

New World Mobility Submission to

LegCo Panel on Information Technology
and Broadcasting

On

2nd industry consultation paper on the
licensing framework for third generation
(3G) mobile services in Hong Kong

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Hong Kong

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New World's Approach

New World PCS Limited (New World Mobility) and its shareholders are deeply committed to the Hong Kong wireless telecommunication market and 3G services. New World Mobility is well underway to elaborate and implement a successful 3G services strategy. For a number of months, New World Mobility has had a team of dedicated 3G specialists looking into the 3G business opportunity. Therefore, New World Mobility is well positioned to opine on 3G issues such as those put forward by the Telecommunications Authority (TA).

New World Mobility is currently preparing its detailed position response to the 2nd industry consultation paper on the licensing framework for 3G mobile services issued by the TA (2nd Consultation Paper). As we will have filed our detailed response to the 2nd Consultation Paper with the TA on 13 November, we will provide all relevant details thereof at the LegCo Panel discussion on information technology and broadcasting.

In the meantime in the interest of the LegCo Panel, New World Mobility would like to present its view on the following general issues:

Licensing Process

New World Mobility believes the TA's decision to attribute 3G licenses via a pre-qualification and an auction process could prove to be detrimental to consumers and the industry if the license fee becomes excessive. New World Mobility believes the merit base attribution approach would be a sound method as expressed in New World Mobility's response to the TA's first consultation paper. Historically, the TA has long demonstrated its capability to efficiently and fairly assess the merits of applicants and their proposed business case for various licenses. However, to address the public's concern for the grant of valuable spectrum to the private enterprises without getting a reasonable monetary compensation could be achieved by imposing a fair fixed license fee but still using the merit base licensing approach.

Currently, all wireless operators pay the TA an annual license fee based on a per base station and per subscriber basis as an annual “spectrum usage fee.” In the context of an auction, the auctioned license fee should replace the annual spectrum usage fee and no additional usage fee should be levied thereafter. If the TA continues to require the license holders to pay for the annual spectrum usage fee in addition to the auctioned license fee, this would equate to a double taxation scheme and could further result in a consumer price increase.

Open Network Requirements

New World Mobility welcomes the TA’s forward thinking approach and intends to implement the “Open Access” concept (i.e. Mobile Virtual Network Operators (MVNOs)) upon securing a 3G license. New World Mobility agrees with and supports this approach, as it will facilitate the development of non-traditional and niche service providers in the market place and will encourage holders of 3G licenses to offer more competitive prices and innovative applications.

The implementation of specific regulations governing the relationship and commercial arrangement between MVNOs and holders of licenses is however a very delicate and complex matter upon which a number of overseas regulators have decided not to formally legislate. Issues such as the quantitative and qualitative measurements, level of services, service pricing structures, etc; make the structuring of the licensee’s obligation towards MVNOs more difficult and somewhat subjective.

New World Mobility believes the complexity and the early stage of the 3G environment makes it almost impossible to regulate effectively without the “enforceable” regulatory framework resulting in a regulatory meander. New World Mobility believes the TA should not attempt to regulate the MVNO environment and leave it to commercial agreements. In our opinion, the benefit of regulating this aspect is far out weighted by the likelihood of regulations being impractical, commercially not viable or not enforceable.

The TA could develop other means to encourage 3G licensees to offer capacity to MVNOs. For example, in order to encourage license holders to open up their networks to MVNOs, the TA could set a mechanism to reduce the license fee of a licensee holder or grant it additional spectrum upon it opening its network to MVNOs.

Should the TA nonetheless decide to regulate the provisioning of capacity to MVNOs, any “unknown” or ambiguity in doing so could result in the license applicants not being in a position to fairly assess the business proposition created by the ownership of the 3G license, and, should the TA proceeds with an auctioning of the license, could translate into lower bid prices as the bidders would not be in a position to fairly value the spectrum asset due to vague or misunderstood MVNO rules.

Number of Licenses

On the basis that a certain amount of capacity would be made available to MVNOs, New World Mobility concurs with the TA's view that 15 + 5 MHz of spectrum for 3G licenses should be awarded hence limiting the number to four licenses given the currently available spectrum.