

Panel on Information Technology and Broadcasting

Extract from minutes of the meeting held on 10 March 2008

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V. Provision of consumer information in relation to residential broadband use in Hong Kong

(LC Paper No. CB(1)975/07-08(04) -- Paper provided by the Administration

LC Paper No. CB(1)975/07-08(05) -- Extract of minutes of special meeting held on 18 July 2007)

Briefing by the Administration

7. Deputy Secretary for Commerce and Economic Development (Communications and Technology), DSCED(CT) and Acting Director-General of Telecommunications (Atg DG of T) briefed members on the initiatives undertaken by the Office of the Telecommunications Authority (OFTA) to enhance consumer information and public understanding of the available broadband services after the Panel meeting in July 2007. Atg DG of T highlighted the salient points in the following three areas:

(a) *Performance pledges published by the internet service providers (ISPs)*

The five major broadband ISPs in Hong Kong (i.e. 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)), which together accounted for 97% of the market share, had reached agreement with OFTA on a set of performance pledges relating to five areas concerning network reliability, service restoration, customer hotline performance, customer complaint handling, and technical performance. The performance pledges were published by the ISPs on their respective websites. To enhance transparency, the actual performance statistics as measured against the pledges would be published for public information within one month after the end of each quarter as from April 2008.

(b) *Consumer education on Internet and computer use*

Following discussion with relevant organizations and Government agencies, a consumer education campaign including short TV programmes and distribution of DVDs to enhance public

understanding of broadband services would be launched in the second half of 2008.

(c) *Best practice Indicators*

To improve industry practices in selling fixed-line and broadband services, Telecommunications Authority (TA) had, in a TA statement published on 27 February 2008, set out five best practice indicators for ISPs to observe to prevent misleading and deceptive sales conduct. Failure to comply with the best practice indicators would constitute a breach of section 7M of the Telecommunications Ordinance (TO) (Cap. 106).

Discussion

Performance pledges and best practice indicators

8. Ms Emily LAU said that she was pleased to note the Administration's and the ISPs' initiatives in establishing performance pledges and best practice indicators, and also the quarterly release of actual performance statistics for public information to safeguard the rights and interest of consumers. She, nevertheless, was concerned that the best practice indicators and performance pledges were not service guarantees and that non-compliance with the guidelines would not attract any penalty. She sought elaboration on the measures put in place by the Administration to ensure consumer protection.

9. In response, DSCED(CT) recapped that at the Panel meeting in July 2007, a number of deputations gave the view that there were practical difficulties for the ISPs to provide 100% guarantee on some service parameters, such as service connectivity, as they had to rely on the performance of third party networks and the overall state of the Internet which were not wholly controlled by individual ISPs. He highlighted that although the performance pledges were not service guarantees, these were public commitments made by the ISPs and they would make their best efforts to ensure that the pledged service standards were achieved. Regular publication of performance pledges and actual performance statistics would enable consumers to compare the performance of individual ISP, verify whether the ISPs were meeting their pledged service standards and make informed decisions in selecting ISP. Atg DG of T supplemented that the ISPs would run the risk of breaching section 7M of the TO if the best practice indicators relating to the promotion, marketing and advertising of telecommunications services were not observed. He stressed that the Administration attached great importance to safeguarding the rights and interests of consumers and took a serious view on complaints about unscrupulous sales practices and substandard telecommunications services. He also assured members that OFTA would continue to monitor the performance of ISPs and take enforcement action as appropriate for any breaches identified during inspections or established through the complaint mechanism.

Consumer education

10. Noting that about \$1 million would be spent on consumer education programmes including the production of DVDs to educate the public about the use of computers and the Internet in home, Mr SIN Chung-kai considered that the resources could be put to better use by setting up a "call centre" with a manned hotline service to handle public enquiries and complaints. He noted that TA as an industry regulator should mainly be responsible for law enforcement and investigation of breaches of TO, while the service operators' main concern was on the maintenance of service delivery. As disputes and complaints were mainly caused by consumers' lack of technical understanding, or were related to contractual disputes, service quality, and billings for which arbitration was required, it would be more cost effective for the hotline team to triage the complaints received and provide appropriate assistance, such as technical assistance, mediation service, or referral to TA.

11. Atg DG of T agreed with Mr SIN Chung-kai that a missing link in the chain of Internet service provision was that there was no designated body to handle consumer complaints arising from consumers' lack of technical knowledge, or complaints relating to contractual disputes and issues that did not fall within the scope of section 7M. Although there was no breakdown on the nature of some 3,700 complaints received by the Consumer Council (CC), the consumer survey commissioned by OFTA revealed that the majority of consumer complaints was mainly due to consumers not fully conversant with the use of computers and the Internet. As such, it was considered helpful to conduct an on-going consumer education programme in conjunction with other stakeholders including the Communications Association of Hong Kong, the Hong Kong Internet Society, and CC. Noting that some professional groups had operated a similar hotline service to help small and medium enterprises when e-trading was first introduced, DSCED(CT) undertook to study Mr SIN's suggestion with TA.

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Customer complaint settlement scheme

12. Ms Emily LAU enquired about the progress made in the setting up of a customer complaint settlement scheme for voluntary participation by ISPs. In response, DSCED(CT) and Atg DG of T said that OFTA was now having active discussions with various major telecommunications service operators on the details of the pilot scheme, including the procedures for handling complaint cases. An announcement would be made when the scheme was ready for implementation.

13. Ms Emily LAU welcomed the pilot customer dispute settlement scheme which she hoped could be launched as soon as practicable. Noting that CC had received some 3,700 Internet related consumer complaints at the end of 2007, Ms LAU said that the high complaint figure gave no cause for complacency. She called on the Administration to closely monitor the situation to see if the various improvement measures could help reduce the number of complaints. In the event that self-regulation by the industry proved to be ineffective, the Government should consider alternative regulatory measures.

14. DSCED(CT) replied that as indicated by the Secretary for Commerce and

Economic Development in his reply to a question raised by Hon James TO at the LegCo meeting held on 5 March 2008, the Administration would continue to monitor the market situation, review the effectiveness of various initiatives, and consider different measures to protect the rights and interests of consumers. To reinforce consumer protection, OFTA had recommended to include a condition in the future unified carrier licence requiring licensees to comply with any codes of practice or guidelines that the TA might issue for the purpose of protecting and promoting the interests of consumers for telecommunications goods and services. He believed that the new condition could provide a regulatory framework to deal with contractual disputes over telecommunications services. Pointing out that the number of complaints was trending down from 4,000 in 2006 to about 3,000 in 2007, he said that in the event that various service improvement measures, consumer education programmes and self-regulatory measures adopted by the industry failed to improve the complaint situation, the Government would consider other appropriate regulatory measures.

15. In response to Ms Emily LAU's enquiry on the composition, powers, and mechanism of the proposed settlement scheme, DSCED(CT) and Atg DG of T explained that disputes between consumers and service operators that could not be satisfactorily resolved would be brought to the committee for arbitration. The voluntary pilot scheme involving interested telecommunications operators and independent third party arbitrators who provided free professional service would be put on trial for a period of 12 months, after which a review would be made to assess the effectiveness of the scheme.

16. Noting that no professional fees would be charged by the participating arbitrators during the piloting period, Ms Emily LAU raised concern about future funding of the scheme if it was to operate on a long-term basis. In response, Atg DG of T advised that in overseas jurisdictions, fees would be levied on service operators based on the number of consumer disputes arbitrated. DSCED(CT) highlighted that the first priority and the current focus was to get the pilot scheme started as soon as practicable. The Administration would then review and fine-tune the arbitration mechanism and deliberate on the funding arrangements in the light of operational experience and on the basis of the number of complaints handled and the workload during the trial period.

17. Ms Emily LAU opined that the Administration should consider the funding arrangements as early as practicable when assessing the feasibility and cost-effectiveness of maintaining the dispute settlement scheme on a long-term basis. Service operators should be informed early if they were required to pay for the arbitration service after the trial period. In this connection, the Chairman suggested that consideration be given to increasing the licence fee to finance the scheme or the "call-centre" suggested by Mr SIN Chung-kai. In reply, DSCED(CT) and Atg DG of T said that fee increase was a sensitive issue that had to be handled carefully. They noted members' concerns in this regard and undertook to give due consideration to future funding arrangements of the scheme.

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