the Authority has concluded individual discussions with five broadband internet service providers, Hong Kong Broadband Network Limited (“HKBN”), Hutchison Global Communications Limited (“HGC”), New World Telecommunications Limited (“NWT”), PCCW IMS Limited (“PCCW-IMS”) and Hong Kong

Cable Television Limited (“HKCTV”)¹. The discussions focused on how in the circumstances of each of these operators, quality of service (QoS) information relevant to the consumers in the selection of an internet service provider could be made available to the public in a meaningful manner. Each of the five operators has now informed the Authority that they have developed specific performance targets or “pledges” for their particular broadband services which they are prepared to publish. Furthermore, they will also make available to the public, on a quarterly basis, reports of their actual performance against their published pledges.

Performance Pledges

4. The individual QoS pledges being adopted by HKBN, HGC, NWT, PCCW-IMS and HKCTV for their broadband services will be made available at their respective websites at the following addresses from 25 January 2008:

- HKBN: www.hkbn.net/bb1000/cc_pledge.htm
- HGC: www.hgcbroadband.com/per_pledge_eng.html
- NWT: www.newworldtel.com
- PCCW-IMS: www.netvigator.com
- HKCTV:
www.i-cable.com/cs/announcement/e-content-service-pledge.html

5. The performance targets are generally aimed at the following areas which were identified by the survey to be either very important or important to consumers when choosing an internet service provider:

- Network reliability
- Service restoration
- Customer hotline performance
- Customer complaint handling
- Technical Performance

¹ According to OFTA’s statistics these 5 operators together serviced 97% of the residential broadband customers in Hong Kong as at October 2007.

6. The performance targets represent the “pledges” of these companies to their customers on the service standards for their broadband services. That means that the companies will make their best endeavours to ensure that their broadband services meet the pledged service standards. Although these performance pledges are not equivalent to service “guarantees”, they will give consumers an indication of the normal service quality level which they can reasonably expect to experience if they choose a particular broadband service.

7. The pledges are intended to provide consumers with meaningful information about the main service parameters of particular broadband services on offer for the time being. Therefore as the companies make enhancements to their systems and services, the pledges too are expected to evolve over time. The Authority expects the companies to keep the pledges under review, so that their content continues to be meaningful to consumers.

Publication of actual performance statistics

8. To make the performance targets meaningful to consumers, the companies will also publish statistics of their actual performance against the targets on a quarterly basis. The Authority welcomes this arrangement because it will enable consumers to monitor performance and to verify whether the companies are meeting their pledged service standards.

9. Performance statistics will be published by the companies on their respective websites within one month after the end of each quarter (i.e. March, June, September and December). Some operators have commenced measurement with effect from 1 January 2008. Others will start with effect from 1 February 2008. Consumers can expect the first batch of performance statistics in April 2008. To enable consumers to monitor performance trends over a reasonable period, the companies will maintain the posting of statistics for the last four quarters (starting from Q1 of 2008).

Responsibility for the veracity of the information

10. The performance targets and the actual performance statistics will be information published by telecommunications licensees. Pursuant to section 7M of the Telecommunications Ordinance, these licensees have the statutory obligation not to mislead or deceive in providing telecommunications services. Each of the companies will therefore be held fully responsible for the veracity of the information which it publishes from time to time.

Conclusion

11. The Authority commends the cooperation which has been shown by HKBN, HGC, NWT, PCCW-IMS and HKCTV, in committing to the ongoing publication of performance pledges and performance statistics for residential broadband services. The publication of these easy-to-understand performance pledges and actual performance statistics should provide part of the answer to consumer concerns about QoS and access to service performance information. The Authority will continue working with the industry on other initiatives to improve public awareness about the use of computers and internet services in the home.

12. The Authority is also encouraging all other internet service providers to follow the practice of the five main operators. If any company needs advice from OFTA in this respect, it is welcome to contact OFTA for assistance.

Office of the Telecommunications Authority
20 January 2008

TELECOMMUNICATIONS AUTHORITY STATEMENT

Misleading or Deceptive Representations Concerning the Provision of Residential Broadband Internet Access Services to Consumers in Hong Kong

27 February 2008

INTRODUCTION

1. This statement sets out the Best Practice Indicators for the selling of residential broadband internet access services in Hong Kong. Mis-selling activities of internet service providers (ISPs) can amount to misleading or deceptive conduct. Such conduct is unlawful according to section 7M of the Telecommunications Ordinance (the Ordinance). The statement complements the Telecommunications Authority (the Authority)'s general Guidelines on Misleading or Deceptive Conduct in Hong Kong Telecommunications Markets issued on 21 May 2003.

2. The Best Practice Indicators identified in this statement, when correctly adopted by ISPs, will prevent the incidence of misleading or deceptive conduct in the advertising and selling of broadband services. Providing the industry with best practice indicators aims at ensuring that Hong Kong consumers would be better informed when choosing among service providers and service packages, so that all sections of the public would be better able to enjoy the benefits of the very competitive local broadband services market.

BACKGROUND

3. In Hong Kong, broadband internet access services are provided to 76% of all households¹, which is amongst the highest market penetration rates in the world. The speed of our broadband services is, on the whole, faster than in many other countries where broadband services include

¹ As of November 2007.

internet access speeds well below the threshold Mbps rate adopted in Hong Kong.²

4. Hong Kong is also a leader in the rollout of multiple broadband networks and the use of state-of-the-art fibre optic cabling to individual buildings. Some 79% of Hong Kong households now have direct connectivity with at least one alternative broadband customer access network.

5. Hong Kong's success in these areas can be linked to a strong facilities based competitive environment, vigorous and creative marketing campaigns and a community receptive to the latest technology and new products and services. The competition laws which apply in this sector to prevent abuses of market power, price-fixing and market sharing arrangements which might otherwise disadvantage consumers, also contribute to the free and open competition enjoyed by broadband users in Hong Kong.

6. Despite this success in creating an effective market, there are risks of local residential users being misled or deceived in connection with the sale and supply of broadband internet access services, which can be technically complex and confusing.

7. To gain a better understanding of how broadband services are perceived by typical residential users and to identify areas where available information may not be adequate for consumers to make informed choices, the Office of the Telecommunications Authority (OFTA) commissioned the Social Science Research Centre of the University of Hong Kong to conduct a survey of residential broadband use. The results were published in May 2007³.

² In Hong Kong, the term "broadband service" typically refers to internet access providing transmission speeds above 1.5 Mbps (Megabits per second). In comparison, the US Federal Communications Commission sets the standard for broadband access as any service providing a transmission speed of greater than 200 kilobits per second (kbps) (kilobits per second). In the UK, broadband data rates are typically 512 kbit/s for downloading and 256 kbit/s for uploading. The ITU Standardization Sector (ITU-T) recommendation I.113 has defined broadband as a transmission capacity that is faster than ISDN primary rate at 1.5 to 2 Mbits.

³ The Authority statement on survey on residential broadband internet access services dated 2 May 2007.

8. The survey results show that the majority of households (some 87%) are in fact not dissatisfied with the service they are getting. There are nevertheless, indications from the survey and from other sources⁴ that many in the community are not yet fully conversant with the use of computers and the internet in the home. These people do not yet have an adequate grasp of the technical issues and are therefore more vulnerable to being misled by technical terminology.

9. The number of consumer complaints about residential broadband internet access services is tiny relative to the number of service subscriptions in place⁵. OFTA is nonetheless undertaking a number of initiatives regarding the broadband industry in recognition of the expansion of broadband use within the community and the transition of households to newer technologies and new and additional computer uses.

10. These initiatives include a broad based education programme undertaken in conjunction with other stakeholders such as the Consumer Council about the use of computers and the internet in the home. OFTA has also reached agreement with five major ISPs on a set of performance pledges which they have already published on their respective websites relating to certain key elements of their services. In addition, through this statement, OFTA is establishing basic best practice indicators to prevent misleading and deceptive marketing. OFTA is moreover working with certain telecommunications operators in developing a pilot programme for Customer Complaint Settlement Scheme, which would provide case studies and first-hand administrative experience valuable for the discussion of setting up a specialised forum in the long term for the resolution of disputes between companies and individual consumers.

⁴ OFTA's investigations have revealed that as many as 85% of the calls made by customers to ISPs' customer service hotlines relate to problems which are outside of the operators' practical control and legal responsibility.

⁵ As of the end of 2007, there were approximately 1.7 million residential broadband connections in Hong Kong. In that same year, the Consumer Council received some 3,700 internet related consumer complaints.

BEST PRACTICE INDICATORS

11. From its case by case examination of the wide range of complaints about internet access made to the Consumer Council, many of which are in fact contractual disputes outside the jurisdiction of the Authority, and from its investigation of individual cases of alleged misleading or deceptive conduct concerning internet access services, OFTA has been able to observe factors which make it more likely that representations by ISPs, either in the form of marketing materials or oral representations would become misleading or deceptive. This has enabled the formulation of best practice indicators, which are a set of simple, practical measures to be observed in the selling and marketing of broadband services, thereby making it much less likely that operators will in fact breach section 7M of the Ordinance. The indicators are set out below.

Paying attention to the needs and level of understanding of the potential audience

12. Service providers must take care to ascertain the sort of people likely to receive the messages in particular sales communications, including any sales pitch used in direct sales to individual consumers, and what the likely state of the audience's technological appreciation is.

13. In a direct sales scenario, a salesperson should be able to gather a general impression of a potential customer's extent of knowledge in broadband or computer technology through talking to the customer. Where the customer patently demonstrates a lack of technological understanding, the salesperson will tread a dangerous path if they continue to highlight the technical aspects of the broadband service without adequate and meaningful explanations given in plain language.

14. Marketing communications must always be designed with full recognition that many in the potential audience may not be technically minded and may not fully understand the workings of computers, the internet, and the operations of telecommunications companies. For example, where the intended audience of the marketing materials is the

general public, as in the case of advertisements in the daily papers, operators should recognise that the recipients of the messages will come from different walks of life, with levels of technological understanding ranging from the very low to very high.

15. This means providers must ascertain what information the potential audience needs in order to make sense of the technical issues raised by the particular communication and they must present that information, or provide references to it, in the communication, and with a high degree of clarity.

Providing clear and relevant technical information

16. When marketing communications about internet services include technical information about the services, the technical information provided must be relevant and meaningful from the perspective of consumers considering which internet service best suits their particular needs and budgets.

17. This means providers must ascertain what information the target audience needs to have in order to understand the key technical references, and the information must be provided with a high degree of clarity.

18. Technical terms to do with the technology, speed or other performance aspects of the service must be accurately and consistently presented by sales people and in promotional materials.

19. Providers must not make use of technical references and descriptions which obscure or confuse the key buying considerations. For example, boasting the deployment of a certain broadband technology, thus implying an overall superiority of the broadband service over services provided by other technologies, without meaningful explanation given in relation to what the technology means to the customers from a user's perspective may be misleading. The actual performance of a broadband service can be affected by many other factors unrelated to the technology being deployed. Moreover, a user's appreciation of the performance of broadband service is ultimately not dependent on what

technology is being used, but how the service is being experienced from the user's perspective.

20. There must be adequate explanations, or references to explanation sources, for all abbreviations and acronyms.

Including relevant qualifications

21. References to the technical performance of the service must be accompanied by all relevant qualifications concerning that performance.

22. In particular, claims about the transmission speed of the service must be clearly and prominently qualified by a description of which segment and direction of the pathway between the destined pages on the world wide web and a consumer's computer the speed claim relates to, and what that speed means for the typical use most people in the potential audience are likely to have for the service.

23. The qualifications must reflect the expectations which most of the people in the potential audience are likely to have for their use of the service, as well as the likelihood that many in the potential audience may not be technology savvy.

Avoiding commonly misunderstood terms

24. Service providers should explain the distinguishing qualities of their services accurately and meaningfully from a consumer's perspective, and should not rely on stock phrases that many ordinary consumers are unlikely to fully understand. The "dedicated", "exclusive" or "shared" nature of a broadband service should rarely if ever be used as a primary distinguishing feature⁶.

⁶ For a more detailed discussion of the misunderstandings customers may have regarding the terms "dedicated", "exclusive" and "shared", see paragraphs 3.15 – 3.18 of the statement "Consumer Information in relation to Broadband Internet Access Services" issued by the Authority on 12 May 2006.

Disclosing bundling effects

25. Where the bundling of services may mean that consumers experience lower than reasonably anticipated broadband service quality during times of concurrent service use, service providers should ensure that prospective subscribers are fully aware of these potential effects.

CONCLUSION

26. The identification of these Best Practice Indicators is consistent with the approach adopted in the Authority's previous report on misleading or deceptive practices in relation to the mis-selling of fixed-line services in Hong Kong. The Report on Mis-selling of Fixed-line Telecommunications Services to Consumers in Hong Kong which was published on 29 March 2005, has successfully contributed to greater awareness of section 7M issues and an observable reduction in established mis-selling cases.

27. In those cases in which the Authority determines that section 7M has been breached, the degree to which the broadband service provider in question has sought to implement the above Best Practice Indicators will be a relevant factor in determining an appropriate sanction.

The Office of the Telecommunications Authority

27 February 2008