

處理和調查電訊與廣播業的競爭投訴

《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2020年4月1日至2021年3月31日期間，通訊辦共接獲39宗根據《競爭條例》提出的投訴及查詢個案，當中38宗個案已經結案而無須作進一步跟進，有一宗個案則仍在處理中。

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。

通訊局與香港海關獲賦予共享管轄權，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2020年4月1日至2021年3月31日期間，通訊辦共處理264宗根據《商品說明條例》提出的投訴，其中有207宗因證據不足以證實違反《商品說明條例》或因不屬《商品說明條例》的規管範圍而結案，三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54宗個案則仍在處理中。

《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2021年3月，已有超過260萬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。





Handling of and Investigations into Competition Complaints in the Telecommunications and Broadcasting Sectors

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 2020 to 31 March 2021, a total of 39 complaints and enquiries were received under the CO, with 38 cases closed without the need for further action and one case under processing.

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 regarding the commercial practices of licensees under the TO and the Broadcasting Ordinance directly connected with the provision of telecommunications and broadcasting services. The two enforcement agencies have entered into a memorandum of understanding to coordinate 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 regarding the operation of the fair trading sections.

From 1 April 2020 to 31 March 2021, OFCA handled a total of 264 complaints under the TDO, of which 207 were closed due to insufficient evidence to establish a contravention or because they fell outside the scope of the TDO; three were closed after the CA issued advisory letters to the licensees concerned to bring the subject matter to their attention 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; and the remaining 54 were under processing.

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,



促進市場競爭和加強保障消費者

Facilitating Market Competition and Strengthening Consumer Protection

通訊辦在2020/21年度接獲565宗有關懷疑違反《非應邀電子訊息條例》的舉報，較去年減少約6%。在這些舉報中，大部分與短訊、預錄電話訊息和電郵有關。通訊辦會繼續監察各類訊息及平台上的發送人遵守有關規定的情況，並優化程序，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2020/21年度，通訊辦共發出80封勸諭信和16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港幣十萬元。

繼續加強保障電訊服務消費者

業界自願實施的自行規管措施

為保障電訊服務消費者的權益，通訊辦積極實施各項消費者保障措施，並與業界合作制定和推行自行規管措施，以處理可能不時出現的新消費者事宜。

這些措施包括由業界組織香港通訊業聯會負責管理、屬自願性質的「解決顧客投訴計劃」。該計劃旨在以調解方式協助電訊服務供應商與其顧客解決已陷入僵局的計帳爭議。

其他由業界自願實施的自行規管措施包括公布《電訊服務合約業界實務守則》，令電訊服務合約的條文更清晰；以及公布《收費流動內容服務守則》，以規管第三方內容服務供應商的行為。

其他例子包括實施預防流動通訊服務帳單震撼的措施，以及在通訊辦網站刊載主要家居寬頻服務供應商就消費者提出終止服務申請所採取的安排。

通訊辦會繼續監察所採取的各項消費者保障措施的實施情況及成效，並在有需要時邀請業界參與進一步改善現行措施或推出新措施。

弱勢電訊服務用戶的消費者建議

隨着科技迅速發展，電訊服務對從事各行各業及不同年齡的人士來說實屬不可或缺。然而，某些因各種情況（例如年齡、殘疾、知識水平低或有溝通困難）而處於弱勢的電訊服務用戶可能無法獲得適當的協助，以致在選購電訊服務時未能作出最切合其需要的決定。就此，通訊辦於2021年4月設立專屬網頁，為弱勢電訊服務用戶提供消費者建議，包括有關在不同情境下訂購和使用電訊服務的建議。



為處於弱勢的電訊服務用戶提供消費者建議的網頁

A dedicated webpage which provides consumer advice to disadvantaged telecommunications service users

提升寬頻表現測試系統

自2010年12月起，通訊辦提供寬頻表現測試系統，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，以加強系統的測試能力和表現。現時，測試系統支援桌面和手提電腦及iOS和Android系統流動裝置分別進行高達每秒10吉比特及1 200兆比特的速度測試。自推出服務至2021年3月為止，已透過系統進行超過1.05億次寬頻表現測試。



under the Unsolicited Electronic Messages Ordinance (UEMO). Commercial electronic messages (CEMs) must not be sent to registered telephone numbers unless the senders have obtained consent from the registered users. As of March 2021, more than 2.6 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 and unsubscribe from receiving their CEMs.

In 2020/21, OFCA received 565 reports regarding suspected contraventions of the UEMO, a reduction of about 6% from the previous year. A majority of these reports were related to short messages, pre-recorded telephone messages and email messages. OFCA will continue to monitor the compliance situation on various messages and 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 if 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 2020/21, a total of 80 advisory letters and 16 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 HK\$100,000 on the first conviction.

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

Self-Regulatory Measures Voluntarily Implemented by the Industry

In order to safeguard consumer interests in the use of telecommunications services, OFCA takes proactive actions to implement various consumer protection measures and works with the industry to draw up and implement self-regulatory measures for addressing new consumer issues that may arise from time to time.

These measures include the voluntary Customer Complaint Settlement Scheme (CCSS) administered by the Communications Association of Hong Kong, an industry association. The CCSS aims to help resolve billing disputes in deadlocks between telecommunications service providers and their customers through mediation.

Other self-regulatory measures voluntarily implemented by the industry include the promulgation of the Code of Practice for Telecommunications Service Contracts to improve the clarity of provisions in the telecommunications service contracts, as well as the Code for the Provision of Chargeable Mobile Content Services to govern the practices of third-party content service providers.

Some other examples include the implementation of mobile bill shock preventive measures as well as publication on OFCA’s website details of the arrangements adopted by major residential broadband service providers to handle service termination requests from consumers.

OFCA will continue to monitor the implementation and effectiveness of the various consumer protection measures adopted and where necessary engage the industry to seek further improvement of the existing measures or introduce new measures.

促進市場競爭和加強保障消費者 Facilitating Market Competition and Strengthening Consumer Protection

消費者教育活動

通訊辦在年內繼續透過不同的媒體安排宣傳活動和傳遞消費者訊息。除了「通訊達人·通訊辦」的Facebook專頁這個已為人熟知的渠道外，通訊辦於2021年2月在Instagram推出一個新的社交媒體渠道，主要對象為年輕一代。通訊辦通過這兩個社交媒體平台傳遞各種消費者資訊和小提示，教育公眾如何精明使用通訊服務。

為了提高市民對六個數碼電視節目台轉用新發射頻率的認識，通訊辦於2020年12月1日推出為期一年的宣傳活動。這個以市民大眾為對象的宣傳活動包含多種形式的宣傳項目，例如發布新聞公告和消費者注意事項、在通訊辦的社交媒體平台和免費報章登載廣告、製作兩套電視宣傳短片

及電台宣傳聲帶和一套短片，以及透過各種途徑向公眾派發海報和單張。

年內，通訊辦亦協助增加市民對緊急警示系統的認識。通訊辦在這方面的工作包括發布新聞公告、製作電視宣傳短片及電台宣傳聲帶、派發海報，以及在各個網絡平台和社交媒體平台上登載廣告。

通訊局及通訊辦於2021年3月推出全面革新和升級的網站。兩個網站採用嶄新設計，以提升通訊局及通訊辦的企業形象。除此以外，兩個網站還採用了方便流動裝置使用的設計，從而為透過不同流動裝置瀏覽網站的公眾人士提供更佳體驗。



通訊辦推出不同宣傳短片，包括六個數碼電視節目台轉用新發射頻率、如何重新搜台、以及緊急警示系統，以宣傳不同的消費者訊息。OFCA launched a series of TV announcements and videos to promote different consumer messages, including migration of six digital TV programme channels to new transmitting frequencies, how to rescan digital TV programme channels, and emergency alert system.



通訊局及通訊辦的全新網站於2021年3月推出。

New websites of CA and OFCA were launched in March 2021.



Consumer Advice to Disadvantaged Telecommunications Service Users

With the rapid development of technologies, telecommunications services have become indispensable for people from all walks of life and ages. However, some telecommunications service users who are disadvantaged due to various circumstances (such as age, disability, low literacy or communications difficulties) may not be able to get the appropriate assistance and hence may make purchasing decisions that do not best suit their needs. In this regard, OFCA created a dedicated webpage to provide consumer advice to disadvantaged telecommunications service users in April 2021 including relevant tips for subscription to and use of telecommunications services under different scenarios.

Enhancement of the Broadband Performance Test System

Since December 2010, OFCA has been providing a broadband performance test system enabling 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 enhance its capability and performance. Currently, it supports speed tests of up to 10 Gbps for desktop and notebook computers and up to 1 200 Mbps for iOS-based and Android-based mobile devices. From service launch until March 2021, more than 105 million broadband performance tests were conducted via the system.

Consumer Education Programmes

OFCA continued to arrange publicity activities and disseminate consumer messages through different media channels during the year. Apart from the well-established Facebook fan page “Communications Master · OFCA”, a new social media channel on Instagram was launched in February 2021 primarily for the younger generation. Various consumer information and tips are conveyed to the public through these two social media platforms to educate the public on smart use of communications services.

To raise public awareness of the migration of six digital television programme channels to new transmitting frequencies, a one-year publicity campaign was launched on 1 December 2020. Intended for the general public, the campaign consisted of a wide array of publicity programmes, such as the issue of press releases and consumer alerts, placement of advertisements on OFCA’s social media platforms and in free newspapers, productions of two sets of television and radio announcements and a short video, as well as the distribution of posters and flyers to the public through various channels.

During the year, OFCA also helped to increase the public’s awareness of the EAS by issuing press releases, producing television and radio announcements, distributing posters and placing advertisements on different online and social media platforms.

The fully redesigned and upgraded version of the websites of the CA and OFCA were launched in March 2021. Apart from having brand new designs to enhance the corporate images of the CA and OFCA, the websites also adopt a mobile-friendly design that enables the general public to have better browsing experience on different mobile devices.