



處理和調查電訊與廣播業的競爭投訴及電訊業的合併與收購個案

《競爭條例》為跨行業的競爭法例，旨在禁止各行業從事反競爭行為。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，就在電訊及廣播業營運的業務實體的行為，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》。

根據通訊局與競委會簽訂的諒解備忘錄，對於屬於共享管轄權範圍內的事宜，通訊局一般會擔任主導機關。如某些事宜既涉及屬於共享管轄權的範圍，又涉及不屬於共享管轄權的範圍，通訊局與競委會將因應個別情況，討論和協定處理有關事宜的最佳做法。

在2018年4月1日至2019年3月31日期間，通訊辦共接獲42宗根據《競爭條例》提出的投訴及／或查詢個案，當中39宗個案已經結案而無須作進一步跟進，有三宗個案則仍在處理中。

年內，通訊辦亦協助通訊局根據《競爭條例》的合併守則檢視兩宗交易。雖然通訊局認為無須就其中一宗交易作進

一步跟進，但認為另一宗關於香港寬頻有限公司於2018年8月宣布建議收購WTT Holding Corp. 的交易可能引起競爭疑慮。在這宗個案中，合併各方於2019年1月根據《競爭條例》第60條向通訊局提出承諾，以釋除通訊局的競爭疑慮，從而換取通訊局不就交易展開調查或不在競爭事務審裁處提起法律程序。通訊局認為建議承諾可釋除其競爭疑慮，並根據《競爭條例》，就其擬接受建議承諾，邀請業界及有興趣人士提出申述。經考慮所收到的申述後，通訊局認為建議承諾需作修訂，以回應申述中提出的某些事宜，並向合併各方述明其意見。其後，合併各方在2019年3月提出修訂承諾。通訊局認為修訂承諾足以有效釋除其競爭疑慮，並於2019年4月公布決定根據《競爭條例》第60條接受修訂承諾，以及不會根據《競爭條例》第39條就交易展開調查。

處理和調查有關電訊與廣播業不良營商手法的投訴

《商品說明條例》的公平營商條文禁止商戶在向消費者提供貨品和服務時作出某些訂明的不良營商手法。

Handling of and Investigations into Competition Complaints in the Telecommunications and Broadcasting Sectors, and Merger & Acquisition Cases in the Telecommunications Sector

The Competition Ordinance (CO) provides for a cross-sectoral competition law prohibiting anti-competitive conduct in all sectors. Under the CO, the CA is conferred concurrent jurisdiction with the Competition Commission to enforce the CO in respect of the conduct of undertakings operating in the telecommunications and broadcasting sectors, including merger and acquisition activities involving carrier licensees in the telecommunications sector.

Pursuant to the memorandum of understanding signed by the CA and the Competition Commission, the CA will ordinarily assume the role of the lead authority for matters falling within the concurrent jurisdiction. For matters involving issues that are partly within and partly outside the concurrent jurisdiction, the CA and the Competition Commission will discuss and agree on how best to process the matter on a case-by-case basis.

From 1 April 2018 to 31 March 2019, a total of 42 complaints and/or enquiries were received under the CO, with 39 cases closed without the need for further actions and three cases under processing.

During the year, OFCA also assisted the CA in reviewing two transactions under the merger rule of the CO. While no further action was considered necessary in respect of one of the transactions, the CA identified competition issues in the other transaction concerning the proposed acquisition of WTT Holding Corp. announced by HKBN Ltd. in August 2018. In this case, the merging parties offered commitments to the CA in January 2019 under section 60 of the CO to address the CA's competition concerns, in return for the CA not commencing an investigation or bringing proceedings in the Competition Tribunal in relation to the transaction. The CA considered the proposed commitments sufficient in addressing its competition concerns, and sought representations in accordance with the CO from the industry and interested parties regarding its proposed

acceptance of the proposed commitments. Having considered the representations received, the CA took the view that the proposed commitments would need to be revised to address certain matters raised in the representations, and communicated its views to the merging parties. The merging parties then offered a set of revised commitments in March 2019. The CA considered the revised commitments sufficient to effectively address its competition concerns. The CA announced its decision in April 2019 to accept the revised commitments under section 60 of the CO and not to commence an investigation into the transaction under section 39 of the CO.

Handling of and Investigations into Complaints about Unfair Trade Practices in the Telecommunications and Broadcasting Sectors

The fair trading sections of the Trade Descriptions Ordinance (TDO) prohibit certain specified unfair trade practices by traders in the provision of goods and services to consumers.

The CA is conferred concurrent jurisdiction with the Customs and Excise Department to enforce the fair trading sections of the TDO in relation to the commercial practices of licensees under the TO and the BO directly connected with the provision of telecommunications and broadcasting services. The two enforcement agencies have entered into a memorandum of understanding to co-ordinate the performance of their functions under the fair trading sections of the TDO and have issued a set of enforcement guidelines to provide guidance for traders and consumers as to the operation of the fair trading sections.

From 1 April 2018 to 31 March 2019, OFCA handled a total of 356 complaints under the TDO. Of these cases, 303 were closed due to insufficient evidence to suspect/establish a contravention, or because they fell outside the scope of the TDO; 13 cases were closed after the CA issued advisory letters to the licensees concerned to bring to their attention the subject matter and advise them of the need to improve their relevant commercial practices in relation to the sale, supply or promotion of telecommunications or broadcasting services to consumers;

除香港海關負責執法外，通訊局同時獲賦予共享管轄權，就《電訊條例》和《廣播條例》下的持牌人作出與根據相關條例提供電訊服務或廣播服務有直接關連的營業行為，按《商品說明條例》的公平營商條文執法。兩個執法機關已簽訂諒解備忘錄，以協調雙方在《商品說明條例》的公平營商條文下履行各自的職能，並已發出一套執法指引，就公平營商條文的實施向商戶和消費者提供指引。

在2018年4月1日至2019年3月31日期間，通訊辦共處理356宗根據《商品說明條例》提出的投訴。在這些個案中，303宗因證據不足以懷疑／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，13宗個案在通訊局向有關持牌人發出勸諭信敦促其注意有關事宜，並改善向消費者銷售、供應或推廣電訊服務或廣播服務的相關營業行為後亦已結案。餘下的40宗個案則仍在不同階段的處理中。

《非應邀電子訊息條例》的執行事宜

《拒收訊息登記冊》

通訊局根據《非應邀電子訊息條例》設立了分別適用於傳真訊息、短訊和預錄電話訊息的三份《拒收訊息登記冊》。除非發送人已取得電話號碼登記使用者的同意，否則發送人不可發送商業電子訊息到已登記在登記冊上的電話號碼。截至2019年3月，已有超過270萬個電話號碼登記在三份登記冊上。除不可發送商業電子訊息予已在登記冊上登記的電話號碼外，商業電子訊息發送人亦須遵從《非應邀電子訊息條例》所訂明的多項規則，例如發送人必須在商業電子訊息內向收訊人提供聯絡資料和「取消接收選項」，讓收訊人可以聯絡有關發送人和取消接收商業電子訊息。

通訊辦在2018／19年度接獲637宗懷疑違反《非應邀電子訊息條例》的舉報，較去年減少約6%。通訊辦會繼續監察各平台上的發送人遵守有關規定的情況，並理順程序，以便更有效執法。

執行條例

如通訊辦收到針對某發送人的舉報數目不超過某個數額，會發出勸諭信，要求發送人遵守《非應邀電子訊息條例》的規定。如通訊辦收到針對某發送人的舉報數目超過該數額，或在發出勸諭信後繼續收到針對同一發送人的舉報，便會進行正式調查，並可能向有關發送人發出警告信。在2018／19年度，通訊辦共發出97封勸諭信和24封警告信。

如發現商業電子訊息發送人持續違反《非應邀電子訊息條例》，通訊局會根據該條例第38條發出執行通知，指示發送人採取措施糾正違例行為。任何人不遵從向其送達的執行通知，第一次定罪最高可處罰款十萬元。

繼續加強保障電訊服務消費者

持續實施防止流動通訊「帳單震撼」的措施

近年智能電話和先進流動裝置日趨普及，刺激了流動數據服務的增長和需求。與此同時，有關流動寬頻服務帳單爭議的消費者投訴亦備受消費者關注。這些投訴大多涉及流動通訊「帳單震撼」，即消費者因收到的流動通訊服務帳單款額遠高於預期而感受到的震撼。引致流動通訊「帳單震撼」的主因，是消費者在本地或身處香港境外時，不經意或不自覺地使用了流動數據服務。

為解決這個問題，通訊辦自2010年5月起公布一系列供業界採用的預防措施，包括容許用戶選擇取消個別服務、設立收費上限、為各類根據用量收費的流動服務設立用量上限，以及向用量達到預設水平或已啟動漫遊數據服務的用戶發出提示短訊。

為增加相關服務資訊的透明度，通訊辦已在網站公布個別營辦商所採取的措施，並定期更新資料。除推行這些措施外，通訊辦亦舉辦一系列消費者教育活動，以加深消費者對流動數據服務的認識和了解。通訊辦亦在網站提供數據用量計算機，以便消費者估算數據用量。隨着流動網絡營辦商和流動虛擬網絡營辦商實施上述預防措施，加上通訊

and the remaining 40 cases were under processing at various stages.

Enforcement of the Unsolicited Electronic Messages Ordinance

Do-not-call Registers

The CA has established three Do-Not-Call (DNC) Registers, for facsimile messages, short messages and pre-recorded telephone messages respectively, under the Unsolicited Electronic Messages Ordinance (UEMO). Commercial electronic messages (CEMs) must not be sent to registered telephone numbers unless the senders have obtained consents from the registered users. By March 2019, more than 2.7 million telephone numbers were registered with these three DNC Registers. Apart from not sending CEMs to the registered telephone numbers on the DNC Registers, senders of CEMs are also required under the UEMO to comply with a number of rules. For example, they must provide the recipients with their contact information and an “unsubscribe facility” in their CEMs so that the recipients can approach the senders concerned and unsubscribe from receiving their CEMs.

In 2018/19, OFCA received 637 reports in relation to suspected contraventions of the UEMO, a reduction of about 6% from that of the previous year. OFCA will continue to monitor the compliance situation on various platforms and streamline the procedures for more effective enforcement.

Enforcement

If the number of reports received against a sender is below a certain threshold, OFCA will issue an advisory letter reminding the sender to observe the requirements under the UEMO. If the number of reports received against a sender exceeds the threshold, or that OFCA continues to receive reports against the same sender after the issuance of an advisory letter, OFCA will conduct a formal investigation and may issue a warning letter to that sender. In 2018/19, a total of 97 advisory letters and 24 warning letters were issued.

In the event of repeated contraventions by the senders of CEMs, the CA may issue enforcement notices in accordance with section 38 of the UEMO directing the senders to take steps to remedy the contraventions. Anyone who fails to comply with an enforcement notice may be liable to a fine of up to \$100,000 on the first conviction.

Continued Efforts to Strengthen Consumer Protection in the Use of Telecommunications Services

Ongoing Implementation of “Mobile Bill Shock” Preventive Measures

The growing popularity of smartphones and advanced mobile devices has driven the growth of and demand for mobile data services in recent years. At the same time, consumer complaints relating to mobile broadband billing disputes is a common concern among consumers. Many of these complaints involve “mobile bill shock”, which refers to the shock consumers



- ▲ 通訊辦透過不同宣傳活動，推廣謹慎使用流動數據漫遊服務的消費者訊息。
OFCA promotes consumer messages on smart use of mobile data roaming services through various publicity activities.

促使通訊市場更具競爭性和更公平

Facilitating a More Competitive and Fairer Communications Market

辦持續推行消費者教育，有關流動通訊「帳單震撼」的投訴數字，已由2017年的143宗減至2018年的105宗，按年下降27%。

持續實施公平使用政策指引

固網及流動寬頻服務供應商為消費者提供種類繁多的服務計劃，包括「無限用量」計劃。然而，某些「無限用量」服務計劃其實受限於服務供應商所實施，名為「公平使用政策」的使用限制。公平使用政策旨在防止個別用戶過度使用網絡資源，以免對網絡表現構成不良影響，妨礙其他用戶使用服務。舉例來說，對於數據用量已超出某些上限的用戶，服務供應商可能會實施限制，例如調低其使用網絡服務優先次序或減慢其數據接達速度等。然而，消費者未必會留意到公平使用政策的實施或了解相關的條款及條件。對於使用「無限用量」服務計劃的用戶，當遇到數據用量因公平使用政策而受到限制時，更會感到不滿。

為保障消費者權益和增加服務資訊的透明度，通訊局於2011年11月發出《公平使用政策指引》，規管服務供應商實施其公平使用政策的情況。這份強制指引自2012年2月起已經生效。

在2018/19年度，通訊辦協助通訊局處理了六宗與公平使用政策相關的投訴個案，當中並無發現違反《公平使用政策指引》的個案。

提升寬頻表現測試系統

自2010年12月起，通訊辦推出寬頻表現測試系統，讓寬頻用戶測量其寬頻服務的連接表現，包括下載和上載速度、網絡時延、封包遺失和抖動。除桌面和手提電腦用戶外，採用iOS和Android作業系統的智能電話和平板電腦用戶也可使用該測試系統。

通訊辦不時檢討和提升測試系統，以進一步加強系統的測試能力和表現。現時，測試系統可讓桌面電腦用戶及iOS和Android系統流動裝置用戶分別進行高達每秒5 000兆比特及1 000兆比特的速度測試。自推出服務至2019年3月為止，系統已進行超過8 700萬次測試。

消費者教育活動

通訊辦在2018年8月至2019年3月繼續舉行一年一度的消費者教育活動，透過各式各樣的節目及活動持續推行教育



- ▲ 通訊辦每年均積極舉辦消費者教育活動，增加公眾對精明使用通訊服務的認識。
OFCA actively launches consumer education campaign every year to enhance public knowledge about smart use of communications services.

experience upon receiving unexpectedly high mobile bill charges. “Mobile bill shock” is mainly caused by unintentional or inadvertent usage of mobile data services, locally or while roaming outside Hong Kong.

To address this problem, OFCA has promulgated a series of preventive measures for the industry since May 2010. These measures include allowing customers to opt out of individual services; setting a charge ceiling; setting a usage cap for all kinds of usage-based mobile services; and alerting customers through short messages when their pre-determined usage threshold is reached, or when their roaming data usage is triggered.

To increase the transparency of the relevant service information, OFCA has published measures implemented by individual operators on its website and provided regular updates. On top of these measures, OFCA has organised a series of consumer education programmes to enhance consumers’ awareness and knowledge of mobile data services. OFCA has also posted a data usage calculator on its website as a tool for consumers to estimate their data usage consumption. With the implementation of the abovementioned preventive measures by mobile network operators and mobile virtual network operators as well as our on-going consumer education efforts, the number of complaints in relation to “mobile bill shock” decreased from 143 cases in 2017 to 105 cases in 2018, representing a year-on-year decrease of 27%.

Ongoing Implementation of Fair Usage Policy Guidelines

Fixed and mobile broadband service providers offer a variety of service plans to consumers, including plans with “unlimited usage”. However, certain “unlimited usage” service plans are in fact subject to usage restrictions imposed by service providers in the name of Fair Usage Policy (FUP). The FUP is intended to prevent excessive usage of network resources by individual customers, which may adversely affect the network performance and hamper other customers’ use of the service. For example, service providers may impose restrictions by lowering the network service priority or reducing the access speed for customers whose data usage has exceeded a certain threshold.

Nevertheless, consumers may not be aware of the existence of the FUP or understand the relevant terms and conditions. Customers of “unlimited service” plans in particular may feel aggrieved when their data usage is subject to restriction because of the FUP.

In order to protect consumer interests and enhance the transparency of service information, the CA issued a set of FUP guidelines in November 2011, governing the way service providers should implement their FUP. The mandatory guidelines have been in effect since February 2012.

In 2018/19, OFCA assisted the CA in handling six FUP-related complaint cases. None of them was found to be in contravention of the FUP guidelines.

Enhancement of the Broadband Performance Test System

Since December 2010, OFCA has launched a broadband performance test system to enable broadband service users to measure the performance of their broadband connections, including download and upload speeds, network latency, packet loss and jitter. Apart from users of desktop and notebook computers, users of smart phones and tablets running iOS and Android operating systems may also make use of the test system.

From time to time, OFCA reviews and upgrades the test system to further enhance its capability and performance. Currently, it offers desktop users and users of iOS- and Android-based mobile devices speed tests of up to 5 000 Mbps and 1 000 Mbps respectively. From service launch to March 2019, more than 87 million tests were performed under the system.

Consumer Education Programmes

OFCA continued to organise the annual Consumer Education Campaign from August 2018 to March 2019 to sustain its educational effort to enhance public awareness of the smart use of communications services through an array of programmes and activities. Throughout the campaign period, six roving

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工作，務求提高公眾對精明使用通訊服務的認識。在整個活動舉行期間，通訊辦在不同地區的熱門公眾場地及購物商場舉辦了六場巡迴展覽，以有趣的遊戲及家庭活動向公眾宣傳各項實用的消費者訊息；並在政府合署、公共圖書館和學校舉辦了19場小型展覽會，向公眾推廣有關訊息。此外，通訊辦亦舉辦了四場公眾講座及15場社區講座，讓公眾了解通訊辦為迎接5G時代所作的準備工作和教育公眾如何安全使用通訊服務。學生仍是教育活動的重點對象，通訊辦在多所中小學舉辦了共40場話劇表演，接觸超過11 000名學生，向他們傳遞各項如何精明使用通訊服務的消費者訊息。另外，通訊辦亦繼續在「通訊達人·通訊辦」的Facebook專頁推廣消費者訊息，與公眾保持溝通。

在2018/19年度，通訊辦製作和推出了四套新的電視宣傳短片及電台宣傳聲帶，以提供最新的消費者訊息和加強宣傳，其中一套是關於在郊野公園的通訊方法、兩套是關於如何精明使用流動數據漫遊服務，另一套則是關於服務合約的續約須知。

繼續促進業界實施自行規管措施

解決顧客投訴計劃

屬自願性質的「解決顧客投訴計劃」以調解方式協助電訊服務供應商與其住宅／個人顧客解決雙方已陷入僵局的計帳爭議。調解服務由香港通訊業聯會成立的一個獨立調解服務中心（調解服務中心）提供，香港所有主要的電訊服務供應商均已自願參與。通訊辦對該計劃的支持包括贊助所需經費、按有關受理準則審核申請，以及監察計劃的表現和管治工作。

在2018/19年度，該計劃共接獲54宗合資格申請，當中33宗於轉介予調解服務中心跟進前已經解決，20宗於轉介予調解服務中心後獲得圓滿解決，而有一宗個案經調解後未能解決。

為提高公眾對該計劃的認識，通訊辦舉辦了一系列宣傳活動，包括透過本地免費報章派發宣傳單張、在社交媒體平台刊出專題帖文、在網站展示橫幅廣告、投放關鍵詞搜尋廣告，以及舉辦巡迴展覽和公眾講座。通訊辦會繼續支持該計劃。



- ▲ 通訊辦透過不同渠道加強宣傳「解決顧客投訴計劃」。OFCA boosts the publicity of the Customer Complaint Settlement Scheme through various media channels.



- ▲ 通訊辦推出一系列全新電視宣傳短片，加強宣傳不同的消費者訊息。
A new series of TV Announcements are launched to strengthen the publicity of various consumer messages.

exhibitions were held at popular public venues and shopping malls located in different districts to disseminate useful consumer messages to the public through interesting games and family activities. Another 19 mini exhibitions were also held at government offices, public libraries and schools to maximise our reach to the public. In addition, four public seminars and 15 community talks were held to educate the public about OFCA's preparatory work for the 5G era, and the safe use of communications services. Students remain an important target audience. By staging a total of 40 drama performances at both primary and secondary schools, OFCA reached out to over 11 000 students to convey to them different consumer messages on how to use communications services smartly. In addition, OFCA continued to promote consumer messages on the Facebook fan page "Communications Master • OFCA" to maintain communications with the public.

In 2018/19, OFCA produced and launched four new sets of TV & Radio Announcements in the Public Interest, namely one set on communications in country parks, two sets on smart use of mobile data roaming services, and one set on points to note when renewing service contracts, to update our consumer messages and strengthen our publicity effort.

Continued Efforts to Facilitate the Implementation of Self-regulatory Measures

Customer Complaint Settlement Scheme

The voluntary Customer Complaint Settlement Scheme (CCSS) helps resolve billing disputes in deadlock between telecommunications service providers and their residential/personal customers by means of mediation. The mediation service is provided by an independent mediation service centre (CCSS Centre) set up under the Communications Association of Hong Kong (CAHK) with the voluntary participation of all major telecommunications service providers in Hong Kong. OFCA supports the CCSS by contributing the necessary funding, vetting the CCSS applications against the acceptance criteria, and monitoring the performance and the governance of the scheme.

In 2018/19, there were 54 eligible applications, 33 of which were resolved before referral to the CCSS Centre, 20 were satisfactorily settled upon referral to the CCSS Centre, and one case was not settled after mediation.

To raise public awareness of the CCSS, a series of publicity activities were conducted, including distribution of leaflets through local free newspapers, publication of featured posts on social media platforms, and website banner and keyword search advertisements, as well as roving exhibitions and public seminars. OFCA will continue to support the CCSS.