



Submission to the Legco Panel on Information Technology and Broadcasting on the TA consultation paper "Implementation of the Full Liberalization of the Local Fixed Telecommunications Network Services Market from 1 January 2003"

Introduction

CLP Telecommunications Limited (CLP TeleCom) is pleased to have the opportunity to express its views to the LegCo Panel on Information Technology and Broadcasting on the captioned TA consultation paper.

CLP TeleCom was awarded a cable-based External Fixed Telecommunications Network Services (EFTNS) licence and offers services in Hong Kong over its ChinaLink overland cable. CLP TeleCom is also evaluating the business case for operating wireline local fixed telecommunications services upon the expiry of the current FTNS moratorium in 1 January 2003.

Ending the current FTNS moratorium

CLP TeleCom congratulates the TA and welcomes his proposals in the consultation paper, which are taking Hong Kong ahead of other liberalized regimes in the region. CLP TeleCom opines that the current moratorium has impeded the development of innovative competition and it is desirable to fully liberalize the market once it expires in 1 January 2003.

As demonstrated by an observation of the market and industry in the last few years, it is indisputable that there is insufficient competition even at the wholesale level. This is evidenced by the hurdles encountered by EFTNS operators due to the lack of sufficient competitively priced backhaul and local tail circuits. In the absence of the right to build our own facilities, we have to tolerate backhaul and local tail prices that make our services uncompetitive when compared to the wireline FTNS competitors. The failure of economic contestability in even the wholesale market has a bearing on some of our later comments.

At the retail level, insufficient facilities competition in the customer access network has also resulted in a lack of choice of operators and products to consumers. While Type II interconnection has already been implemented for years, there is still very little territory-wide contestability. Customers who have been offered a choice of an alternative network service provider represent a small fraction of the Hong Kong population and most customers have little choice but to continue to use the incumbent's services.

CLP TeleCom also welcomes the proposal of not imposing capex and coverage obligations to new entrants since this should yield more sensible economic efficiency.

Preparatory activities by new licensees

In view of the negative impact that has resulted from the moratorium, it is desirable to allow the new operators to introduce services at the earliest possible date (i.e. 1 January 2003). So CLP TeleCom welcomes the initiatives of OFTA to allow new licensees to undertake certain preparatory works and urges OFTA to facilitate the identified preparatory activities as a minimum. We believe OFTA should also give consideration to allowing network construction to commence upon licence award, expected some time during 2002.

Creation of "Second-class licensees"

However, CLP TeleCom is concerned that HKSARG's ambitions and desired market benefits will be hindered since, under the current proposal by OFTA, new licensees will only obtain "Second-class licences" and yet be expected to pay the same "first class fare" that the five incumbent licensees bear. These "Second-class licences" are characterized by:



- No rights to building access
- No rights to road openings, and yet
- No rights of access to unbundled local loops in the last mile

With an asymmetric structure like this, it will serve only to reinforce the existing lack of contestability to PCCW from the new incumbents. This is founded based on the fact that a regime of four "first class licences" has singularly failed to introduce any significant contestability.

CLP TeleCom considers that OFTA should adopt a more pro-competitive approach by granting blanket access right to new entrants. Such access rights for new entrants to build new facilities will provide them the ability to drive for the most economically efficient means of achieving customer reach; this will not be achieved when the new entrants only have an uncertain self-build ability to compete with incumbent offerings of wholesale infrastructure, which in all likelihood, based on our experience to date will be over-priced. We believe that to do otherwise would act against the policy objective promulgated by OFTA to ensure the widest range of telecommunications services available to consumers at affordable costs.

Building access

CLP TeleCom avers that it is only with the right to access buildings to construct our own infrastructure that we will be able to avoid uneconomic customer offerings. The evidence of the industry to date does not indicate that wholesale offerings from the five incumbents will be competitive. New licensees need the ability to self-build as a competitive pressure on incumbents.

Road opening

CLP TeleCom believes a similar argument applies for road opening. Granting authorization on a case-by-case basis (as suggested by OFTA) is inconsistent with the spirit of full liberalization. In justifying the full liberalization, the TA said in the consultation paper that he does not consider there will be a significant impact on the current level of road openings. Given there is already a coordination mechanism among FTNS operators for road opening, the likelihood of new operators creating additional disturbances can be minimized. As such, CLP TeleCom does not see any logical reason of restricting the right of road opening by new entrants. Rather, we see the need to have this right in order that economic efficiency should be achieved across the industry and for Hong Kong.

Access to Unbundled Local Loops

Last but not least, given the TA's position on avoidance of uneconomical duplication of assets, CLP Telecom opines that new entrants, like the existing wireline incumbents, shall be allowed to access unbundled local loops of PCCW on cost based.

In conclusion, I would repeat that CLP TeleCom welcomes the TA's proposals but urges that innovative competition be encouraged through the issue of "first class licences" with three rights – the right to building access, the right to road openings and the right to access Unbundled Local Loops.