

11 April, 2013

Head, Competition and Economic Analysis
Office of the Communications Authority
29/F., Wu Chung House
213 Queen's Road East
Wan Chai
Hong Kong

Dear Sir/Madam,

Response to Second Consultation Paper on Arrangements for the Frequency Spectrum in the 1.9 – 2.2 GHz Band upon Expiry of the Existing Frequency Assignments for 3G Mobile Services

Mobile communications are an essential part of everyday life in Hong Kong, in both business and personal life. Hong Kong is fortunate to have a mobile communications market which is recognised globally to be one of the most advanced and cheapest, as the Government has frequently acknowledged. The Hong Kong General Chamber of Commerce (“HKGCC”) is therefore concerned about the possible impact of the Government’s proposal on the quality and pricing of mobile services currently enjoyed by businesses and the public in Hong Kong.

2. In this consultation, the Government is planning to re-auction one-third of the current spectrum allocation of the 3G mobile network operators – the “raw material” for providing mobile services – a move which, according to the Government’s Consultation Paper (“CP”) itself, will cause substantial disruption of services to mobile users. We can ill afford serious service disruption which may undermine the competitiveness of our high-speed economy.

3. As stated in the First Consultation Paper, the objectives of the current exercise are four-fold: ensuring customer service continuity, efficient spectrum utilisation, promotion of effective competition, and encouragement of investment and promotion of innovative services. Nonetheless, it is not apparent that re-auctioning part of the existing mobile network operators’ spectrum in Option 3 (as proposed by the Government) will achieve all or even any of these objectives. Everything should be done to ensure that Hong Kong mobile users continue to enjoy high quality mobile services without disruption, which should be the top priority.

4. HKGCC has consistently recommended that regulatory decisions of such magnitudes should only be made after a rigorous regulatory impact assessment is conducted, which clearly demonstrates that the costs are outweighed by the benefits. Unfortunately, no such assessment is contained in the CP. The CP points to real and significant service disruptions and other harm if Option 3 is proceeded with but there has been no concrete upside identified that could justify imposing this harm on Hong Kong consumers and businesses relying on the affected telecommunications services and infrastructure. Option 1 does not present such downsides. Accordingly, further regulatory impact assessment would need to identify with a high degree of probability, concrete and very significant upsides to even justify potential consideration of Option 3 as a way forward in view of the significant costs that have already been identified.

5. The Government seems clear about the service quality costs, estimating for example that its proposal will result in the speed for downloading data being reduced by 18% on average. Even accepting the assumptions behind this “only 18%” service quality decline, it is clearly a very high cost, given the extent to which both businesses and individuals increasingly rely on access to the Internet “on the move” in Hong Kong’s services-based economy. Nonetheless, the perceived benefits are difficult to discern from the CP. The Government says that its proposal will increase competition – but admits that the Hong Kong market is intensely competitive already. This means that any scope for increased competition may be marginal, at best. The Government also says that its proposal will increase the efficient use of spectrum – but admits that the intense competition which exists in Hong Kong means that in all likelihood spectrum is being efficiently used (and points to no evidence to the opposite effect). Fragmenting existing spectrum allocations may indeed result in inefficient spectrum usage.

6. This leaves one other factor which the Government states will influence its decision – encouraging innovation and investment. However, re-auctioning one-third of spectrum after the huge investment in networks and services which the mobile operators have made does not send the right signal to encourage investment and innovation: if anything, it does the opposite. It is also not obvious that Option 3 will promote innovation.

7. Strongly believing in the free market economy, HKGCC supports greater competition, provided it is a level playing field. However, equally important is predictability and business certainty in a market where substantial long-term investment is required for market entry. HKGCC therefore strongly urges the Government to provide the public with a comprehensive cost-and-benefit analysis of the three options for further discussion before making any decision. We do not want to see the implementation of a “competitive” policy - in a market already intensely competitive like Hong Kong’s mobile market - without having concrete evidence of substantial economic benefits which would justify the harm to consumers resulting from the admitted disruption of their services as referred to above. When increasing competition leads to enhanced services, then a potential rise in costs to mobile users may be understandable. On the other hand, if significant deterioration to services is caused and only marginal benefits are at best realized, the costs may very well outweigh the benefits.

8. In conclusion, HKGCC believes that we should strive to maintain Hong Kong's international reputation for high quality and low cost telecommunications services, and thereby its regional competitive edge as a place to do business. Therefore, we need more data and analysis to ensure that the quality and low prices currently enjoyed by Hong Kong users will not be adversely affected if the Government's proposals are implemented in their current form. Otherwise, granting the operators a right of first refusal over their current spectrum allocation appears to be a better solution for Hong Kong businesses and consumers, and Hong Kong itself.

Yours sincerely,



Shirley Yuen
CEO

cc Mr SO Kam Leung, Gregory, GBS, JP, Secretary for Commerce and Economic Development, Commerce and Economic Development Bureau

Miss Lee Man Ching, Eliza, JP, Director-General of Communications, Office of the Communications Authority