

**Briefing to Legislative Council Panel on
Information Technology and Broadcasting on
Telecommunications (Amendment) Bill 2002**

13 May 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

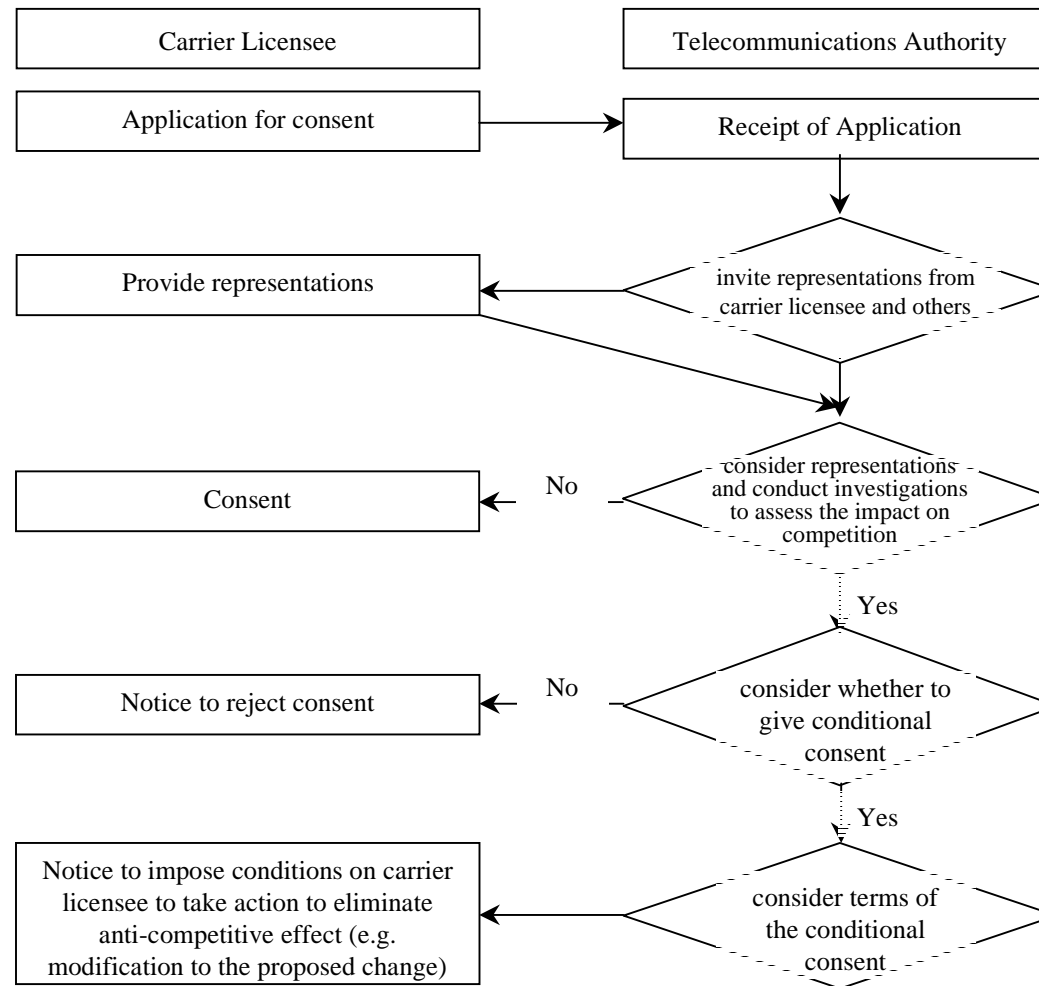
- *Ex post* regulatory regime, with a channel to seek prior consent on a voluntary basis (see flow charts)
- Telecommunications Authority to step in only if there is potential adverse effect on competition
- Apply to carrier licensees only

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,	Unreasonably restrict competition	Yes	Yes
US	Yes	Assets and sales-based	Substantially lessen competition	Yes	Yes

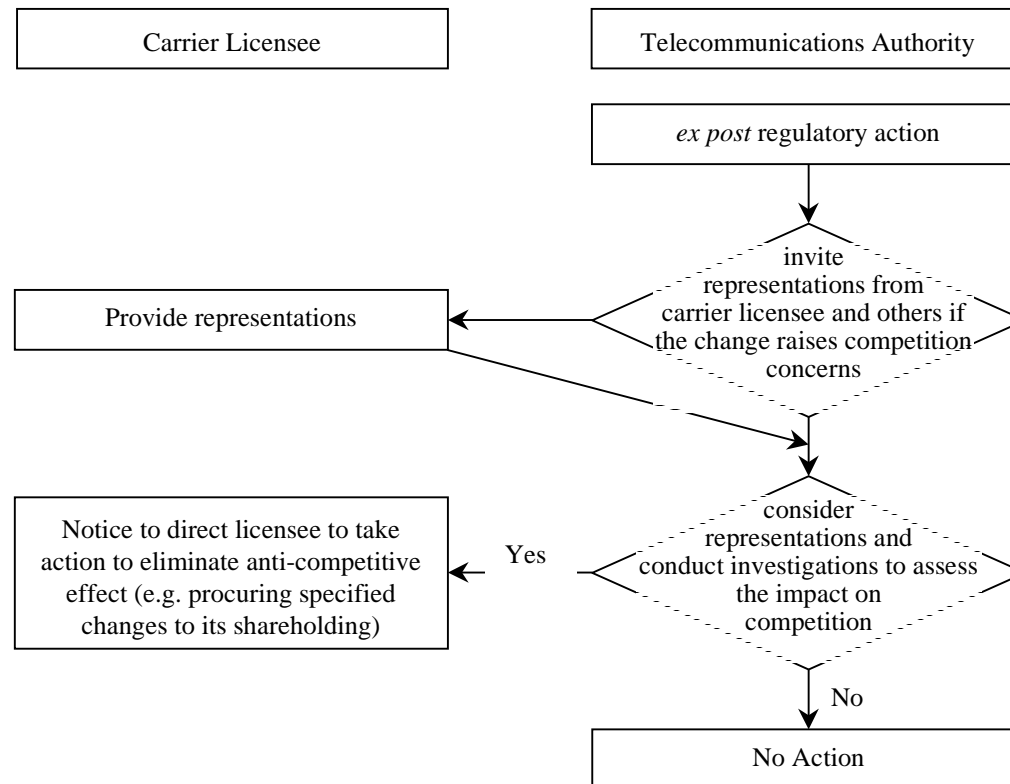
Proposal under Telecommunications (Amendment) Bill 2002

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

Next Steps

First reading and
commencement of
second reading debate

15 May 2002

Enactment of the Bill

Subject to scrutiny
of Bills Committee