



**Peoples Telephone Company Limited
(PEOPLES)**

**Written Submission to
Legislative Council
Subcommittee on draft Telecommunications (Method for Determining Spectrum
Utilization Fees) (Third Generation Mobile Services) Regulation
and
draft Telecommunications (Designation of Frequency Bands Subject to Payment of
Spectrum Utilization Fees) Order.**

Dear Sir/Madam,

With reference to the two papers submitted to PEOPLES:

- a) “Note on Subsidiary Legislation under Section 32I of the Telecommunications Ordinance as it will be amended by the Telecommunications (Amendment) Bill 2001”
- b) “Telecommunications (Method for Determining Spectrum Utilization Fees) Third Generation Mobile Services) Regulation”



PEOPLES would like to offer the following comments for consideration by the subcommittee.

Determination of Spectrum Utilization Fees:

PEOPLES is strongly opposed to the method of Determining Spectrum Utilization Fees that sets the fee “at the highest price willing to be paid by the fourth winner”. This method will only serve to artificially inflate the Spectrum Utilization Fees. This will reduce the capital available for network investment / expansion and also lead to increased usage fees from subscribers.

PEOPLES would support the setting of Spectrum Utilization Fees at a level when the fifth bidder leaves the auction. PEOPLES feel that this will make it easier to attract new entrants to bid for a 3G licence and fairer for all existing operators to participate.

Dark Room Bidding Procedure:

PEOPLES believes that the identity of bidders should be made known to all parties participating in the auction, at the time of the auction without compromising the bidding prices or allowing collusion. Competition, which is being safeguarded, has in the past and will in the future remain at the highest industry level. Revealing the identity of bidders at the start of the auction process would not deter entry to the 3G market as indicated in Point 5 paper (a) mentioned above. PEOPLES further feel that knowing the bidders would assist in business case analysis by having a better picture of competition, growth, MVNOs etc. This will lead to a more realistic bidding strategy.



Connected Bids:

PEOPLES believe that a second auction to eliminate “connected bidders” would be unnecessary if the pre-qualification process expressly forbids such association. Bidders falling into the "connected bid" category should not be allowed to bid. Bidders who are discovered contravening the required conditions should be forced to forfeit deposits and the license.

Network Turnover:

Paper (b) mentioned above states <“network turnover” (), in relation to an auction, means the revenue arising from or attributable to the provision of any telecommunications services over any telecommunications network using frequency bands assigned to the licensee; >.

PEOPLES is of the opinion that the term “network turnover” used in determining the royalty percentage should be clarified. PEOPLES feel it should only apply to the transmission of voice and data services and not any revenues associated with the content applied to such transmission.

PEOPLES believe that this must be properly defined taking into account the yet unknown rules and definitions applying to MVNO’s.

Spectrum Utilization Fee:

Paper (b) mentioned above; point 5 (c) and point 6 (b) (ii) states “the spectrum utilization fee to which the auction relates shall be a cash amount payable by the successful bidder immediately upon demand of the Authority”.



PEOPLES is of the opinion that the Spectrum Utilization Fee should not be enforced before the licensee commences commercial service due to the uncertainty of obtaining commercially available / market proven infrastructure and handsets which would delay launch. The TA and SITB should rest assure that market forces will ensure operators to launch as early as possible without procrastinating unjustifiably.

Minimum fee of Spectrum Utilization Fee:

Paper (b) mentioned above; point 7 (b) (i) through to (vii):

PEOPLES does not understand the points given and would seek clarification to gain a better understanding before commenting further.

Yours faithfully,

For and on behalf of

PEOPLES TELEPHONE COMPANY LIMITED

Charles Henshaw

Chief Executive Officer

Date: 17 May 2001