

Briefing to

Bills Committee on

Telecommunications (Amendment) Bill 2002

25 July 2002

Policy Objectives

- Promote fair and effective competition to protect consumer interest
- Facilitate businesses to make informed decisions on mergers and acquisitions matters in the telecommunications market

Industry Concerns Addressed

- Consultation conducted in April to June 2001, 17 submissions received
- Telecommunications User Groups (Consumer Council, HK Information Technology Federation) welcome our proposal
- Industry concerns :
 - Competition law should be universal
Response : Government policy to introduce sector specific competition law only
 - To use *ex post* regulatory regime rather than *ex ante* regime
Response : Proposal revised to adopt *ex post* regime

Light-handed Approach to Ensure Minimal Compliance Burden

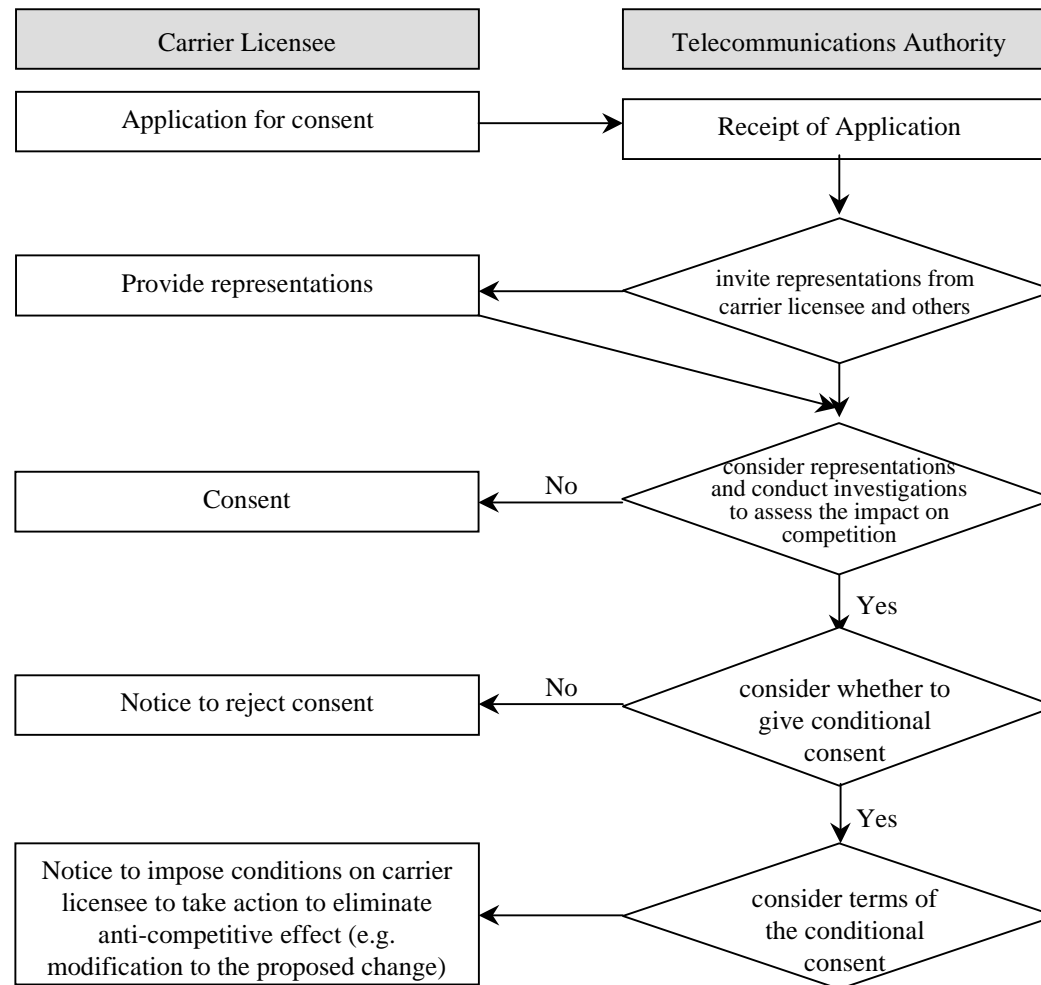
- *Ex post* regulatory regime, with a channel to seek prior consent on a voluntary basis (see flow charts)
- Telecommunications Authority to step in only if there is potential adverse effect on competition
- Apply to carrier licensees only

International Examples - HK Adopts a Light-handed Approach

	Compulsory Pre-Notification	Pre-Notification Threshold	Competition Test	Power to issue Injunction/ Administrative Order	Power to ask for Divestiture of Shareholdings/ Assets
HK	No (i.e. <i>ex post</i> regime)	-	Substantially lessen competition	No	Yes
Australia	No (i.e. <i>ex post</i> regime)	-	Substantially lessen competition	Yes	Yes
UK	No (i.e. <i>ex post</i> regime)	-	Maintaining and promoting competition	No	Yes
Canada	Yes	Assets and sales-based	Prevents or lessens competition substantially	Yes	Yes
EC	Yes	Turnover-based	Effective competition significantly impeded	No	Yes
Singapore	Yes	Any change in ownership, shareholding, management	Unreasonably restrict competition	Yes	Yes
US	Yes	Assets and sales-based	Substantially lessen competition	Yes	Yes

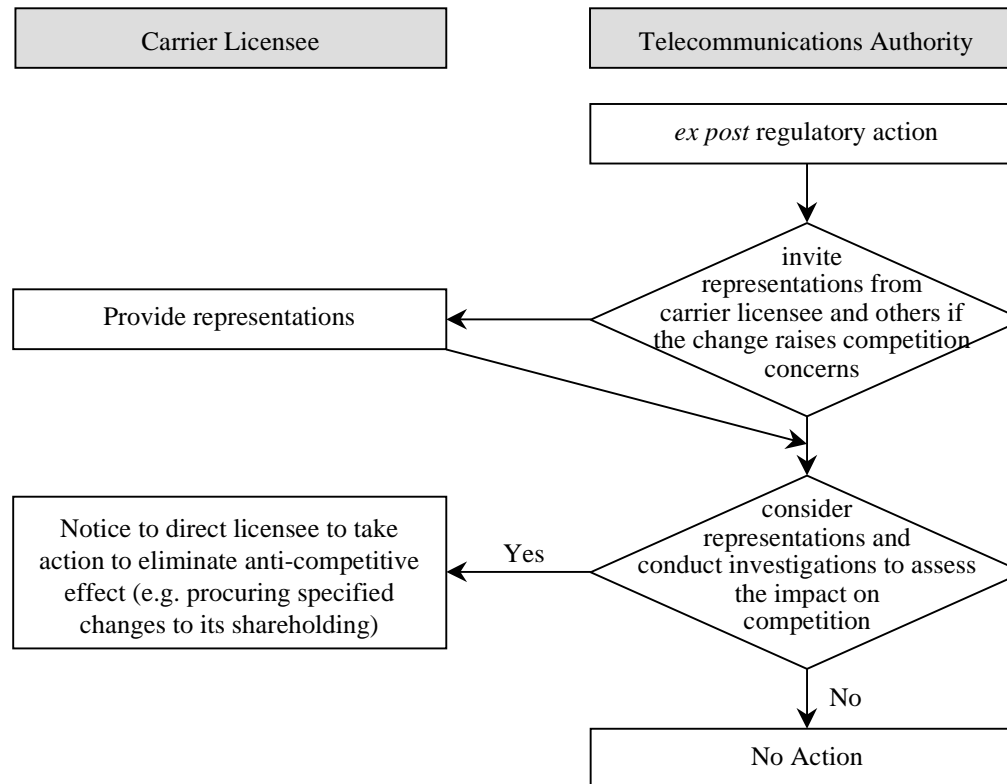
Proposal under Telecommunications (Amendment) Bill 2002

Before a proposed change in ownership or control :
To seek prior consent on a voluntary basis



Proposal under Telecommunications (Amendment) Bill 2002 (Cont'd)

After a change in ownership or control :
Telecommunications Authority to conduct regulatory
review



A Clear Framework

- Telecommunications Authority will publish in the guidelines factors to be considered in assessing whether a change in ownership or control has, or is likely to have, an anti-competitive effect
 - Such matters may include the availability of substitutes, entry barriers, market concentration, etc.
 - Telecommunications Authority will consult the industry before publishing the guidelines
- ⇒ To provide a clear regulatory framework and facilitate businesses in making informed decisions

Welcome Members' Comments