

# 立法會 *Legislative Council*

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## **Panel on Information Technology and Broadcasting**

**Meeting on 8 November 2010**

### **Background brief on chargeable mobile content services**

#### **Purpose**

This paper summarizes views and concerns expressed by Members on billing disputes in connection with chargeable mobile content services (MCS) provided through Short Messaging Services (SMS), and information on the action taken by the Office of the Telecommunications Authority (OFTA) and the industry to address the issue.

#### **Background**

2. In recent years, mobile phones in Hong Kong have been increasingly used to deliver content services to target customers. There is a wide variety of such MCS currently available in the market, ranging from stock quotes, weather forecast and report, flight information, to more sophisticated ones such as location-based services with recommendations on nearby restaurants, or even social networking. These services may be delivered through various means, the most common being SMS.

3. Chargeable content services are often provided by third party content providers (CPs) delivered on the networks of the mobile network operators (MNOs). Most of these third party CPs may not have a direct billing relationship with their target customers and rely on the readily available billing mechanism which the MNOs have with their customers. The usual arrangement is for CPs to enter into a commercial contract with the MNOs for using MNOs' network and the MNOs to collect usage fee on behalf of CPs.

4. The sharp rise in the number of MCS billing disputes and complaints have drawn widespread public concern. There have been complaints that consumers claimed that they were not aware that they had registered with a chargeable MCS, that the services would be chargeable, or that messages would be sent to them in a substantial quantity. Some complainants claimed that they had difficulties in terminating the MCS with the CPs. From January to October 2009, OFTA has received 78 complaints about billing disputes in connection with chargeable MCS (the figure increased to 96 up to mid-December 2009). Having examined the cases, OFTA concluded that the main reason which gave rise to the MCS billing disputes was the failure of some CPs to provide clear charging information and relevant service terms and conditions to their customers in their promotional messages or at their websites for the registration process.

### **Previous concerns raised by Members**

#### Panel discussion

5. At the meeting of the Panel on Information Technology and Broadcasting (the Panel) on 11 January 2010, members discussed the concerns about billing disputes in connection with MCS provided through SMS and the action taken by OFTA to address the issue. Panel members noted that OFTA had followed up on the complaints received and, in conjunction with the Communications Association of Hong Kong (CAHK), drew up a Code of Practice ("Code for the Provision of Chargeable Mobile Content Services") (the CoP) to safeguard consumers' interests and improve the transparency of the charging information of MCS. According to the CoP promulgated by CAHK, CPs were required, among other things, to indicate prominently the chargeable nature of the services and at what time such charges would start to trigger, provide clear charging information, obtain clear consent from user before service provision, set out straightforward arrangements for unsubscribing or deregistering from the services, and ensure that any MCS related billing dispute between a customer and a CP should not affect other telecommunications services subscribed by the concerned customer with the MNO.

6. Panel members criticized that OFTA had not reacted promptly and had not effectively discharged its functions to safeguard consumer interests. Some members opined that the voluntary CoP was toothless and they doubted the effectiveness of the self-regulatory approach in resolving the problem as the MNOs and the CPs had common financial interests. These members urged the Administration to consider regulating the conduct of MNOs and CPs for consumer protection by way of legislation. They also called on CAHK to urge the MNOs and CPs to refrain from sending misleading and tricky SMS that would clock up big bills for consumers (some of whom were youngsters and elderly people).

7. The Administration assured members that it would closely monitor the implementation of the CoP and assess its effectiveness. If problems persisted after the CoP had been implemented, the Administration would consider whether or not there was a case to pursue legislative amendments for consumer protection. The

Administration undertook to report the progress of implementation and the effectiveness of CoP to the Panel in six months' time.

### Council question

8. At the Legislative Council meeting on 14 April 2010, Hon Ronny TONG raised a question on MCS, in particular, whether the Administration would consider amending the legislation to step up the regulation of charging practice of the MNOs and adopting other measures apart from relying on the industry's voluntary compliance with the CoP.

9. According to the Administration, billing disputes are consumer issues which are regulated under the CoP. As regulation through legislation involves a lengthy legislative process, the introduction of a voluntary CoP is the quickest way to put in place a workable mechanism to address public concern in a pragmatic way. Although the CoP is voluntary and is promulgated by the industry, all MNOs have pledged compliance with it. The CoP also sets out the establishment of an Administrative Agency by the industry to assess the compliance of CPs with the CoP. MNOs have undertaken to enter into contracts only with CPs, and would cancel the contract with CPs which are found to contravene the CoP and fail to rectify the breaches. The Administrative Agency would, among other things, draw up detailed procedures and assessment criteria for evaluating CPs' compliance with the CoP, and conduct regular compliance checks and investigation of any suspected breaches of the CoP. The Administration will closely monitor the implementation of the CoP and assess its effectiveness before considering any legislative amendments for consumer protection.

### **Latest position**

10. The Administration will report the progress of the implementation and the effectiveness of the CoP at the Panel meeting on 8 November 2010.

### **Relevant papers**

Information paper provided by the Administration for the Information Technology and Broadcasting Panel meeting on 11 January 2010

<http://www.legco.gov.hk/yr09-10/english/panels/itb/papers/itb0111cb1-821-8-e.pdf>

Minutes of Information Technology and Broadcasting Panel meeting on 11 January 2010

<http://www.legco.gov.hk/yr09-10/english/panels/itb/minutes/itb20100111.pdf>

Submissions from the Consumer Council following the Information Technology and Broadcasting Panel meeting on 11 January 2010 (English version only)

<http://www.legco.gov.hk/yr09-10/english/panels/itb/papers/itb0111cb1-1206-1-e.pdf>

<http://www.legco.gov.hk/yr09-10/english/panels/itb/papers/itb0111cb1-2954-1-e.pdf>

Question raised by Hon Ronny TONG on "Chargeable Mobile Content Services Delivered Through Short Messaging Services" at the Council meeting on 14 April 2010

<http://www.legco.gov.hk/yr09-10/english/counmtg/hansard/cm0414-translate-e.pdf>

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