

**NEW WORLD TELEPHONE LIMITED**

**Submission to Leg Co Panel on Proposed Charging and  
Penalty System for Street Excavation Works under  
the Land (Miscellaneous Provisions) Amendment Ordinance**

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1. New World Telephone (NWT) fully supports that the disturbance to the public due to road opening should be minimised.
2. NWT, however, has reservation on the effectiveness of the present proposed system by the Works Bureau. The proposed system only asks for fees from the utility operators and imposing fines on delay of works. No attempt is made to improve the workflow and to shorten or eliminate the duration of or the need for road opening.
3. The Government as a whole has the responsibility to make this society a better place to live. The issuance of excavation permit (EP) is part of the duty and responsibility of the Government to provide an orderly usage of the road surface to the public and therefore should be funded by the tax revenue. NWT does not see the need and the ground for the Government to charge any EP fees.
4. The imposition of the proposed penalty system for late completion of work is an illusion that such system could reduce the duration of road opening. Worse still, the Government might sit back and cease improving the situation. Road-opening contracts are awarded on projects basis. Both the utility operators and contractors are and will using their best endeavour to complete the projects as soon as possible. As such, the imposition of the proposed penalty system does not add any incentive or improve anything to the present system. This penalty system is only an easy way out for the Government to resolve the disturbance to the public due to road opening at the cost of the utility operators and contractors.
5. NWT recommends the Government to use common trough in all possible situation to minimise future road opening requirements.
6. If the Government insists to implement the charging and penalty system, which is not agreeable by NWT, then the pre-condition is that the Government should provide a One-Stop-Shop service to release the utility operators from liaising with different Government departments for various permits or licence requirements.
7. The duration of the EP is the key factor as to whether or not a permittee will be fined. A fair and transparent determination mechanism for the duration of EP should be put in place with prior consultation of the industry. Further, a Code of

Practice forum should be set up with members from the industry and government departments to review and improve the issuance of EP on a periodic basis.

8. There should not be any penalty imposed onto the utility operators and contractors if delays are caused by uncontrollable factors including but not limited to the followings:
  - a. Sites are unavailable due to any issues of the Government or other authorities;
  - b. Public interference with the smooth operation of the projects;
  - c. Unforeseeable underground situations;
  - d. Poor weather conditions; and
  - e. Other acts of God.
9. The EP fee is calculated based on the salaries of the Government employees involved in the task. NWT notes that the salary levels of the Government employees are much higher than those comparables in the fair labour market. It would only be fair to charge the EP fee based on the adjusted current fair labour costs instead of the actual Government employees' salaries.
10. As to the level of fine for the delay of completion, NWT has reservation on the appropriateness of the assessment methodology and quantum. The level of fine is apparently too high. Further consultation from the industry should be sought with respect to the assessment methodology and quantum prior to implementation of the penalty system.
11. It should be noted that over 50% of the road opening projects are commissioned by Government departments. It would only be fair and proper that all the Government departments should be under the same charging and penalty system as the other utility operators and contractors in terms of both civil and criminal liabilities. NWT submits that unless and until all Government departments are put under the same penalty system as the utility operators and contractors, then, the proposed charging and penalty system should not be implemented.
12. Lastly, NWT stresses that the proper direction is to employ more innovation to resolve the problem rather than extracting money from private sector.