

4 October 2013

By mail and By fax (No.3128 2436)

Ms Elaine Lau  
Head Legal Counsel  
Legal & Regulatory Affairs  
SmarTone Mobile Communications Limited  
31/F, Millenium City 2  
378 Kwun Tong Road  
Kwun Tong  
Kowloon

Dear Ms Lau,

**Consultancy Study in relation to the Impacts on Service Quality and Customers of Adopting a Hybrid between Administratively-assigned and Market-based Approach in Re-assigning the Spectrum in the 1.9 – 2.2 GHz Band (the “Study”)**

I refer to your letter of 8 August 2013 on the Study.

On your request for a full cost-benefit analysis to compare Options 1 and 3, we would like to remind you that the second consultation paper entitled “Arrangement for the Frequency Spectrum in the 1.9 – 2.2 GHz Band upon Expiry of the Existing Frequency Assignments for 3G Mobile Services” issued in December 2012 has already made an assessment of the three options against the multiple policy objectives in spectrum re-assignment, and on the basis of the assessment, Option 3 was put forward for further consultation. As explained in the letters of the Commerce and Economic Development Bureau (“CEDB”) of 10 July 2013 and 9 September 2013 as well as my letter of 26 July 2013, the re-assignment arrangement which would best meet the multiple objectives as set out in the two public consultation papers on re-assignment of the spectrum in the 1.9 – 2.2 GHz band (the

“3G Spectrum”) will be selected as the way forward.

You raised a question on how the appraisal required under the Spectrum Policy Framework (the “Framework”) promulgated in April 2007 would be complete if all costs and benefits of each re-assignment option are not fully taken into account. We assume you are referring to paragraph 4.4 of the Framework which concerns an appraisal of impacts of different options before a *spectrum refarming exercise*. As you are well aware, the re-assignment of 3G Spectrum is not a spectrum refarming exercise and hence the requirement under paragraph 4.4 of the Framework is simply not relevant. The CEDB has already explained this issue to you in its letter of 9 September 2013.

We have carefully considered your comment that the cost to be incurred by operators associated with each option is relevant to deciding the 3G Spectrum re-assignment arrangement. Our position remains as set out in my letter of 26 July 2013. We would like to point out that even if the administratively-assigned approach is adopted in re-assigning the 3G Spectrum, the incumbent 3G operators are still required to pay the spectrum utilisation fee (“SUF”) for the 3G Spectrum, and this is a cost for the operators. Under the proposed Option 3, whether an incumbent 3G operator would exercise its right of first refusal for two-thirds of its 3G Spectrum and/or bid for the re-auctioned spectrum would be commercial decisions for the operator to make taking into account a range of factors including, if we may venture to suggest, the level of SUF for the spectrum and the amount of network investment required for mitigating any service impact arising from the reduction of the 3G Spectrum holding. As such, the cost to be incurred by operators associated with each option varies according to their commercial decisions.

On your request for disclosure of the Study report for you to ensure that your clarifications and supplementary data have been correctly incorporated into the model, we have impressed upon the consultant the need to duly take into account your inputs and comments in undertaking the Study.

You also requested in your letter that further consultation take place. Having conducted two rounds of public consultation starting in March 2012, with a combined consultation period lasting for seven months, all interested parties have been given ample opportunities to give their views and comments on the 3G Spectrum re-assignment arrangements. All views and comments received during the consultation, including those submitted by the incumbent 3G operators, will be thoroughly considered in mapping out the way forward for this matter.

We have sent the same letter to other three parties who have signed on the letter of 8 August 2013.

Yours sincerely,



( Chaucer Leung )  
for Director-General  
of Communications

c.c. Ms Yue Tin-po, Chief Council Secretary, Legislative Council Panel  
on Information Technology and Broadcasting (Fax : 3151 7052)