

**Joint Letter to Members of the Legislative Council Panel on Information
Technology and Broadcasting from:**

- (i) Hutchison Telephone Company Limited
- (ii) Hong Kong Telecommunications (HKT) Limited
- (iii) CSL Limited
- (iv) SmarTone Mobile Communications Limited

concerning:

Panel Meeting on Monday 4 February 2013 at 9.30am

Agenda Item IV on “Arrangements for the frequency spectrum in the 1.9-2.2
GHz Band upon expiry of the existing frequency assignments for 3G mobile
services”

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1 February, 2013

Dear Honorable Member of the Legislative Council,

Expiry of Licences for 3G Mobile Communications Services

The Government and Communications Authority (“CA”) (together referred to hereafter as “**the Authorities**”) are due to make a decision in October 2013 which will have profound everyday effects on the lives of Hong Kong consumers and the future of the Hong Kong telecommunications industry. Indeed they may already have made that decision. We believe that these effects – on both consumers and the future of the industry - will be seriously detrimental. We are therefore addressing this letter to each of the Panel Members, so that you are fully aware of the public interest implications of this decision.

The decision is about what to do when the licences of the four 3G mobile network operators (“MNOs”) expire in October 2016 (The four MNOs are SmarTone, CSL, HKT and Hutchison). As you will be aware, Hong Kong consumers enjoy one of the most advanced and innovative telecommunications markets in the world, with an average of over two mobile handsets per capita. Mobile data usage is increasing at phenomenal rates, with the result that mobile operators need more spectrum, not less. At the same time the market is extremely competitive with retail rates being among the lowest in the world. Yet the Authorities’ preferred option would result in the forcible removal of one third of each of the existing MNOs’ 3G spectrum allocation. (This proposal is at odds with international practices such as UK, Australia and New Zealand where the licences of the incumbent operators are renewed upon their expiry). If this happens, this will have a serious direct adverse impact on Hong Kong consumers in the form of (amongst others):

- Inability to make or receive mobile calls
- Dropped calls (i.e. calls going “dead”)
- Slower data speeds for uploading, downloading and searching the internet
- Significantly increased congestion and service degradation in malls and the MTR.

These effects will be felt most acutely in places which are heavily loaded with mobile traffic and have capacity expansion difficulties such as the MTR tunnels and stations, and shopping malls.

It will also have serious indirect adverse effects on Hong Kong consumers because it will deter the MNOs from continuing to invest and innovate in new services for the benefit of Hong Kong consumers. Faced with the current uncertainty as to whether the MNOs will lose one third of their 3G spectrum when their licences expire, the MNOs have little incentive to continue to heavily invest in their 3G networks. Any incentive to do so will be further reduced in October this year if the Authorities confirm their current preference to put one third of the MNOs’ current spectrum allocation out to auction, a preference substantially based on China Mobile’s expressed desire to acquire 3G spectrum. The current 3G licensees will have no incentive whatsoever to further invest heavily if they are unsuccessful in an auction (planned for 2014) and, as a result, lose one third of their current spectrum allocation.

It is remarkable that the Authorities themselves have confirmed that their preferred option would harm consumers as described above, and have confirmed that the option preferred by the MNOs - to renew the spectrum licences at a reasonable fee - would best secure the objectives of continuity of customer service.

The Authorities have attempted to quantify the harm to consumers resulting from their preferred option in Annex 2 to the Second Consultation Paper - but our technical experts unanimously agree that this quantification represents an over-optimistic, best case scenario, and that the real harm to consumers will be much greater.

It is also remarkable that promoting consumer interests and encouraging innovation and investment lie at the heart of the CA's functions under the Communications Authority Ordinance, and that the Government's duty to encourage investment is even written in Hong Kong's Basic Law, and yet, the Authorities still prefer an option which conflicts with these objectives.

Against this background, Panel Members might legitimately question why the Authorities seem intent on going down this path. The only benefits which they have cited in the two consultation papers are, at best, speculative and not based on any solid evidence.

The first benefit cited by the Authorities is that auctioning one third of the spectrum might mean that spectrum is more efficiently used. The theory is that whoever bids highest will have more of an incentive to use it efficiently. But in a market as competitive as Hong Kong's, with mobile data usage increasing so rapidly, and the existing MNOs wanting ever-more spectrum, not less, the idea that spectrum is not being used efficiently is unrealistic, to say the least. Words like "might", "could" or "possibly" are not a substitute for real analysis and evidence.

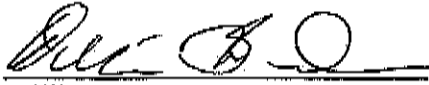
The second is that competition in the market might increase if another operator were to enter. But with one of the most competitive markets in the world already, the idea that the market might become even more competitive, even if another MNO enters, is highly speculative. The only operator who has expressly indicated an interest in this spectrum is China Mobile. But China Mobile has ample spectrum, provides 3G services via other MNOs' networks and has had opportunities to bid on a level playing field for spectrum already. Further opportunities are in the pipeline to obtain more spectrum: there is no need to confiscate spectrum from the current Hong Kong MNOs to penalize their customers.

In addition, spectrum trading and/or the digital dividend (radio spectrum that will become available after the switch off of analogue television) could better meet MNOs' spectrum needs well before 2016 and in a way that is both market-based and voluntary, without harming customers or their service providers. The Authorities should speed up the process on spectrum trading and/or digital dividend which will be more beneficial to customers.

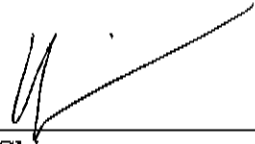
Finally, whether the Authorities' preferred option or the MNOs' preferred option ultimately prevails, the spectrum charging arrangements proposed by the Authorities could mean that Hong Kong's spectrum fees will be amongst the highest in the world. There is no justification for imposing what is effectively a punitive tax on MNOs, which can only result in harm to consumers, either in the form of higher prices, or less innovation or investment, or both.

We trust that Panel Members will appreciate the enormous public interest at stake in this matter, and would welcome the opportunity to provide more information and explanations at a specific hearing on the matter.


Yours faithfully,

A handwritten signature in black ink, appearing to read 'W. Brown', written over a horizontal line.

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3G 流動通訊服務牌照到期

政府與通訊事務管理局（下稱「有關當局」）將於 2013 年 10 月前，作出一項對香港消費者日常生活及香港電訊業未來影響深遠的決定。事實上，他們可能已作出該項決定，但我們相信，這決定將嚴重損害客戶本身及業界的未來。因此，我們特向各委員會委員致函，希望各位關注有關決定對公眾利益所帶來的影響。

該項決定是關於如何處理四個 3G 流動網絡營辦商（下稱「流動網絡營辦商」；四家流動網絡營辦商分別是數碼通、香港移動通訊、香港電訊及和記電話）於 2016 年 10 月屆滿的 3G 牌照。大家可能會注意到，現時香港消費者每人平均擁有逾兩部流動電話，並身處全球其中一個最先進、創新的電訊市場。流動數據使用量升幅驚人，令流動營辦商對頻譜的需求更殷切。同時，整個市場在零售價格上的激烈競爭，帶來全球最廉價的流動通訊服務。然而，有關當局認為最可取的方案，將迫使現時每個流動網絡營辦商交出三分一的 3G 頻譜。（有關當局的建議與向頻譜到期的網絡營辦商續牌的國際做法（如英國、澳洲、新西蘭）背道而馳。）如果這情況真的發生，必將為香港消費者帶來嚴重及直接的負面影響，其中包括：

- 不能打出或接聽流動電話
- 通話中斷（即於通話途中斷線）
- 上載、下載及搜尋網絡時較緩慢的數據速度
- 在商場及港鐵內，流量擠塞及服務質量下降之情況將顯著加劇

以上情況於流動通訊流量極高及難以擴充容量的地方更為顯著，如港鐵管道、港鐵車站及購物商場。

此外，有關當局的建議阻礙流動網絡營辦商繼續為香港客戶投資及開發創新服務的決定，為香港消費者間接帶來嚴重影響。在現時各流動網絡營辦商均面對於牌照期滿後失去三分一 3G 頻譜的不明朗因素下，各流動網絡營辦商對繼續大力投資發展 3G 網絡的動力，將會大為減少。若有關當局於本年十月確認他們現時的取向，即根據中移動表示對取得 3G 頻譜的意願，收回流動網絡營辦商現有 3G 頻譜的三分一作公開競投，情況應會更加嚴重。

假如現有的 3G 持牌人於公開拍賣中落敗（計劃於 2014 年進行），將失去繼續大量投資的動力，並失去現有的三分一 3G 頻譜。

顯而易見，有關當局認同其所支持的方案會如上述所言般損害消費者利益，也認同流動網絡營辦商所支持的方案，即繳付合理費用為頻譜牌照續期，將最能確保達致延續客戶服務的目標。

有關當局於第二次諮詢文件內的附表 2 中，嘗試量化其認為最可行方案對消費者造成的損害，然而我們的技術專家一致認為此乃過度樂觀下所估計的最佳情況，對消費者的實際影響應會更嚴重。

此外，從《通訊事務管理局條例》亦清楚可見推廣消費者權益，鼓勵多創新及促進投資是通訊事務管理局的核心功能。政府促進投資的責任更清楚列明於《香港基本法》。然而，有關當局卻仍偏向採納與其目標背道而馳的方案。

在此情況下，事務委員會委員有理由質疑為何有關當局仍然偏行此路。他們於兩份諮詢報告所引述的益處充其量都只屬推測，毫無實質證據。

有關當局所引述的益處是：其一，將三分一的頻譜拍賣可能令頻譜獲得更有效的使用；道理是價高者得者定必積極善用頻譜。但在香港競爭如斯激烈的市場，流動數據使用量急升，而現有流動網絡營辦商對頻譜的需求則有增無減，說頻譜未獲有效使用跟本不切實際。「可能」、「或許」、「也許」等字眼根本不能取代確切的分析和證據。

其二，倘若有另一營辦商加入，市場競爭可能因而得以提升。惟在全球競爭已經最熾熱的市場之一，倘若真的有另一家流動網絡營辦商加入，市場可能因而變得更具競爭力的說法亦只是大膽推測。中國移動是目前唯一明確表明有意競投頻譜的營辦商，但該公司已擁有充裕的頻譜，並透過其他流動網絡營辦商的網絡提供 3G 服務，過往曾擁有公平投頻的機會，而未來亦存在其他獲得頻譜的機會。有關當局實在不必充公現時本港流動網絡營辦商的頻譜以懲罰他們的客戶。

再者，頻譜交易及／或數碼紅利(digital dividend 終止模擬廣播可騰出珍貴頻譜)更能在 2016 年前迎合中國移動對頻譜的需求，此舉既由市場主導，

屬自願性質，亦無損用戶及其所屬服務供應商的利益，有關當局應加快推行更有利客戶的頻譜交易及／或數碼紅利(digital dividend)。

總括來說，最終無論是有關當局所支持的方案還是流動網絡營辦商所支持的方案獲採納，有關當局建議的頻譜收費已可能意味著香港的頻譜費用將擠身全球最高行列，而且向流動網絡營辦商徵收實質上屬懲罰性的稅項亦毫無理據，這將造成價格上升、創新或投資減少或兩者雙雙下調，最終只會損害消費者。

我們相信事務委員會委員明白有關事件關乎重大的公眾利益，希望有機會於指定的審議會中向相關人士提供更多資料及說明。