



**SmarTone's Submission to LegCo on
Subsidiary Legislation for
3G Spectrum Auction**

Date: 19 May 2001

Major Areas of Concerns:

- 1. 4th Leaver Rule*
- 2. “Dark Room” Approach*
- 3. Public Consultation on Detailed Auction Design & Rules (Information Memorandum)*
- 4. Designation of Frequency Bands*

1. 4th Leaver Rule

“4th Leaver” Rule Will Transfer Cost to the Consumer

- Purpose of any auction is to find market price
- Market price achieved when supply = demand
- Any price above market price is a tax
- BUT this is worse than other taxing mechanisms because size of the tax is unclear and determined among 4 bidders in a dark room

“5th Leaver” Rule is the International Practice and should be Adopted

2. “Dark Room” Approach

Lack of Transparency:

- Auction information (including the no. and identities of bidders) is critical input for bidders in assessing fair market value
- The reason why beauty contest was rejected originally was lack of transparency.

Complexity:

- Because of dark room, connected bidders cannot be identified pre-auction
- Necessitates multiple stages of auction

Unfairness:

- Dark room increases the chance of tied bids with which licence could be allocated purely by chance.

Simple, proven and robust auction design should be used instead of complex, secretive & experimental auction rules which have high risks of failure and may discourage entry by overseas carriers

2. “Dark Room” Approach (Cont’d)

Could Dark Room really prevent “Collusion”?

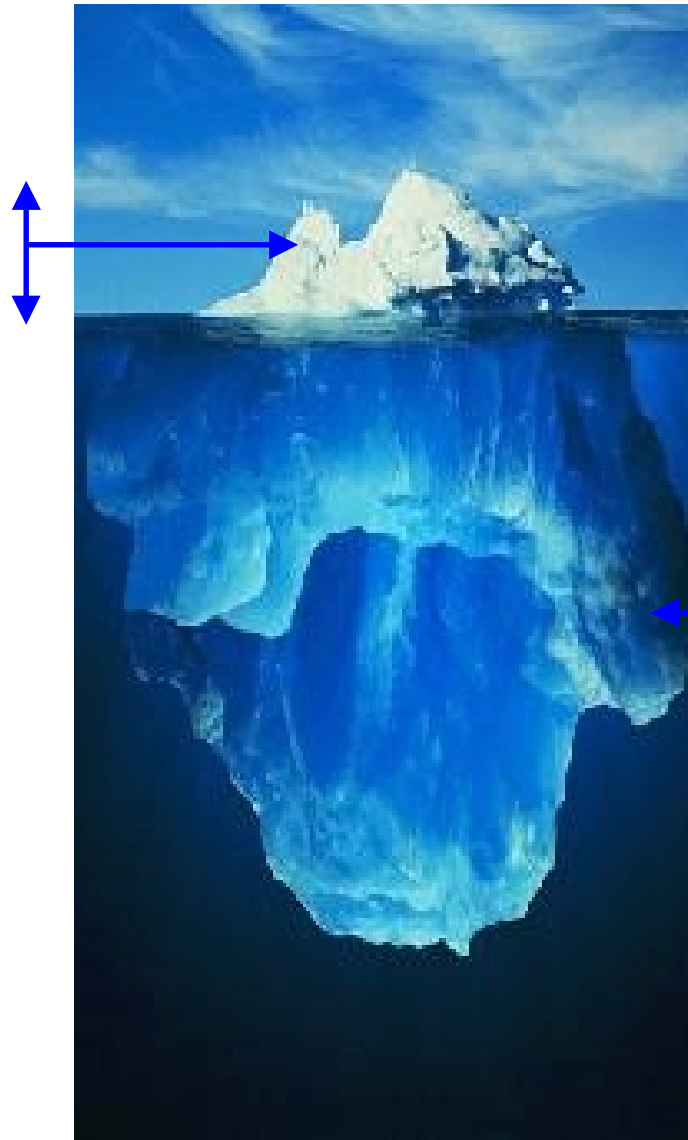
- International auction experts’ opinion and practical experience from other auctions show that the **risks of collusion is low**
- The “cure” of depriving bidders of all information about other bidders before and during the auction is **far worse than the perceived problem.**
- **Best “cure”** for concerns about backroom dealing is to expose everything to **full public view.**
- “Wrongdoers” can manipulate the Dark Room to create information asymmetries.

Letting some light in the Dark Room

- The number of bidders pre-auction can and should be disclosed anyway
- Whatever the position on the perceived collusion risk, assuming the 4th Leaver Rule is not used, then more information (e.g. the number of bidders remaining in each round) can be disclosed.

3. *Public Consultation on Detailed Auction Design & Rules (IM)*

- Only high level auction design released.
- Current bills amendments give ITBB broad undefined powers
- Subsidiary legislation, which is only subject to negative vetting by Legco, probably will adopt the bare requirement for an auction and some broad principles, but otherwise detail left to IM



- **NO PUBLIC CONSULTATION**
- **International Practice: IM should be released for consultation** (e.g. UK, Singapore, Australia)
- **Issues still unclear:**
E.g. Revenue Definition, MVNO regulation, mechanism for deposit & bank guarantees, solutions for connected bidders & tied bids, any other license fees, Pre-Qualification requirements, etc.

4. Designation of Frequency Bands

- There may be alternatives to OFTA's current proposal of frequency band allocation that can help minimize the potential interference and maximize spectral efficiency of the different frequency blocks.
- OFTA should consult the industry including major equipment vendors and mobile operators on the frequency band allocation before finalizing the designation.
- SmarTone would be happy to provide technical information as needed

Government Policy Objectives

- Promote healthy development of our telecoms & IT industry (and discourage distorted competition in the market).
- Hong Kong to serve as the pre-eminent communications hub for the Region
- Promote consumers' interests