

# 1 總監報告

## Message from the Director-General



**利敏貞女士**

通訊事務總監

**Miss Eliza Lee**

Director-General of Communications

### 引言

本人欣然呈上通訊事務管理局辦公室（「通訊辦」）營運基金的第四份年報。通訊辦在2015／16年度繼續為通訊事務管理局（「通訊局」）提供專業支援，協助通訊局履行作為本港通訊業規管機構的法定職責。

近年，本港通訊市場興旺繁盛、生氣勃勃，2015／16年度亦不例外。本地流動電訊市場競爭仍然十分激烈，消

費者可以合理的價格獲得高質素的服務。現時，所有四家流動網絡營辦商均提供4G服務。2016年3月錄得的流動服務普及率超越220%，顯示流動互聯網實際上已普及全港人口。本港的固網電訊基礎建設亦為全球最先進之一，歐洲光纖到戶議會（Fibre to the Home Council Europe）公布，香港住戶連接光纖到戶／光纖到樓網絡的普及率全球排名第五。海底光纖電纜系統在香港登陸令香港的互聯網服務用戶受惠不少。根據世界經濟論壇發表的《2016年全球資訊科技報告》，香港每名用戶的國際互聯網帶寬在139個經濟體系中排名第二。此外，互聯網內容傳輸商Akamai公布，香港的連線速度平均峰值屬全球第二快。

廣播業的環境亦出現不少轉變。在亞洲電視有限公司（「亞洲電視」）的本地免費電視節目（「免費電視」）服務終止後，香港電視娛樂有限公司（「香港電視娛樂」）由2016年4月2日起，除使用固定網絡外，亦使用頻譜作為新增的傳送模式，提供其持牌免費電視服務。隨著行政長官會同行政會議（「行會」）於2016年5月31日決定向奇妙電視有限公司（「奇妙電視」）批出免費電視牌照，這家新營辦商亦將加入免費電視市場。同時，有數宗免費電視牌照申請亦在處理中。這些最新發展將對廣播業的環境帶來重大的轉變。在新的持牌服務陸續推出後，電視節目將會更多元化，觀眾亦會有更多選擇。

### 廣播服務

香港的電視和聲音廣播服務目前呈現不同的發展。自通訊局於2015年1月就奇妙電視的免費電視牌照申請呈交建議後，因應行會的要求，通訊辦協助通訊局跟進牌照申請的待決事項，並於2016年4月就該宗申請向行會呈交進一步建議。2016年5月31日，行會決定向奇妙電視正式批出為期12年的免費電視牌照。

與此同時，香港電視娛樂向通訊局提出申請，讓其在使用固定網絡外，亦可使用頻譜傳送其持牌免費電視服

## Introduction

I am pleased to present the fourth annual report of the Office of the Communications Authority (“OFCA”) Trading Fund. In 2015/16, OFCA continued to provide professional support to the Communications Authority (“CA”) in discharging its statutory responsibilities as the regulator of the communications sector in Hong Kong.

The communications market in Hong Kong has been vibrant and dynamic in recent years, and 2015/16 was no exception. Our mobile telecommunications market remained very competitive with high quality and reasonably priced services available to consumers. All four mobile network operators are now offering 4G services. The penetration rate of mobile services exceeded 220% as at March 2016, reflecting that mobile Internet has practically achieved full population penetration. Our fixed telecommunications infrastructure is also among the most advanced, with fibre to the home/building household penetration ranked the fifth globally by the Fibre to the Home (“FTTH”) Council Europe. Hong Kong’s Internet service users benefit substantially from the submarine fibre-optic cable systems that landed here. The World Economic Forum’s Global Information Technology Report 2016 ranked Hong Kong as the second among 139 economies in international Internet bandwidth per user. Furthermore, according to the Internet content-delivery provider Akamai, Hong Kong has the second highest average peak connection speeds globally.

There have been changes to the landscape of the broadcasting sector as well. HK Television Entertainment Company Limited (“HKTVE”) started to provide its licensed domestic free television programme (“free TV”) service by using spectrum as an additional transmission means on top of a fixed network from 2 April 2016, following the cessation of the free TV service of Asia Television Limited (“ATV”). A new player is entering the free TV market following the decision of the Chief Executive in Council (“CE in C”) to grant a free TV licence to Fantastic Television Limited (“Fantastic TV”) on 31 May 2016. Meanwhile, a number of free TV licence applications are being processed. The latest developments will have a significant impact on the broadcasting landscape. The coming on stream of new licensed services will enhance programme variety and widen viewers’ choices.

## Broadcasting Services

A number of developments are taking place in television and sound broadcasting services in Hong Kong. Following the submission of the CA’s recommendations on the free TV licence application of Fantastic TV in January 2015, in response to the requests of the CE in C, OFCA assisted the CA in following up on the outstanding issues of the licence application and submitting further recommendations on the application to the CE in C in April 2016. On 31 May 2016, the CE in C decided to formally grant a 12-year free TV licence to Fantastic TV.

In parallel, OFCA assisted the CA in processing the application of HKTVE to employ spectrum, on top of a fixed network, for the delivery of its licensed free TV service. Following the agreement of HKTVE to comply with all the additional conditions imposed by the CA, the CA approved in January 2016 HKTVE’s application.

On 1 April 2015, the CE in C decided not to renew ATV’s free TV licence and extended the term of its licence to 1 April 2016 in accordance with the provision of the Broadcasting Ordinance (Cap. 562) (“BO”). This is the first time in Hong Kong’s broadcasting history that an incumbent’s broadcasting licence has not been renewed. We assisted the CA in closely monitoring ATV’s operation, handling regulatory issues arising from the non-renewal of ATV’s licence in the run-up to the expiry of its licence, and facilitating the changeover of part of the broadcasting frequencies withdrawn from ATV to the new spectrum assignees, namely HKTVE and Radio Television Hong Kong (“RTHK”), in a seamless manner.

Apart from free TV services, we assisted the CA in conducting a renewal exercise in respect of the domestic





pay television programme service (“pay TV”) licence of Hong Kong Cable Television Limited (“HKCTV”). The recommendations of the CA on this licence renewal application were submitted to the CE in C in April 2016.

We also assisted the CA in preparing and submitting to the CE in C its recommendations on the renewal of the analogue sound broadcasting licences of Hong Kong Commercial Broadcasting Company Limited (“CRHK”) and Metro Broadcast Corporation Limited (“Metro”) in May 2015. On 22 March 2016, having regard to, inter alia, the recommendations of the CA, the CE in C decided to renew the analogue sound broadcasting licences of CRHK and Metro for a term of 12 years.

Regarding new applications for free TV licences, OFCA assisted the CA in assessing the application of Hong Kong Television Network Limited (“HKTv”), which was received in April 2014, in accordance with the BO and established procedures, and the CA’s assessment of and recommendations on the application were submitted to the CE in C in January 2016. We will continue to support the CA in processing the application of Forever Top (Asia) Limited (“Forever Top”), received in April 2015, and such other applications received in accordance with the BO and established procedures.

OFCA continued to receive a large number of complaints about broadcast materials. In 2015/16, OFCA handled nearly 15 000 complaints relating to about 2 000 cases. Using powers delegated by the CA, OFCA handled most of those cases, which involved breaches of a minor nature, or allegations which did not constitute any breach, or fell outside the remit of the relevant ordinances. The CA dealt with 15 cases in accordance with the complaint handling procedures.

## Telecommunications Services

We assisted the CA in implementing its decision on the re-assignment of the 3G spectrum in the 1.9 – 2.2 GHz band upon expiry of the existing assignments in October 2016. A working group has been set up to co-ordinate the handover of spectrum between the incumbent 3G spectrum assignees and the new assignee to minimise any impact on the services during the transitional period. Our next major task is to assist the CA in the re-assignment of 200

MHz of spectrum in the 900/1800 MHz bands, with current terms of assignment expiring between November 2020 and September 2021. The first public consultation on proposed way forward was conducted from February to May 2016, and the second public consultation is planned for early 2017. The CA will endeavour to announce its decision on the arrangements for spectrum re-assignment by late 2017, giving the industry about three years to prepare for any change in spectrum assignments.

OFCA provides a single-point-of-contact service to actively facilitate interested parties to obtain the necessary statutory approvals for landing new submarine cable systems in Hong Kong, so as to increase our capacity and resilience of external telecommunications facilities. I am pleased to report that two new systems are scheduled to land in Hong Kong between mid-2016 and mid-2017, potentially increasing our external connection capacity by about 24%.

Hong Kong has since 1995 adopted an 8-digit telecommunications numbering plan. With the continuous growth in the number of mobile service subscribers, it is estimated that all the number blocks currently available for mobile services may be used up by end 2018. Against this background, OFCA assisted the CA in conducting a consultation on 29 October 2015 to solicit public views on five proposed measures with a view to making available additional number resources for mobile services through more efficient use of the existing 8-digit telecommunications numbering plan. Taking into account the views received from the consultation, the CA announced in June 2016 its decision to adopt all the five proposed measures for implementation in phases. OFCA will work with the industry and the concerned parties and monitor the implementation process.

## Competition and Consumer Protection

On 14 December 2015, the Competition Ordinance (Cap. 619) (“CO”), a cross-sectoral competition law prohibiting anti-competitive conduct in all sectors, commenced full operation. The competition provisions in the Telecommunications Ordinance (Cap. 106) (“TO”) and the BO were repealed on the same day subject to transitional arrangements. Under the CO, the CA is conferred concurrent jurisdiction with the Competition Commission (“Commission”) to enforce the CO in respect



## 促進競爭與保障消費者

《競爭條例》（第619章）已於2015年12月14日全面實施。該條例為跨行業的競爭法例，旨在禁止各行業從事反競爭行為。《電訊條例》（第106章）和《廣播條例》內的競爭條文已於同日在實施過渡安排下予以廢除。根據《競爭條例》，通訊局與競爭事務委員會（「競委會」）獲賦予共享管轄權，就電訊及廣播業的業務實體的行為，包括涉及電訊業傳送者牌照持有人的合併與收購活動，執行《競爭條例》的相關條文。自2015年12月14日全面實施《競爭條例》至2016年3月31日為止，我們共接獲45宗投訴／查詢個案，當中有40宗個案已經結案而無須作進一步跟進，有五宗個案則仍在處理中。在這段期間，通訊辦亦協助通訊局根據合併守則檢視兩宗交易，而最終無須就該等交易作進一步跟進。

《商品說明條例》（第362章）的公平營商條文已於2013年7月19日生效。通訊局根據該條例獲賦予共享管轄權，與香港海關（「海關」）就廣播及電訊業的營業行為根據公平營商條文執法。在2015年4月1日至2016年3月31日期間，通訊辦處理了899宗根據《商品說明條例》提出的投訴個案，當中有820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。另有19宗個案在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。有一宗個案檢控成功，法庭於2016年4月14日裁定被告罪名成立。至於餘下的個案則仍在不同階段的處理中。

服務合約爭議是通訊辦所接獲的消費者投訴的主要範疇，但通訊局並無法定權力調查該等爭議。為加強對消費者在電訊服務合約方面的保障，通訊辦積極與香港通訊業聯會（本港通訊業的業界聯會）商討各項可行的改善措施。經多次商討後，香港通訊業聯會制定了屬自行規管性質的《電訊服務合約業界實務守則》（《業界守則》），而業界亦於2011年7月開始實施該守則。經考慮通訊辦根據實施《業界守則》的經驗及消費者的意見所提出的建議後，香港通訊業聯會對《業界守則》作出多項改善，經修訂的《業界守則》由2015年5月1日起生效。

## 《非應邀電子訊息條例》（第593章）的執行事宜

通訊辦繼續協助通訊局執行《非應邀電子訊息條例》。在2015/16年度，我們接獲1 725宗舉報，與上年度接獲的2 068宗比較，減少了約16%。在2015/16年度採取的執法行動方面，通訊辦在調查個案後，一共向商業電子訊息發送人發出了106封勸諭信、22封警告信和兩份執行通知。通訊辦亦在2016年1月就一名商業傳真訊息發送人懷疑違反向其送達的執行通知採取突擊搜查行動，並在2016年5月及7月向其提出檢控。

## 消費者教育

在2015/16年度，通訊辦繼續以「做個精明通訊服務用家」為主題，舉行一年一度的消費者教育活動。本人特此感謝專業資訊保安協會為五場公眾講座提供嘉賓講者，讓參加者得以向通訊業專家學習如何精明地使用通訊服務。通訊辦亦在2015/16年度繼續推展消費者教育工作，以不熟悉新科技和流動裝置的人士為對象，在23所社會服務中心舉辦社區講座。

通訊辦亦在2015/16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12場講座，專題講解公眾可如何明智地選看電視節目；電視及聲音廣播服務的規管事宜；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（包括國際電信聯盟（「國際電聯」）和亞太地區電信組織（「APT」））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，通訊辦亦與美國、新加坡、廣東省、澳門及歐洲多國的規管機構會面，以交流意見和分享經驗。

of the conduct of undertakings in the telecommunications and broadcasting sectors, including merger and acquisition activities involving carrier licensees in the telecommunications sector. From the full commencement of the CO on 14 December 2015 to 31 March 2016, a total of 45 complaints/enquiries were received, with 40 cases closed without the need for further actions and five cases under processing. During the period, OFCA also assisted the CA in reviewing two transactions under the merger rule. No further action was considered necessary in respect of those transactions.

The fair trading sections of the 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 fair trading sections in the broadcasting and telecommunications sectors. From 1 April 2015 to 31 March 2016, OFCA handled 899 complaint cases under the TDO, of which 820 were closed due to insufficient evidence to suspect/establish a contravention, or were outside the scope of the TDO. A further 19 cases were closed with the issue of advisory letters to the concerned licensees to draw their attention to the need to observe more closely the requirements in the TDO. One case was successfully prosecuted, with the court convicting the defendant on 14 April 2016. The remaining cases were at different stages of processing.

The CA has no statutory power to investigate service contract disputes, a major area of consumer complaints received by OFCA. With a view to providing further protection to consumers in telecommunications service contracts, OFCA engaged in active discussions with the Communications Association of Hong Kong ("CAHK"), the industry association for Hong Kong's communications sector, on possible enhancement measures. Following these discussions, CAHK drew up a self-regulatory Code of Practice for Telecommunications Service Contracts ("Industry Code"), which the industry started implementing in July 2011. Taking into account OFCA's suggestions based on the implementation experience and consumers' feedback, CAHK made a number of enhancements to the Industry Code, which took effect from 1 May 2015.

## Enforcement of the Unsolicited Electronic Messages Ordinance (Cap. 593) ("UEMO")

OFCA continues to assist the CA in the enforcement of UEMO. In 2015/16, there were 1 725 reports, representing a decrease of about 16% as compared to the 2 068 reports received in the previous year. Regarding the enforcement actions taken in 2015/16, OFCA issued a total of 106 advisory letters, 22 warning letters and two enforcement notices to the senders of commercial electronic messages after investigation. OFCA also mounted a raid operation against a commercial facsimile sender in January 2016, and laid charges against him in May and July 2016 in relation to suspected contravention of an enforcement notice served on him.

## Consumer Education

In 2015/16, OFCA continued to run an annual consumer education campaign featuring the theme "Smart Use of Communications Services". I am grateful to the Professional Information Security Association for providing guest speakers at five public seminars, enabling the audience to learn from experts in the communications sector on how to use their communications services smartly. OFCA also expanded the reach of its consumer education efforts in 2015/16 by holding community talks in 23 social service centres, targeting those who are not well-versed with the new technologies and mobile devices.

OFCA likewise hosted 12 talks for students and participants of a community project on radio programme production in 2015/16, specifically on how the public can make informed viewing choices regarding television programme services, the regulation of television and sound broadcasting services, and the programme standards governing radio services.

## External Relations

OFCA participated actively in conferences organised by international and regional organisations, including the International Telecommunication Union ("ITU") and the Asia-Pacific Telecommunity ("APT"), to keep track of the latest global regulatory developments and to share our regulatory experience. During the year, OFCA also met

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## 未來的主要挑戰

通訊業的技術一日千里，市場發展迅速，各項服務不斷推陳出新。通訊辦須時刻留意各方面的最新發展情況，以支援通訊局全面履行其法定規管職責，2016/17年度也將如是。就廣播服務而言，我們會繼續協助通訊局處理免費電視牌照的申請；監察新持牌機構推出的免費電視服務；以及履行規管職能。就電訊服務而言，3G頻譜拍賣已經完成，我們會繼續與各流動網絡營辦商協調，就2016年10月的頻譜交接事宜作好準備。我們亦會繼續協助通訊局處理在900/1 800兆赫頻帶內200兆赫頻譜的重新指配事宜，該等頻譜的現有指配期於2020年至2021年期間屆滿。鑑於通訊局已就更有效使用八位號碼計劃所採用的措施和實施措施的時間表作出決定，通訊辦會與業界及有關各方共同制定相關的實施計劃，並監察實施過程。我們亦會繼續留意科技及市場的發展，並支援通訊局精簡現行的規管及發牌制度，從而確保該等制度有利於商業創新及投資。

本人十分感謝通訊辦三個諮詢委員會全體委員就通訊辦可如何改善工作提出寶貴意見。本人亦非常慶幸能夠獲得一羣優秀能幹、專業盡責的同事的全力支持。本人期待在來年繼續與他們緊密合作，迎接未來的挑戰。

with its counterparts from the United States, Singapore, Guangdong Province, Macao, and a number of countries in Europe to exchange views and share its experience.

## Major Challenges Ahead

The communications sector is characterised by rapidly evolving technologies, market developments and service introductions. OFCA needs to constantly keep itself up to date on developments on all fronts to support the CA in fully discharging its statutory regulatory responsibilities. 2016/17 will be no exception. On the broadcasting front, we will continue to assist the CA in handling free TV licence applications, monitoring new licensees in rolling out their free TV services, and performing regulatory functions. On the telecommunications front, following the 3G spectrum auction, we will continue to coordinate with the mobile network operators to prepare for the spectrum changeover in October 2016. We will also continue to assist the CA in the re-assignment of 200 MHz of spectrum in the 900/1800 MHz bands upon expiry of the existing

assignments between 2020 and 2021. Since the CA has made a decision on the measures to be adopted for more efficient utilisation of the 8-digit numbering plan and the timetable, OFCA will work out the implementation plan with the industry and concerned parties and monitor the implementation process. We will also continue to keep track of technology and market developments, and provide support to the CA in streamlining the existing regulatory and licensing regimes to ensure that they are conducive to business innovation and investment.

I am most grateful to all members of OFCA's three advisory committees for their advice on how OFCA could improve its work. I am very fortunate to have a team of highly competent and professional colleagues at OFCA who have rendered me their unfailing support. I look forward to working with them closely in the coming year to meet the challenges ahead.