For discussion **EC(2012-13)13**
on 4 January 2013

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

HEAD 46 – GENERAL EXPENSES OF THE CIVIL SERVICE
Subhead 081 Recoverable salaries and allowances
(Office of the Communications Authority Trading Fund)

Members are invited to recommend to the Finance Committee the creation of the following permanent post in the Office of the Communications Authority with immediate effect –

1 Chief Regulatory Affairs Manager
(D1) ($112,200 - $122,650)

to be offset by the deletion of the following permanent post –

1 Principal Regulatory Affairs Manager
(MPS 45 - 49) ($87,340 - $100,625)

PROBLEM

The Office of the Communications Authority (OFCA) needs to strengthen its directorate support for overseeing the implementation, administration and enforcement of the new consumer protection regime under the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (TDO(A)) in respect of unfair trade practices relating to the provision of broadcasting and telecommunications services by licensees under the Broadcasting Ordinance (BO) (Cap. 562) and the Telecommunications Ordinance (TO) (Cap. 106).

/PROPOSAL …..

PROPOSAL

2. We propose to upgrade one permanent post from Principal Regulatory Affairs Manager (PRAM) (MPS Point 45 - 49) to Chief Regulatory Affairs Manager (CRAM) (D1) in OFCA with immediate effect upon approval of the Finance Committee (FC).

JUSTIFICATION

3. On 17 July 2012, the Legislative Council (LegCo) passed the TDO(A) (Ord. No. 25 of 2012) which seeks to expand the scope of prohibited unfair trade practices of the Trade Descriptions Ordinance (TDO) (Cap. 362). Furthermore, the TDO(A) will enhance the enforcement regime of the TDO by introducing, on top of the current criminal sanctions, a new compliance mechanism under which civil enforcement options can be drawn on to deal with infringements. A summary of the unfair trade practices which are prohibited under the TDO(A) is
Encl. 1 at Enclosure 1. The current plan of the Administration is to commence operation of the TDO(A) in the second quarter of 2013.

4. While the Customs and Excise Department (C&ED), which currently enforces the TDO, will be tasked to enforce the new provisions under the TDO(A), concurrent jurisdiction will be conferred on the Communications Authority (CA) in respect of unfair trade practices relating to the provision of broadcasting and telecommunications services by licensees under the BO and the TO. OFCA is the executive arm of the CA. The implementation of the TDO(A) will bring about expanded enforcement duties and increased workload to OFCA.

5. There are currently two civil service grades in OFCA which are responsible for providing technical and economic regulatory support to the CA respectively. They are the Telecommunications Engineer (TE) grade and the Regulatory Affairs Manager (RAM) grade. The TE grade is responsible mainly for the technical regulatory work. The RAM grade, a newly created civil service grade, is a multi-disciplinary grade comprising members with background in such areas as law, economics, accounting, business administration and statistics, engineering, information and communications technology which would enable them to perform effectively the economic regulatory functions with respect to the telecommunications and broadcasting sectors. The FC approved the creation of the new RAM grade in November 2011.

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6. At present, misleading or deceptive conduct of telecommunications licensees is prohibited under section 7M[Note] of the TO, which will be repealed upon the commencement of operation of the TDO(A). OFCA is responsible for the investigation into and enforcement against misleading or deceptive conducts of telecommunications licensees under section 7M of the TO. Since the enactment of section 7M in 2000, the former Office of the Telecommunications Authority (OFTA) and OFCA have handled more than 500 such complaints which required extensive inquiries and investigations. The caseload is averaged out to be about 42 per annum, just on the telecommunications sector.

7. As regards the broadcasting sector, no similar statutory power is conferred upon the former Broadcasting Authority and the CA under the BO to investigate and enforce against the misleading or deceptive conducts of broadcasting licensees. For complaints on unfair trade practices in the broadcasting sector, the former Television and Entertainment Licensing Authority and now OFCA would seek the consent of the complainants and refer the complaints to the broadcasters for follow-up actions. The average annual number of referrals during the past three years (2009 to 2011) is 77.

8. Following the commencement of operation of the TDO(A), OFCA will take up the role of investigation into and enforcement against unfair trade practices relating to the provision of both broadcasting and telecommunications services by licensees under the BO and TO, in support of the CA. There will also be a substantial change in the approach of investigation and enforcement of the new fair trading provisions in the TDO(A) as compared with that relating to the existing provisions in section 7M of the TO. Overall speaking, the enforcement duties of OFCA will be expanded considerably, both in scope and complexity, because of the following factors –

(a) new enforcement work arising from handling cases of unfair trade practices relating to the provision of broadcasting services under the TDO(A), which are not regulated at present;

(b) new enforcement work arising from handling suspected aggressive commercial practices by telecommunications licensees, which are not covered by the existing section 7M of the TO;

/(c) …..

[Note] Section 7M of the TO provides that "*[a] licensee shall not engage in conduct which, in the opinion of the [Communications] Authority, is misleading or deceptive in providing or acquiring telecommunications networks, systems, installations, customer equipment or services including (but not limited to) promoting, marketing or advertising the network, system, installation, customer equipment or service.*"

(c) more complex enforcement work arising from a change from an administrative enforcement model under the existing section 7M of the TO, to the adoption of a judicial model under the TDO(A), where a more rigorous approach of investigation and higher standard of evidence collection are required on the part of OFCA. For cases where there are sufficient grounds to suspect a breach, additional work (including preparing relevant documents and statements, liaison with witnesses, attending trials and giving evidence in court) is required to support the bringing of the cases to criminal prosecutions before the court; and

(d) new regulatory work arising from the implementation of a new compliance-based enforcement mechanism under the TDO(A) in lieu of criminal proceedings, the handling of concerned undertakings from licensees and where necessary the seeking of injunctions from the court.

9. Furthermore, there will be a need for OFCA to work closely with C&ED to prepare for the commencement of, and coordinate the on-going performance of the two agencies' respective functions under the TDO(A), including drawing up a Memorandum of Understanding between the CA and the Commissioner of Customs and Excise as envisaged under the TDO(A), formulation and adoption of relevant guidelines and enforcement policies and their review, on-going liaison with C&ED on management and transferral of cases between agencies and cooperation with C&ED on public education initiatives.

10. The existing work of conducting investigation into and enforcement against misleading or deceptive conduct of the telecommunications licensees governed under section 7M of the TO is handled in OFCA by the Market and Competition Branch (MCB), which is headed by an Assistant Director (designated as Assistant Director (Market and Competition) (AD(M)). The MCB consists of two divisions, staffed largely by members of the RAM grade. Division 1 is headed by a directorate post of CRAM (D1) (designated as Head, Market and Competition Division 1 (HM1)) who is mainly responsible for handling competition-related complaints and cases in the telecommunications and broadcasting sectors under the competition provisions in the BO and TO respectively. Division 2 in MCB is headed by a non-directorate post of PRAM (designated as Head, Market and Competition Division 2 (HM2)) and is mainly responsible for handling complaints in relation to misleading or deceptive conduct of telecommunications licensees under section 7M of the TO, as well as other regulatory duties in relation to spectrum auctions, development of financial modelling for regulatory purposes and consumer protection initiatives such as alternative dispute resolution scheme for the telecommunications sector. The two divisions have also been sharing the workload with each other on a relief basis in instances where there is an upsurge in the

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number of complaints on misleading or deceptive conducts/competition-related complaints and cases.

11. To cope with the additional workload due to the expanded enforcement duties of OFCA under the TDO(A) as outlined in paragraphs 6 to 9 above, and to deal with the pre-commencement preparatory works in relation to the implementation of the TDO(A), two new divisions, namely Division 3 and Division 4, each headed by a non-directorate post of PRAM, have been established in OFCA in October 2012. Together with Division 2, the three divisions will take up the primary role of investigating complaints and cases on unfair trade practices relating to the provision of broadcasting and telecommunications services under the TDO(A), providing support on criminal prosecution, processing undertakings from licensees, and reporting outcome of investigation to the CA. The three divisions will also need to work closely with C&ED on the set up and on-going review and development of the new regulatory regime on tackling unfair trade practices, such as the formulation and updating of guidelines and enforcement policies, coordination with C&ED on an on-going basis as regards transfer of cases and providing support to each other's enforcement work when the need arises according to the agency's respective jurisdiction under the TDO(A), as well as planning and conduct of publicity campaigns and consumer education programmes. The three PRAMs heading the three divisions currently report directly to AD(M) as a makeshift arrangement, pending the proposed creation of a new CRAM post in MCB.

12. Given the much expanded enforcement duties arising from the commencement of the TDO(A) and the expansion of the concerned workforce as mentioned above, there is a need to strengthen the directorate support within the MCB in overseeing the implementation and administration of the new consumer protection regime under the TDO(A) in the telecommunications and broadcasting sectors, maintaining a coherent approach in the investigation and enforcement of cases related to unfair trade practices, and ensuring the coordination and cooperation arrangements between OFCA and C&ED are carried out efficiently and effectively. For these reasons, we propose to create one permanent post of CRAM (D1) in the MCB, through upgrading an existing PRAM post.

13. Upon creation of the new CRAM post, the three divisions as mentioned in paragraph 11 will merge to form a new Division 2 headed by the CRAM (designated as Head, Market and Competition Division 2 (HM2)). The
Encl. 2 proposed job descriptions of the new HM2 post are at Enclosure 2. Same as the existing arrangement between Division 1 and Division 2 in MCB, the new HM2 is also required to share the work load of HM1 on a need basis in respect of cases of anti-competitive conduct in the broadcasting and telecommunications sectors.

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14. The only other CRAM post in OFCA is taken up by HM1 in MCB. Without the proposed new HM2 post, it is not possible for HM1 to take up the new duties involved, in view of the scope and complexity of the new responsibilities. Currently, HM1 provides directorate support for the enforcement of the competition provisions under the TO (including the merger and acquisition provisions); handles the mediation of inter-operator disputes in relation to competition issues; and defends in the court and the Telecommunications (Competition Provisions) Appeal Board legal challenges against the decisions of the CA (and the former Telecommunications Authority) concerning the complaints against contraventions of competition provisions under the TO. With the establishment of OFCA which serves as the executive arm of the CA – the unified regulator of the telecommunications and broadcasting sectors, the existing CRAM has already taken up additional duties in relation to anti-competitive conducts of broadcasting licensees under the BO.

15. Moreover, under the new cross-sector Competition Ordinance (CO) (Ord. No. 14 of 2012) passed by LegCo in June 2012, the CA will have concurrent jurisdiction in respect of competition issues in the telecommunications and broadcasting sectors. There will be a fundamental change in the enforcement approach under the new competition law which brings about additional workload and complexities in enforcement work relating to anti-competitive conduct in future. HM1 is tasked to set up the new competition enforcement regime, absorbing such duties as the formulation of relevant guidelines on the new competition provisions and the liaison with the Competition Commission to be set up under the CO on the concurrent jurisdiction arrangements. The work force of Division 1 will in itself need to be doubled from the existing two teams, thus expanding the scope of supervision duties of HM1. In summary, HM1 is already heavily loaded with new and additional duties arising from the preparation for, and the implementation of the CO as well as the oversight of broadcasting competition issues in Hong Kong. The incumbent would not have any spare capacity to help strengthen directorate support for the implementation of the TDO(A).

16. As mentioned above, the direct reporting of the three PRAMs heading Divisions 2, 3 and 4 in MCB to AD(M) is only intended to be a temporary arrangement. It is not possible for AD(M) to exercise continual, effective directorate oversight of the MCB on this basis, given the much expanded scope and increased sophistication of work in regard to the enforcement of unfair trade practices and anti-competitive behaviours in both the telecommunications and broadcasting sectors under the TDO(A) and the CO. The span of control of AD(M) would increase from the previous two divisions comprising four teams of professional staff, to four divisions comprising nine teams without the proposed new CRAM. The proposed creation of the CRAM post would provide AD(M) and

the senior management of OFCA with the necessary directorate support to ensure a smooth transition to the new TDO(A) regime, and effective and efficient enforcement of the new trade descriptions provisions under the TDO(A).

17. The other directorate officers at D1 rank in OFCA are the four Chief Telecommunications Engineers (CTEs) under other branches of OFCA. The CTEs are professional engineering grade staff with specialised technical knowledge and engineering expertise responsible for handling technical planning, regulatory and resource management issues in respect of the broadcasting and telecommunications sectors. Currently, they are fully occupied in respect of the core regulatory duties of OFCA and providing support to the CA in performing its functions under the BO, TO and other legislation. They do not possess the relevant experience and expertise to oversee the implementation of the TDO(A) or the CO and to discharge the related enforcement and regulatory duties in relation to case investigation, analysis and prosecution support. It is not feasible for the CTEs to take up the work of the proposed CRAM post both in terms of nature of the new responsibilities and the workload involved.

18. The RAM grade is a newly created civil service grade. The FC approved its creation recently in November 2011. Existing staff at the rank of PRAM took office just in October 2012 after an open recruitment exercise conducted in mid-2012. In order to cast the net wider, OFCA will in accordance with the prevailing guidelines propose the conduct of an open recruitment exercise for filling the proposed CRAM post.

19. The job descriptions of the existing posts of HM1 and AD(M) are at
Encls. 3&4 Enclosures 3 and 4 respectively. The existing organisation chart of OFCA is at
Encl. 5 Enclosure 5. The existing and proposed organisation charts of the MCB are at
Encls. 6&7 Enclosures 6 and 7 respectively. The list of new non-directorate posts to be created by phases under the MCB to cope with the increase in workload arising from the implementation of the TDO(A) and the corresponding additional staff cost are at
Encl. 8 Enclosure 8.

ALTERNATIVES CONSIDERED

20. There are no viable alternatives. As explained in details in paragraphs 14 to 17 above, it is not feasible for the existing directorate staff in the MCB or CTEs in OFCA to share out the duties of the proposed post, having regard to the nature of enforcement work and the workload involved. As the expected increase in workload would persist over the long-term, it would not be appropriate to address the manpower needs for enforcement duties in particular with the employment of non-civil service contract staff.

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FINANCIAL IMPLICATIONS

21. The proposed creation of one CRAM post through the offsetting deletion of one PRAM post will require an additional notional annual salary cost at mid-point of $303,480 as follows –

	Rank	Notional annual salary cost at mid-point $	No. of posts
	Creation of permanent post CRAM	1,428,600	1
Less:	Deletion of permanent post PRAM	1,125,120	1
	Total	303,480	0

The required additional full annual average staff cost, including salaries and staff on-cost is $129,000. OFCA operates on a trading fund basis, with its funding supported by income derived mainly from licence fees. The additional cost due to this proposal will be fully borne by the OFCA Trading Fund.

PUBLIC CONSULTATION

22. We briefed the LegCo Panel on Information Technology and Broadcasting on 12 November 2012 and Members supported the proposal.

ESTABLISHMENT CHANGES

23. The establishment changes in OFCA and the former OFTA for the past two years are as follows –

Establishment (Note)	**Number of posts**			
	Existing (as at 1 December 2012)	**As at 1 April 2012#**	**As at 1 April 2011**	**As at 1 April 2010**
A*	14@	14	10	10
B	94	88	63	62
C	249	229	144	144
Total	357	331	217	216

/Note …..

Note:
A – ranks in the directorate pay scale or equivalent
B – non-directorate ranks, the maximum pay point of which is above MPS Point 33 or equivalent
C – non-directorate ranks, the maximum pay point of which is at or below MPS Point 33 or equivalent
* – excluding supernumerary post created under delegated authority
# – including 104 posts transferred from the relevant divisions of the former Television and Entertainment Licensing Authority upon the establishment of OFCA
@ – as at 1 December 2012, there was no unfilled directorate post

CIVIL SERVICE BUREAU COMMENTS

24. The Civil Service Bureau supports the proposed upgrading of a permanent PRAM post to a permanent CRAM post. The ranking of the proposed post is appropriate having regard to the level and scope of the responsibilities required.

ADVICE OF THE STANDING COMMITTEE ON DIRECTORATE SALARIES AND CONDITIONS OF SERVICE

25. The Standing Committee on Directorate Salaries and Conditions of Service has advised that the grading proposed for the post would be appropriate if the proposal was to be implemented.

Commerce and Economic Development Bureau
December 2012

Unfair Commercial Practices to be prohibited under the Amended Trade Descriptions Ordinance (TDO)

(i) False Trade Descriptions of Services (section 7A)

At present, the TDO prohibits anyone from applying a materially false or a misleading indication to any goods in the course of trade or business. The TDO does not apply to consumer transactions of services. Under the amended TDO, the application of the TDO has been extended to trade descriptions of services made in consumer transactions.

2. Besides, the TDO currently provides that only false trade descriptions of specified aspects of goods are prohibited. Trade descriptions of other aspects, on which consumers may rely to make a decision (e.g. how prices are indicated), falls outside the regulatory reach of the TDO. To provide additional protection for consumers, the TDO has been amended to the effect that false indications given of any matters with respect to any goods (and for that matter, services) are prohibited.

(ii) Misleading Omissions (section 13E)

3. "Misleading omission" is an offence under the amended TDO. Specifically, if, in the factual context, a trader's commercial practice omits or hides material information[Note], or provides material information in an unclear or ambiguous manner, or fails to identify its commercial intent, and as a result, it causes the average consumer to make a transactional decision that he would not have made otherwise, he commits the offence of misleading omissions.

(iii) Aggressive Commercial Practices (section 13F)

4. The amended TDO prohibits the use of aggressive commercial practices in consumer transactions. A commercial practice is considered as aggressive if, in its factual context, taking into account all relevant circumstances, it significantly impairs the average consumer's freedom of choice or conduct through the use of harassment, coercion or undue influence and it thereby causes him to make a transactional decision that he would not have made otherwise.

/*(iv)* …..

[Note] "Material information" is defined as the information that the average consumer needs, according to the context, to make an informed transactional decision (including any decision concerning whether and on what terms to purchase a product and whether and on what terms to exercise a contractual right).

(iv) Bait

5. “Bait” commonly refers to the practice of traders advertising or promoting products at bargain prices or on very favourable terms without having reasonable quantities or capacity to meet the demand that should have been foreseen. The following two offences are created under the amended TDO –

(a) “Bait advertising” (section 13G)

This offence prohibits a person from advertising for the supply of products at a specified price if there are no reasonable grounds for believing that he will be able to offer those products for sale at that price for a reasonable period and in reasonable quantities, having regard to the nature of the market and the nature of the advertisement.

(b) “Bait-and-switch” (section 13H)

This offence prohibits a person from making an offer to sell products at a specified price with the intention of promoting a different product through various tactics. The promoted item is in fact used as a bait to attract consumers into shop premises, so that the trader has the opportunity to switch them to more expensive products in various guises.

6. To ensure that businesses acting in good faith would not be inadvertently caught, additional defences are provided for bait advertising: a defendant will be entitled to be acquitted if he can adduce sufficient evidence to raise an issue that he has taken remedial action within a reasonable period of time (such as replenishing the stock, causing another supplier to supply the same goods or service at the same terms or offering equivalent goods or service on the same terms) if the demand was greater than he originally foresaw.

(v) Wrongly Accepting Payment (section 13I)

7. Under the amended TDO, a trader commits an offence if, at the time of accepting payment for a product, he intends not to supply the product or to supply a materially different product. A trader also commits an offence if at the time of accepting payment, there are no reasonable grounds for believing that he will be able to supply the product within the period specified or within a reasonable period (if no period is specified).

8. Additional defences are made available for defendants in proceedings for this proposed offence. If the defendant can adduce sufficient evidence to raise an issue that he has successfully procured a third party to supply the same or equivalent products, he will be entitled to be acquitted. In the case where the offence is only related to the “lack of ability to supply” (as opposed to “no intention to supply”), a refund in full made within a reasonable period is also an acceptable defence.

Proposed Job Description
Chief Regulatory Affairs Manager
(to be designated as the new Head, Market and Competition Division 2)

Rank : Chief Regulatory Affairs Manager (D1)

Responsible to : Assistant Director (Market and Competition)

Main Duties and Responsibilities –

1. overseeing investigation of complaints about unfair trade practice of telecommunications and broadcasting licensees under the amended Trade Description Ordinance (TDO) and misleading/deceptive conduct of telecommunications licensees under the Telecommunications Ordinance;

2. overseeing the implementation of the amended TDO including liaison with the Customs and Excise Department on the arrangements for concurrent jurisdiction of the Communications Authority, formulation and adoption of relevant guidelines and procedures;

3. providing support on prosecutions of unfair trade practices of telecommunications and broadcasting licensees in the court;

4. overseeing the operation of compliance-based enforcement mechanism for telecommunications and broadcasting licensees in lieu of prosecutions for breach of fair trading provisions in the amended TDO;

5. providing relief to another division in the Market and Competition Branch on investigation of complaints against anti-competitive practices in the telecommunications and broadcasting markets in case of a surge in complaints;

6. developing and monitoring special schemes and programmes to facilitate resolution of disputes among consumers and operators and overseeing implementation of the programmes and schemes;

7. overseeing auctions for the assignment of radio spectrum through market mechanism;

8. reviewing and implementing the Universal Service Arrangements, with calculation of the Universal Service Contribution on yearly basis;

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9. providing support to senior management on financial modelling for regulatory purposes; and

10. supporting the review of policy and legislation pertinent to the regulation of the telecommunications and broadcasting sectors from the perspective of consumer protection.

Job Description
Chief Regulatory Affairs Manager
(designated as Head, Market and Competition Division 1)

Rank : Chief Regulatory Affairs Manager (D1)

Responsible to : Assistant Director (Market and Competition)

Main Duties and Responsibilities –

1. overseeing investigation of complaints about anti-competitive practices in the telecommunications and broadcasting sectors and recommending actions against anti-competitive practices;

2. overseeing investigation of merger and acquisition cases for carrier licensees in the telecommunications sector;

3. overseeing the implementation of the Competition Ordinance (CO) including liaison with the Competition Commission on the arrangements for concurrent jurisdiction of the Communications Authority, formulation and adoption of relevant guidelines and procedures;

4. providing support to the senior management in the court and the Telecommunications (Competition Provisions) Appeal Board on legal challenges against the decisions of the Communications Authority, enforcement proceedings and appeals concerning competition provisions in the Broadcasting Ordinance, Telecommunications Ordinance and CO;

5. providing relief to another division in the Market and Competition Branch on investigation of complaints against misleading/deceptive conduct and unfair trade practices in the telecommunications and broadcasting markets in case of a surge in complaints;

6. supervising the economic analysis, surveys and studies on the telecommunications services market for monitoring market development and market conduct (including the pricing behaviour) of telecommunications operators;

7. handling the mediation of inter-operator disputes and cases related to determinations on matters of interconnection and sharing facilities, and making recommendations to the senior management; and

8. supporting the review of telecommunications policy and legislation pertinent to the regulation of the telecommunications market from the competition perspective.

Job Description
Assistant Director (Market and Competition)

Rank **:** Assistant Director of Telecommunications (D2)

Responsible to **:** Deputy Director General of Communications

Main Duties and Responsibilities –

1. supervising and coordinating the work in the promotion and protection of fair competition in the telecommunications and broadcasting sectors pursuant to the competition provisions in the Broadcasting Ordinance, Telecommunications Ordinance (TO) and Competition Ordinance;

2. supervising and coordinating the work in the enforcement against unfair trade practices of telecommunications and broadcasting licensees under the amended Trade Description Ordinance (TDO) and misleading/deceptive conduct of telecommunications licensees under the TO;

3. supporting the Communications Authority (CA) in bringing legal proceedings in the court and handling and defending cases of appeals against the CA concerning competition provisions in the legislation;

4. supporting the CA and the Government in bringing legal proceedings in the court and handling and defending cases of appeals against the CA and the Government concerning misleading/deceptive conduct of telecommunications licensees under the TO and fair trading provisions in the amended TDO;

5. overseeing implementation of spectrum auctions and universal service arrangements in the telecommunications sector;

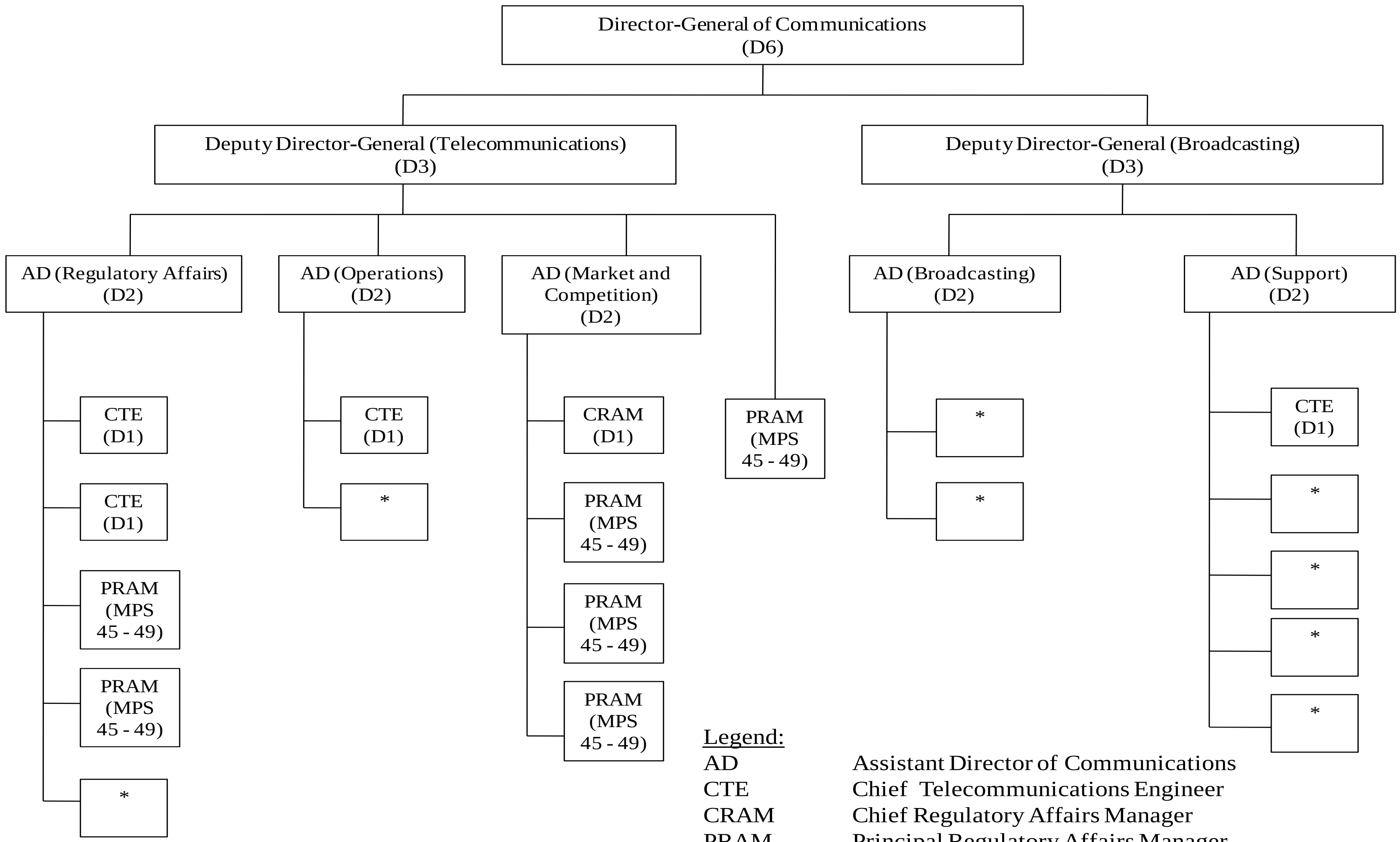
6. overseeing development and effective implementation of special schemes and programmes to facilitate resolution of disputes among consumers and operators;

7. providing support in the mediation of inter-operator disputes and in determinations on matters of interconnection and sharing facilities in relation to competitive issues;

8. reviewing regulatory frameworks, conducting industry or public consultation where appropriate, and issuing guidelines for the enforcement of the competition and fair trading provisions in the legislation; and

9. providing advice, support and recommendations in the review of telecommunications policy and legislation, particularly in the areas of fair competition and unfair trade practices.

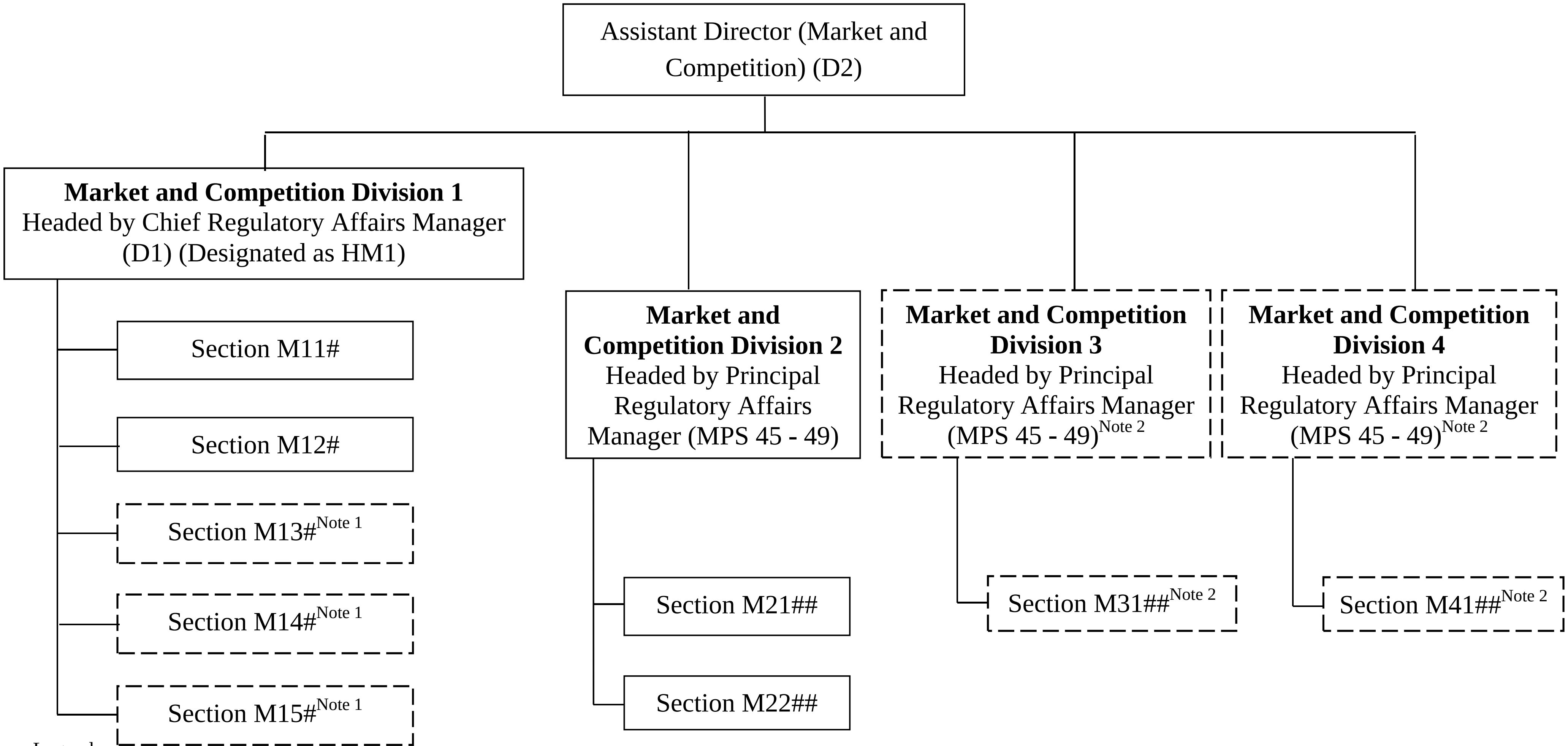
Organisation Chart of the Office of the Communications Authority
(as at December 2012)



Legend:

AD	Assistant Director of Communications
CTE	Chief Telecommunications Engineer
CRAM	Chief Regulatory Affairs Manager
PRAM	Principal Regulatory Affairs Manager
*	Other Non-Directorate Division Heads

Existing Organisation Chart of the Market and Competition Branch of the Office of the Communications Authority (as at December 2012)

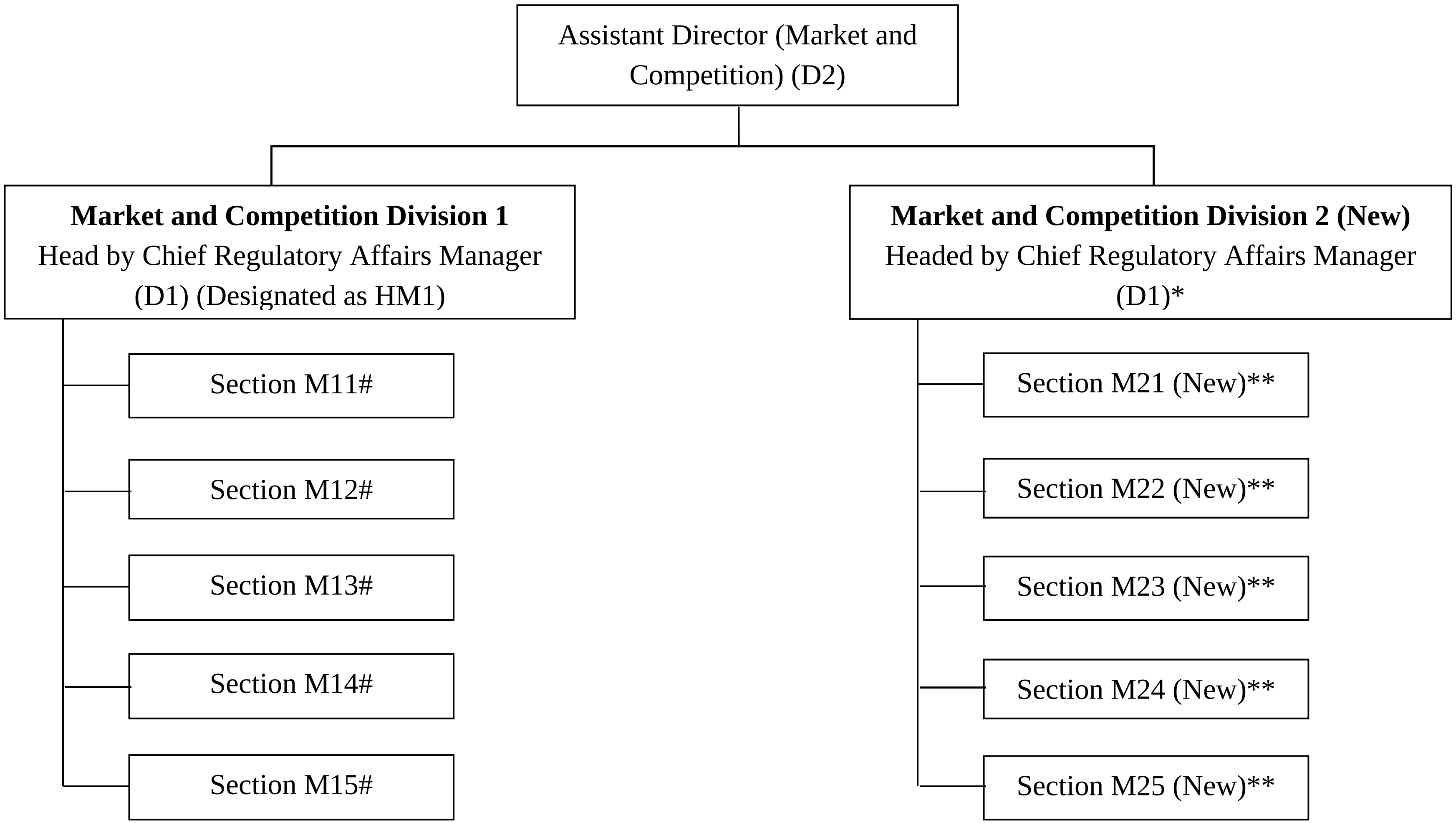


Legend:

#	Sections under Market and Competition Division (MCD)1 are either headed by a Principal Regulatory Affairs Manager, Senior Telecommunications Engineer or Senior Regulatory Affairs Manager as the case may be.
##	Sections under MCD2, MCD3 and MCD4 are generally headed by Senior Regulatory Affairs Managers.
[ ]	Newly created divisions / sections to support the implementation of the Competition Ordinance (CO) and Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (TDO(A)).
Note 1	Sections M13, M14 and M15 are newly created to cater for the implementation of the CO.
Note 2	MCD3 (including section M31) and MCD4 (including section M41) are newly created to cater for the increased workload due to the implementation of the TDO(A).

Enclosure 7 to EC(2012-13)13

Proposed Organisation Chart of the Market and Competition Branch of the Office of the Communications Authority



Legend:

Sections under MCD1 are either headed by a Principal Regulatory Affairs Manager, Senior Telecommunications Engineer or Senior Regulatory Affairs Manager as the case may be.

* The Chief Regulatory Affairs Manager post is proposed to be created by upgrading one permanent post of Principal Regulatory Affairs Manager.

** Sections under the new MCD2 will each be headed by a Principal Regulatory Affairs Manager or Senior Regulatory Affairs Manager as the case may be.

New Non-directorate Posts to be Created in the Office of the Communications Authority (OFCA) to Cope with the Increase in Workload Arising from the Implementation of the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (TDO(A)) and the Financial Implications

To cope with the increase in workload arising from the implementation of the TDO(A), OFCA plans to create by phases nine new non-directorate posts in the Regulatory Affairs Manager grade and two new non-directorate posts in the Inspector (Telecommunications) grade, in addition to the new Chief Regulatory Affairs Manager post proposed in the main paper. The breakdown of the 11 new posts is given in the following table –

Rank of New Posts	Total
Principal Regulatory Affairs Manager (MPS 45 - 49) ($87,340 - $100,625)	2
Senior Regulatory Affairs Manager (MPS 34 - 44) ($55,850 - $84,290)	1
Regulatory Affairs Manager (MPS 27 - 33) ($41,495 - $54,665)	6
Inspector (Telecommunications) (MPS 24 - 33) ($36,205 - $54,665)	2
Total	**11**

2. The staff cost for the creation of 11 non-directorate posts is estimated to be $10.35 million in a full year. The cost will be fully borne by the OFCA Trading Fund.
