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12 March 2008

Ms Yu Tin Po
Clerk to Legislative Council Panel on
Information Technology and Broadcasting
Legislative Council Secretariat
3/F, Citibank Tower
3 Garden Road, Hong Kong

Dear Ms Yu,

**Follow-up to Meeting on 10 December 2007: Agenda Item IV on
Provision of Radio Frequency Spectrum
For the Introduction of Broadband Wireless Access (BWA) Services**

At the meeting of the Panel on Information Technology and Broadcasting held on 10 December 2007, the Director-General of Telecommunications undertook to provide additional information in response to questions from Panel Members on the above subject. Below please find further information for Panel Members' reference:

Pre-qualification Criteria for Bidders of Radio Frequency Spectrum for the Provision of BWA Services

2. The auction for the utilisation of spectrum for providing BWA services is scheduled for the 4th quarter of 2008, subject to the results of the Legislative Council's negative vetting of a regulation to be made by the Secretary for Commerce and Economic Development. Under the regulation to be proposed, the Telecommunications Authority will be empowered to specify the auction rules, including the pre-qualification criteria, by a notice to be published in the Gazette. As such, the auction rules and the pre-qualification criteria are yet to be decided.

3. For Panel Members' reference, in both the 3G and CDMA2000 auctions, in assessing whether an applicant is fit and proper to hold the licence, the applicant will be required to confirm at the pre-qualification stage, inter alia, that it is financially capable of satisfying the licence conditions (including the coverage requirement and the obligation to submit the performance bond), that it has not had any telecommunications licence in Hong Kong withdrawn, cancelled or suspended due to the default or breach of the conditions of that licence, and that there are no winding-up petition, civil or criminal proceedings commenced against the applicant, which might reasonably be expected to adversely affect its business or materially affect its ability to satisfy the licence conditions.

Statistics on Consumer Complaints

4. The following are statistics on consumer complaints received by the Office of the Telecommunications Authority (OFTA) in the past two years:

Type of Service	Number of Consumer Complaints Received	
	Year 2006	Year 2007
Mobile	2257	1321
Fixed-line	3302	1414
Broadband	2824	1451
External Telecommunications	239	79
Others	320	396
Total	8942	4661

5. The Telecommunications Authority (TA) is empowered by the Telecommunications Ordinance (Cap 106)(TO) to take enforcement actions only against breaches of the TO or conditions of licences issued under the TO. The Office of the Telecommunications Authority (OFTA) will therefore conduct a full investigation into a consumer complaint only if there is prima facie evidence indicating a possibility of such breaches. In respect of the complaints received by OFTA set out in the above table, there was one case found in breach of section 7M of the TO in 2006. Section 7M prohibits licensees from engaging in conduct which, in the opinion of the Authority, is misleading or deceptive in providing or acquiring

telecommunications networks, systems, installations, customer equipment or services including (but not limited to) promoting, marketing or advertising the network, system, installation, customer equipment or service. In this case, a financial penalty of HK\$80,000 was imposed on the concerned operator.

6. Members may wish to note that in 2006 and 2007, there were four cases, involving a fixed carrier, a mobile operator and two internet service providers (ISPs), established to be in breach of section 7M. These four cases were not consumer complaints but were reports by telecommunications operators. Financial penalties of a total amount of HK\$395,000 were imposed on the concerned licensees. The reports of all the full investigations under section 7M are available on OFTA's web site (http://www.ofta.gov.hk/en/ca_bd/cases_closed.html). Since 2000, there have been more than 90 complaints found in breach of section 7M.

Yours sincerely,

A handwritten signature in black ink, consisting of stylized Chinese characters, likely '夏' (Ha).

(YK HA)

for Director-General
of Telecommunications