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Panel on Information Technology and Broadcasting

Meeting on 14 June 2010

Background brief on the Pilot Programme on Customer Complaint Settlement Scheme

Purpose

This paper provides the background to the Pilot Programme on Customer Complaint Settlement Scheme (CCSS) administered by the Office of the Telecommunications Authority (OFTA) and also a summary of views and concerns expressed by Members in previous discussions.

Background

2. Telecommunications services are highly pervasive in Hong Kong. The total number of customers of fixed line, mobile and broadband services have increased substantially in the recent years. The use of telecommunications services for business and private purpose is set to increase as more innovative services are introduced and as consumers increasingly adopt mobile data services.

3. Partly as a result of the pervasiveness of telecommunications services, and the competitive market landscape, the number of consumer complaints has been substantial. Complaints in relation to telecommunications services topped the complaint statistics of the Consumer Council in the past few years. The sharp increase in the number of complaints about undesirable sale practices and billing disputes in connection with telecommunications services had drawn widespread public concern. As the regulator of the telecommunications industry, OFTA has implemented a number of measures to safeguard the rights and interests of consumers. These included enhancing consumer education, and introducing Special Conditions (SC) on "Compliance with Codes of Practices" (SC 1) and on "Service Contracts and Dispute Resolution" (SC 36) under the Unified Carrier Licence requiring licensees to comply with any codes of practice or guidelines the Telecommunications Authority might issue for the purpose of protecting and promoting the interests of consumers of telecommunications goods and services;

and in respect of contractual requirements on telecommunications services including preparation of contract documentation, entering into or terminating service contract, and settlement of disputes. A number of best practice indicators for the selling of services have been identified to help improve industry practices on the selling of fixed-line and broadband services for consumer protection.

4. In addition, OFTA proposed in 2007 the setting up of a voluntary alternative dispute resolution scheme for the telecommunications industry to provide a more effective means of resolving contractual disputes between operators and their customers outside the judicial system. The CCSS was referenced on similar schemes in force in overseas economies (such as Australia, the United Kingdom and New Zealand), and aimed to offer the parties concerned a quick and economical way to resolve disputes with less legal formality and obviate need for expensive legal cost. With the assistance of Hong Kong International Arbitration Centre (HKIAC) which provided the adjudication services free of charge, a Pilot Programme was conducted for a period of 18 months from September 2008 to February 2010. OFTA contributed its staff and other resources in administering the Pilot Programme. The purpose of the Pilot Programme was to test the practicality of the procedures and the efficacy of the concept of the CCSS under Hong Kong conditions. Cases that have come to a deadlock and could not be resolved between the customers and the operators through negotiations were referred to the Pilot Programme by participating operators with the consent of the customers concerned for mediation and adjudication. Upon the receipt of the complaint, OFTA staff would attempt to mediate between the parties with a view to assisting the parties concerned to resolve their dispute. If the mediation effort did not result in a mutually acceptable settlement, the case would be referred to the HKIAC for adjudication.

Previous discussions

5. Members have expressed much concern at different forum about the escalating incidents of telecommunications service related complaints and contractual disputes. They have urged the Administration to take measures to enhance consumer protection.

6. Dr Hon YEUNG Sum moved a motion on "Strengthening the regulation of unscrupulous business practices in pay television, telecommunications and Internet services" for debate at the Legislative Council meeting on 4 July 2007. Members urged the Government to review the existing regulatory mechanism, strengthen the regulation of the business practices of service providers, examine the extension of section 7M of the Telecommunications Ordinance (which regulates misleading or deceptive conduct of telecommunications operators) to cover pay television, and introduce a cooling-off period and standard terms in the contracts.

7. At the Council meeting on 5 March 2008, Hon James TO raised a question on the progress of the voluntary dispute adjudication scheme and the measures to enhance consumer protection, including the drafting of a standard consumer

contract by the Consumer Council introducing provisions on cooling-off period.

8. At its meetings held on 10 March and 13 May 2008, the Panel on Information Technology and Broadcasting (the Panel) raised concerns about the sharp increase in telecommunications services related complaints and contractual disputes, and urged the Administration to implement expeditiously measures to address the problem. The Administration briefed the Panel on the progress of the Pilot Programme on CCSS on 30 June 2009. Members generally welcomed the Pilot Programme to help facilitate satisfactory resolution of consumer complaints and contractual disputes. They considered that if the various service improvement measures, such as consumer education programmes and self-regulatory measures adopted by the industry, could not resolve the problems, the Government should explore alternative regulatory measures.

9. Given that many complaints were disputes between the service providers and customers (especially the elderly) about billing and the terms of the service contract, Panel members were of the view that service providers should be more cautious in dealing with elderly customers and should explain clearly the contract terms before entering into any service agreements with customers. In the case of change of service provider, the incoming service provider should clarify with the outgoing service provider outstanding matter such as any unexpired contract period and outstanding service fee payable by the customer. Regarding the concern about unsolicited phone calls following leakage of customers' personal information, the Administration had advised that the misuse of personal data could be dealt with by the Personal Data (Privacy) Ordinance (Cap. 486).

10. Panel member had expressed concern that the frontline staff rather than the telecommunications operators would be penalized for misleading or deceptive conduct in promoting telecommunications services. The Administration advised that under the licensing conditions, the telecommunications operator as the licensee would be held responsible for any misconduct of its employees. Moreover, any breach of the code of practice would be regarded as a breach of the licensing conditions and subject to penalty ranging from financial penalty to revocation of the service licence.

11. Panel members raised concern that as no professional fees would be charged by arbitrators participating in the Pilot Programme on CCSS, the scheme might not be financially sustainable on a long-term basis. They urged the Administration to give consideration to the future funding arrangements of the CCSS, and to inform the service operators at an early stage if they were required to pay for the arbitration service after the trial period.

Latest position

12. The Administration will brief the Panel on 14 June 2010 on the outcome of the Pilot Programme on CCSS. The Administration plans to publish a report on the review of the Pilot Programme and a consultation paper to seek the views and

comments of the public and the industry on the possible long-term implementation of CCSS.

Relevant papers

Progress report on the motion on "Strengthening the regulation of unscrupulous business practices in pay television, telecommunications and internet services" passed at the Council meeting on 4 July 2007

<http://www.legco.gov.hk/yr08-09/english/panels/itb/papers/itb0630cb1-2054-2-e.pdf>

Question raised by Hon James TO Kun-sun on protecting interests of consumers of telecommunications services at the Council meeting on 5 March 2008 and the Administration's reply

<http://www.legco.gov.hk/yr08-09/english/panels/itb/papers/itb0630cb1-2017-4-e.pdf>

Paper provided by the Administration for the Panel on Information Technology and Broadcasting meeting on 10 March 2008

<http://www.legco.gov.hk/yr07-08/english/panels/itb/papers/itb0310cb1-975-4-e.pdf>

Minutes of the Panel on Information Technology and Broadcasting meeting held on 10 March 2008

<http://www.legco.gov.hk/yr07-08/english/panels/itb/minutes/itb080310.pdf>

Paper provided by the Administration for the Panel on Information Technology and Broadcasting meeting on 13 May 2008

<http://www.legco.gov.hk/yr07-08/english/panels/itb/papers/itb0513cb1-1456-6-e.pdf>

Minutes of the Panel on Information Technology and Broadcasting meeting held on 13 May 2008

<http://www.legco.gov.hk/yr07-08/english/panels/itb/minutes/itb080513.pdf>

Paper provided by the Administration for the Panel on Information Technology and Broadcasting special meeting on 30 June 2009

<http://www.legco.gov.hk/yr08-09/english/panels/itb/papers/itb0630cb1-2017-3-e.pdf>

Minutes of the Panel on Information Technology and Broadcasting special meeting on 30 June 2009

<http://www.legco.gov.hk/yr08-09/english/panels/itb/minutes/itb20090630.pdf>

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