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Panel on Information Technology and Broadcasting

Meeting on 4 February 2013

**Background brief on issues relating to
arrangements for frequency spectrum**

Purpose

This paper provides a summary of views and concerns expressed by Members on issues relating to arrangements for frequency spectrum.

Background

2. With the increasing popularity of smart phones, notepads and other advanced communications devices, mobile services in Hong Kong have continued to grow rapidly in recent years. Adequate and timely supply of radio spectrum to meet the incessant demand for additional network capacity is considered essential and critical to the healthy development of the mobile industry.

3. Frequency spectrum in the 1.9 – 2.2 GHz band was assigned through auction to four mobile network operators ("MNOs") for the provision of 3G mobile services in October 2001 for a tenure of 15 years. The four incumbent 3G operators are CSL Limited, Hong Kong Telecommunications (HKT) Limited, Hutchison Telephone Company Limited and SmarTone Mobile Communications Limited. Their existing 3G frequency assignments will expire on 21 October 2016. Another MNO, China Mobile Hong Kong Company Limited, has not been assigned with any spectrum in this frequency band. It is currently providing 3G services under commercial agreements with some of the incumbent 3G operators by deploying the latter's 3G network capacity.

4. According to the statement issued by the former Telecommunications Authority ("TA") in January 2008 on minimum notice periods for variation or withdrawal of spectrum assignments upon and before their expiry, insofar as it is practicable in the circumstances, the decision of the Communications Authority ("CA") on whether to renew the frequency assignments with different frequencies assigned, or not to renew the assignments at all upon their expiry, should be notified to the incumbent operators at least three years in advance, i.e. by October 2013 at the latest for the 3G spectrum re-assignment exercise.

Previous discussion

5. During the deliberations of the Subcommittee on Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2012 and Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2012 ("the Subcommittee"), members noted that the validity period of the radio spectrum assignment would last for 15 years. Some members considered that the Administration should consult the trade and the public at large on the overall policy in this respect, so that suitable adjustments could be made in certain aspects, such as the right of renewal of any licence or spectrum assignment.

6. The Administration advised that according to the Radio Spectrum Policy Framework promulgated by the Government in April 2007, there was no legitimate expectation that there would be any right of renewal of any licence or spectrum assignment upon the expiry of a licence or spectrum assignment under the Telecommunications Ordinance ("TO") (Cap. 106). A market-based approach (such as auction) should be used unless there were overriding public policy reasons not to do so. Nevertheless, the Administration would take into account the members' views and the views previously gathered when it started the second round of public consultation on the possible arrangements as to how the frequency spectrum in the 1.9 – 2.2 GHz band should be assigned when the existing 3G frequency assignment expired in October 2016.

7. Some members enquired about the updated position of the Spectrum utilization fee ("SUF") received by the Office of the Communications Authority ("OFCA") Trading Fund, and whether there was any room for downward adjustment of the relevant licence fees to benefit the consumers. The Administration advised that so far, 560 MHz of radio spectrum had already been assigned and the total amount of SUF involved was \$12.5 billion. The SUF received would not go to the OFCA Trading Fund, but the

General Revenue Account. As regards OFCA Trading Fund, OFCA would review its financial position from time to time and consider making adjustments to the licence fees.

8. The Subcommittee enquired whether there were any licence conditions or policies governing spectrum trading. According to the Administration, there was currently no established platform for spectrum trading. The former Office of the Telecommunications Authority appointed a consultant to study the feasibility of introducing radio spectrum trading in Hong Kong for facilitating economic and technically efficient use of the scarce public resource. The consultant found that spectrum trading was not active even in countries with such platform established. The Administration also gathered the view of the trade on spectrum trading and found that while demand from the trade for radio spectrum was strong, spectrum rights holders were not keen to transfer the precious resource to others. The Administration therefore did not consider the issue of radio spectrum trading a matter of priority to be addressed. Under the TO, the power to assign frequency bands rested with CA. The question of transfer of radio spectrum amongst licencees, without seeking CA's approval, would not arise. Nevertheless, the trade for radio spectrum might take place in the form of mergers and acquisitions amongst the licencees, and such activities were governed by the relevant provisions under the TO.

9. Some members were of the view that the consultancy report on the feasibility of introducing radio spectrum trading in Hong Kong should be made open to the public to provide transparency in the Administration's policy in this respect. The Administration advised that the consultancy report might not be released as it contained sensitive and confidential commercial information. At the request of the Subcommittee, the Administration provided on 21 January 2013 a written response as to whether the consultancy report on the feasibility of introducing radio spectrum trading in Hong Kong should be published (LC Paper No. CB(4)346/12-13(01)). The Administration advised that according to the Radio Spectrum Policy Framework, the policy inclination was to introduce spectrum trading in Hong Kong in the long term, subject to a feasibility study and resolution of various implementation issues. The Administration was examining the recommendations of the consultant, together with the latest international trend and the market situation in Hong Kong to map out the way forward. After formulating the next step of the work plan, it would publish the consultancy report and brief members accordingly.

Recent developments

10. The Secretary for Commerce and Economic Development ("SCED") and the former TA jointly issued the first consultation paper in March 2012 to solicit the views and comments of the industry and interested parties on the arrangements for re-assignment of the 1.9 – 2.2 GHz spectrum upon expiry of the existing assignments. Having considered the views and comments received in response to the first consultation paper, the SCED and the CA jointly issued the second consultation paper on 28 December 2012 which proposed a hybrid option of administratively-assigned cum market-based approach in the 3G spectrum re-assignments for further consultation until the closing date of 28 February 2013.

Latest position

11. The Administration will brief the Panel on 4 February 2013 on the second consultation paper and arrangements for the frequency spectrum in the 1.9 – 2.2 GHz Band upon expiry of the existing frequency assignments for 3G mobile services and the related issues.

Relevant papers

12. A list of the relevant papers with their hyperlinks is at:
http://www.legco.gov.hk/yr12-13/english/hc/sub_leg/sc103/general/sc103.htm.

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