

Letterhead of New T&T Hong Kong Limited

3 November 2000

By mail and fax to 2944 5805

Dr Hon TANG Siu-tong, JP
Chairman, Panel on Planning, Lands & Works
Legislative Council,
C/o 2A, Overseas Trust Bank Building,
95-97 Yuen Long Main Road,
Yuen Long,
N.T.

Dear Dr. Hon,

Proposed Charging and Penalty System for Road Opening Works

We understand that the captioned subject is an agenda item for discussion in LegCo Panel Meeting on 6th November 2000. This proposal was submitted to the LegCo for first reading on 28 April 1999 and most non-governmental utility companies (including New T&T) raised objections to the passing of legislation for the charging and penalty system ("C&P System").

The major reasons that we object to the proposal are: (i) we do not believe the C&P System can resolve the root of problem, and (ii) the introduction of the C&P System will increase the burden and cost of the provisioning of services by different utility companies without being able to achieve its objective.

Disincentive for road-opening

We do not believe the introduction of the C&P System can minimise frequency of road-opening.

Each road opening incurs substantial costs to a public utility and need to be justified by business or operation need. As such, a public utility will not open road without absolute

necessity. Besides, delay in excavation have negative impact on both public image and cost; public utility is always trying it's best to shorten the time of excavation.

In fact, public utilities are constantly dedicating efforts to minimise road opening. For example, in the telecommunications sector, OFTA has coordinated among all operators that have road opening right on all road-opening projects in minimising road opening.

Minimise extension of excavation of permit

Another objective for introduction of the C&P System is to minimise extension of excavation permit. However, we believe the C&P System cannot meet this objective since it does not resolve root of problem.

One of the major reasons why utility companies are required to apply for extension of excavation permit is because they have to obtain approval from various government departments (e.g. Traffic Police Department, Environmental Protection Department, etc) after the Highways Department gives a preliminary consent to the application. When the utilities companies file applications for the excavation permit, they will not know whether approval from other government departments will be required and if such is required, how long it would take for these departments to process the application. Therefore, the utility companies are often required to apply for the extension of the excavation permit because the commencement date mentioned for the excavation works has already been expired by the time they receive approvals from all relevant government departments.

This is outside control of utility companies and extra penalty and charging imposed by the C&P System is unfair, as it will become very costly for the utility companies to provision its services in meeting public demands. These penalties and charges will finally transfer to the consumers without improving the situation. A better resolution is to *improve coordination among government departments regarding excavation permit so that the need for extending excavation permit will be significantly reduced.*

Efficiency of the system

According to the statistics provided by Highways Department, the major entity involving in road opening is the government which has more than 67% of all excavation work. I enclose a copy of the statistics for your reference. Besides, excavations by public utilities are usually along footpath and impact to traffic is comparatively insignificant.

As majority of excavation work are from the government, the introduction of C&P System merely increase administrative overhead and bring inefficiency. The additional cost by this inefficiency will pass to consumers, which as we have mentioned in the above, is unfair to both the utility companies and the consumers.

Alternative to meet objectives

The main objective of the system as we perceived is to minimise public nuisance and this is a common goal for both government and public utilities. However, we do not believe the C&P System can achieve this objective.

The ultimate goal is to eliminate road opening completely. We can take reference of the approach taken by other countries or nearby region like Shenzhen, United States, Switzerland, Australia and Japan. For these regions, common trough/tunnels are built for public utilities in provision of their services and there will be no requirement for road opening.

Inadequate consultation

When the proposal was submitted in 1999 for first reading, we are of view that that there are inadequate consultation from stakeholder in relation to the proposal.

Subsequently, the government has retained Booz.Allen & Hamilton (HK) Ltd to conduct two workshops on "Regulatory Impact Assessment - Introduction of Permit Fee and Financial Disincentive Scheme for Road Opening Works". The objective is to "provide a forum for stakeholders to provide input for the proposed legislation". However, concerns of stakeholders are not fully addressed because:

- a) Only the first workshop out of a series of two has been conducted;
- b) The workshop has been conducted in a guided approach against the agenda and stakeholder could not freely express their views and concerns on the matter in workshop I; and
- c) The current proposal for discussion in the Panel has not been circulated to stakeholder

In view of the above, we cannot agree that the government has taken our concern into consideration for the proposal.

Conclusion

In light of the above concerns, we are of view that introducing the proposed charging and penalty system is unnecessary and inappropriate. It would create additional cost burden to the utilities companies without any benefit. These costs would eventually be passed onto the consumer community. We would appreciate if you can reflect the above in the LegCo Panel meeting.

We thank you for your spending the time to consider our concerns. Please feel free to contact me if you have any queries or wish to obtain further information regarding the above matter.

Yours faithfully,

Patrick So
General Manager
Interconnect Management and Carrier Relations

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