

Legislative Council Panel on Information Technology and Broadcasting

Tuesday, 6 February 2007

The Honorable Chairman, ladies and gentlemen

The Government's Spectrum Policy Review ("SPR") is overdue. Nevertheless, it is important and warrants careful consideration. It comes at a time when the TA is already considering the allocation of frequency bands for new wireless services such as Broadband Wireless Access ("BWA") and a fifth 3G license using CDMA2000 technology. The TA felt compelled to initiate these two consultations because the Government was late in beginning the SPR. Thus we find ourselves in an awkward situation where there are multiple consultations on the same issues occurring at the same time.

The Government therefore now has an obligation to get these consultations done in the right order. This means finishing the broad policy SPR and thereafter the specific implementation consultations relating to BWA and CDMA 2000. Policy first. Implementation second. This is the only way to ensure that any specific BWA and CDMA 2000 spectrum allocations are wholly consistent with the policy framework. A "policy first" approach is needed. This will ensure that:

First, spectrum allocations are consistent with decided spectrum policy;

Second, the allocation of frequency bands is coordinated, and therefore interference minimized; and

Third, the rights pertaining to spectrum holders are clarified, thereby facilitating both the auction process and investment decisions.

To proceed with the ad hoc allocation of spectrum for BWA and CDMA2000 services without the guidance of an overall spectrum policy framework would be dangerous. Doing so would risk corrective action having to be taken later on after the policy framework is finalized, and this would be disruptive to both the industry and consumers. Or, sub-optimal decisions will be reached. There is no need to rush through with these spectrum allocations now that the spectrum policy framework review has already been commenced and comments submitted.

The history of BWA illustrates the importance of “policy first”. The TA’s initial spectrum proposal was found to be unwise due to interference problems. Other options are now being considered on an ad hoc basis but these raise new concerns. All of this could be avoided under a proper spectrum policy review.

In the case of CDMA2000, the necessity to urgently allocate and license spectrum for a fifth 3G mobile service using a specified technology is even less clear. We are told that it is being done for “strategic reasons”. Yet, this approach is very much inconsistent with previous Government policy pronouncements.

First, there is no market (ie, market failure) evidence that a fifth 3G mobile service operator is needed in Hong Kong. In fact, a report produced by Spectrum Strategy Consultants for OFTA in November 2004 concluded that an additional license would not be beneficial to users. The TA has not explained why he now considers a fifth 3G mobile license justified. The consultation paper merely states without analysis that times have changed.

Second, in proposing that spectrum should be made available specifically for a roll out of CDMA2000 technology, the TA is clearly acting inconsistent with both the technology neutral and market driven principles.

Third, the TA also appears to be ready to license a sixth 3G licensee using TD-SCDMA technology. That would make 6 licensees competing in a small market having substantial investment cycles.

The SPR needs to address these and other issues comprehensively. Ad hoc decisions are neither necessary nor wise.

The bottom line is that common sense should prevail: the TA should wait for the fundamental matters pertaining to the spectrum policy framework to be finalized including BWA spectrum allocation and a decision on whether to license additional 3G operators before making any decisions on the allocation of spectrum for future wireless services. We are sympathetic as to why the TA launched these two ad hoc proceedings. But now he should wait as the Government has made good progress on the SPR.

I have a cynical friend who says that he knows what will happen here: the TA will complete his two piecemeal consultations and the SPR will give that approach its blessings. Two mistakes will occur, and users will be worse off. I've told him that he is wrong, that common sense will prevail.

Thank you.