

Commissioned Research Report 2022

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Commissioned Study on the Combined  
Telecommunications and Non-  
Telecommunications Services Contracts  
Final Report  
(Condensed English Version)

**Commissioned to: Institute for Information Industry**

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**This report does not necessarily represent the views of  
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## Chapter 1 Research Background

With the advent of 5G network services and the onslaught of the pandemic, not only is the development of digital convergence being accelerated, but telecoms operators are also actively collaborating with other industries to provide a wide range of value-added applications such as audio-visual services and financial payments, in addition to telecoms services, so that consumers can enjoy integrated services. However, when faced with a service value chain that involves the cooperation of multiple enterprises, the telecom operator may be on the front line of dealing with consumers in the service process due to the collection of fees. In addition to consumer disputes arising directly from telecom services, there are also many conflicts involving non-telecom services, which may not be fully and effectively addressed due to the overlapping jurisdictions of the competent authorities and the lack of well-defined regulations. As such, this project aims to draw up a draft document on mandatory or prohibitory consumer protection provisions in Taiwan, based on international trends, through international research into combined telecoms and non-telecoms services contracts, with a view to assisting in the implementation of consumer protection in the light of the overlapping jurisdictions of telecoms and non-telecoms authorities.

Paragraph 1 of Article 17 of the Telecommunications Management Act stipulates that Telecommunications enterprises designated by the competent authority shall set forth terms and conditions of the standard service contract, specify the rights and obligations between them and subscribers, and submit the said standard service contract to the competent authority for approval before implementation. Paragraph 2 of the same article provides that the terms and conditions of the standard service contract shall contain nine subparagraphs, including "service fees and conditions," i.e. the aforementioned collection of fees, but at present,

it is not fully open, but only certain telecom operators in certain countries and regions can provide mobile phone bill payment services, and the regulations vary from country to country. According to the Report on the Handling of Third-Party Payment Charges on Mobile Phone Bills published by the Body of European Regulators for Electronic Communications (BEREC) in September 2021, most European mobile operators allow third-party service providers to charge their customers via their mobile phone bills for goods or services, however, only one-third of countries regulate mobile bill payment and do not cap the number of payments. The report collates the legal status of third-party services, the responsibilities of the relevant authorities, the current legal scope, and regulatory obligations, as well as consumer protection measures and related complaint mechanisms. Through a public consultation exercise, BEREC gathered stakeholders' views on the contents of the draft report, which may also serve as a reference for the preparation of the draft proposal document on the terms and conditions of the standard service contracts for telecoms services in relation to third-party mobile bill payment.

In Taiwan, telecom operators provide mobile phone bill payment services, although the bill payment function is turned off by default, and they will provide the details upon consumer request, and even take measures such as bill breakdown and installment payment to ensure consumers' rights. However, there is currently no explicitly defined regulations. Pursuant to Article 17 of the Consumer Protection Act, the mandatory provisions may include the following matters depending on the nature and purpose of the contract: the major contractual rights or obligations, the effects of contract breach, the performance guarantee of the prepaid transactions, the right to termination, recessions and the legal effects, and other matters relating to contract performance; the prohibitory provisions may include: traders retain the right of interpretation and modification of contract provisions and period,

limitation or waiver traders' liability or obligations, restriction or deprivation of consumers' rights, or aggravation of consumers' obligations or liability, and other matters obviously unfair to consumers. This project will also assist the competent authorities in formulating "mandatory or prohibitory provisions in a standard contract" to assess the protection of consumer rights and obligations.

This project is intended as regulatory policy recommendations to the competent authorities by making reference to the current status of combined contracts between telecoms and non-telecoms services and related regulatory policies and regulations in major countries. Further, the results of this project will be utilized to review the current status of relevant combined service contracts for cable TV multiple system operators with the same business model and to come up with suggestions for future regulatory policies.

## **Chapter 2 Work Items**

The National Communications Commission (NCC) entrusted our team with the task of conducting the "Commissioned Study on the Combined Telecommunications and Non-Telecommunications Services Contracts" (hereinafter this Study). According to the requirements, the following tasks were completed:

1. Completed the collection, analysis, and updating of the current status of combined telecoms and non-telecoms service contracts, policies, and regulations of regulatory authorities in six advanced countries or regions (including the European Union, the United Kingdom, Japan, South Korea, the United States, Singapore, etc.) and Taiwan, in order to consolidate the latest practices and development trends.
2. Completed an analysis of the contents of the contractual provisions

for the combination of telecoms and non-telecoms services provided by Taiwan's telecoms enterprises, and in accordance with the principles of drafting the mandatory or prohibitory provisions stipulated in Article 17 of the Consumer Protection Act, developed and presented a draft document on the items to be examined, the proposed contents, legal effects, rights, obligations or liabilities, consumers' rights protection and other mandatory or prohibitive provisions in the standard telecoms service contracts. Prepared the first version by referring to the mandatory or prohibitive provisions of standard contracts for instant messaging software services, and after discussion, adjusted it to the second version for discussion at the first round of forums; and modified it to the third and fourth versions respectively according to the discussions at the two rounds of forums, and finally revised it to the fifth version for reference by the competent authorities according to the final review comments.

3. Invited domestic telecoms enterprises, cooperative industries, and related industry groups to participate in the three forums in the first round from August 22 to 24, 2022, in accordance with the draft proposal document as mentioned above. Besides inviting domestic telecoms enterprises, cooperative industries, and related industry groups, brought in experts and academics, and organizations on consumer protection and consumer ombudsmen to the second round of three forums on November 1, 2 and, 4, 2022. Conducted feasibility assessments, discussions, and amendments to the draft proposals. Consolidated the research findings and suggestions from the forums in the final report to improve the draft document.
4. Consultation services on consumer disputes and the following items were completed:
  - 1) Completed the compilation and analysis of relevant cases handled by the NCC in the past 3 years, and after analyzing the

statistical data, provided the NCC with relevant legal opinions on 10 cases each of general-purpose and one-time complaint types, proposed handling methods, and relevant reference guidelines and draft replies, and produced electronic files thereof for the NCC's reference in handling telecoms consumer disputes.

- 2) Organized 2 sessions of "Practical Education Training on Handling Telecoms Consumer Disputes" on September 22 and 27, 2022, and video-recorded the session on September 27, with the relevant training materials in the electronic format submitted to the NCC website for reference by the communications enterprises.
- 3) Completed a study on the supervision and management of the services and other related opinions and recommendations concerning compliance after the establishment of a telecoms consumer dispute handling organization, in order to provide reference for the competent authorities to improve the relevant complementary regulations.
- 4) Based on the easy-to-read guidebooks on the use of telecom services for people with physical and mental disabilities in Japan, the U.S., and Australia, Produced an easy-to-read version of the guidebook in graphic form for electronic publicity and sign language videos on the application and use of Taiwan's telecom services and notes, and invited stakeholder groups to review it for compliance with user-friendly standards, with the final version turned in to the NCC's website for public reference.
- 5) By referring to instructions on the use of telecoms services by senior citizens in Japan, the U.S. and Australia, produced digital publicity materials on the use of telecoms services by Taiwanese seniors regarding common consumer disputes among elderly people, and handed them over to the NCC's website for public

reference.

- 6) By consulting instructions on the use of telecom services by minors in Japan, the U.S., and Australia, produced publicity materials on the proper consumption of telecom services by underage subscribers and consumer education regarding common consumer disputes arising from the use of telecom services (including non-telecom services) among minor subscribers in Taiwan and turned them over to the NCC's website for public reference.
5. Through three interviews with cable TV multi-system operators on October 18, 20, and 21, 2022, we presented specific recommendations based on the opinions of the operators and by reviewing the current status of their relevant service combination contracts, as well as suggestions for future supervision policies.

### **Chapter 3 Implementation and Research Findings**

#### **Section 1 Trends in the development of combined telecoms and non-telecoms service contracts in advanced countries or regions and in Taiwan**

From the above analysis, it can be seen that there are clear definitions of telecoms and telecoms services in various countries, and in practice, there are contract-specific provisions for consumer protection. In particular, the EU, the UK and Japan all have regulations or guidelines in place for the protection of consumers in telecoms services. It is worth referring to the EU's European Electronic Communications Code (EECC), which explicitly provides that regulators can take price control measures against telecoms service providers when bundled contracts are unjustified, and give consumers the right to terminate the bundled contracts at any time to ensure their rights. In addition, the EU has also made available a summary model contract for electronic communications services, providing a standard contract with a common structure in a way

that is easy to read, understand and compare for consumers, small low-profit enterprises, and non-profit organizations delivering telecoms services. More new forms of bundled products or services are likely to emerge in the future. The Council of European Energy Regulators (CEER) will therefore regularly keep abreast of changes to bundled products, review and update its guidelines on bundled goods, with the aim of responding to the evolution of bundled products by establishing indicators for bundled products in any sector. The UK also follows the EU EECC regulations and the consumer protection provisions of the UK general terms and conditions for telecommunications services to safeguard consumers. In Japan, the Guidelines for Consumer Protection Rules under the Telecommunications Business Act were developed to address the consumer protection provisions as set out therein. The guidelines define optional services as other service contracts entered into in conjunction with a telecoms contract with a telecoms operator, or additional paid services provided through the medium of a telecoms contract, and state the obligations of telecoms service providers with respect to the provision of optional services.

The South Korean Telecommunications Business Act is noteworthy for regulating the monopoly of application platform operators. The law was amended in August 2021 to require application market operators to allow application developers to use other payment systems in order to protect the rights of application developers and consumers, which could serve as a reference for the regulation of application platform operators outside of Taiwan. With respect to telecommunications billing, the U.S. Federal Communications Commission (FCC) urges consumers to check their bills and requires telecoms service providers to give a clear and plain language description of chargeable services, clearly identify the service provider for each fee, state which charges not paid may result in disconnection of essential services, display a toll-free telephone number

to inform consumers of billing information, and indicate the number of third-party charges on a separate bill. The Singaporean Infocomm Media Development Authority (IMDA) has issued the Code of Practice for Competition in the Provision of Telecommunication and Media Services to establish a coherent regulatory framework for the telecoms and media markets.

In the process of preparing the draft proposal of mandatory or prohibitory provisions in the standard telecoms service contract, reference was made to the aforementioned international studies, such as the EU EECC regulations on bundled services, the CEER guidelines on bundled goods, and the guidelines on consumer protection rules under the Telecommunications Business Act of Japan. Moreover, while some countries do not have explicit guidelines on bundled services, there are still some provisions that should be taken into consideration in the future, such as requiring app market operators to set out terms of use, disclose information, and regulate foreign platform operators.

## **Section 2 Preparation of draft proposals for standard telecoms service contract clauses**

The proposed draft document on the contractual provisions of standard telecoms services was prepared in accordance with Article 17 of the Consumer Protection Act and by consulting the model contract for mobile telecoms network services of the Department of Consumer Protection of the Executive Yuan, existing telecoms service contracts of various telecoms operators, and other mandatory or prohibitory provisions of standard contracts.

At the beginning of the draft, in order to determine the scope of the application, the definition of "non-telecoms services" was examined and a preliminary inventory of possible types of non-telecoms services was drawn up. The inventory contains non-telecoms services, including

collection and payment services and value-added services provided by telecoms operators, and businesses involving affiliated companies operating outside the telecoms industry, as defined in Subparagraph 2, Paragraph 1, Article 3 of the Telecommunications Management Act. After discussion, although the draft does not directly define "non-telecoms services," it defines "combined sales" as the provision of telecoms services and the sale of telecoms services, non-telecoms services, or goods through a combination of package promotions by a business operator. As telecoms management tends to be more deregulated, some of the views expressed at the forum continued to call for clarity on who the draft should apply.

### **Section 3 Expert forums on the draft standard telecoms service contract clauses**

This project invited domestic telecoms enterprises, cooperative industries, relevant industry groups, and other stakeholders, as well as consumer ombudsman officers, consumer protection groups, consumer protection experts, and academics to six expert forums to discuss possible problems and solutions for telecoms and non-telecoms services in the light of the said research findings and the draft document, and to consolidate suggestions and opinions from all sectors to improve the draft content. The following is a summary of the recommendations from the three symposiums:

#### **1. Session 1: August 22, 2022 (Monday)**

- 1) The mandatory or prohibitory provisions of the standard contract were drafted pursuant to Article 17 of the Consumer Protection Act.
- 2) It was suggested that the scope of telecom services be restored to that defined in the Telecommunications Management Act.
- 3) It was proposed that the draft mandatory or prohibitory provisions be formulated in an abstract and general manner.

## **2. Session 2: August 23, 2022 (Tuesday)**

- 1) It was suggested that the items removed from the draft did not concern fixed-line services and be subject to principle-based requirements.
- 2) It was recommended that there be a clear definition of bundled services and a description of the type of bundled services.
- 3) It was recommended that the draft mandatory or prohibitory provisions be set out in abstract and broad terms.

## **3. Session 3: August 24, 2022 (Wednesday)**

- 1) For micropayments or collection and payment through mobile phone bills, it was advisable to revert to the operator of the goods or services purchased, as the contracts signed vary depending on the cooperation model of the operator, otherwise there may be disputes over refunds arising from different points in time.
- 2) It was recommended that cross-border service providers be legally obliged to assist in the handling of customer complaints.
- 3) It was advised that bundled services be rethought in terms of convergence and be regulated by the industry competent authorities of various service purposes.

## **4. Session 4: November 1, 2022 (Tuesday)**

- 1) It was recommended to consider the common rules applicable to telecoms services as general principles, e.g. by referring to the CEER's Guide on Bundled Products: 10 Principles for Companies.
- 2) It was suggested that the provisions of the Telecommunications Management Act relating to the types of telecom services should be applied to the draft for different types of services and that they should be classified by ticking the boxes.

## **5. Session 5: November 2, 2022 (Wednesday)**

- 1) It was suggested that the scope of the application is clarified and that there be specific requirements for the classification of services.

- 2) It was recommended that patterns and definitions of bundled services be provided.
- 3) It was recommended that the types of telecoms-related consumer disputes be considered and provided for accordingly.

#### **6. Session 6: November 4, 2022 (Friday)**

- 1) Principle-based regulation is difficult to deal with practical consumer disputes and it was recommended that similar contractual provisions be drawn up.
- 2) It was recommended that the consumer's consent be obtained for any increase in the amount to be collected and paid on mobile phone bills.
- 3) The practicality of entering into a separate contract for a combined sale should be reconsidered and it was recommended that emphasis be placed on the disclosure of consumer information.

### **Section 4 Advisory services on consumer dispute issues**

#### **1. Analysis of telecoms consumer dispute complaints in the past three years**

Our research team acquired raw data from the NCC on telecoms consumer disputes complaints from 2019 to 2021 and from January to April 2022, including complaints filed online and at the NCC's counters by telecoms service consumers for analysis. The total number of consumer disputes stood at 8,129 in 2019, 7,066 in 2020, 7,847 in 2021, and 2,134 from January to April 2022.

Given that consumers may have misjudged the type of complaints they filed due to their misconceptions about the classification in the complaint system and their emotions towards the telecom operators, this Study has corrected the original categories of consumer complaints based on the specific disputes involved in the original data. After correction and statistical analysis, this study found that if the "Other" category is left out, the three types of disputes with the highest number of complaints from

2019 to 2021 and from January to April 2022 were "voice/connection quality," "installation application/variation/contract renewal" and "customer service."

Of these, the number of disputes over "voice/connection quality" was around 3,000-4,000 per year from 2019 to 2021, and around 1,000 in the first four months of 2022, accounting for 43%-51% of the total number of complaints in each period. The number of disputes regarding "installation application/variation/contract renewal" stood in the range of 1,000-2,000 per year from 2019 to 2021, and at around 400 in the first four months of 2022, constituting about 17%-21% of the total number of complaints in each period. The number of "customer service" related disputes was about 600 per year from 2019 to 2021 and about 200 in the first four months of 2022, making up about 7% to 9% of the total number of complaints in each period.

Based on the aforementioned data analysis and in light of the total number of complaints of various types, the growth curve thereof, and the future development trend of the telecoms industry technology, this Study has identified the following 10 general-purpose types of complaints after discussion with the NCC:

- (1) 4G/5G voice/network communication quality is poor and difficult to improve
- (2) 4G/5G voice/network communication quality is poor and consumers are demanding the rescission of the contract or compensation
- (3) Using an unlimited data plan with a suspected speed limit
- (4) Billed by a carrier after a mobile number has been surrendered/service canceled
- (5) Renewal of service plans not in line with consumer expectations
- (6) Unauthorized changes by operators to service plans
- (7) Misleading or persuasive behavior by telecom operators' staff,

with consumers requesting revocation after applying for the service

- (8) Consumers claiming that the penalty for early termination of the contract is exorbitant
- (9) Unauthorized activation of the micropayment function or increase in the micropayment limit by telecoms service providers
- (10) Poor customer service by telecoms service providers

This study also identifies the following 10 specific types of complaints:

- (1) Suspected fraudulent use of the micro-payment function
- (2) Minors using micro-payment to purchase virtual goods without parental consent
- (3) Consumers likely being impersonated to access telecoms services
- (4) Telecom operators advertise special offers, but consumers can't apply for them
- (5) A consumer who applies for a mobile service plan and purchases additional products or receives a freebie warranty
- (6) Poor voice/network communication quality, with a warranty for a signal booster added
- (7) Failure to meet mobile phone tariff payment purpose
- (8) Service termination for non-payment by telecoms companies without notice
- (9) Inadequate protection of consumers' personal data by telecoms companies
- (10) Harassment by telecom operators through marketing information

In this report, the research team analyzes the factual points of contention, relevant regulations, and practical insights of the aforementioned general and special cases, and provides reference examples on the practical handling of such cases.

## **2. Education training on telecoms consumer dispute handling**

Regarding telecoms consumer dispute handling practices, our team organized two physical sessions on "Telecommunications Consumer Dispute Handling Education Training" on September 22 and September 27, 2022, for the NCC, the Telecommunications Consumer Mediation Center, and the telecoms industry members, covering the topics of "Experience in the enforcement of regulations on telecommunications consumer protection disputes," "Handling process of telecommunications consumer disputes" and "Case studies of telecommunications consumer disputes," with a view to providing the NCC and telecoms enterprises with tips on how to comply with telecoms consumer protection laws and regulations and practical suggestions to minimize the risk of telecoms consumer disputes.

## **3. Suggestions on the supervision and management of telecommunications dispute resolution institutions**

To facilitate the effective operation of the Telecommunications Consumer Mediation Center (TCMC), a newly established telecoms consumer dispute resolution body, and to ensure a smooth transition from the existing Telecommunications Service Consumer Mediation Center to the body under the new law, to fulfill the legislative intent of Article 20 of the Telecommunications Management Act, this Study, from the four aspects of the organization and operation procedures of the telecommunications consumer dispute handling organization, the dispute acceptance and processing procedures, the relationship with the telecoms enterprise, and the supervision by the competent authority, compares the systems of telecommunications dispute resolution authorities in advanced countries such as the United Kingdom, Germany, Singapore, Australia, New Zealand and Canada, and makes reference to the dispute resolution systems in the field of financial consumer protection in Taiwan, and proposes relevant supervision and management recommendations

for reference by the competent authorities to improve the relevant complementary regulations, and comes up with the following recommendations on the operation and supervision of the TCMC in the nation:

1) Organization and operating procedures

1. Transparency of financial information, and regular publication of financial reports to enhance the credibility of the Center.
2. Transparency in the election of the mediators by making public the list of the mediators and their election information on the Center's website.

2) Dispute acceptance and handling procedures

1. Compile typical dispute cases for consumers' reference and enhance consumers' foresight on the outcome of their complaints
2. Prepare and make public the draft conciliation and settlement agreement, which clearly stipulates that the parties concerned may not seek to resolve the same dispute through other channels and that a written conciliation may be notarized and then enforced to enhance the certainty of the outcome of the mediation.

3) Relationship with telecoms enterprises

1. Evaluate the linkage between the annual fee/incident service fee charged to the telecoms enterprises and the number of cases settled, so as to increase the incentive for telecoms operators to actively resolve disputes.
2. Evaluate the establishment of a supervision mechanism for non-compliance with established mediation decisions, such as regular disclosure of information on non-compliance with mediation decisions.

4) Supervision by the competent authority

1. Amend the Regulations Governing the Establishment, Supervision, and Management of Telecommunications Dispute Resolution

Institutions, specifying the financial status, the list of mediators, etc., which shall be submitted to the NCC for approval.

2. Establish detailed criteria for evaluating the effectiveness of the Center's operations.

### **Section 5 Publicity material on telecoms services in electronic form for people with disabilities, senior citizens, and minors**

Our team has designed an easy-to-read guide for people with physical and mental disabilities on telecom services, such as how to apply for a mobile phone number and what to look out for. Following the design spirit of "Taiwan's Easy-to-read Reference Guide to Make Information Easy to Read and Understand," we discussed it with the TCMC and had it reviewed by the physically and mentally challenged groups, and revised the content of the guide based on the review comments, with the illustrations and text reorganized so that it can be digested by physically and mentally challenged people regardless of their reading ability. Based on the content of the handbook, we have produced a sign language video on the use of the easy-to-read version of the mobile phone service guide for people with disabilities. Through the integration of the sign language teacher's instructions with the content of the booklet, and the addition of clear and plain captions, we help people with disabilities understand the mobile number application process and points to note through the short video content. After a review meeting with the disability groups, an interim version of the brochure was made available to other related disability organizations during the final report period, with amendments made according to review comments to ensure that the final version of the handbook is complete and meets the readability standards.

We have designed communication cards with the idea of "readability, concise visual design, simple concepts, consistency, highlighting the focal points and eliminating redundancy" to address the common consumer disputes arising from communication products and services among senior

citizens.

In terms of the protection of underage subscribers, our team has designed publicity material in an explanatory and debate-based manner to address the telecoms consumption disputes encountered by minors and the concept of consumer protection, with a view to cultivating a correct attitude toward telecoms consumption and consumer protection education among underage subscribers.

During the above literature design and planning process, our team has been in frequent discussions with the TCMC and has taken into consideration the contents of the promotional materials on relevant telecom services for groups with specific needs in advanced countries. For people with physical and mental disabilities, Japan, the United States, and Australia all supply instruction manuals and sign language videos to make it easier for them to understand what to look out for in telecoms services. In the case of seniors, Japan and the U.S. put a special premium on fraud prevention campaigns for elderly people, while Australia focuses on helping seniors to use mobile phones and tablets to communicate without barriers. Regarding minors, Japan has produced publicity materials on the Internet and mobile phone disputes prevalent among minors; in the U.S., where young people are more likely to fall victim to telecom fraud than older people, the U.S. government has compiled information on fraud prevention for dissemination; and in Australia, organizations have set up websites to explain telecoms contracts to minors and provide free consultation services.

## **Section 6 Current status of and future regulatory policy proposals for service integration contracts with cable TV multi-system operators**

In recent years, consumers' viewing habits have changed and multi-system operators (MSOs) have moved away from traditional cable companies to broadband-based all-around smart services providers, with

cable TV becoming a secondary "value-added service." The most common consumer dispute that MSOs encounter in practice is when a consumer wishes to terminate a contract or change a plan, but as different service contracts are signed separately, it is recommended that the issues affecting the consumer's rights be written in a note or summary of the plan, and if a customer wishes to withdraw from one of the package options, the most favorable arrangement will be offered to the customer on a case-by-case basis. In the case of cross-industry partnerships, MSOs will only render assistance in contacting and stopping the package charges as they are only a collection and payment service provider.

## **Chapter 4 Conclusions**

The final report has been finalized with respect to the tasks entrusted as described above:

### **1. Analysis of the development trend of the combined telecom service and non-telecom service contracts in advanced countries or regions and Taiwan**

Various countries have set out clear definitions of telecoms and telecoms services, with contract-specific provisions for consumer protection in practice. The EU, the UK, and Japan all have guidelines on consumer protection for telecoms services. The EU has drawn up rules for the use of model contracts by electronic communications service providers to furnish a standard contract with a common framework. Under the European Electronic Communications Code (EECC), consumer protection is bolstered in the UK by its Communications Act promulgated in 2003 and the general terms of service applicable to all providers of electronic communications services. Japan has instituted the Guidelines for Consumer Protection Rules under the Telecommunications Business Act, which defines the choice of service and regulates the obligations of those who provide a choice of service. South Korea has set out precise

definitions of the types of telecom services and regulated the obligations and prohibited acts of telecom service providers. In the U.S., to foster market competition, telecoms service contracts between telecoms carriers and consumers are not regulated as such, but operators of different types are assigned varying degrees of obligations, with telecoms carriers being mandated to provide specific billing information and a telephone number for complaints. Singapore has categorized the licenses for the operation and provision of telecoms system services into infrastructure operators and service operators and has developed a code of practice on competition in telecoms and media services to ensure a consistent regulatory framework for the telecoms and media markets, with measures to step up consumer protection. This project aims to serve as a reference for the preparation of a draft document on the proposed terms and conditions of a standard telecoms services contract in Taiwan by collecting and consolidating the foregoing definitions of telecoms services and guidelines on consumer protection in telecoms services contracts in some countries.

## **2. Preparation of a draft document on the proposed terms and conditions of a standard telecoms services contract**

The draft versions have undergone numerous discussions with the NCC and have been progressively adjusted according to opinions exchanged at six symposiums. The first and second editions were the initial versions discussed with the NCC, which were revised after intensive meetings and by referring to the sample service contracts of various telecoms operators under review by the NCC at the time, and the third and fourth editions were modified by incorporating suggestions from experts and academics. The final version incorporating the final review comments is amended and set out below:

## Introduction

The Telecommunications Management Act, which came into force on July 1, 2020, has gradually dismantled the highly vertical management structure maintained by the Telecommunications Act. Moreover, the types of business and items of telecom services are growing increasingly blurred, especially as the network architecture becomes more software-based, virtual, and programmable, allowing more and more industries to set up their own network environment to ensure the best customization and develop a wide range of innovative applications of telecom services. To safeguard the rights and interests of telecoms consumers, in addition to telecoms enterprises that are registered under the Telecommunications Management Act and are required to establish standard service contract terms and have them approved, the competent authorities have prepared, in accordance with Article 17 of the Consumer Protection Act, the mandatory or prohibitory provisions (hereinafter the Provisions) of the standard contracts, and have submitted them to the Executive Yuan for approval and promulgation, to ensure the protection of the rights and interests of consumers by businesses supplying and using telecoms services.

The term "telecommunications services" in the Provisions refers to "public communications services provided through the public switched telecommunications network" as defined in Subparagraph 2, Paragraph 1, Article 3 of the Telecommunications Management Act. The Provisions comprise nine mandatories and six prohibitory items, the highlights of which are as follows:

1. Mandatory provisions

- 1) Specify the information to be disclosed by the business operators and subscribers of the services, including the reasonable review period, information on subscribers and business operators, business areas and services, service fees

and conditions, and complaints and courts of jurisdiction, etc. (Points 1, 2, 3, 5 and 8 of the mandatory provisions).

- 2) Specify the application and change procedures for telecoms services, including verification and registration of subscriber information, storage of registration information, application and proxy procedures for persons having no legal capacity or limited legal capacity, and persons having been declared by a court to be under guardianship or assistance, change procedures and identity verification, as well as the provisions relating to the provision of trial or complimentary telecoms services or the related sale services (Point 4 of the mandatory provisions).
- 3) Specify the information related to the rates and conditions of telecoms services, including the disclosure of service charges, separation of accounts for telecoms and non-telecoms services charges, the handling of overpayment or duplicate payment, non-payment, or suspension of telecoms services as a result of arrears or breach of law, complaints about disputes over fees payable, customer consent to activate other settings, procedures for querying correspondence records or billing records, and the issuance of receipts or invoices (Point 5 of the mandatory provisions).
- 4) Specify that the operators should adopt a performance protection mechanism and disclose information on relevant fees to ensure the rights of subscribers (Point 6 of the mandatory provisions).
- 5) Specify the special rights and obligations of operators and subscribers, including the handling of telecoms network obstructions and interruptions during the suspension of communications; subscribers' handling of telecoms services

that may contravene the law or endanger public order; the confidentiality obligations of operators under the Personal Data Protection Act, the adoption of appropriate security measures, and the provisions on the use of services for purposes other than those for which they are intended; and the disclosure of conditions of the combined sale of telecoms, non-telecoms services or related products (Point 7 of the mandatory provisions).

- 6) Specify the provisions relating to changes and termination of contracts, including the procedures for termination of telecoms services by subscribers, the procedures and effects of changes or amendments to contracts, the effects of matters not contained in contracts such as those expressed in advertisements or publicity materials, and the provisions regarding the announcement and notice of suspension or termination of telecoms services by the operator and their effects (Point 8 of the mandatory provisions).
- 7) Specify the handling of consumer disputes and liability, including the provision of a subscriber complaint line by the operators, a complaint line by the telecoms dispute resolution institutions, the court of jurisdiction, and the application thereof on small claim court that may not be excluded (Point 9 of the mandatory provisions).

## 2. Prohibitory provisions

- 1) Article 3 of the Personal Data Protection Act stipulates that the rights exercised by a data subject shall not be waived or limited contractually in advance (Point 1 of the prohibitory provisions).
- 2) Under Article 12 of the Consumer Protection Act, the contract shall not contain any agreement that the operator may, without announcement or notice to the subscriber, unilaterally

change the contract or the content of the service, and that the subscriber may not object to such changes (Point 2 of the prohibitory provisions).

- 3) Pursuant to Article 10-1 and Article 12 of the Consumer Protection Act, the contract may not be terminated or rescinded at will by the operator, and the operator may not be exempted in advance from liability for compensation in the event of termination or rescission of the contract (Point 3 of the prohibitory provisions).
- 4) Under Article 247-1 of the Civil Code and Article 12 of the Consumer Protection Act, the contract shall not contain any agreement that the subscriber forfeits his/her right to rescind or terminate the contract provided by law or that restricts the subscriber to exercise such rights. (Point 4 of the prohibitory provisions).
- 5) According to Article 22 of the Consumer Protection Act, a telecoms enterprise shall ensure the accuracy of the contents of advertisements and be under the obligation not to provide less than what is stated in the advertisements, and therefore shall not agree that advertisements of the telecoms enterprise do not constitute the contents of the contract, nor shall it agree that the advertisements are for reference only, and shall actually perform them after the contract is entered into (Point 5 of the prohibitory provisions).
- 6) Under Article 12 of the Consumer Protection Act, it is against the principle of good faith and unfair to consumers if the contract is automatically renewed by the operator without prior notice, and therefore the contract shall not contain any agreement that the contract will be automatically renewed without notice after the expiry of the trial or complimentary

telecoms service or the combined sale service (Point 6 of the prohibitory provisions).

- 7) Pursuant to Article 12 of the Consumer Protection Act, a contract that reduces or exempts the liability of an operator under the provisions of the Consumer Protection Act and the Telecommunications Management Act violates the principle of good faith and is unfair to consumers. Therefore, the contract shall not contain any agreement that the operator shall be relieved or absolved of its liability thereunder (Point 7 of the prohibitory provisions).
- 8) Pursuant to Subparagraph 2, Paragraph 1, Article 8 of the Telecommunications Management Act, the telecoms services shall not be suspended if the non-telecoms service fees remain unpaid in order to protect the rights of consumers (Point 8 of the prohibitory provisions).

### **I. Mandatory provisions**

#### **1. Reasonable Review Period**

Before entering into a standard contract with a subscriber, the operator should make the terms of the standard contract for telecoms services available for the subscriber to bring back or post on its website for scrutiny by the subscriber for a minimum of two days.

#### **2. Information about Subscriber and Business Operator**

- 1) Name, telephone number, and domicile/residence or place of business of the subscriber

Subscriber name:

National ID No. or Unified Business No:

Method of Contact (by telephone, e-mail, etc.):

Address:

- 2) Business operator supplying and using telecoms services (hereinafter the operator):

Name:

Unified Business No:

Business Address:

Name of Responsible Person:

### 3. Business Area and Service Content

- 1) The business area is based on the scope of services provided by the operator as publicly disclosed.
- 2) The services provided by the operator are as follows:
  - (1) Basic items: \_\_\_\_.
  - (2) Other items: \_\_\_\_.

### 4. Procedures for Application and Change

- 1) The operator shall verify and register the subscriber's information and adopt two or more methods of subscriber identity verification when the subscriber applies for telecom services or makes a change.
- 2) The operator shall exercise the duty of care of a good administrator with regard to the retention of subscriber data registered in accordance with the provisions set out in the preceding paragraph. The retention period shall be five years from the termination of the contract and when nothing is pending to be resolved unless a longer period is provided for in other laws.
- 3) If the subscriber is a person having no legal capacity, limited legal capacity, or having been declared by a court to be under guardianship or assistance, an application shall be made with the written consent of the subscriber's legal representative, guardian or assistant and shall be accompanied by documents

that identify the relationship of representation between the subscriber and the subscriber's legal representative.

- 4) When the subscriber entrusts a person to make an application on his/her behalf, the subscriber should provide identification documents and a legal written mandate for verification by the operator.
- 5) In addition to applying at the counter, subscribers may also apply by phone or on the website for changes to the telecoms service. The operator may ask for their personal information and confirm that their identity is correct.
- 6) When providing trial or complimentary telecom services or in combination with the sale of related services, the operator shall inform the subscriber of its charging plan upon the expiry of the service and obtain his or her consent before collecting the charges. The operator shall retain the record of the content of the subscriber's confirmation and consent.
- 7) The subscriber may apply to the operator for cancellation of the service described in the preceding paragraph and the cancellation procedure shall be made as easy as that for consent.

#### 5. Service Fees and Conditions

- 1) The fees for each service, and any amendment thereto, shall be disclosed by the operator in a clearly visible and easily accessible manner and shall be deemed to be part of this contract; provided, however, that any adjustment to the fees for telecoms services shall be subject to the agreement of the parties.
- 2) The accounting items of telecoms service and non-telecoms service shall be clearly separated.

- 3) In the event of overpayment or duplicate payment of fees by the subscriber, the operator may set off the same against the fees payable in the following month upon notice to the subscriber or refund the same to the subscriber by way of refund of the overpaid amount. If the subscriber does not agree to the offsetting, the operator shall refund the amount without interest within seven working days from the date of notification of disagreement by the subscriber.
- 4) If the service is suspended due to non-payment of fees by the subscriber, the service shall be resumed by the operator within one working day upon receipt of full payment of the fees.
- 5) In the event of suspension of the telecoms service due to arrears or breach of law, the period of payment and the charges shall be as agreed between the parties.
- 6) In the event that a subscriber disagrees with the fees payable and files a complaint, the operator shall suspend the collection or service until the responsibility is ascertained.
- 7) The operator must obtain the consent of the subscriber before activating other items as mentioned in point 3, paragraph 2, or combined services, and should provide the subscriber with relevant consumer information and function settings.
- 8) Subscribers may check their communication or accounting records with the operator by phone, online or in-store. After verification of identity information, the operator shall provide the information in electronic or paper form in accordance with the Regulations on Users of Telecommunications Businesses Inquiring Communication and Account Records. Fees and payment deadlines are disclosed on the operator's website or at its stores.

<p>9) A receipt or invoice shall be issued by the operator for all fees paid by the subscriber; in case of loss, the subscriber may apply for a reissue of the proof of payment.</p>
<p>6. Prepaid service providers should provide a performance guarantee mechanism and disclose information on fees and charges in accordance with the "Mandatory and Prohibitory Provisions of Standard Contract for Goods (Service) Coupons."</p>
<p>7. Special Rights and Obligations</p> <ol style="list-style-type: none"><li>1) In the event of any damage arising out of error, delay, interruption, suspension, or failure in telecommunications services due to a failure or breakdown of the telecoms network, the operator shall disclose the standard of deduction of the current monthly fee or provision of equivalent telecoms services during the period of suspension.</li><li>2) The above suspension of communication shall commence at the earliest time that the operator becomes aware of or is notified by the subscriber. Except for the reasons that cannot be attributed to the operator, the operator shall announce in advance when its telecoms network is likely to be disrupted due to maintenance.</li><li>3) If a subscriber uses a telecom service in a manner that violates the law or endangers public order and is notified by the relevant authorities, the operator may suspend his/her use or terminate his/her rental.</li><li>4) For the purpose of providing services, the operator shall be obliged to maintain confidentiality and take appropriate security measures with regard to the subscriber's personal information (including but not limited to communication or accounting records) collected, processed, and utilized under the Personal Data Protection Act, and shall allow the subscriber</li></ol>

to inquire, read, make copies of, supplement or correct personal information, and provide access to the relevant authorities in accordance with the law. If the operator has any use other than for the purpose of collecting personal data, it shall first obtain the consent of the subscriber. However, the data may be provided to the third party after the operator has processed the data and confirmed that the third party cannot identify the subscriber personally.

- 5) If the operator provides basic telecoms services through individual negotiation to combine the sale or add telecoms services, non-telecoms services, or related commodities, it may separately agree on the contractual terms and conditions of the combined sale of the services or the warranty description of the commodities in order to implement the disclosure of information on the service conditions.

#### 8. Modification and Termination of Contract

- 1) If the subscriber wishes to terminate the telecoms service, he/she shall submit supporting documents in accordance with point 4, paragraph 1, and apply in writing to the operator for termination of the lease and pay all charges in full.
- 2) Any changes or amendments to the contract shall be deemed to be part of the contract after they are announced on the website or notified to the subscriber in writing.
- 3) Matters not set out herein shall be deemed to be part of this contract if the contents are made known to the subscriber by means of advertising or publicity material.
- 4) This contract shall automatically lapse upon the suspension or termination of the telecoms service by the operator. The operator shall make a public announcement and give notice to the subscriber one month prior to the scheduled date of

suspension or termination in a manner that is sufficiently visible to the subscriber.

9. Complaints and Court of Jurisdiction

- 1) If a subscriber has a consumer dispute regarding the services provided by the operator, in addition to calling the operator's service hotline, the subscriber may file a complaint with the operator's service center or the telecommunications dispute resolution institution established under the Regulations Governing the Establishment, Supervision and Management of Telecommunications Dispute Resolution Institutions, and the operator shall handle the complaint as required by the relevant laws and regulations depending on the actual situation.
- 2) The operator should provide a customer complaints hotline: oooooooooo. A complaints hotline of the telecoms dispute resolution institution: oooooooooo.
- 3) If litigation arises out of this contract, the operator and the subscriber agree that the Taiwan \_\_\_\_\_ District Court be the court of jurisdiction for the first instance. If there is no agreement between the parties, the court of jurisdiction in the place in which the operator has its business premises where the subscriber applies for telecom services shall be the court of first instance. However, the application of Article 47 of the Consumer Protection Act or Article 436-9 of the Code of Civil Procedure on small claim court may not be excluded.

**II. Prohibitory Provisions**

1. Subscribers' exercise of the following personal data rights may not be waived or restricted by contract in advance:
  - 1) the right to make an inquiry of and to read his/her personal data;
  - 2) the right to request a copy of his/her personal data;

<ul style="list-style-type: none"> <li>3) the right to supplement or correct his/her personal data;</li> <li>4) the right to demand the cessation of the collection, processing, or use of his/her personal data; and</li> <li>5) the right to erase his/her personal data.</li> </ul>
<p>2. The contract shall not contain any agreement that the operator may, without announcement or notice to the subscriber, unilaterally change the contract or the content of the service, and that the subscriber may not object to such changes</p>
<p>3. Arbitrary rescission or termination of contract and relief of liability prohibited</p> <ul style="list-style-type: none"> <li>1) The contract shall not contain any agreement that the operator may arbitrarily terminate or rescind the contract.</li> <li>2) The contract shall not contain any agreement that relieves in advance the operator of its liability when it terminates or rescinds the contract.</li> </ul>
<p>4. The contract shall not contain any agreement that the subscriber forfeits his/her right to rescind or terminate the contract provided by law or that restricts the subscriber to exercise such rights.</p>
<p>5. The contract shall not contain any clause that says the telecoms enterprise's advertisements do not constitute a part of the contract or are for reference only.</p>
<p>6. The contract shall not contain any agreement that the contract will be automatically renewed without notice after the expiry of the trial or complimentary telecoms service or the combined sale service.</p>
<p>7. The contract shall not contain any agreement that the operator shall be relieved or absolved of its liability under the Consumer Protection Act and the Telecommunications Management Act.</p>
<p>8. The contract shall not contain any agreement that the provision of telecom services shall cease on the grounds of non-payment of</p>

non-telecoms service charges.

### **3. Expert forums on the draft standard telecoms service contract clauses**

In order to assess the feasibility and appropriateness of the draft standard telecoms services contract clauses, our team has invited domestic telecoms enterprises, cooperative industries, relevant industry groups, consumer ombudsman officers, consumer protection groups, experts, and academics to expert forums. According to the proposal made at the August events that the draft is formulated in an abstract and general manner, we have defined the scope of telecoms services by referring to Article 3 of the Telecommunications Management Act and have been continuously revising the draft terms of the standard telecoms service contract. In addition, for micropayments or collection and payment through mobile phone bills, it was advisable to revert to the operator of the goods or services purchased, as the contracts signed vary depending on the cooperation model of the operator, and that bundled services be rethought in terms of convergence and be regulated by the industry competent authorities of various service purposes. In the end, we have made adjustments in light of the opinions expressed at the forum that was held in November 2022, focusing on the terms and conditions of the trial or complimentary telecoms services offered by operators or in combination with the sale of related services, and defining the combined sales, and requiring the disclosure of service information to facilitate consumer choice.

### **4. Advisory services on consumer dispute issues**

Regarding telecoms consumer dispute complaints over the past three years, our research team acquired raw data from the NCC on telecoms consumer disputes complaints from 2019 to 2021 and from January to April 2022, including grievances filed online and at the NCC's counters by

telecoms service consumers. The analysis found that the three types of disputes with the highest number of complaints from 2019 to 2021 and from January to April 2022 were "voice/connection quality," "installation application/variation/contract renewal" and "customer service." On this basis and in light of the total number of complaints of various types, the growth curve thereof, and the future development trend of the telecoms industry technology, this Study has identified 10 general-purpose types of complaints and 10 specific types of complaints after discussion with the NCC. In this report, the research team analyzes the factual points of contention, relevant regulations, and practical insights of the aforementioned general and special cases, and provides reference examples on the practical handling of such cases.

Regarding telecoms consumer dispute handling practices, our team held two physical sessions on "Telecommunications Consumer Dispute Handling Education Training" on September 22 and September 27, 2022, for the NCC, the Telecommunications Consumer Mediation Center (TCMC), and the telecoms industry members covering the topics of "Experience in the enforcement of regulations on telecommunications consumer protection disputes," "Handling process of telecommunications consumer disputes" and "Case studies of telecommunications consumer disputes," with a view to furnishing the NCC and telecoms enterprises with tips on how to comply with telecoms consumer protection laws and regulations and practical suggestions to minimize the risk of telecoms consumer disputes.

To facilitate the effective operation of the TCMC, a newly established telecoms consumer dispute resolution body, this Study, from the four aspects of the organization and operation procedures of the TCMC, the dispute acceptance and processing procedures, the relationship with the telecoms enterprise, and the supervision by the competent authority, compare the systems of telecommunications dispute resolution

authorities in advanced countries such as the United Kingdom, Germany, Singapore, Australia, New Zealand, and Canada, and makes reference to the dispute resolution systems in the field of financial consumer protection in Taiwan, and proposes relevant supervision and management recommendations for reference by the competent authorities to improve the relevant complementary regulations.

#### **5. Publicity material on telecoms services in electronic form for people with disabilities and senior citizens**

Our team has designed an easy-to-read guide for people with physical and mental disabilities on telecoms service, such as how to apply for a mobile phone number and what to look out for. Based on the content of the handbook, we have produced a sign language video on the use of the easy-to-read version of the mobile phone service guide for people with disabilities, in an attempt to help people with physical and mental disabilities understand the application process and points to note for the mobile phone number service. We have designed concise communication cards to address the common consumer disputes over communication products and services among senior citizens to help them understand how to apply for mobile phone numbers and information on special offers. In terms of the protection of underage subscribers, our team has designed publicity material in an explanatory and debate-based manner to address the telecom consumption disputes encountered by minors and the concept of consumer protection. During the planning process, our team has been in frequent discussions with the TCMC for revision.

#### **6. Current status and future regulatory policy proposals of service combination contracts for cable TV multiple system operators**

Various industries have combined sales, and the differences between cable TV multiple system operators and other industries should be clarified. With the advent of digital convergence, any company that provides services over the Internet may become a potential partner for

the cable industry. It is advisable to start with industry self-discipline in order to increase the possibility of service innovation. In addition, the biggest obstacle currently encountered by the industry is the inability to compete with illegal over-the-top (OTT) media service providers, and it is suggested that the authorities may also consider regulating illegal OTT services in the future.