

**Panel on Information Technology and Broadcasting**

**Extract from minutes of the special meeting held on 18 July 2007**

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**III. Provision of consumer information in relation to residential broadband use in Hong Kong**

Submission from deputation not attending the meeting

(LC Paper No. CB(1)2098/06-07(07) -- Submission from Hong Kong Broadband Network Ltd)

44. The Chairman welcomed representatives of the Administration and deputations to the meeting, and invited the deputations to express their views.

Presentation by deputations

*The Consumer Council (CC)*

(LC Paper No. CB(1)2129/06-07(08) -- Submission (English version only))

45. Referring to the findings of the survey on residential broadband Internet access services conducted by the University of Hong Kong and commissioned by OFTA, Ms Rosa WONG of CC presented the following views of CC:

- (a) Network reliability was an important criterion in choosing an Internet service provider (ISP) and over 53% of the problems encountered by respondents to the survey was about network reliability. As such, CC urged OFTA to consider whether ISPs should be obliged under the licensing requirements to report incidents of service breakdown and to let the public have access to service reliability information from OFTA.
- (b) As CC had received around 1,600 complaints between January and May 2007 and most of them were about quality of service (QoS), there was a clear need for ISPs to improve their sales/trade practices and service provision.
- (c) As consumer information on QoS and consumer education were important for consumers to become smart information technology users, CC urged the industry to establish a standard QoS measurement to enable OFTA to check on the ISPs and to make such information available to consumers.

*PCCW-HKT Limited (PCCW)*  
(LC Paper No. CB(1)2129/06-07(07) -- Submission (English version only))

46. Mr Stuart CHIRON of PCCW welcomed the release of the findings of OFTA's survey which provided insight into the requirements and expectations of residential broadband use. The result of the survey showed that a typical consumer's first priority was network reliability. Customer service, hotline support, as well as pricing and download speed were also important. As users might not have the technical knowledge to distinguish whether a problem was attributable to the broadband service, or to their personal computer configuration, or to the website, PCCW considered that on-going customer education plus good customer service were the key to reducing customer complaints. PCCW also supported the Consumer Dispute Adjudication Scheme proposed by OFTA as an effective means to resolve customer complaints.

*Hong Kong Internet Service Providers Association (HKISPA)*  
(LC Paper No. CB(1)2167/06-07(02) -- Submission (English version only))

*(tabled at the meeting and subsequently issued on 19 July 2007)*

47. Mr Lento YIP of HKISPA said that as the service level of the Internet was not wholly within the control of individual ISPs, it was not commercially feasible for ISPs to provide some kind of guarantee to consumers. Nevertheless, HKISPA was supportive of the "way forward" proposed by OFTA and stood ready to collaborate with OFTA and CC to come up with meaningful and practical service information parameters to improve the provision of QoS information to consumers. On consumer education, HKISPA recommended organizing forums for online telecommunications users to help bridge the information gap and help end users understand better the nature of Internet services. As for complaints about misleading and deceptive marketing, HKISPA considered that these were isolated cases which would reduce gradually with increase in the public's knowledge about Internet services.

*Internet Society Hong Kong (ISHK)*  
(LC Paper No. CB(1)2129/06-07(09) -- Submission (English version only))

48. Mr Charles MOK of ISHK said that the rising number of Internet-related consumer complaints reflected a state of consumer confusion regarding the QoS, download speed, pricing, misleading information, and sales and trade practices that had to be addressed. ISHK urged OFTA and CC to engage industry and user organizations in formulating initiatives to improve provision of comparative service information of different ISPs to users. HKIS called on the ISPs to consider offering tiered services for users, both residential and commercial, with appropriate levels of QoS guarantees. HKIS considered that OFTA should be more proactive and forceful in its enforcement against ISPs which had repeatedly violated the relevant stipulations.

Preliminary response by the Administration

(LC Paper No. CB(1)2098/06-07(06) -- Paper provided by the Administration)

49. DG of T said that to enable consumers to make informed choices about broadband services offered by different service providers, OFTA was actively discussing with the industry various measures to enhance transparency and to improve provision of service information by ISPs themselves. ISPs were requested to consider disclosing and making customer pledges about service restoration time, customer hotline performance, and the claimed speed for the relevant network segment along the Internet pathway. A set of specific Best Practice Indicators for marketing broadband services currently under preparation by OFTA in consultation with the industry would be published shortly for ISPs' reference. On regulation and enforcement, DG of T pointed out that section 7M of Telecommunications Ordinance (TO) (Cap. 106) empowered Telecommunications Authority (TA) to handle only those complaints against misleading or deceptive conduct by telecommunications licensees in relation to, among other things, the promotion, marketing and advertising of telecommunications services. She advised that since 2000, about 90 cases were established to be in breach of section 7M of TO, for which written warnings were issued and a fine as high as \$80,000 to \$100,000 was imposed in a recent case. She undertook that OFTA would continue to strengthen enforcement against breaches and was working actively on the setting up of a Consumer Dispute Adjudication Scheme (CDAS) for voluntary participation by ISPs to resolve consumers complaints.

50. Deputy Secretary for Commerce and Economic Development (Communications and Technology) (DS/CED(CT)) supplemented that the Administration took a serious view on complaints about unscrupulous sales practices and substandard telecommunications services, and had actively engaged service providers in identifying improvement measures. He said that following the motion debate on strengthening the regulation of unscrupulous business practices in pay television, telecommunications and Internet service at LegCo meeting on 4 July 2007, some service providers had responded positively, undertaking to improve their customer services and to issue clear guidelines instructing their frontline marketing staff not to engage in unscrupulous sales practices. The Secretary for Commerce and Economic Development (SCED) would take the initiative to meet with the senior executives of the major pay TV and telecommunications operators to express the concern of the public, LegCo Members and the Government, and to call on the industry to enhance self-regulation. He said that the Government would continue to monitor the situation closely to see if the improvement measures to close the information gap identified in the survey and the self-regulatory measures adopted by the industry would help reduce the number of complaints. In the event that self-regulation by the industry proved to be ineffective, the Government would consider other appropriate regulatory measures.

Discussion*Standard for measuring service reliability and performance*

51. Noting that service reliability took precedence over price and transmission speed as consumers' number one priority, Mr Howard YOUNG enquired whether, similar to the universally recognized "on-time performance" for flight schedules, and the down-time for electricity supply and for railway and transport services, there existed an internationally accepted quantifiable standard for measuring service reliability and performance that the telecommunications industry could conveniently make reference to. In response, DG of T said that OFTA had been in dialogue with the industry on setting customer pledges about service content, transmission speed and service reliability against which OFTA could monitor the performance of service providers and take enforcement action as appropriate for breaches identified in inspections or established in the complaint mechanism. These customer pledges against which consumers could check on the performance of individual service provider and lodge a complaint in the event of sub-standard performance would be published by ISPs regularly for public information to enhance transparency.

52. Assistant Director of Telecommunications (Competition) of Telecommunications Authority (AD of T (C)) added that although a number of countries had in the past developed standards from an engineering perspective, there was no international common standard on service reliability from consumer perspective that could be readily used in Hong Kong. Hong Kong would have to develop its own performance indicators in relation to consumer experience. He suggested that achieving 90% of the speed claimed for 90% of the time, for example, would probably be a reasonably good indicator for service reliability benchmark, whereas indicators such as the down-time for customer hot-line service and the number of missed calls could form the basis for assessing the quality of customer service. Regular reports on how well these customer pledges and indicators were fulfilled would be published by ISPs to enhance transparency and consumer awareness. In this regard, Mr Howard YOUNG remarked that the new set of performance indicators which Hong Kong was to come up with should preferably be applicable to overseas countries to facilitate easy comparison in the future.

53. Responding to Ms Emily LAU's question on the viability of setting up Best Practice Indicators for marketing broadband services and making customer pledges, Mr Lento YIP of HKISPA said that while cost and transmission speeds were easy to measure, it was difficult for ISPs to provide guarantee on some service parameters, such as the success rate of accessing a certain website, etc, or to provide precise information on certain aspects of service because the connectivity of the Internet services relied on the performance of third party networks as well as the overall state of the Internet which were out of ISPs' control.

54. Mr Charles MOK of ISHK concurred that service connectivity was not wholly controllable by individual ISPs. He said that when an ISP claimed a certain specific speed for their service, usually it referred to the speed between the "local" connection from a consumer's home to the local exchange or the Hong Kong Internet Exchange, but not beyond. It would therefore be unreasonable to require ISPs to guarantee connectivity speed to a particular overseas web.

55. Dr Victor HUNG of CC said that despite discussion in the past two years, the industry had not been able to reach a consensus on the standard of measurement. He urged the industry to set up a standard as soon as practicable without which it would be difficult to make a QoS comparison amongst different ISPs.

56. Mr Albert CHAN suggested not to count on ISPs for reaching a consensus on a standard for measurement. He said that OFTA, as the licencing authority, in conjunction with CC should decide on the objective criteria for measuring performance standard and service reliability, and should also regularly publish the customer pledges and service standards to enable consumers to make a QoS comparison among different ISPs. Agreeing with Mr Albert CHAN, the Chairman cautioned OFTA against being unduly influenced by the industry in view of the industry's vested interests. He said that in the event a consensus could not be reached with the industry, the Government should take the lead in setting the yardsticks for performance measurement.

57. Ms Emily LAU, however, considered it important to engage the industry in setting the standard, and questioned whether it was feasible for the Government to unilaterally impose a set of performance standards on telecommunications operators and service providers. In response, AD of T (C) said that in view of the complexity of broadband technologies and the various service options available, it was expedient to work with the industry to draw up a set of commonly accepted and workable standard of measurement. Mr Charles MOK of ISHK opined that the Government, consumers and the industry should collaborate to work out a common standard of measurement. Mr Lento YIP of HISPA maintained, however, that it was indeed difficult to establish a viable set of standard for measuring QoS of broadband services. He remarked that detailed discussion was necessary to develop a meaningful and practical standard acceptable to both consumers and the industry and applicable to the broadband environment. Nevertheless, the industry would welcome and accept the standard drawn up by OFTA provided that it was fair, objective, easy to use and could accurately measure the service quality and performance standard.

*Complaints relating to telecommunications and Internet services*

58. Ms Emily LAU noted from the survey findings that only 22% of users who encountered problems had bothered to lodge a complaint and that only 1.2% of these complainants complained to CC. She said that as CC alone had received a total of 4,300 complaints for 2006, simple arithmetic would suggest that the total number of complaints could be quite alarming. She sought further clarification on the nature and the total number of complaints received, investigated and

substantiated.

59. Ms Rosa WONG of CC advised that the complaints received by CC were largely related to the quality and standard of Internet services, and the number of complaints could reasonably be taken to reflect that substantial problems existed in that area. DG of T said that since 2000, a total of around 500 complaints relating to section 7M of TO were received, of which 90 cases were substantiated. A total of about 200 complaints concerning beaches of TO and licensing conditions were received for 2006.

60. Mr Albert CHAN said that the complaint statistics relating to section 7M could not accurately reflect the seriousness of the problems in the provision of Internet services which was among the top 10 categories of complaints received by his office. He said that people did not complain to CC because they knew that CC did not have the authority to rectify the problems. He opined that similar to the lack of regulation in the property market over the sales of uncompleted residential flats, the great number of complaints reflected the extent of the problem, which he said was getting out of control due to a lack of proper and effective regulation. He called on the Government to review the existing mechanism and put in place an effective, authoritative and reasonable mechanism to strengthen the regulation of business practices of service providers. He added that an independent body should be set up to investigate into complaints, arbitrate and offer advice to end-users. He regretted the Government's unwillingness to regulate the sales of uncompleted residential flats by way of legislation, and called on the Government to set a time-frame for strengthening regulation of telecommunications industry instead of allowing the undesirable situation to drag on indefinitely.

61. In this regard, Ms Emily LAU sought elaboration of the CDAS to be launched by OFTA as one of the means to resolve consumer complaints. AD of T (C) said that a number of jurisdictions had adopted a mediation approach to address telecommunications consumer disputes. OFTA would launch the CDAS, a pilot dispute arbitration scheme, to test out the viability of arbitration between consumers and service providers as an alternate means to resolving telecommunications consumer complaints relating to contractual disputes, services quality, and billings that did not fall under the scope of section 7M.

62. DG of T assured members that the Administration would make every effort to address the problems as soon as practicable. She advised that the set of specific Best Practice Indicators for marketing broadband services being prepared by OFTA was expected to be published soon. The Administration had also actively engaged the industry and user organizations to work out a set of common standard and yardstick acceptable to all parties for measuring the QoS of broadband services, and hopefully the customer pledges of ISPs could be published by the end of 2007.

63. In response to the Chairman's enquiry as to whether the Administration would consider reviewing section 7M to empower TA with greater regulatory power, DS/CED(CT) said that as indicated by the Secretary for Development Bureau, in the absence of SCED on duty overseas, at the LegCo motion debate on

4 July 2007, the Administration would consider, among other measures, an extension of section 7M of TO which regulated misleading or deceptive conduct of telecommunications operators, to Broadcasting Ordinance (Cap. 562) to cover pay television in the event self-regulation by the industry failed to improve the complaint situation. In this respect, Mr Stuart CHIRON said that PCCW was supportive of the proposed CDAS and of extending section 7M to the Broadcasting Ordinance.

*Consumer education*

64. As the survey found that the fundamental problem was due to consumers' lack of technical knowledge in the use of computers and the Internet rather than the service delivery by the company concerned, AD of T (C) said initiatives on consumer education coupled with the set of Best Practice Indicators and customer pledges were all part of the total solution package to help consumers make the optimal use of their broadband service, to close the information gap identified in the survey, and to provide comparative information on different ISPs for consumers to make informed choices.

65. Concurring with AD of T (C), Mr Stuart CHIRON of PCCW maintained that on-going customer education and maintaining good customer service were the key to reducing customer complaints on broadband services. Sharing a similar view, Mr Charles MOK of ISHK also highlighted the importance of consumer education and consumer participation to make consumers aware of the limitations of the ISPs as well as the choices available to them.

66. Dr Victor HUNG of CC, however, remarked that to attribute every problem to consumers being not conversant with their computers and the Internet was unfair to consumers and was also under-estimating Hong Kong consumers' technical capability. He said that in the event of telecommunications disruptions and emergency Internet service break-down, service providers should take the initiative to keep their customers informed. The Chairman shared his view.

67. Summing up, the Chairman requested the Administration to take note of the views expressed by members and deputations at the meeting. Upon Ms Emily LAU's suggestion, the Chairman requested the Administration to revert to the Panel before end 2007 to report on the progress of various initiatives.

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