

SPEECH BY MRS AGNES NARDI, MANAGING DIRECTOR OF HUTCHISON TELEPHONE COMPANY LIMITED AT THE MEETING OF LEGCO PANEL ON INFORMATION TECHNOLOGY AND BROADCASTING ON MONDAY 13 NOVEMBER 2000

Honorary Chairman, Panel Members, Ladies and Gentlemen

Third generation mobile service represents a completely new era for telecommunications service and is an important issue of concern for the industry, for the public and for Hong Kong.

Hutchison would like to thank the Panel for inviting us to express our views in this open discussion on this important subject.

3G is quite different from the pure voice telephony of 2G as it is full of excitement brought by innovation and dynamic evolution. Services will be innovative and evolving, user behaviour will be significantly different, and hence the network requirements are yet to be defined. Under such considerations, any attempt to pre-determine the regulation and technical requirements would impose limits to its natural process of growth and evolution. Our broad position, as has been concluded by most regulators in other advanced mobile markets, is that consumers and industry in Hong Kong are best served by market forces moderated with light regulatory framework.

It is on such bases that we have come to the following conclusions.

We strongly support the TA's position to allocate 15MHz paired and 5MHz unpaired spectra to each of 4 operators. This ensures a level playing field in which each operator will have sufficient capacity to facilitate effective provision of 3G services appropriate to the needs of Hong Kong.

In the first round of consultation, we supported spectrum auctioning as the licensing approach as it is transparent, fair and objective and provides benefits for the Hong Kong Treasury. This is a view also shared by many individuals, academics and political parties who have expressed their views in the first round of consultation. The process is also relatively quick to allow Hong Kong to be one of the earliest markets to introduce 3G services. This is important to maintain Hong Kong's position as being one of the leading telecommunications hub in the world. Besides, as

3G services are evolving , any attempts to choose between operators based on merits may be highly subjective or arbitrary.

The TA is now proposing a hybrid licensing method. We will consider supporting a hybrid method provided that the pre-qualification criteria, which should be based on a set of transparent, objective and quantifiable measures, are publicly available prior to submission and are applied equally to all bidders. We also believe that the pre-qualification process should be completed in a timely manner, which will only be in the interest of the people of Hong Kong.

Open network is one of the pre-qualification requirements that we do not feel should be mandated. Mobile Virtual Network Operators (MVNOs) is not defined in the Consultation Paper. In fact there is no internationally accepted definition of such a term. Hence it is difficult to identify who shall fall within this category. Further, MVNOs do not have to bear the capital costs and risks associated with building a 3G network. Therefore requiring the operators to mandatorily build and maintain a reserved capacity for third party MVNOs with uncertain demand and commitment is extremely unfair and would introduce distortions of true market behaviour of 3G services. Such unfair requirement would substantially reduce the amount operators are prepared to pay in the bid for a licence.

Unlike 2G, 3G networks are highly complex and versatile. It is not possible to define 3G capacity in an objective manner and it is technically not feasible to partition network capacity statically and to manage usage in each partition. Specifying any percentage of “open network” is bound to be susceptible to inconsistent interpretation and is difficult to regulate. The costs of such regulation and effective monitoring will exceed the benefits.

Since it is likely to be in operators' interests to allow MVNOs onto their networks, this mandatory open network proposal will unnecessarily pre-empt normal commercial activities that will probably occur irrespective of the regulation.

Our current understanding is that no other 3G market has mandated separation of network and service provision and none has attempted to specify a capacity range. We are of the strong view that the TA's proposal of mandating an "open network" structure and specifying a percentage will distort the development of 3G in Hong Kong and is potentially damaging to consumer

interests. 3G development can only be best achieved through market forces and commercial behaviour, rather than by mandating MVNOs traffic activities.

Regarding the wholesale price for opening the network to MVNOs and resellers, we strongly believe that it should be reached through commercial negotiation without requiring regulatory intervention. In any event, each negotiation should be assessed on a case by case basis and the wholesale price should not be less than fully allocated costs including licence fees, capital expenditure and a reasonable commercial return on investment. The commercial terms between the network operator and the MVNO should also include reasonable commitments from the MVNO covering guaranteed period of access and traffic volume in accordance with the capital investment of the operator.

We object to the TA's proposal of adopting either the "cost plus" approach based on long run average incremental cost or "retail minus" approach in determining the wholesale price because both are extremely inappropriate. Where there are substantial licence auction fees and infrastructure costs that must be incurred within short time frames, the use of long run average incremental cost is unfair. Equally since MVNOs are likely to connect into different parts of the network resulting in a range of costs for different MVNOs, and the price of 3G content will be broadly independent of the traffic generated, a retail minus method may result in disproportionate calculations of the correct price to the operators.

Specifying a cost method in advance may also produce unintended consequences, as it will not encourage the MVNOs to enter into genuine commercial negotiations.

Turning to the payment mechanism at the auction, we strongly believe that a one off licence payment is the best approach. It is simple to assess, simple to administer and reduces credit risks thereafter.

Royalties with minimum payment, which is the method considered by the TA to be a viable alternative, is non-transparent and economically inefficient. The TA would not be able to indicate how much revenue the auction has raised. Performing operators will ultimately pay more in terms of aggregate licence fees than under-performing operators. This unfairly

condones incompetence and provides disincentives to improvement. It is difficult to see how the public interest is served under such an arrangement.

Economic freedom with minimal government intervention has always been a fundamental driving force for Hong Kong's success. We believe that the future development of 3G should be best left to the determination and evaluation by market forces, moderated with light regulatory framework, and we sincerely hope that this principle will be upheld by the TA and the Government in supporting the industry in the face of this evolving generation of 3G telecommunications.

Thank you for your attention.