

ITEM FOR ESTABLISHMENT SUBCOMMITTEE OF FINANCE COMMITTEE

HEAD 55 – GOVERNMENT SECRETARIAT : COMMERCE AND ECONOMIC DEVELOPMENT BUREAU (COMMUNICATIONS AND CREATIVE INDUSTRIES BRANCH)

Subhead 000 Operational expenses

Members are invited to recommend to Finance Committee the retention of the following two supernumerary directorate posts in the Communications and Creative Industries Branch of the Commerce and Economic Development Bureau for a period of three years from 17 June 2019 or with immediate effect upon approval of Finance Committee, whichever is later –

1 Administrative Officer Staff Grade B
(D3) (\$199,050 - \$217,300)

1 Administrative Officer Staff Grade C
(D2) (\$171,200 - \$187,150)

PROBLEM

The Communications and Creative Industries Branch (CCIB) of the Commerce and Economic Development Bureau (CEDB) needs dedicated directorate support on a time-limited basis to continue the review and amendment of the Broadcasting Ordinance (Cap. 562) and the Telecommunications Ordinance (Cap. 106) (the Review) and to formulate legislative proposals to regulate person-to-person telemarketing calls (P2P calls).

/PROPOSAL

PROPOSAL

2. We propose that the following two supernumerary directorate posts be retained in the CCIB of the CEDB for a period of three years from 17 June 2019 or with immediate effect upon approval of Finance Committee (FC), whichever is later, to conduct the Review and to formulate legislative proposals to regulate P2P calls –

- (a) one Administrative Officer Staff Grade B (AOSGB) (D3); and
- (b) one Administrative Officer Staff Grade C (AOSGC) (D2).

JUSTIFICATION

3. With the approval of the FC on 17 June 2016, one AOSGB post (designated as Deputy Secretary for Commerce and Economic Development (Communications and Creative Industries) Special Duties) and one AOSGC post (designated as Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries) Special Duties) were created in the CCIB of the CEDB on a supernumerary basis for three years to conduct the Review and complete the associated legislative exercises. A dedicated team, comprising the two aforementioned directorate posts and five non-directorate supporting staff, has been established in the CCIB to undertake these duties.

4. The two existing supernumerary directorate posts will lapse on 17 June 2019. Having regard to the progress of the work concerned and the operational needs of the CCIB, we consider it necessary to retain the two supernumerary directorate posts for a period of three years in order to complete the Review and the associated legislative amendments, as well as to formulate legislative proposals to regulate P2P calls as elaborated in paragraphs 5 to 14 below.

Major Duties of the Directorate Posts

Phase One of the Review: Television and Sound Broadcasting Regulatory Frameworks

5. Phase One of the Review seeks to relax obsolete statutory requirements and rationalise the broadcasting regulatory framework with the growing popularity of Internet-based media and entertainment platforms. The objective is to provide a more balanced competitive environment for the broadcasting market, and to encourage innovation and investment for the sustainable development of traditional broadcasting services in Hong Kong.

6. This phase of the Review has been progressing as planned. A three-month public consultation was completed in May 2018, covering four areas, namely cross-media ownership restrictions, foreign control restrictions, the requirement of a licensee being a non-subsidiary company, and licensing authority. Stakeholders in general supported the direction of the proposals to update the regulatory framework.

7. We will adopt a multipronged approach to facilitate the development of our broadcasting industry. Other than legislative amendments, non-legislative measures will also be taken forward. For instance, the Communications Authority (CA) has revised its Code of Practice to relax the regulation of indirect advertising in television programme services and to lift the prohibition on the broadcast of advertisements for undertakers and associated services in July 2018. The CA is also implementing further facilitating measures to relax its regulatory and administrative requirements.

8. We aim to introduce an amendment bill into the Legislative Council (LegCo) in 2019 to give effect to our relaxation proposals presented in the public consultation. The dedicated team, led by the two directorate officers pitched at AOSGB and AOSGC levels will see through the whole legislative process. They will work with the Law Draftsman to finalise the amendment bill, attend the Bills Committee meetings and consider comments on the draft provisions. They will be tasked to steer the whole exercise and ensure smooth passage of the amendment bill in the LegCo for timely implementation of the proposed measures.

Phase Two of the Review: Telecommunications Regulatory Framework

9. In parallel, Phase Two of the Review on the telecommunications regulatory framework is being carried out. The objective is to ensure that the legal framework can keep pace with the latest developments in telecommunications technologies, particularly with the advent of fifth generation mobile communications services and their applications in the Internet of Things era. We launched a three-month public consultation in November 2018. The consultation was completed in February 2019. We are analysing the views received.

10. Subject to the views received from the public, industry and other stakeholders, we will draft the appropriate legislative proposals, and target to introduce an amendment bill into LegCo in 2019. We expect that major stakeholders, in particular the telecommunications operators, will have a keen interest on our proposed measures and the amendment bill will be closely

/scrutinised

scrutinised in LegCo. The two directorate officers will provide leadership and steer in engaging various stakeholders during the consultation process, drafting the amendment bill in consultation with relevant parties including the Department of Justice (DoJ), the concerned Government bureaux and departments as well as industry stakeholders, attending Bills Committee meetings to facilitate the scrutiny of the amendment bill, and consider comments on the draft provisions. Similar to Phase One, the directorate posts will see through the whole legislative process and to ensure early implementation of the proposals.

11. The legislative amendments to be put forth in both Phases One and Two of the Review are of great importance to the long-term development of the broadcasting and telecommunications sectors in Hong Kong. The Review entails heavy and high-level policy considerations. The nature of the issues involved is also technical and complicated. Senior directorate leadership is essential to oversee the whole exercise to provide in-depth analysis of the issues from various dimensions, make decisions on complex policy matters, and provide timely response to LegCo and other stakeholders.

Strengthening Regulation of P2P Calls

12. Another major duty that the two directorate posts will take up is the development of a statutory regulatory framework for P2P calls. P2P calls are telephone calls involving real person interactions used as a marketing tool by business/trades to promote goods or services to customers/potential customers. In recent years, P2P calls have caused nuisance to many members of the public. There are growing demands on strengthening the regulation of such calls. In the public consultation conducted by the Government in mid-2017, and during the discussion at the meeting of the LegCo Panel on Information Technology and Broadcasting on 9 April 2018, we heard growing voices demanding the Government to strengthen regulation of such calls. There is clear public support for the establishment of a statutory Do-not-call (DNC) Register, allowing individual phone users who do not wish to receive P2P calls to register their phone numbers with the DNC Register. On the other hand, the business sectors have expressed opposition to a legislative approach.

13. Based on the above, we propose that a statutory DNC Register be set up to allow phone users who do not wish to receive P2P calls to indicate so by including their phone numbers in the Register. The dedicated team led by the two directorate officers will be tasked to develop legislative provisions that can strike a balance between satisfying public expectations and reducing the compliance cost of the trades and industries.

14. In spearheading the legislative work, the dedicated team will have to take into account local and overseas telemarketing practices as well as the experience of other jurisdictions in regulating such calls, conduct in-depth researches and analyses, formulate and evaluate policy options, work with the DoJ to prepare draft legislation, as well as oversee the whole legislative exercise. Such work all requires high-level steering by the two directorate officers. Our preliminary view is that the legislative amendments will cover provisions on the establishment of the DNC Register, rules governing its operation, enforcement and investigative provisions, powers of the control authority and sanctions. We are working out the details of the framework of the legislative amendments.

Need to retain the two supernumerary directorate posts

15. Having regard to the scale and the nature of the tasks as well as the anticipated amount and complexity of workload mentioned in paragraphs 5 to 14 above, we consider that there is a genuine need to retain the two directorate posts in the CCIB for another three years. As the work involves high-level policy input and stakeholder engagement, the head of the team should be sufficiently senior to provide policy steer, co-ordinate among bureaux and departments concerned and engage stakeholders independently to ensure timely and successful implementation. We propose that the team head continue to be pitched at the AOSGB level. The AOSGB officer should continue to be underpinned by a directorate officer at AOSGC level to deputise the team head in supervising the non-directorate officers in the team.

Duration of the two supernumerary directorate posts

16. We propose that the two posts be retained for three years to allow sufficient time for the posts to complete the three separate, substantive legislative amendment exercises, covering broadcasting, telecommunications as well as the establishment of a statutory DNC Register for P2P calls.

17. The detailed job descriptions of the AOSGB post and AOSGC post Encls. 1 & 2 are at Enclosure 1 and Enclosure 2 respectively.

NON-DIRECTORATE SUPPORT

18. The two supernumerary directorate officers will continue to be supported by one non-directorate post internally redeployed within the CCIB (i.e. one Senior Administrative Officer) and four time-limited non-directorate posts (i.e. one Senior Executive Officer, two Personal Secretaries I and one Assistant Clerical Officer).

/ALTERNATIVES

ALTERNATIVES CONSIDERED

19. We have critically examined the possibility of redeployment within the CCIB to absorb the duties of the above two directorate posts, but concluded that such option is infeasible. The CCIB, excluding the above two directorate posts and those in CreateHK, has only four directorate officers, including the Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries) (D8). These directorate officers are fully occupied.

20. The Deputy Secretary for Commerce and Economic Development (Communications and Creative Industries) (DS(CCI)), pitched at Administrative Officer Staff Grade B1 (D4), is the senior Deputy Secretary in the CCIB who oversees a number of portfolios encompassing broadcasting, telecommunications, creative industries, obscene and indecent articles, film censorship and branch administration.

21. DS(CCI) is underpinned by two Principal Assistant Secretaries at AOSGC (D2) level, namely Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries)A (PAS(CCI)A) and Principal Assistant Secretary for Commerce and Economic Development (Communications and Creative Industries)B (PAS(CCI)B). Officers under DS(CCI) are fully occupied with their existing duties including policy matters relating to broadcasting, telecommunications, control of obscene and indecent articles, film censorship, switch-off of analogue television services, spectrum assignment and related matters on spectrum utilisation fee, various legal proceedings and judicial review cases related to broadcasting and telecommunications matters, and housekeeping of the Radio Television Hong Kong and the Office of the Communications Authority (OFCA) (including the Office for Film, Newspaper and Article Administration). They also need to provide support for promoting the development of Hong Kong's creative industries and strengthening our status as a regional creative hub, including monitoring implementation of the dedicated government funding schemes, namely, the CreateSmart Initiative and the Film Development Fund, development of policies and various measures pursuant to multipronged strategies for nurturing talent and facilitating start-ups, expanding markets, fostering creative atmosphere in the community, and encouraging collaborations across sectors and under the Guangdong-Hong Kong-Macao Greater Bay Area Development and Belt and Road Initiative.

22. The above posts are already hard pressed by their existing duties. Under the circumstances, it is not operationally feasible for DS(CCI), PAS(CCI)A or PAS(CCI)B to absorb the duties relating to the Review without seriously affecting the discharge of their current duties. The existing job descriptions of DS(CCI), PAS(CCI)A and PAS(CCI)B are at Enclosures 3 to 5. The organisation chart of the CCIB is at Enclosure 6.

Encls. 3 - 5
Encl. 6

23. OFCA, being both the executive arm of the CA as well as a professional department of the Administration, is fully occupied with its existing duties, including providing support to the CA to discharge its regulatory functions for telecommunications and broadcasting services. It would not be operationally possible to redeploy the existing directorate officers in OFCA to take up the additional duties of the posts proposed to be established in the CCIB of the CEDB, which are largely policy-oriented. The existing job descriptions of the nine permanent directorate officers at D2 and above in OFCA are summarised at Enclosure 7.

Encl. 7

FINANCIAL IMPLICATIONS

24. The proposed retention of two supernumerary directorate posts in the CCIB of the CEDB will incur an additional notional annual salary cost at mid-point of \$4,710,600 as follows –

	Notional annual salary cost at mid-point (\$)	No. of post
Supernumerary posts		
AOSGB (D3)	2,530,800	1
AOSGC (D2)	2,179,800	1
Total	4,710,600	2

The additional full annual average staff cost, including salaries and staff on-cost, is about \$6,715,000.

25. The additional notional annual salary cost at mid-point of the four time-limited non-directorate posts mentioned in paragraph 18 above is \$2,227,860. The full annual average staff cost, including salaries and staff on-cost, is about \$3,266,000.

26. We will include the necessary provision in the draft Estimates of the relevant years to meet the cost of this proposal.

PUBLIC CONSULTATION

27. We consulted the LegCo Panel on Information Technology and Broadcasting on 12 November 2018. Members supported the proposed retention of the two supernumerary directorate posts.

ESTABLISHMENT CHANGES

28. The establishment changes under Head 55 - Government Secretariat: CEDB (CCIB) for the past two years are as follows –

Establishment (Note)	Number of posts			
	Existing (As at 1 March 2019)	As at 1 April 2018	As at 1 April 2017	As at 1 April 2016
A*	9 [#]	9	9	7
B	29	28	30	30
C	82	81	79	76
Total	120	118	118	113

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

– as at 1 March 2019, there was no unfilled directorate post in the CCIB

CIVIL SERVICE BUREAU COMMENTS

29. The Civil Service Bureau supports the proposed retention of the two supernumerary directorate posts for a period of three years. The grading and ranking of the proposed posts are considered appropriate having regard to the level and scope of the responsibilities required.

/ADVICE

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

30. As the posts are proposed on a supernumerary basis, their retention, if approved, will be reported to the Standing Committee on Directorate Salaries and Conditions of Service in accordance with the agreed procedures.

Commerce and Economic Development Bureau
March 2019

Job Description
Deputy Secretary for Commerce and Economic Development
(Communications and Creative Industries) (Special Duties)

Rank : Administrative Officer Staff Grade B (D3)

Responsible to : Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries) (PS(CCI))

Main Duties and Responsibilities –

1. To lead a dedicated team in the Communications and Creative Industries Branch to oversee the conduct of the Review;
2. To oversee the Review and provide policy steer and oversee the introduction of legislative amendment bills into LegCo in connection with the Review;
3. To provide strategic steer and advice for liaison with various stakeholders during the scrutiny of the amendment bills in connection with the Review;
4. To steer and oversee the formulation of legislative proposals and introduction of an amendment bill into LegCo to strengthen the regulation of person-to-person telemarketing calls; and
5. To undertake any other tasks as assigned by PS(CCI).

Job Description

**Principal Assistant Secretary for Commerce and Economic Development
(Communications and Creative Industries) (Special Duties)**

Rank : Administrative Officer Staff Grade C (D2)

Responsible to : Deputy Secretary for Commerce and Economic Development
(Communications and Creative Industries) (Special Duties)
(DS(CCI)SD)

Main Duties and Responsibilities –

1. To provide policy and administrative support in the conduct of the Review;
2. To conduct research and review on operational experience, technology development, international practices and trends in local market in relation to the Review;
3. To undertake the work associated with the introduction of the amendment bills into LegCo in connection with the Review;
4. To formulate legislative proposals and prepare for an amendment bill into LegCo to strengthen the regulation of person-to-person telemarketing calls; and
5. To undertake any other tasks as assigned by DS(CCI)SD.

Job Description
Deputy Secretary for Commerce and Economic Development
(Communications and Creative Industries)

Rank : Administrative Officer Staff Grade B1 (D4)

Responsible to : Permanent Secretary for Commerce and Economic Development (Communications and Creative Industries) (PS(CCI))

Main Duties and Responsibilities –

1. To formulate and review policies on broadcasting and telecommunications matters;
2. To deal with matters relating to branch administration;
3. To assist PS(CCI) in handling policy and housekeeping matters for the Radio Television Hong Kong and the Office of the Communications Authority (including the Office for Film, Newspaper and Article Administration);
4. To assist PS(CCI) in handling matters relating to the development of creative industries; and
5. To undertake any other tasks as assigned by PS(CCI).

Job Description
Principal Assistant Secretary for Commerce and Economic Development
(Communications and Creative Industries)A

Rank : Administrative Officer Staff Grade C (D2)

Responsible to : Deputy Secretary for Commerce and Economic Development
(Communications and Creative Industries) (DS(CCI))

Main Duties and Responsibilities –

1. To formulate and review policies on broadcasting matters;
2. To handle broadcasting regulatory matters that require the approval of the Chief Executive in Council;
3. To formulate and review policies on telecommunications matters;
4. To formulate and review policies on film classification and the control of obscene and indecent articles;
5. To housekeep the Radio Television Hong Kong and the Office of the Communications Authority (including the Office for Film, Newspaper and Article Administration); and
6. To undertake any other tasks as assigned by DS(CCI).

Job Description
Principal Assistant Secretary for Commerce and Economic Development
(Communications and Creative Industries)B

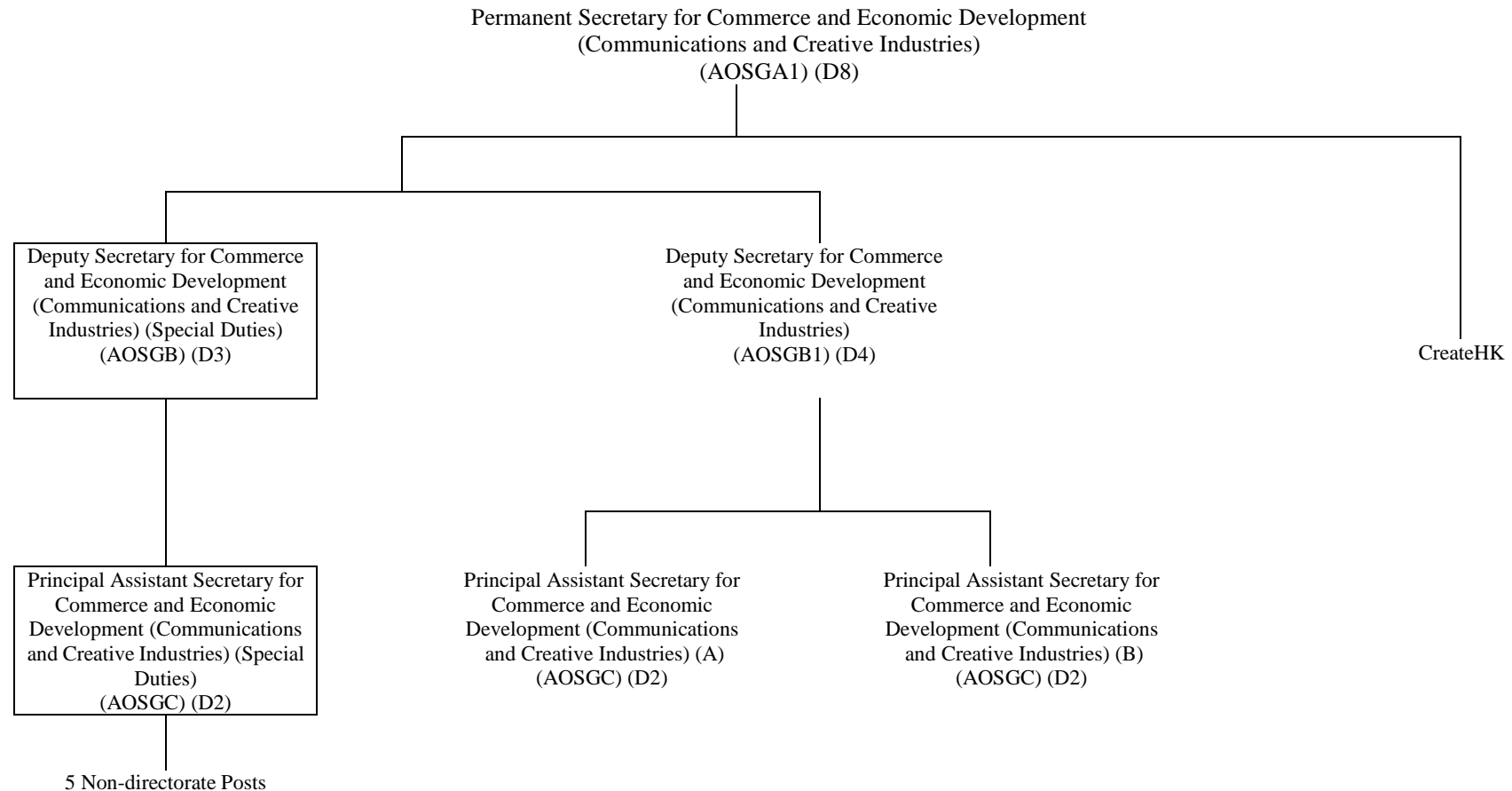
Rank : Administrative Officer Staff Grade C (D2)

Responsible to : Deputy Secretary for Commerce and Economic Development
(Communications and Creative Industries) (DS(CCI))

Main Duties and Responsibilities –

1. To formulate policies and strategies for promoting creative industries;
2. To monitor implementation of dedicated Government funding schemes (namely, CreateSmart Initiative and the Film Development Fund) to meet the strategy foci;
3. To formulate policies to explore Mainland and overseas markets;
4. To support policies relevant to long-term manpower demand and supply of Hong Kong's creative industries; and
5. To undertake any other tasks as assigned by DS(CCI).

Organisation Chart of the Communications and Creative Industries Branch of the Commerce and Economic Development Bureau



Legend

- | | |
|-------------------------|--|
| | - Supernumerary directorate posts to be retained |
| AOSGA1 | - Administrative Officer Staff Grade A1 |
| AOSGB1 | - Administrative Officer Staff Grade B1 |
| AOSGB | - Administrative Officer Staff Grade B |
| AOSGC | - Administrative Officer Staff Grade C |
| 5 Non-directorate Posts | - One internally redeployed permanent post (Senior Administrative Officer) and four time-limited posts (one Senior Executive Officer, two Personal Secretaries I and one Assistant Clerical Officer) |

**Duties and Responsibilities of
Existing Permanent Directorate Officers at D2 level and above
in the Office of the Communications Authority (OFCA)**

Director-General of Communications (DG Com)/Director of Film, Newspaper and Article Administration is responsible for managing the OFCA Trading Fund; supporting the Communications Authority (CA) in discharging its statutory duties under the Telecommunications Ordinance (Cap. 106) (TO), Broadcasting Ordinance (Cap. 562) (BO), Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391) (BMPO); Unsolicited Electronic Messages Ordinance (Cap. 593) (UEMO) and the Communications Authority Ordinance (Cap. 616) (CAO); liaising and coordinating with the Mainland and overseas regulatory agencies; representing Hong Kong in international/regional telecommunications and broadcasting fora; enforcing the Control of Obscene and Indecent Articles Ordinance (Cap. 390) (COIAO); acting as the Film Censorship Authority for all films exhibited in Hong Kong and enforcing the Film Censorship Ordinance (Cap. 392) (FCO); and acting as the registrar of newspapers under the Registration of Local Newspapers Ordinance (Cap. 268) (RLNO).

2. Deputy Director-General of Communications (Telecommunications) is responsible for assisting the DG Com in the latter's duties and responsibilities in relation to telecommunications services in Hong Kong and enforcement of fair trade/competition in the communications sector, including the administration of the TO and legislation governing fair trade/competitive practices in respect of communications services; overseeing investigations into complaints against anti-competitive conduct or unfair trade practices in the communications sector; handling matters relating to spectrum management and the conduct of spectrum auctions; assuming responsibility for management of major projects on telecommunications matters; and representing the department on advisory panels set up to advise on regulatory issues and major international fora on telecommunications.

3. Deputy Director-General of Communications (Broadcasting)/Deputy Director of Film, Newspaper and Article Administration is responsible for assisting the DG Com in the latter's duties and responsibilities in relation to broadcasting services in Hong Kong, including the administration of the BO, BMPO, UEMO and CAO; overseeing manpower planning, corporate affairs and central administrative and finance matters of OFCA; representing the department on advisory panels set up to advise on regulatory issues and major international fora on broadcasting regime; and assisting the Director of Films, Newspapers and Articles Administration in the administration of COIAO, FCO and RLNO.

4. Assistant Director (Regulatory) is responsible for overseeing the regulation, licensing and assignment of radio frequency spectrum for public telecommunications services; supervising the investigations into breaches by and enforcement actions on telecommunications licensees; overseeing the administration of the telecommunications numbering plan and number portability issues; overseeing the mediation and determination of disputes among telecommunications operators on interconnection, facility sharing and other issues; overseeing the coordination of issues concerning telecommunications infrastructure and handling of telecommunications network and service outages; and implementing regulatory accounting requirements for telecommunications licensees.

5. Assistant Director (Operations) is responsible for overseeing the management and planning of radio frequency spectrum in Hong Kong; supervising the licensing of private telecommunications services; overseeing the setting of technical standards for telecommunications facilities and equipment; coordinating issues relating to the registration and operation of satellite systems in Hong Kong; overseeing the investigations into and prosecutions of illegal use of telecommunications equipment; overseeing radio monitoring and investigations into radio interference and radiation hazard complaints; and overseeing the access by operators to buildings for installing telecommunications/broadcasting equipment and wirings.

6. Assistant Director (Market and Competition) is responsible for supervising and coordinating the promotion and protection of competition/fair trade practices in the communications sector, including overseeing investigations into complaints against anti-competitive or unfair trade practices and enforcing legislation on fair competition and consumer protection in the communications market; supervising economic assessment of regulatory matters; overseeing spectrum auctions; overseeing the implementation of universal service arrangements; overseeing the implementation of the subsidy scheme to extend fibre-based networks to villages in remote areas; supervising development and implementation of self-regulatory measures for consumer protection in the telecommunications industry, including promoting an alternative dispute resolution scheme in relation to consumers' disputes with telecommunications operators.

7. Assistant Director (Broadcasting) is responsible for overseeing the administration of the BO to ensure the smooth and effective operation of the regulatory regime over television and radio broadcasters; assisting in the processing of applications for the grant and renewal of various types of television programme service and sound broadcasting licences; reviewing and updating the

codes of practice issued by the CA to secure the proper standards of broadcasting, taking into account the public's views and latest developments overseas; and serving as secretary to the CA and overseeing the provision of secretariat services to the CA.

8. Assistant Director of Film, Newspaper and Article Administration is responsible for overseeing matters relating to film classification under the FCO; managing the Panel of Advisers for film classification; overseeing the registration of local newspapers and news agencies, and the licensing of newspaper distributors under the RLNO; overseeing the enforcement of the COIAO, including referral of articles to the Obscene Articles Tribunal, taking appropriate prosecution actions, and organising related publicity and public education activities; and overseeing the handling of public complaints on broadcasting matters lodged with the CA.

9. Assistant Director (Support) is responsible for overseeing the enforcement of the UEMO; providing support on the technical regulation of broadcasting services; coordinating OFCA's participation in international fora/meetings; coordinating OFCA's input to trade agreements in relation to communications services; overseeing corporate affairs, media relations and publicity activities; overseeing the handling of public enquiries and consumer and broadcast reception complaints; and overseeing the financial management of the OFCA Trading Fund and the provision of information technology, accounting and administrative services for OFCA.
