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**TELECOMMUNICATIONS CONSUMER PROTECTION IN THE ASIA-PACIFIC
REGION
REPORT TO THE ITU GLOBAL SYMPOSIUM FOR REGULATORS
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Introduction and Background

This report outlines how a number of countries in the Asia–Pacific region manage telecommunications consumer protection and identifies possible directions that countries in the region may pursue in order to contribute further to improved outcomes for consumers of telecommunications products and services.

Telecommunications consumer protection has been a focus in the Asia–Pacific region during 2002, particularly through the work of the Asia–Pacific Telecommunity (APT) and its Forum on Telecommunication Policy and Regulation, which was held in Kuala Lumpur from 16–18 May 2002. A key outcome of the APT forum was the establishment of an APT Consultative Group on Consumer Protection, which will be an important means by which consumer protection measures are considered in the Asia–Pacific region (a list of APT members is supplied at Appendix 1).

The APT forum included presentations on consumer protection by APT members Australia, China, the Philippines and Thailand. In each of these countries there is acknowledgment that consumer issues with respect to telecommunications are strongly influenced by the degree of competition and the maturity of the national market.

It was evident from the presentations at the APT forum, and from input received from other APT countries as part of follow-up discussions, that consumer protection is a key consideration in the introduction of competition to communications markets. We have seen that communications provides particular challenges that may not be met by general consumer protection laws and leads us as regulators to carefully manage the transition to competition to ensure that benefits are reaped by consumers.

Key consumer protection issues and initiatives in Asia-Pacific countries

This study has also revealed a number of consumer protection issues that are common to different countries (country profiles are included at Appendix 2). Maintaining or regulating for quality of service (QoS) in a competitive communications market has been a key concern for Hong Kong, Australia, Sri Lanka, Malaysia and Singapore, which have addressed the issue through specific regulator powers and intervention, monitoring and reporting, and consumer information programs.

Specific consumer protection initiatives adopted in Asia-Pacific countries include:

- Establishment of consumer advisory committees and forums to promote consumer input into policy making process (Hong Kong, Australia, Malaysia).
- Recognition, and enhancement, of a universal service obligation (Hong Kong, Thailand, Australia, Pakistan) to ensure availability of telecommunications services to all members of the population.
- A targeted and specific agenda of priority policy objectives (Malaysia)
- Introduction of specific regulatory initiatives (eg. pre-selection, mobile number portability) to improve consumer choice (Hong Kong, Australia, Thailand);
- Devolution of certain responsibilities to industry, including development of standards and codes of practice relating to consumer matters (Malaysia, Hong Kong, Australia, Philippines, Singapore).
- Development and running of consumer education programmes, including dissemination of QoS information (Singapore, China, Philippines).
- Schemes designed to provide public recognition of sound e-business practices (Singapore).
- Development of new quality of service performance indicators to reflect new telecommunications services and technologies (China, Malaysia).
- Specific programmes to address Internet and e-commerce issues such as privacy, fraud, cyber laws (Philippines, Sri Lanka).

Some of these initiatives are discussed below.

Commonalities of Approach

An examination of the approaches that Asia–Pacific countries have taken or are taking to consumer protection issues reveals a number of commonalities of approach. As a region, the Asia-Pacific is extremely diverse—culturally, geographically and economically—and this diversity is well represented in the membership of the Asia–Pacific Telecommunity, which includes countries such as Iran, Japan, Malaysia, New Zealand, Samoa and Vietnam. However, the region has demonstrated its willingness to work together to develop common approaches to communications issues, most notably through the APT.

Regulatory model

A communications-specific regulator is a feature of most regulatory schemes in the Asia-Pacific region. In each of these cases, this represents an acknowledgment that the introduction of competition into communications markets provides particular challenges that may not be met by general consumer protection laws, such as those governing trade practices. The development of e-commerce as a new method of trading is just one such example that has occupied and challenged regulators across the Asia–Pacific and beyond.

Role of competition policy in consumer protection

Most regulatory regimes surveyed recognise the role of competition policy in the supply of telecommunications services in providing consumer benefits. An increase in the number of service providers in the telecommunications market is expected to result in a wider range of services for consumers to choose. Competition between service providers should also result in lower prices for high-demand services. In this way, the expected benefits of competition policy underlie a number of regulatory regimes in the Asia-Pacific region.

Whilst not devaluing the role competition policy plays in providing consumer benefits, some countries (eg. China) explicitly recognise the importance of regulation in ensuring consumer protection in a liberalised telecommunication market.

Advisory committees

Regulators in the region are placing a significant emphasis on advisory committees or forums to examine and provide advice on a range of consumer issues, such as quality of service, interconnection, access to infrastructure, universal service and consumer complaints/dispute resolution. Hong Kong established a Users and Consumers Advisory Committee in 1994, which advises OFTA on the development, provision and maintenance of services from a consumer perspective, and on education of, and dissemination to, consumers. The Australian telecommunications regulator has also established a Consumer Consultative Forum with similar objectives. The Malaysian regulator, too, is well advanced in this area.

Codes of practice

Codes of practice are also a key feature of the regulatory regimes in some Asia–Pacific countries, such as Hong Kong, Malaysia and Australia. In the case of Australia, which has placed a significant emphasis on industry self-regulation, codes are developed by industry and then registered with the regulator, which can enforce compliance with the terms of those codes. To date, Australia has consumer codes covering matters such as call charging and billing accuracy, information on prices, terms and conditions, credit management, billing, complaint handling, and calling number display.

The timely development of codes of practice that meet the requirements of consumers, and industry, is an important issue for regulators, consumer groups and industry.

Conclusion and Way Forward

Some conclusions that can be drawn from the survey of consumer protection issues in the Asia-Pacific include:

- Competition in the supply of telecommunications services does play a useful role in consumer protection. However, reliance on the 'downstream benefits' of competition policy alone is not sufficient to provide adequate consumer protection. Finding an important balance between market-based consumer protection measures and direct consumer protection regulation is an important, and ongoing, issue for many Asia-Pacific countries.
- There is merit in affording industry the opportunity to develop self-regulatory arrangements that assist in consumer protection. In developing these arrangements, it is important for industry to work constructively with consumers and regulators to ensure that such arrangements satisfactorily meet the requirements of consumers.
- New telecommunications technologies and services continue to raise new consumer protection issues. This can be seen most vividly in the supply of e-commerce services over the Internet and the imminent emergence of 3G technology. The adequacy of consumer protection measures must continually be reassessed in light of technological developments.
- Public education programmes are an important part of consumer protection. The emergence of new telecommunications technologies and services will continue to increase demand for concise information that assists consumers to understand the impact of new technologies and services, and in making decisions regarding choice of services and service providers.

The way ahead

The range of consumer protection issues confronted by Asia-Pacific countries, and the initiatives adopted to address those issues, is quite broad. It is important for relevant organisations and groups in the region (eg. policy makers, regulators, consumer groups and industry associations) to continue to exchange information on relevant issues and initiatives. This information exchange is valuable in ensuring that countries are able to benefit from the experience of others, and to work together in developing appropriate consumer protection measures in the future.

It is important that while telecommunications services are increasingly ubiquitous in all Asia-Pacific countries, differences in the economic and demographic profile of each country will mean that each country will need to consider the type of consumer protection approach (eg. use of industry self-regulatory measures) according to its own national circumstance.

Appendixes

Appendix 1 – Asia-Pacific Telecommunity Member Countries

Appendix 2 – APT Country Profiles

APPENDIX 1—Asia–Pacific Telecommunity Member Countries

Afghanistan
Australia
Bangladesh
Bhutan
Brunei Darussalam
People’s Republic of China
Fiji
India
Indonesia
Islamic Republic of Iran
Japan
Democratic People’s Republic of Korea
Korean Republic
People’s Democratic Republic of Lao
Malaysia
Maldives
Micronesia
Mongolia
Myanmar
Nauru
Nepal
New Zealand
Pakistan
Palau
Papua New Guinea
Philippines
Samoa
Singapore
Sri Lanka
Thailand
Tonga
Vietnam

APPENDIX 2—APT Country Profiles

Australia

Australia advanced toward full competition in July 1997 with the introduction of the *Telecommunications Act 1997*. The protection of consumers is encompassed in the legislation, which includes provisions:

- promoting the long-term interests of end-users;
- ensuring that standard services are reasonably accessible to all Australians, are supplied as efficiently and economically as possible whilst meeting the needs of the Australian community;
- promoting the supply of diverse and innovative services;
- promoting the equitable distribution of benefits that flow from improvements in the efficiency and effectiveness of facilities and services; and
- providing appropriate community safeguards and regulating the industry.

The success of self-regulation in Australia is evidenced by the current roles and responsibilities of government and industry. Self-regulation, where the industry takes responsibility for managing itself, is now the basis upon which industry codes and standards are produced, and the regulator only intervenes to meet policy objectives such as protection of consumer rights.

While Australia has made the transition from a government-owned monopoly provider to deregulation and open competition, the industry is yet to mature to the point where it may be regulated solely by industry itself and through general competition laws governing trade practices and other matters, if this is ever possible. Government continues to have a leading role in a number of areas. This role may be one of monitoring, as is the case with oversight of the National Relay Service, which allows people who are deaf or have other hearing or speech impairments to access telephone services. However, it may also extend to determining standards where industry-developed standards are deficient or non-existent. The Government also retains responsibility for licensing carriers.

Hong Kong SAR

The Hong Kong industry is open to full competition and driven by the firm belief that liberalisation of its communications market will bring about effective competition and, in particular, quality services at competitive prices.

Hong Kong has a telecommunications industry specific regulator, the Office of the Telecommunications Authority (OFTA). While as a regulator OFTA has the power to regulate public telecommunications operators to ensure the availability of efficient telecommunications services it exercises a light touch regulatory approach relying on competition and market forces to achieve policy objectives, intervening as a regulator only where required. Of note are the efforts in the field of consumer protection through the identification and provision of universal service, introduction of safeguards for metering and billing, introduction of number portability, development of codes of practice for industry and lowering of tariffs through the maintenance of a competitive environment.

OFTA has also implemented a programme of consumer education focused by the use of its Users and Consumers Advisory Committee (UCAC). Membership of the committee is drawn from industry, interested organisations, consumer bodies and government departments. UCAC provides advice to OFTA on development, provision and maintenance of telecommunications services from a consumer perspective.

China

China is at an early stage of competition in telecommunications. It is focused on service provision and quality of service issues. The involvement of China's Ministry of Information Industry is seen as critical to supervising industry and protecting consumer rights and interests—market competition alone is not considered a guarantor of quality of service. Therefore, government regulation has a key role to play and

indeed, one of the key objectives of the Chinese government is to protect the interests of users of telecommunications services.

Consumers also play a key supervisory role in relation to the delivery of services. China's efforts to liberalise its telecommunications market have included introduction of 'Telecom Service Standards' by the Ministry of Information Industry aimed at creating measurable quality of service performance indicators and benchmarks. A consumer complaints service centre—established by but independent of the Ministry of Information Industry, and a Telecom Users Committee, whose representatives are invited to join as delegates of the various classes of user—government, companies, education units and common users—by the Ministry of Information Industry, have also been established to provide consumers with the means for raising and having service concerns addressed. Much of the quality of service information gathered by the Chinese government is also released to the public (for example, complaints and customer satisfaction information) so that consumers can be informed about the service record and service quality of the various operators.

Thailand

Thailand is in the middle phase of introducing competition into its telecommunications industry. Consumer protection in Thailand is to be provided through the activities of both the Thai Consumer Protection Board (CPB) and the National Telecommunication Commission, which is expected to be established in the next two years. The aims of telecommunications consumer protection in Thailand are to ensure that telecommunications services are accessible, equitable and affordable to as wide a population as possible, and that consumers obtain services that represent value for money, quality and choice. As is the case in other markets that claim to provide competition and consumer protection, access and equity are hallmarks of the Thai regulatory model.

The Thai legislation also provides for a number of specific consumer protection measures relating to matters such as privacy, number portability and dispute resolution. Thailand also recognises and implements the principles of Universal Service, which state that a licensee shall provide services:

- in rural areas, non-profitable areas and non/insufficient service areas;
- for educational, religious, medical institutions and other charitable institutions; and
- for the disabled, children, elderly, underprivileged and low-income people

Thailand has also introduced service agreements between service providers and consumers as a consumer safeguard.

Philippines

The Philippines National Telecommunications Commission (NTC) recognises the consumer issues affecting telecommunications users and has specific statutes on consumer protection in the Philippines-Consumer Act. However the NTC recognises that many of the consumer protection provisions are quickly outdated by advancing technology and development of services. This has highlighted one of the key reasons that communications-specific regulators might be established — the inadequacy of general consumer protection laws to deal with the rapid pace of change in communications and in particular, to address new issues and methods of trading, such as e-commerce, which were unimaginable at the time the general laws were enacted. These issues and concerns relate to fraud and deception (websites and bulk emails designed to suggest that a consumer has been specially selected for a prize or offer), content (pornography, gambling, cruel/violent material, terrorist activities), privacy and security (data mining to record consumer habits and data matching), jurisdiction and enforcement.

However, there is acknowledgement that the Internet, in particular, poses real problems and challenges for regulators. To this end, the Philippines has established an Information Technology and E-Commerce Council (ITECC) to look at issues arising from the digital environment, such as the protection of privacy

and security over the Internet. ITECC is chaired by the President of the Philippines and draws its membership from both the public and private sectors. ITECC cooperates closely with the Bureau of Fair Trade and Consumer Protection and the Intellectual Property Office in addressing consumer protection issues.

Sri Lanka

In Sri Lanka the level of consumer protection depends on several factors, which may also be applicable to most other countries:

1. The degree of competition
2. Maturity of the Market
3. Feedback received from Stakeholders
4. Policies of the Government

Competition was brought into the telecommunication market in Sri Lanka in 1989 by introducing the first cellular operator and then the market was liberalized progressively by introducing more cellular operators and data operators. Further in 1996 two WLL operators were introduced. This was followed by selling of 35 per cent of shares of the State owned incumbent operator to Nippon Telegraph and Telephone of Japan. Presently there are 44 licensed telecommunications service providers providing various telecommunication services in the country.

However as market competition alone cannot be held responsible for protecting consumers, a proper regulatory decision making process and a proper enforcement process should be in place. According to the Telecommunications Act no. 27 of 1991 of Sri Lanka as amended, and the licences issued under section 17 of the above Act, there are several provisions and clauses that safeguard the interests of consumers. For example, the Act requires that the Telecommunications Regulatory Commission exercise its powers in such a way as to protect and promote the interests of consumers, while licence conditions require operators to publish the charges, terms and conditions on which services are supplied. In addition, the proposed National Communications Policy recognises the value of consumer protection and proposes further measures, including:

- standards and regulations for service quality, and submission of reports by licensed operators on service quality;
- policies to ensure operators and service providers respond appropriately to consumer complaints and inquiries; and
- procedures to allow the Telecommunications Regulatory Commission of Sri Lanka to deal with consumer complaints on fraud and privacy matters.

Accordingly the policy and regulatory responsibilities of the regulatory Commission cover the areas of tariff regulation, quality of service, dispute resolution, privacy protection and fraud prevention, provision of equal access and universal access and general consumer protection for telecommunications customers.

The Government considers that it is a fundamental right of all citizens to have access to diverse and unrestricted sources of information and means of communication. The Sri Lanka Information Infrastructure will not be complete until it reaches all locations and people throughout the country, and provides reasonable and affordable access to the full range of traditional and emerging information and communications services.

Pakistan

The development of telecommunications infrastructure is generally agreed to reduce poverty and manage globalisation issues for the benefit of developing countries. The priority area remains implementation of a programme of developing rural telecommunications networks (based on lessons learned) and Internet network penetration, together with human resource development. Concern about the disparities of

infrastructure between developing and developed countries, particularly with Internet and its use, has touched off debate about the existing global digital divide. One solution is to look towards international collaboration and sharing of technological information. On the other hand, the government is obliged to provide quality service at an affordable cost. As such, competition is known to be a proven method of accomplishing the sensitive task, which would need to establish a framework of legislation and cyber laws. These have special reference to customer protection.

Singapore

The Infocomm Development Authority (IDA) is the telecommunications regulator in Singapore and acts as an ombudsman body for telecommunications and internet services. The IDA has developed a code of practice for Competition in the Provision of Telecommunication Services which spells out the duties of licensees to end users. The IDA is currently developing programmes to increase consumer awareness of telecommunications products and services to assist consumers in making more informed choices. The Singapore Ministry of Fair Trade and Industry is also looking to enact the Consumer Protection (Fair Trade) Act which will address consumer protection issues across all industries including telecommunications.

Singapore is also supplementing consumer protection with the implementation of the TrustSg programme, designed to introduce nationwide marking for merchants with sound e-business practices. This programme has been a joint development of the National Trust Council, an industry led and government supported body. The program aims to help build confidence amongst consumers and business through a business accreditation process and by awarding the TrustSG seal to accredited online businesses.

Malaysia

In Malaysia, the Communications and Multimedia Act 1998 (the Act) provides the framework to promote consumer interest. Regulating for the long-term benefit of end users, promoting a high level of consumer confidence, equitable provision of affordable services over ubiquitous national infrastructure and the creation of a robust applications environment for end users are among the ten national policy objectives of the Act promoting consumer interests. In achieving these objectives, the Act provides several mechanisms for consumer protection including quality of service, required applications services, consumer dispute resolution, rate regulation and universal service provision.

Malaysia has recently mandated some minimum standards of service quality. The minimum quality of service covers basic standards for the major services of fixed telephony, cellular telephony, internet, and broadcast content applications. The industry regulator, the Malaysian Communications and Multimedia Commission (MCMC) carries out sampling tests and monitors compliance. Under the Act, penalties may be imposed on licensees that do not meet the mandated minimum standards.

Network service providers are also required to provide consumers with certain support services. They are listed in the Act as *required applications services* and include such applications services as emergency services, operator assistance, services for disabled consumers and directory assistance.

The Act also includes a universal service provision that mandates monetary contributions from the net revenue of designated services to fund basic service delivery to unserved consumers that reside in uneconomic or underserved areas as well as underserved groups within a community. The program is currently funded by RM400 (US\$100) million of contribution.

Market rates apply in most areas of the Malaysian communications and multimedia market as there is sufficient competition to provide a choice of service providers to consumers. However, the Act does allow for rate regulation when the need arises such as when market forces have failed. Currently, only basic fixed telephony service rates are regulated.

The Malaysian regulatory framework also promotes self regulation through voluntary industry codes on consumer practice to be developed by a consumer forum. The Consumer Forum of Malaysia comprises service providers, telecommunications companies, broadcasting stations, Non-Governmental Organizations

and public interest groups. The Consumer Forum, designated by the MCMC to prepare industry codes on consumer protection matters, has prepared a Consumer Code which is currently undergoing public consultation. The draft code provides model procedures to reasonably meet consumer requirements, including customer complaints and disputes and the protection of customer information. Once accepted and registered by the MCMC, the code will become the reference standard for consumer requirements and protection.

Mechanisms have also been provided under the Act for consumers to bring their customer service and consumer protection complaints, including non-compliance with the industry consumer code to MCMC. Any dispute relating to such matters with the licensees may be resolved amicably through this resolution provision.

In trying to ascertain and monitor the level of satisfaction of consumers with the services provided by the licensees, the MCMC conducts regular consumer surveys. The surveys produce and track a consumer satisfaction index (CSI) on key consumer service issues. These indices are used by the MCMC as part of its consumer related initiatives.

OTHER ACTIVITIES

Industry initiatives

In addition to the consumer protection initiatives and measures that may be introduced by individual countries, regional and industry fora can also play a key role in ensuring that consumer interests and concerns about telecommunications issues are addressed. An example of an industry forum which can offer significant benefits within the Asia-Pacific region is the Mobile Manufacturers' Forum (MMF).

Mobile Manufacturers' Forum

The Mobile Manufacturers' Forum (MMF) (www.mmfai.org) is an industry association of major mobile phone manufacturers (Alcatel, Ericsson, Mitsubishi Electric, Motorola, Nokia, Panasonic, Philips, Sagem, Siemens and Sony Ericsson,) which works with governments and consumers to ensure that consumers have access to accurate information about the safety of mobile phones and base stations. The MMF has a Consumer Charter, which sets out the principles MMF members have committed themselves to. These principles include:

- consumers will be provided with accurate health information;
- consumers who want to further limit their radio frequency exposure will have access to advice from the World Health Organization or other health agencies;
- consumers will be provided with information about a product's adherence to radio frequency exposure guidelines;
- manufacturers will assist network operators in responding to consumer questions; and
- the MMF will continue to discuss concerns, questions and information needs with consumers, governments and health agencies.

Most recently, the MMF has committed itself to providing information about the specific absorption rate (SAR) values for mobile phones. The SAR is the unit of measurement for the amount of energy absorbed by the body when using a mobile phone. The MMF has been instrumental in requiring this information to be provided to consumers with all new models of mobile phones introduced since 1 October 2001.