

Your Ref. CB1/SS/3/04

7 January 2005

Ms. Debbie Yau
Clerk to Panel on Information Technology and Broadcasting
Subcommittee on
Telecommunication (Designation of Frequency Bands
Subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2004 (L.N.208),
Telecommunications (Method for Determining Spectrum Utilization Fees) (Third
Generation Mobile Services) (Amendment) Regulation 2004 (L.N. 209) and
Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile
Services) Regulation (L.N. 210)
("Subcommittee")
Legislative Council
Hong Kong Special Administrative Region

By Hand and by Fax
Fax no.: 28035112

Dear Ms. Yau,

Re: Response to Subcommittee's Invitation for Submission

Thank you for your invitation dated 22 December 2004. We have previously provided our views to OFTA on the subject matter of the proposed subsidiary legislation and we welcome the opportunity to reiterate such views to the Subcommittee.

Under OFTA's current proposal, the renewed 2G licensees would pay Spectrum Utilization Fee ("SUF") as follows:

1. During the first 5 years after the license renewal, at the flat rate of HK\$145,000 per MHz per year; and
2. Thereafter, at the rate of 5% of network turnover, subject to a minimum SUF of HK\$1.45million per MHz per year (such 5% is at par with the SUF set for 3G (UMTS) licensees).

We have expressed the view to OFTA that the above proposal can apply to those renewed 2G licensees who continue to use the spectrum for the provision of mobile services at a transmission rate of less than 144 kbps (such as basic mobile voice telephony services).

However, the implementation of the proposed SUF for 2G licensees would result in a disparity between 2G and 3G (UMTS) licensees in the circumstances where the 2G licensees use the spectrum to offer 3G like services i.e. high-speed mobile services operating at a transmission rate exceeding 144kbps.

Under the existing SUF scheme for 3G(UMTS) licensees, they are subject to SUF at the rate of HK\$1.45million per MHz during the first five years of their license (i.e. up to October 2006). However, starting from October 2006 onwards, whilst they are subject to SUF at the same rate of 5%

of network turnover, the minimum SUF level starts to ramp up from HK\$1.74 million (per MHz per year) for the year 2006/07 up to HK\$4.37 million (per MHz per year) for the year 2015/16. Please see the enclosed comparison table showing the proposed minimum SUF amounts for the renewed 2G licensees and the existing 3G (UMTS) licensees.

To avoid the disparity of the minimum SUF levels between 3G (UMTS) licensees and 2G licensees and to put all licensees on the same level playing field in the provision of high-speed mobile data services, we have requested the Government to immediately conduct a review of the minimum SUF level for the remaining license period of the existing 3G (UMTS) licensees, with the view to revise them down to the level that the government is now proposing for the renewed 2G licensees (i.e. HK\$1.45 million per MHz per year).

We are pleased that the Subcommittee has seen it fit to invite the affected stakeholders to put forth their views and sincerely hope that the Subcommittee would duly consider such views. We thank you again for letting us have this opportunity to submit our above views for your consideration.

Yours sincerely,
For and on behalf of
Hutchison Telecommunications (Hong Kong) Limited



Oswald Kwok
Senior Counsel – Legal and Regulatory

Enclosure

Comparison of SUF
Between 3G (UMTS) and 2G (GSM/PCS) Licensees

Year Ending	Proposed 2G (GSM/PCS) SUF per MHz (HK\$)		3G (UMTS) SUF per MHz (HK\$) (c ÷ 34.6 MHz)	3G (UMTS) Minimum Total SUF (HK\$) (for 34.6MHz) as per 3G License (c)	Proposed 2G (GSM/PCS) Minimum Total SUF (HK\$)	
	GSM (a)	PCS (b)			GSM (for 16.6MHz) (a x 16.6 MHz)	PCS (for 23.2MHz) (b x 23.2 MHz)
October 2006	145,000		1,450,000	50,000,000	2,400,000	
October 2007	145,000	145,000	1,740,000	60,124,000	2,400,000	3,350,000
October 2008	145,000	145,000	2,030,000	70,249,000	2,400,000	3,350,000
October 2009	145,000	145,000	2,320,000	80,373,000	2,400,000	3,350,000
October 2010	145,000	145,000	2,620,000	90,497,000	2,400,000	3,350,000
October 2011	1,450,000	145,000	2,910,000	100,622,000	23,990,000	3,353,000
October 2012	1,450,000	1,450,000	3,200,000	110,746,000	23,990,000	33,530,000
October 2013	1,450,000	1,450,000	3,490,000	120,870,000	23,990,000	33,530,000
October 2014	1,450,000	1,450,000	3,790,000	130,995,000	23,990,000	33,530,000
October 2015	1,450,000	1,450,000	4,080,000	141,119,000	23,990,000	33,530,000
October 2016	1,450,000	1,450,000	4,370,000	151,243,000	23,990,000	33,530,000

* all calculated figures are rounded