

## Consumer Protection Policy and Regulation

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## Consumer Protection Policy and Regulation (1)

- Increasingly important due to market liberalisation in Hong Kong
  - With monopoly removed, regulators face multiple operators
  - Intense competition on price, range and quality of services
  - Consumers need to be able to make informed purchasing decisions
  - What approach should regulator adopt?

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## Consumer Protection Policy and Regulation (2)

- Approach
  - Regulation and industry cooperation
  - Why?
- Tools
  - Regulation through legislation and licence
  - Co-regulation and industry self-regulation
  - Information to consumers
  - Consumer education

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## Regulation through Legislation and Licence (1)

- Source of power
  - Legislation
  - Licence
- Effect
  - Mandate compliance from operators
  - Backed up by enforcement powers
- Balancing considerations
  - Light-handed regulation approach in liberalised market
  - Encouragement of industry self-regulation

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## Regulation through Legislation and Licence (2) - Examples

- Legislation – on mis-selling
  - Telecommunications Ordinance (section 7M)
    - *A licensee shall not engage in conduct which, in the opinion of the [Telecommunications] Authority, is misleading or deceptive in providing or acquiring telecommunications networks, systems, installations, customer equipment or services including (but not limited to) promoting, marketing or advertising the network, system, installation, customer equipment or service.*
- Guidelines were issued by Telecommunications Authority after consultation (TA) on
  - Practical guidance on section 7M
  - When conduct may fall within the prohibition contained in section 7M
  - Procedures of investigation and penalties
- Completed cases and findings are published

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## Regulation through Legislation and Licence (3) - Examples

- Resolution of mis-selling cases investigated under section 7M (March 2005)
  - Publication of mis-selling report on fixed line telecommunications services
  - Funding contribution of HK\$2.3 million from four licensees involved towards consumer education and awareness programme
  - Awareness programme overseen by OFTA and Consumer Council
  - Licensees undertake to implement nine best practices established by OFTA and take remedial actions with the complainants

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## Regulation through Legislation and Licence (4) - Examples

- Resolution of mis-selling cases investigated under section 7M – cont'd
  - The nine best practices relate to
    - Sales person selection
    - Sales person remuneration
    - Claw-back and withholding of commissions
    - Sales person training
    - Selling to the elderly
    - "On-the-job" monitoring of sales people
    - Sales documentation
    - Quality control confirmation calls
    - Recording conversations with consumers

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## Regulation through Legislation and Licence (5) - Examples

- Licence conditions on
  - Protecting confidentiality of customer information
  - Publication of tariffs
  - Metering accuracy → Billing and Metering Integrity Scheme (BMIS)
  - Customer charter

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## Co-regulation and Industry Self-regulation (1)

- Co-regulation and self-regulation
  - Require voluntary cooperation of operators
  - Regulator plays a greater role in co-regulation in terms of working with operators to issue industry codes of practice, and monitoring effectiveness and compliance afterwards
  - For self-regulation, operators are required to take greater initiatives, with support of regulator where required

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## Co-regulation and Industry Self-regulation (2)

- Why?
  - Minimum requirements laid down in the law and licence may not be sufficient to safeguard consumer interests
  - Operators should be encouraged to do more than what the law requires
  - Excessive formal regulation is not welcomed by industry and lacks flexibility to deal with new problems
  - Self-regulation will raise the standard of industry and develop trust and confidence of consumers → ultimately beneficial to them

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## Co-regulation and Industry Self-regulation (3) – examples

- Areas of practices where co-regulation or self-regulation may be appropriate
  - Sales practices
    - Nine best practices established by OFTA
    - Code of practice issued by OFTA on handling of customers' deposits and prepayments of charges
  - Services contracts
    - Code of practice issued by OFTA on service contracts for the provision of public telecommunications services

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## Co-regulation and Industry Self-regulation (4) – examples

- Areas of practices where co-regulation or self-regulation may be appropriate – cont'd
  - Tackling junk mail or spam before law is in place
    - Code of practice issued by mobile network operators on handling unsolicited promotional inter-operator short message service
    - Anti-spam code of practice issued by Hong Kong Internet Service Providers Association
  - Protection of customer information
    - Code of practice jointly issued by OFTA, Consumer Council, Independent Commission Against Corruption and Office of the Privacy Commissioner for Personal Data on the protection of customer information for fixed and mobile service operators

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## Co-regulation and Industry Self-regulation (5)

- Assessment
  - Self-regulation can do more than what the regulator can mandate operators to do
  - Accords with the spirit of light-handed regulation in a liberalised market
  - Operators are the most suitable candidates to set the industry-accepted standards of services

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## Co-regulation and Industry Self-regulation (6)

- Assessment – cont'd
  - In reality, cooperation from operators or industry associations are not always easily obtained as each has its own vested interest to consider
  - Ideally, self-regulation should be supported by legislation to give legal or enforceable status to the codes of practice issued by industry associations
  - However, even without legislative support, as in Hong Kong, self-regulation should be promoted
  - Regulator can consider starting off with issues in which operators have common interest, and establish the bond and basis for future cooperation

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## Information to Consumers (1)

- Wide variety of services with different functionalities, prices and quality available in the market
- Market force will drive operators to provide services at optimal price and quality levels
- Not for regulator to set the lower limits of service quality → will restrict consumer choice
- The approach should be that consumers be given sufficient information to identify services that suit them

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## Information to Consumers (2)

- Channels to provide information
  - Information from operators
    - eg publication of tariffs, customer charters
  - Information from regulator
    - eg Quality of Service (QoS) Information Framework by OFTA, announced in January 2005
  - Go hand-in-hand with consumer education
    - Tips on how to be a smart consumer

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## Information to Consumers (3) - examples

- QoS information on residential broadband Internet service
  - Information on non-price aspects of residential broadband Internet services
  - Ten indicators under three types of information:
    - Technical performance – measured by independent institution commissioned by OFTA
    - Service information
      - Pledges and actual performance statistics on complaint handling time and enquiry call answering time
  - First batch of QoS information to be published by OFTA in August 2005

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## Consumer Education (1)

- Messages to the consumers
  - Rights of the consumers
  - Understanding of
    - Government's telecommunications policy and regulation
    - Telecommunications operation and services
  - How to be a smart consumer – things to be aware of when subscribing for services
- Cooperation with other entities
  - Operators and industry organisations
  - The Consumer Council

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## Consumer Education (2)

- How to reach the public
  - OFTA's website – a section dedicated to "Consumer Focus"
  - Radio programmes in local radio stations
  - Posters and leaflets distributed through Government's publicity channels or assistance of telecommunications operators
  - Public education activities – road shows

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## Consumer Education (3) – Examples (website)



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## Consumer Education (4) – Examples (website)



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## Consumer Education (5) – Examples (radio script extract)



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## Consumer Education (6) – Examples (web broadcast)

[http://www.ofta.gov.hk/en/radio\\_ep/smart-tips/cr\\_episode\\_6.html](http://www.ofta.gov.hk/en/radio_ep/smart-tips/cr_episode_6.html)

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## Consumer Education (7) – Examples (poster)



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## Consumer Education (8) – Examples (leaflet)



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## Consumer Education (9) – Examples (leaflet)



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## Concluding Remarks

- Regulation and industry cooperation are complementary to each other
- Use of the tools is not mutually exclusive
- Combined approach and tools are appropriate and effective for certain issues or projects
- Regulator and industry should cooperate and work out the best formula to safeguard consumer interests

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The End

Thank You

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