

New World Telephone Limited

Submission to the Legislative Council
Panel on Information Technology and Broadcasting

Re: Full Liberalization of
the Local FTNS Market from 1 January 2003

New World Telephone Limited (“New World”) is pleased to submit these comments to the Panel for discussion in the meeting to be held on Monday, 12 November 2001. Due to the limited time allowed for the preparation of these comments, New World will submit a more comprehensive response to the Consultation Paper issued by the Office of the Telecommunications Authority (“Government”) on 16 October 2001 by 27 November 2001, the stipulated consultation deadline.

New World agrees that the Government should foster a fully competitive market for the provision of local fixed telecommunications network services (“FTNS”) in Hong Kong. In order to ensure that the necessary pre-conditions for effective competition have been met, the Government must create a level playing field for all FTNS operators. Further, New World submits that the Government must satisfy itself and the public that the new entry will benefit the public.

Experience in other countries demonstrates that, over time, a competitive telecommunications market is most likely to develop where: (1) an effective regulatory regime (including adequate rules governing interconnection, collocation and access to buildings) is in place and (2) a number of strong competitors initially challenge the incumbent operator. Consistent with international experience, the Government’s 4 May 1999 decision to eliminate numeric restrictions on entry into the FTNS market effective 1

January 2003 was predicated on the assumption that, by that date, a fully effective regulatory regime would be in place, thereby allowing New World and the two other “first wave” new entrants into the local FTNS market to establish themselves as commercially viable alternatives to the incumbent operator, PCCW-Hong Kong Telecom (“HKT”). These assumptions have not proven to be correct. At the present time, Hong Kong still lacks an effective regulatory regime that will enable new entrants to interconnect with HKT on an operational feasible and economically reasonable basis. As a result, New World and the two other “first wave” new entrants into the local FTNS market have not yet been able to establish themselves as viable competitors to HKT.

Given existing conditions, allowing additional wireline operators to enter the local FTNS market in 2003 would not facilitate the ultimate development of a fully competitive market. To the contrary, it would simply place New World and the other “first wave” entrants in the middle of an anti-competitive squeeze – unable to compete fairly against either HKT, which continues to enjoy substantial market dominance, or against the “second wave” entrants, which would be allowed to enter the market without having to make the same network roll-out and service commitments as did New World and the other “first wave” new entrants. The end-result would be to weaken operators, such as New World, that have made substantial investment in facilities deployment, thereby further entrenching HKT as the dominant operator. This, in turn, would be likely to deter the “second wave” entrants from voluntarily making the infrastructure investments necessary to establish themselves as viable competitors in the local FTNS market. It should also be noted that to date, none of the “first wave” entrants have achieved a financially break-even position.

In light of the above, New World respectfully requests the Government to preserve the existing numeric limit on the number of wireline-based FTNS licenses until such time as: (1) a fully effective regulatory regime is in operation; and (2) Government satisfy itself and the public that the issue of further local FTNS licences will benefit the public.

If the Government chooses to allow additional wireline operators to enter the local FTNS market on 1 January 2003, however, New World respectfully requests that the Government adopt licensee authorization procedures that are consistent with the application procedure that the government specified in 1999 – and on which New World relied when agreeing to roll-out its network – rather than the standardless approach proposed in the Consultation Paper, in which operators would be “free to enter the market and offer services on scales decided by their own business considerations.” In particular, the Government should consider each application – including those from entities that currently hold a licence to provide wireless FTNS and external telecommunications services – on a case-by-case basis. As part of this review, the Government should assess: (1) the adequacy of the regulatory system to over-see an increased number of market participants; (2) the impact that additional entry will have on firms that have deployed facilities (such as road opening and sharing of facilities); (3) the extent to which new entry is required to meet the needs of telecommunications users; (4) the costs (such as environmental impact) and benefits (such as deployment of new facilities or introduction of new services) likely to result from grant of the application.

The Government should also adopt procedures to ensure that any approved new entry occurs in an orderly manner. This includes: (1) requiring new entrants to obtain

prior approval for preparatory work in order to ensure that they do not use their right to undertake “preparatory work,” or to provision facilities for “internal use,” as a means to enter the market prior to the 1 January 2003 and (2) requiring applicants to obtain approval, on a case-by-case basis, before being given building access or road opening rights.

In order to ensure a “level playing field” among all FTNS providers, future entrants should be required to commit to infrastructure and service roll-out.

Finally, we note that the Audit Commission is conducting a value for money audit to examine the Government's efforts in developing and promoting a liberalised telecommunications market in Hong Kong (including the regulatory work of OFTA) and to identify areas where further improvement can be done. The audit is focusing on the progress and achievement of the Government's measures and initiatives in developing and promoting a liberalised telecommunications market, and will assess the adequacy and effectiveness of these measures and initiatives. New World have attended meetings with the Audit Commission and provided information in respect of the difficulties encountered by us in the roll out of our network and services. We understand that the Audit Commission will issue its report in April 2002. We therefore submit that the Government should take into account of the report before it makes a decision as to the full liberalisation of the local FTNS market.

NEW WORLD TELEPHONE LIMITED

8 November 2001