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## 總監報告

### Message from the Director-General



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#### 引言

本人欣然呈上通訊事務管理局辦公室（通訊辦）的第二份年報。通訊辦在2013／14年度繼續全力為通訊事務管理局（通訊局）提供支援，協助通訊局履行作為本港通訊業規管機構的法定職責。

在2013／14年度，本港的通訊市場保持興旺，生氣勃勃。流動電訊市場競爭仍然十分激烈，且不斷擴展，2014年3月錄得的普及率超越236%。市場蓬勃發展，促使網絡營辦商持续提升本身的網絡。本人很高興在此報告，根據世界經濟論壇發表的《2014年全球資訊科技報告》，香港的流動網絡覆蓋在148個經濟體系中高踞首位，每名用戶的國際互聯網帶寬亦排名第二。

固網電訊市場在國際上亦表現卓著。歐洲光纖到戶議會（Fibre to the Home (FTTH) Council Europe）於2014年2月公布，香港住戶連接光纖到戶／到樓的普及率為56.6%，全球排行第三。互聯網內容傳輸商Akamai亦在《2014年第一季互聯網發展狀況報告》公布，香港平均

最高連線速度為每秒66兆比特，全球排行第二。設施為本的競爭進一步推動固網營辦商致力鋪設網絡，令87%的住戶有至少兩個自建固定網絡可供選擇。

廣播市場在2013／14年度同樣持續發展，電台和地面電視的數碼廣播網絡覆蓋範圍均逐步擴大。亞洲電視有限公司（亞洲電視）和電視廣播有限公司（無綫電視）的數碼地面電視服務更覆蓋本港至少99%的人口，實質上與模擬電視廣播服務的覆蓋率相若。

#### 廣播服務

電視服務持續有新發展。自行政長官會同行政會議原則上批准兩家機構的本地免費電視牌照申請後，通訊辦一直協助通訊局跟進牌照申請的後續工作。同時，兩家現有本地免費電視牌照持牌機構（亞洲電視和無綫電視），以及一家本地收費電視牌照持牌機構（電訊盈科媒體有限公司（電盈媒體））已向通訊局提交牌照續期申請。我們一直協助通訊局全面評核有關持牌機構的表現，以期在2014年第4季或之前就其續牌申請向行政長

## Introduction

I am pleased to present the second annual report of the Office of the Communications Authority (“OFCA”). In 2013/2014, OFCA continued to provide the Communications Authority (“CA”) with full support in discharging its statutory responsibilities as the regulator of the communications sector in Hong Kong.

The communications market in Hong Kong continued to be vibrant and dynamic in 2013/14. The mobile telecommunications market remained very competitive and continued to expand, with a penetration rate exceeding 236% as at March 2014. This vibrancy has driven network operators to continually upgrade their networks. I am pleased to report that the World Economic Forum’s Global Information Technology Report 2014 ranked Hong Kong the first among 148 economies in mobile network coverage and the second in international Internet bandwidth per user.

The fixed telecommunications market also fared very well internationally, with the Fibre to the Home (“FTTH”) Council Europe in February 2014 ranking Hong Kong the third in the world with a fibre to the home/building household penetration of 56.6%, and Internet content delivery provider Akamai ranking Hong Kong the second in the world with an average peak connection speed of 66 megabits per second (“Mbps”) in its State of the Internet 1st Quarter, 2014 report. Facilities-based competition further encouraged network rollout by the fixed network operators, enabling 87% of residential households to have a choice of at least two self-built fixed networks.

Similarly, the broadcasting market continued to develop in 2013/14 with the progressive expansion in the coverage of digital broadcasting networks for both radio and terrestrial television. Specifically, the coverage of the Digital Terrestrial Television (“DTT”) services of Asia Television Limited (“ATV”) and Television Broadcasts Limited (“TVB”) reached at least 99% of the population, essentially on a par with that of analogue television services.

## Broadcasting Services

There are continuous new developments for television services. Following the approval in principle of the Chief Executive in Council (“CE in C”) to two applicants for domestic free TV licences, OFCA has been assisting the CA to take follow-up actions on the licence applications. In parallel, ATV and TVB, the two incumbent domestic free TV licensees, and PCCW Media Limited (“PCCW Media”), a domestic pay TV licensee, submitted applications for the renewal of their licences to the CA. We have been assisting the CA in conducting comprehensive assessments of their performance, with a view to submitting the recommendations to the CE in C on their applications by the fourth quarter of 2014. We also assisted the CA in processing a total of eight applications for new and renewal of non-domestic television programme service licences and other licensable television programme service licences.

The CA conducts regular reviews of codes of practice to provide proper guidance to licensees, and to ensure that the standards stipulated therein are in line with community expectations and the ongoing development of the broadcasting industry. In 2013/14, OFCA assisted the CA in conducting a review of the regulation of editorial programmes and personal view programmes on television and radio services, and in amending the related codes of practice, to require that a suitable announcement be made at the start of such programmes to identify clearly that the views expressed in the programmes were or included those of the person providing the service and that a suitable opportunity for response should be provided. The revisions aimed to strike a proper balance between licensees’ right to freedom of expression on the one hand, and a more responsible use of their broadcast rights on the other.

In 2013/14, OFCA assisted the CA in completing two major investigations. One involved the exercise of control of an incumbent free TV licensee by a person who did not meet the fit and proper person requirement and the other concerned the violation of the competition provisions of the Broadcasting Ordinance (Cap. 562) (“BO”) by the

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官會同行政會議提交建議。我們亦協助通訊局處理了八宗非本地電視節目服務牌照及其他須領牌電視節目服務牌照的新牌照及續期申請。

通訊局定期檢討業務守則，向持牌人提供適切的指引，並確保當中訂明的標準符合社會期望和配合廣播業的持續發展。在2013／14年度，通訊辦協助通訊局進行有關規管電視及電台社論形式節目和個人意見節目的檢討，並修訂相關業務守則，規定在該類節目開始時作出適當宣布，以清楚表明節目內發表的意見屬於或包括服務提供者的意見，並且應提供適當的回應機會。這些修訂的目的是在持牌人的言論自由與其更負責任地行使廣播權利兩者之間求取適當的平衡。

在2013／14年度，通訊辦協助通訊局完成了兩宗重要調查。一宗涉及一名不符合適當人選規定的人士對一家現有本地免費電視牌照持牌機構行使控制，另一宗則關乎另一家現有免費電視牌照持牌機構違反《廣播條例》(第562章)的競爭條文。兩宗皆構成違規，有關持牌機構除被施加罰款作為懲處外，還須按通訊局要求，分別採取糾正行動，以改善企業管治水平，及停止相關的反競爭行為。

同時，通訊辦繼續接獲大量關於廣播材料的投訴。在2013／14年度，通訊辦處理了近13 000宗投訴（涉及3 000多個個案），當中大多數投訴因涉及輕微違規、或有關指控並不構成違例情況，或不屬有關條例的管轄範圍，由通訊辦行使通訊局授予的權力處理。另有43個個案則由通訊局按照既定做法處理。

## 電訊服務

固網寬頻網絡在2013／14年度持續擴展，年內，固網寬頻服務的住宅普及率為83%，超過92%的用戶選擇使用速度達每秒至少10兆比特的寬頻服務。我們亦積極協助新海底電纜系統登陸香港，以增加對外通訊容量。隨着一個新系統於2013年投入運作，海底電纜系統的數目增至9個。另有兩個系統預定於未來兩年內登陸香港。

我們協助通訊局因應市場及技術發展，檢討是否仍需施行某些電訊規管措施。經公眾諮詢後，通訊局決定，最初於1995年公布的固網商窄頻互連規管指引將於18個月過渡期後停止實施。由2014年10月16日起，固網商之間的各種本地互連收費將不再受任何指引規管，純粹由固網商透過商業洽談釐訂。

在流動電訊服務方面，鑑於1.9-2.2吉赫頻帶內的3G頻譜指配期將於2016年10月屆滿，我們協助通訊局在進行兩輪公眾諮詢後制定未來路向。通訊局於2013年11月決定採用行政指配兼市場主導的混合方案，在現有指配期於2016年10月21日屆滿後重新指配有關頻譜。根據該方案，現有營辦商將獲賦予優先權，獲重新指配三分之一現時所持有的3G頻譜，至於其餘三分之一的3G頻譜將會透過拍賣重新指配。我們正密鑼緊鼓，準備在2014年年底舉行拍賣。





other incumbent free TV licensee. Contraventions were established in both cases. Apart from the imposition of financial penalties as sanction, the two licensees were required by the CA to take rectification actions to respectively improve its corporate governance standards and to end the anti-competitive practices.

Meanwhile, OFCA continued to receive a large number of complaints about broadcast materials. In 2013/14, OFCA handled nearly 13 000 complaints relating to some 3 000 cases. Using powers delegated by the CA, OFCA handled most of those cases which involved breaches of a minor nature, or allegations which do not constitute any breach or fall outside the remit of the ordinances. The CA dealt with 43 cases in accordance with the established practices.

## Telecommunications Services

Fixed broadband networks continued to develop in 2013/14. During the year, the household penetration rate for fixed broadband services stood at 83%, with over 92% of subscribers choosing services with a speed of at least 10 Mbps. We also actively facilitated new submarine cable systems to land in Hong Kong, so as to increase our external connection capacity. One new system came into operation in 2013, taking the number of submarine cable systems to 9. Two more are scheduled to land in Hong Kong in the coming two years.

We assisted the CA in reviewing whether some of the telecommunications regulatory measures were still

necessary taking into account market and technology developments. After public consultation, the CA decided that the regulatory guidance for narrowband interconnection between fixed carriers, first promulgated in 1995, should be phased out after an 18-month transitional period. Starting from 16 October 2014, all types of carrier-to-carrier local interconnection charges are no longer subject to any regulatory guidance, and are solely determined through commercial negotiations between the carriers.

In terms of mobile telecommunications services, with the 3G spectrum assignments in the 1.9 – 2.2 GHz band due to expire in October 2016, we assisted the CA in mapping out the way forward following the conduct of two rounds of public consultation. The CA decided in November 2013 to adopt a hybrid administratively-assigned cum market-based approach to re-assign the spectrum upon expiry of their existing term of assignments on 21 October 2016, under which the incumbents would be offered a right of first refusal for two-thirds of their current spectrum holdings, while the remaining one-third would be re-assigned through an auction. We are working towards conducting the auction towards end-2014.

## Competition and Consumer Protection

Ensuring effective competition in the communications market is an important means to facilitate consumers' access to advanced services at reasonable prices. To this end, OFCA continued to assist the CA to enforce the competition provisions in the Telecommunications Ordinance (Cap. 106) ("TO") and the BO. From April 2013 to March 2014, we considered altogether 61 complaints cases. One case was found to be in breach of the BO and the CA imposed inter alia a financial penalty on the broadcasting licensee concerned.

During the same period, OFCA considered two merger and acquisition cases involving telecommunications carrier licensees. One was an application for the CA's prior consent to a proposed transaction involving the acquisition of a carrier licensee by another carrier licensee. Having

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## 促進競爭與保障消費者

確保通訊市場有效競爭，是讓消費者能以合理價格獲取先進通訊服務的重要措施。為此，通訊辦繼續協助通訊局執行《電訊條例》（第106章）和《廣播條例》的競爭條文。在2013年4月至2014年3月期間，我們共考慮61宗投訴個案，通訊局認為其中一宗違反《廣播條例》，已向有關廣播牌照持有人施加包括罰款等懲處。

同期，通訊辦考慮了兩宗涉及電訊傳送者牌照持有人合併與收購的個案。其中一宗個案關乎一家傳送者牌照持有人收購另一家傳送者牌照持有人的建議交易，向通訊局申請事先同意。通訊局經考慮通訊辦的評估及其經濟顧問的研究結果，於2014年4月決定就建議交易給予同意，惟有關傳送者牌照持有人須按通訊局的指示採取所需行動，以消除或避免該交易對市場所產生的大幅減少競爭的效果。

新訂的《競爭條例》（第619章）即將實施。通訊局獲賦予共同管轄權，與競爭事務委員會共同執行《競爭條例》。通訊局一直在通訊辦協助下，與競爭事務委員會緊密合作，擬備《競爭條例》的執法指引。通訊局及競爭事務委員會亦將擬備諒解備忘錄，以協調雙方履行其各自在《競爭條例》下的職能。

經修訂的《商品說明條例》（第362章）已於2013年7月19日生效。通訊局根據該條例獲賦予共同管轄權，與香港海關（「海關」）就廣播及電訊業界的營業行為根據新的公平營商條文執法。通訊辦在2013年7月至2014年3月期間共接獲359宗屬經修訂的《商品說明條例》刑事檢控制度管轄範圍的投訴。當中有160宗個案因證據不足以懷疑／證實違反《商品說明條例》或因不屬《商品說明條例》的規管範圍而結案；另外5宗投訴在通訊辦向有關持牌人發出勸諭信指示注意

《商品說明條例》的規定後結案；尚有194宗投訴則仍在不同階段的處理中。另一方面，電訊牌照持有人在經修訂《商品說明條例》實施前作出的具誤導性或欺騙性行為，仍受《電訊條例》規管。就此而言，在2013年4月至2014年3月期間，通訊辦處理了92宗投訴個案，通訊局認為當中6宗個案違反《電訊條例》，並已向有關牌照持有人施加罰款作為懲處。

服務合約爭議是消費者投訴的主要範疇。儘管通訊局並無法定權力處理該等爭議，經通訊辦與香港通訊業聯會（一個業界聯會）積極商討後，香港通訊業聯會於2010年12月制定了自行規管性質的《電訊服務合約業界實務守則》（《業界守則》），而業界亦於2011年7月開始實施該《業界守則》。經參考實施該《業界守則》的經驗及消費者的回應後，通訊辦在2013年5月提出了多項改善建議供該會與會員討論，以修訂《業界守則》。

年內，通訊辦繼續支持「解決顧客投訴計劃」的試驗運作。該計劃於2012年11月推出，旨在以調解方式協助電訊服務供應商與其顧客解決雙方陷入僵局的計帳爭議。迄今，試驗運作的成績令人鼓舞，所有轉介予調解服務中心的個案均獲圓滿解決。

## 《非應邀電子訊息條例》的執行事宜

通訊辦一直協助通訊局執行《非應邀電子訊息條例》（第593章）。懷疑違反《非應邀電子訊息條例》的舉報宗數近年呈下降趨勢。在2013／14年度接獲的舉報宗數為1 998宗，較上年度的數字減少17%。期間，通訊辦亦協助通訊局修訂《實務守則》，以就發送商業電子訊息提供既實用又切合時宜的指引。此外，通訊辦在調查個案後，發出了共155封勸諭信、83封警告信和6份執行通知。我們將繼續監察發送人遵守有關規定的情況，並理順程序，以便更有效地執法。

considered OFCA's assessment and the findings of its economic consultant, the CA decided to give consent in April 2014 to the proposed transaction, subject to the carrier licensees taking actions directed by the CA as necessary to eliminate or avoid the substantially lessening competition effects of the transaction on the market.

The newly enacted Competition Ordinance (Cap. 619) ("CO") will come into operation shortly. With the CA conferred concurrent jurisdiction with the Competition Commission to enforce the CO, OFCA has been supporting the CA in working closely with the Competition Commission to prepare the guidelines on the enforcement of the CO. A memorandum of understanding between the CA and the Competition Commission will also be prepared to coordinate the performance of their respective functions under the CO.

The amended Trade Descriptions Ordinance (Cap. 362) ("TDO") came into effect on 19 July 2013, under which the CA is conferred concurrent jurisdiction with the Customs & Excise Department ("C&ED") to enforce the new fair trading provisions in the broadcasting and telecommunications sectors. OFCA received 359 complaints under the jurisdiction of the criminal regime of the amended TDO from July 2013 to March 2014. 160 were closed for insufficient evidence to suspect / establish a contravention or for falling outside the scope of the TDO, five complaints were closed after advisory letters were issued to the concerned licensees to draw their attention to the need to observe more closely the requirements in the TDO, and 194 complaints were under process at various stages. Meanwhile, misleading and deceptive conduct by telecommunications licensees prior to the implementation of the amended TDO are still regulated under the TO. In this regard, OFCA handled 92 complaint cases from April 2013 to March 2014, with the CA confirming six of them as infringements of the TO and imposing financial penalties on the licensees as sanction.

Service contract disputes are a major area of consumer complaints. While the CA has no statutory power to investigate such disputes, after active discussions



between OFCA and the Communications Association of Hong Kong ("CAHK", an industry association), the CAHK drew up a self-regulatory Code of Practice for Telecommunications Service Contracts ("Industry Code") in December 2010. The industry started implementing the Industry Code in July 2011. Drawing reference to the implementation experience of the Industry Code and consumers' feedback, OFCA has recommended a number of improvement proposals in May 2013 for CAHK to consider taking forward with its members through revision of the Industry Code.

OFCA also continued to sponsor during the year the operation of the trial Consumer Complaint Settlement Scheme ("CCSS"), which was set up in November 2012 to help resolve, through mediation, billing disputes in deadlock between telecommunications service providers and their customers. So far, the trial outcome has been encouraging with all cases referred to the CCSS mediation service centre satisfactorily settled.

## UEMO Enforcement

OFCA has been assisting the CA in the enforcement of the Unsolicited Electronic Messages Ordinance (Cap. 593) ("UEMO"). The number of reports in relation to suspected contraventions of UEMO has shown a downward trend in recent years. In 2013/14, there were 1 998 reports, representing a decrease of 17% over the figure in the previous year. During the period, OFCA assisted the CA

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## 消費者教育

在2013／14年度，通訊辦以「做個精明通訊服務用家」為主題，舉辦一年一度的消費者教育活動，藉以向消費者提供實用的貼士，提醒他們如何明智地使用智能電話，以及保護儲存於電話內的個人資料。鑑於這項計劃下的活動均取得良好反應，我們將在2014／15年度繼續舉辦有關的消費者教育活動。

通訊辦亦在2013／14年度為學生及一項電台節目製作社區計劃的參加者舉辦了十個講座，專題講解觀眾可如何明智地選看電視節目；對電視及聲音廣播服務的規管；以及規管電台服務的節目標準。

## 對外關係

通訊辦積極參與國際及地區組織舉辦的會議，以掌握全球規管工作的最新發展，並分享我們的規管經驗。年內，通訊辦亦與英國、新加坡和廣東等不同地區的規管機構會面，以交流意見和分享經驗。



## 未來的主要挑戰

2014／15年度對通訊辦來說將是繁忙的一年。我們會繼續協助通訊局處理免費和收費電視持牌機構及模擬聲音廣播持牌機構的續牌申請；與獲行政長官會同行政會議原則上批准發牌的兩家免費電視牌照申請機構跟進正式發牌的事宜；以及處理一宗新的免費電視牌照申請。我們將在2014年年底就重新指配3G頻譜舉行拍賣，尤其讓新加入市場的營辦商有足夠時間鋪設網絡，以在2016年10月推出服務。我們亦會與競爭事務委員會緊密合作，為全面實施《競爭條例》作好準備。

本人十分慶幸擁有一支專業幹練、敬業盡責的員工團隊，他們在2013／14年度努力不懈，處理了無數棘手的工作。本人深信在他們齊心支持下，通訊辦在2014／15年度定能再接再厲，克服各項規管方面的挑戰，全力支援通訊局履行作為通訊業規管機構的法定職責。

in revising the Code of Practice to provide practical and update-to-date guidance on the sending of commercial electronic messages. OFCA also issued a total of 155 advisory letters, 83 warning letters and six enforcement notices to the senders of UEM after investigation. We will continue to monitor the compliance situation and streamline the procedures for more effective enforcement.

## Consumer Education

In 2013/14, OFCA launched an annual consumer education campaign under the theme “Smart Use of Communications Services”, with a view to providing useful consumer tips on how to use smartphones wisely and protect personal data stored on the phones. The response to the various activities under the campaign was encouraging, and we will continue with our consumer education efforts in 2014/15.

OFCA also gave ten talks to students and participants in a community project on radio programme production in 2013/14, specifically on how the viewing public can make informed viewing choices regarding television programme services, how television and sound broadcasting services are regulated, and the programme standards governing radio services.

## External Relations

OFCA participated actively in the conferences organised by international and regional organisations to keep track of the latest global regulatory developments and to share our regulatory experience. During the year, OFCA also met with its counterparts from different regions, including the United Kingdom, Singapore and Guangdong, to exchange views and share its experience.

## Major Challenges Ahead

2014/15 will be a busy year for OFCA. We will continue to assist the CA in processing the licence renewal applications from free and pay TV licensees as well as analogue sound broadcasting licensees, following up with two free TV applicants with approval-in-principle from CE in C for the formal grant of their licences, and in handling a new free TV licence application. We will conduct an auction for the re-assignment of the 3G spectrum towards end 2014 so that inter alia new entrants, if any, will have sufficient time to roll out their networks for the service launch in October 2016. We will also work closely with the Competition Commission to prepare for the full implementation of the CO.

I am most thankful to a very professional and dedicated team of colleagues in OFCA who have been working professionally and tirelessly on numerous challenging tasks in 2013/14. With their unreserved support, I am confident that OFCA will continue to overcome various regulatory challenges in 2014/15 and provide full support to the CA in discharging its statutory regulatory responsibilities.