



消費者委員會 CONSUMER COUNCIL

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PLEASE REFER TO OUR REF.

請參閱我們的REF.

Ms. YUE Tin-po
Clerk to Panel
Panel on Information Technology and Broadcasting
Legislative Council
8 Jackson Road
Central, Hong Kong

Dear Ms. Yue,

Re: Analysis of the Settlement Arrangements of
Ring Tone/SMS/MMS Billing Disputes
for the period of 1 January 2010 to 31 August 2010

I am sending herewith the captioned analysis for the Panel Members' information.

Should you have any queries, please feel free to contact me at 2856 8585.

Yours sincerely,

Connie LAU

Chief Executive
Consumer Council

Encl.

**Analysis of the Settlement Arrangements
of Ring Tone/SMS/MMS Billing Disputes
for the period of 1 January 2010 to 31 August 2010**

Preamble

1. Consumer Council observed a record high complaint of Ring Tone/SMS/MMS Billing Disputes in late 2009 and revealed in an article in December issue of CHOICE magazine on unreasonable charges and the alleged unfair trade practices. This report highlights on the recent billing situation and the dispute settlement arrangements after the Panel on Information Technology and Broadcasting Meeting of the Legislative Council in January this year.

Observation and Analysis

2. Having met with 5 mobile network operators (MNOs), the Office of the Telecommunications Authority (OFTA) has developed a Code of Practice to improve the transparency about charging information and arrangements for mobile content services delivered through short messaging services (SMS). Following is an analysis of the complaint statistics for the period of 1 January to 31 August 2010.
3. In December, 2010, there is a record high complaint statistics, 91 cases. After the introduction of the Code, the number of complaints dropped to 38 in January 2010 and shrunk to 8 cases in July. However, it is observed that an upward tendency of complaints appears in August this year, jumping to 31 cases. (see Chart 1 in Annex I). In view of the situation, we notified OFTA the details of complaints by letter on 22 September 2010. In the meantime, this Council will keep close track of the development of the cases.
4. In analyzing the complaints, the natures of disputes remain as before:
 - (a) even no subscription or consent was made, messages were delivered to the mobile phone users, charging at HK\$5 each;
 - (b) the SMS service provider could not be reached with the phone no. provided, even though the consumer attempts to stop the service.

5. Setting aside those cases still in mediation, it is encouraging that only 10 cases could not reach any settlement between the complainants and the MNOs, approximately 10%. (see Table in Annex II)

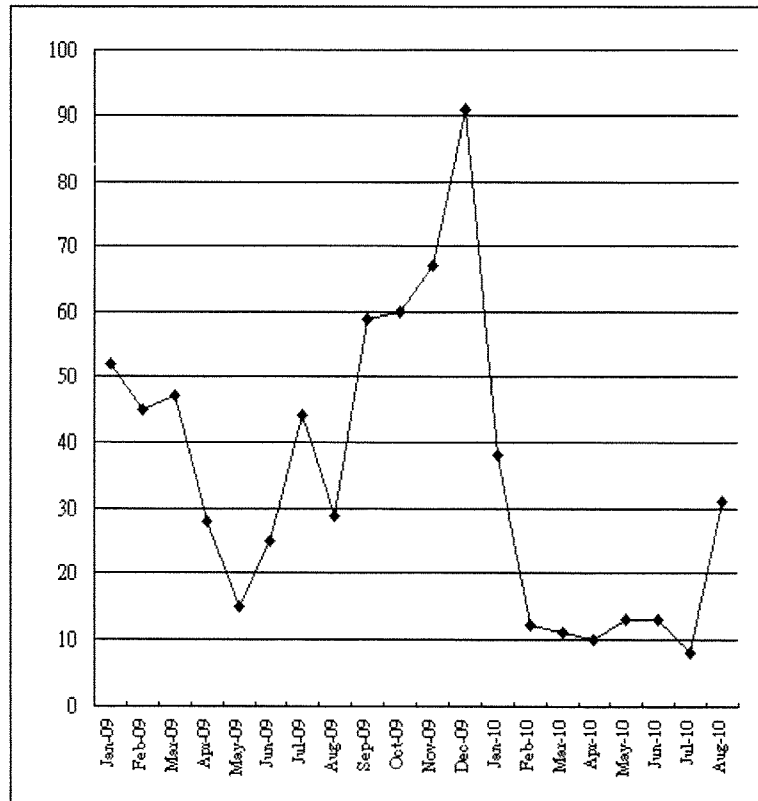
Conclusions and Recommendations

6. It is believed that LegCo's condemnation of the charging practices, OFTA's Code and Consumer Council's reporting of the malpractices seem to have achieved the desired result in consumer protection and raised consumer's awareness on the subject. It is suggested that this Council, in conjunction with OFTA, should continue to exert pressure on the MNOs to observe the Code and to closely monitor the SMS service providers' sales practices.

Annex I

**Complaints regarding Charges Dispute
on Ring Tone / SMS / MMS Services**

<u>Month</u>	
Jan-09	52
Feb-09	45
Mar-09	47
Apr-09	28
May-09	15
Jun-09	25
Jul-09	44
Aug-09	29
Sep-09	59
Oct-09	60
Nov-09	67
Dec-09	91
Jan-10	38
Feb-10	12
Mar-10	11
Apr-10	10
May-10	13
Jun-10	13
Jul-10	8
Aug-10	31



Analysis of the Settlement Arrangements of SMS Billing Disputes for the period of 1 Jan 2010 to 31 Aug 2010

Forms of settlement arrangements	No. of complaints	Proportion of complaints (in percentage)
Cases still pending settlement	35	26%
Cases without settlement	10	7%
Cases with settlement (non-disclosure)	51	38%
Cases with settlement (disclosure of amount only)	18	13%
Cases with settlement 100%	15	11%
Cases with settlement 70%	1	1%
Cases with settlement 50%	2	1%
Cases with settlement 30%	2	1%
Cases with settlement 20%	1	1%
Cases with settlement 10%	1	1%
Total	136	100%