

For discussion

5 December 2003

Legislative Council
Panel on Information Technology and Broadcasting

Quality of Service and Consumer Protection
Related to Broadband Internet Access Services

Introduction

Internet access service is now widely used by the general public as a powerful tool for communications, entertainment, education, information and conducting commercial transactions as well as transactions with the government. As information being delivered over the internet becomes increasingly complex and sophisticated, narrowband internet access can no longer satisfy users' need. As at the end of September 2003, the number of broadband connections for access to the internet in Hong Kong was around 1.17 million, of which 1.08 million were household connections. This represents an increase of 29% in the 12 months preceding September 2003. The increase is partly due to increase in demand for internet access, and partly due to a general trend of replacement of narrowband dial-up access to the internet by broadband connections.

2. Consumer may choose from at least 15 internet service providers (ISPs) of broadband internet services offering different speeds (1.5 Mbps¹ to 10 Mbps), technologies (DSL, cable modem, Metro Ethernet, etc.), prices and various terms of contract. In this open and competitive market, consumers in Hong Kong are able to enjoy one of the world's highest speed of broadband internet access services at very competitive prices. According to the results of the International Telecommunication Union's Digital Access Index published on 19 November 2003, Hong Kong was ranked number one in terms of affordability for internet access².

¹ Megabits per second

² Internet tariff as percentage of per capita income

3. With an ever-increasing number of people using broadband internet service in their daily life, as well as the rising level of consumer expectations and awareness, the number of complaints lodged by consumers about broadband internet access services has increased over the past 3 years. In the first 10 months of 2003, the Office of the Telecommunications Authority (OFTA) has handled 475 consumer complaints about broadband services, representing 35% of the 1,349 total consumer complaints handled (including complaints against ISPs and non-ISPs like mobile operators).

4. This paper briefs Members on the number and nature of consumer complaints handled by OFTA related to broadband internet access services, the outcome of complaints investigation and initiatives taken and to be launched by OFTA in protecting consumer interests in this regard.

Handling of Consumer Complaints

5. OFTA receives and handles consumer complaints for the purpose of identifying breach of the Telecommunications Ordinance or the relevant licence conditions and taking regulatory action. The handling of such complaints also enables OFTA to follow closely the state of provision of public telecommunications services in Hong Kong.

6. OFTA handled 2,139 consumer complaints against ISPs (including both dial-up and broadband ISPs) from January 2001 to October 2003. A breakdown by subject matters of the complaints is given below:

Subject Matters	2001	2002	2003 (Jan. to Oct.)
Contract / Billing	117	216	110
Customer Service	127	259	112
Alleged Deceptive Sales Conduct / Misleading Advertisements	42	107	57
Technical Quality	201	453	217
Others	65	42	14
Total	552	1077	510 (475 of these cases were about broadband services)

The figure dropped from 2002 to 2003 mainly because OFTA streamlined the procedure in complaint handling in mid 2003.³

7. The Telecommunications Authority (TA) is empowered under the Telecommunications Ordinance (the Ordinance) to take regulatory action against telecommunications service licensees in case of breach of the provisions of the Ordinance or the relevant licence conditions. In particular, complaints categorized as “Alleged Deceptive Sales Conduct/Misleading Advertisements” in paragraph 6 above are related to Section 7M of the Ordinance which prohibits a telecommunications service licensee from engaging in conduct which is misleading or deceptive in providing or acquiring telecommunications networks or services.

8. After investigation, 67 of those complaints lodged between January 2001 and October 2003 were found to have breached Section 7M. OFTA has given five written warnings⁴ and one reminder⁵. Details of

³ Under the streamlined procedure to improve communications among OFTA, service providers concerned and complainants, for a complaint which does not involve a breach of the Telecommunications Ordinance or licence conditions, OFTA would refer the case to the service provider concerned for review. If the case is settled within a reasonable period of time, it will not be counted as a complaint handled by OFTA.

⁴ The number of complaints handled or substantiated is more than the number of regulatory action (warnings, reminders, etc.) taken. The reason is that one regulatory action against a service provider may be the result of investigation of many similar complaints on the same service provider.

⁵ In this case the operator concerned was reminded to ensure that all its promotional materials fully comply with Section 7M of the Ordinance.

the cases and investigation results are published on OFTA's website (http://www.ofta.gov.hk/ca_bd/main.html).

9. Where there is no *prima facie* evidence for breach of the Ordinance or relevant licence conditions and the complaints involve only general consumer issues, such as contractual disputes, bill disputes, collection of overdue payment, operator's internal administrative matters, refund procedures, hotline services etc., OFTA would refer the complaints to the service providers concerned for review and would monitor the progress of review. Most of the cases referred to in paragraph 6 above fall into this category. Our experience shows that a majority of complaints can be settled by review. If a complainant is still not satisfied with the review, OFTA may handle the case by offering advice to the service provider concerned or to the complainant regarding the dispute. OFTA may explain to the complainant the technical and service constraints of various types of services, or advise him/her on other suitable channels, such as civil litigation on contractual matters.

10. More details about how OFTA handles consumer complaints have been published on OFTA's website: http://www.ofta.gov.hk/enq_help/complaints.html and are available in a leaflet format.

Beyond Handling of Consumers' Complaints – Informed Choice by Consumers

11. In a fully liberalized market, we believe that effective competition is the best safeguard to protecting consumer interest. Consumers should be allowed to choose the level of services which best suit their needs, in accordance with their own budgetary consideration. Hence, we do not consider it appropriate for the Administration to set rigid standards on quality of service for the telecommunications industry to follow, which would inevitably limit choices to consumers⁶.

⁶ Under Section 32D of the Telecommunications Ordinance, the TA may prescribe standards and specifications of telecommunications networks, systems, customer equipment and services, etc. in pursuit of objectives such as the prevention of radio interference to telecommunications networks, and the facilitation of correct, efficient or reliable operation of telecommunications. The TA may set standards on quality of services under this section, but for reasons in paragraph 11, we do not consider it appropriate to do so.

However, we would ensure that sufficient information is available to consumers so that they would make an **informed choice** in selecting telecommunications services.

12. The following paragraphs describe OFTA's ongoing actions to tackle the sources of the consumer complaints with a view to protecting the interest of the consumers.

13. OFTA has reinforced its programme for **consumer education** in order to enhance consumers' awareness on proper choice of telecommunications services. In particular, consumers should understand the services they are paying for and their respective undertaking to the service provider. For example, they should read contract terms carefully before entering into a telecommunications service contract and should obtain a copy of the contract. To this end, we have posted educational messages and consumer advice on OFTA's website. In addition, we have been collaborating with Radio Television Hong Kong, the Commercial Radio and Metro Broadcast to broadcast a series of radio programmes to provide consumer advice. There are a total of 47 programmes, 19 of which are related to broadband internet access services. We shall continue with this effort by making use of other public communications channels.

14. OFTA encourages the telecommunications industry to formulate and adopt **best industry practices** in the provision of services to the public. We are in the process of discussing with ISPs the formulation of best industry practice on the provision of customer services and the drawing-up and administration of service contracts.

Way Forward

15. Following discussion on quality of service between OFTA and members of the telecommunications industry in a forum held in September 2003, OFTA will set up working groups with different telecommunications service sectors to formulate a scheme for service providers to publish their own individual levels of performance that they can achieve based on a number of **performance indicators**. The purpose of this proposed scheme is to enable consumers to make

informed choices and to ensure that market forces can work properly to promote quality of services. Similar schemes are in place in many developed jurisdictions like the United States of America, the United Kingdom, Australia, Canada and Singapore.

16. Among the different working groups to be set up, the one on broadband internet access services would be the first to materialize. OFTA will discuss with representatives of ISPs, trade associations and organisations representing consumers and users to identify the performance indicators (such as network availability and the service level of customer hot-line), how they are to be defined, measured and published.

17. To conclude, we believe that OFTA can work with the operators, trade associations as well as organisations representing consumers and users to formulate initiatives which will promote the developments of the broadband industry and enhance consumer interest.

Office of the Telecommunications Authority
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