

LC Paper No. CB(1)2239/09-10(01)

# Customer Complaint Settlement Scheme (CCSS)

14 June 2010



# Background

- 
- **Consumers and businesses able to enjoy fruits of market liberalisation**
  - **But there is an upsurge in number of disputes between service providers and consumers.**




# Background

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- **Year** **No. of Complaints**
  - **2007** **4,629**
  - **2008** **4,317**
  - **2009** **4,016**



## Background

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- **Currently, parties to resort to court for resolution of intractable contractual disputes**
  - **In 2007, OFTA proposed a voluntary alternative dispute resolution (ADR) scheme for the telecommunications industry**



## CCSS Pilot Programme

- **For 18 months - September 2008 to February 2010**
- **Hong Kong International Arbitration Centre (HKIAC) provided adjudication services free of charge**
- **Purpose - test practicality and efficacy of a CCSS under local conditions**




## CCSS Pilot Programme

- **A two-stage approach**
- **First Stage: Mediation - OFTA staff help resolve dispute by mediation**
- **Second Stage: Adjudication - HKIAC assign professional adjudicator to handle**
- **Adjudicator may review his own decision upon request**



## Outcome of Pilot Programme

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- **Cases involve different types of services**
  - **Total 18 cases (6 cases successfully mediated; 11 cases adjudicated; 1 case pending review of adjudicator)**
  - **Fairly balanced outcome**
  - **Both parties could be at fault**
  - **Most customers willing to pay case fee**



# Report and Consultation

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- **On 8 June 2010, OFTA issued a Report on the Pilot Programme and a Consultation Paper for the future CCSS**
  - **Welcome views from industry and community**





## Consultation on Salient Issues

### *(I) Basic Features of effective CCSS*

- **cost-effective, user friendly and flexible;**
- **resolve disputes in a timely manner;**
- **be fair at all times**



## Consultation on Salient Issues

### *(II) Voluntary or mandatory scheme?*

- **Low rate of participation in Pilot Programme not conducive to development of an industry-wide ADR scheme**
- **Inclined to invoke condition of relevant licences to mandate participation**



## Consultation on Salient Issues

### *(III) Role of OFTA and CCSS Organisation*

- **Future scheme on fully independent basis**
- **Some degree of control by inserting appropriate terms in an agreement or undertaking with the organisation responsible for running the CCSS**



## Consultation on Salient Issues

### *(IV) Scope of scheme*

- **If future scheme remains voluntary, scope of complaints needs not be confined to licensable services.**
- **If future scheme be mandatory, services outside OFTA's jurisdiction (e.g. content and TV services) will not be covered; but may permit service providers to voluntarily declare to subject non licensable services to the scheme**



## Consultation on Salient Issues

### *(V) Mode of operation*

- **Informal mediation plus adjudication - approach adopted in Pilot Programme; or**
- **pure mediation without adjudication**



## Consultation on Salient Issues

### *(VI) Funding Arrangement*

- funded primarily by industry
- Customers shall also pay a reasonable amount to minimise unmeritorious claim and abuse
- OFTA will consider making a one-off contribution for initial setting up costs



## Consultation on Salient Issues

### *(VII) Quota of cases*

- **Scheme should not be overloaded particularly upon its launch**
- **To set quota of cases at least for first three years**
- **85 cases per month or 1020 cases per year for the first year**



## Consultation on Salient Issues

### *(VIII) Fees Level*

#### **Model A: Informal Mediation plus Adjudication**

- **Application Fee: \$100 (by Customer)**
- **First Stage Mediation Fee: \$1,200 (by Operator)**
- **Second Stage Adjudication Fee: \$100 or 5% of disputed amount, whichever higher (by Customer); and \$4,000 - \$8,000 per case (by Operator)**
- **Review Fee (paid by party who makes request): \$200 (if paid by Customer) or \$2,000 (if paid by Operator)**





## Consultation on Salient Issues

### Model B: Informal Mediation plus Mediation

- **Application Fee: \$100 (by Customer)**
- **First Stage Fee: \$1,200 (by Operator)**
- **Second Stage Fee: \$100 or 5% of disputed amount, whichever higher (by Customer); and \$4,000 per case (by Operator)**



## Consultation on Salient Issues

### *(IX) Binding nature of Decision*

- **Pilot Programme decision only binding on operator**
- **Be a waste, if not abuse, of the ADR mechanism**
- **Binding decision on both sides seem more balanced and reasonable**



## Consultation on Salient Issues

### *(X) Interest on Disputed Amount*

- Proposed Interest be awarded to party whose payment was withheld, if adjudication outcome is in his favour
- Adjudicator to decide on a case by case basis



**End**