

**For discussion
on 17 November 2000**

**Legislative Council
Information Technology and Broadcasting Panel**

**Funding for Engaging Consultants for
Licensing of Third Generation Mobile Services**

PURPOSE

This paper briefs Members on our proposal to engage consultants to assist and advise the Government for licensing the third generation (3G) mobile services before we seek funding approval from the Finance Committee (FC) in December 2000.

PROPOSAL

2. We propose to engage consultants to assist and advise the Government to :

- (a) develop the regulatory framework for 3G licensing;
- (b) design the licensee selection process such as devising rules for the pre-qualification exercise, spectrum auction and bidding; and
- (c) implement the licensee selection process to ensure that it is conducted with high standards of probity and integrity.

JUSTIFICATION

3. 3G is the next generation of wireless communications services. With a mobile penetration rate of 71% as in August 2000 (the highest in Asia and second only to Scandinavia), and a competitive market with six operators operating 11 networks on practically all standards, Hong Kong is a leader in mobile communications in the region. Many advanced economies such as Japan, the UK, Finland, the Netherlands and Germany have already awarded their 3G licences. For those which have yet to award the licences, many have announced their plans and will soon start their licensing process e.g. Canada, Belgium, Australia and Singapore. In order to preserve Hong Kong's leading position as a telecommunications hub and support our development as an information society, we must award the 3G licences in good time to enable the industry to launch services within a similar timeframe as the other advanced economies.

4. Under the policy objectives to promote the development of telecommunications industry in Hong Kong, to protect the interest of consumers and to maximize benefits to the economy as a whole, the Office of Telecommunications Authority (OFTA) proposes a "hybrid" method with "open network" requirement in its second consultation paper issued on 3 October 2000. Under the hybrid method, applicants will go through a pre-qualification process and then bid for the spectrum required on the basis of either cash or royalty. OFTA also proposes to spearhead the introduction of the open network requirement for the four 3G licensees. Successful licensees will open up part of their network capacity for use by other service providers, which in turn will induce competition at the content and service application level. Members were briefed on our proposed approach on 13 November 2000.

5. The proposed licensee selection method is a novel approach that is different from past practices whereby OFTA awarded licences for major public telecommunications services based on a selection method that assessed the merits of proposals. Such licensing exercise will involve a very sophisticated and intense process. Procedures for the selection process must be efficient, fair and transparent, while at the same time legally sound and comprehensive. Overseas experience demonstrates that the bidding rules must be carefully designed, for example, to restrict bidding by connected parties and to prevent collusive activities.

6. It is of utmost importance that consultants with the right calibre, experience and knowledge are tasked to advise and assist the Government in our licensee selection exercise. We would need to draw from the consultants a broad range of advice, ranging from strategy formulation (including “game theory”), financial and economic modeling, detailed design of auction rules and procedures, and related legal, regulatory and technical advice, etc. All such expertise is part and parcel of the input needed in the detailed design of the licensee selection process and regulatory framework to meet the Government's policy objectives and achieve the desired outcomes. The availability of external advice, supplementing our own experience and expertise, will also help speed up our design and implementation process. Such expertise is available in the market, given the 3G auctions in Europe in particular and the spectrum auctions which have taken place in many advanced economies.

7. We propose that the scope of the consultancy should include the following main tasks :

- (a) assist the Government in the design of the licensee selection process and regulatory framework for 3G services;
- (b) assist the Government in the implementation of the licensee selection process;
- (c) advise the Government in ensuring that the design of the licensee selection process and the regulatory framework for 3G services meets the Government’s policy considerations and the relevant legal requirements; and
- (d) assist the Government in ensuring that the implementation of the licensee selection process is conducted with high standards of probity and integrity.

8. In order that we keep to the timetable of awarding licences by middle of 2001, we need to invite applications in early 2001 from prospective licensees. OFTA is now finalising the licensing and regulatory framework taking into account the views received at the second consultation exercise. In the interest of time, we have invited submissions from a shortlist of consultants approved by the Central Consultants Selection Board.

WAY FORWARD

9. Subject to Members' views, we will seek FC's approval for the necessary funding to engage the consultants in December. We understand that the level of consultancy fees other governments may pay for their consultants are quite substantial. For example, the Danish Government has disclosed recently that it would be paying in the region of US\$8.7 million (or HK\$68 million) for its consultancy service. However, we believe the competitive bidding process for the consultancy will help ensure that we would get the best value of money from our service contract.

Information Technology and Broadcasting Bureau
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