

**Expiry of Spectrum Licences for 3G Mobile Communications Services:
Submission by Hutchison Telephone Company Limited to Public Hearing by
the Legislative Council's Information Technology and Broadcasting Panel
on 27 March 2013**

The Government Consultation Papers (CP) emphasize repeatedly the successes of the Hong Kong mobile communications market in delivering benefits to the Hong Kong public. For example, they recognise that Hong Kong has “one of the most competitive mobile telecommunications markets in the world”, that “the volume of mobile data traffic has been growing in leaps and bounds in recent years” and that new applications “are expected to fuel the growth in mobile data traffic”. We fully agree. But the key question in this consultation is how best to allow this success story to continue: is it better to allow the mobile network operators (“MNO”) to continue to deliver these benefits to Hong Kong by renewing their licences, or to threaten their ability to do so by removing all or part of their spectrum allocation? The answer to this question is self-evidently the former.

The CP itself supports this conclusion. It expressly acknowledges that a re-auction process for all or part of their spectrum would deter further investment and innovation for the benefit of Hong Kong consumers, and cause extensive customer disruption. These serious effects in themselves should be enough to decide in favour of licence renewal. This conclusion is also supported by international expert opinion and precedent. A decision to proceed with re-auctioning all or part of the spectrum would therefore be irrational, and contravene the statutory duties of the Communications Authority. It would also (contrary to the assertion in the CP) breach the MNOs’ legitimate expectations, based on previous public policy decisions on spectrum renewal.

There is no evidence to suggest that re-auctioning all or part of the spectrum would increase the keen competition which already exists, or increase the efficient use of spectrum. On the contrary, the CP itself (as noted above) acknowledges that the Hong Kong mobile communications market is one of the most competitive in the world, and that competition drives the efficient use of spectrum. There is no rational basis for damaging existing competition, innovation and investment, in the speculative and unrealistic hope of generating more competition and efficiency in the future.

If the Government wishes to allow scope for even greater efficiencies to be realised in the future, the solution is to enable spectrum trading, not to engage in an inefficient re-auction process which might simply serve to appropriate resources from the MNOs which could be used to satisfy the public’s continuous demands for high quality, high value services. Allowing the MNOs to continue to compete, innovate and invest, while allowing them to trade spectrum where appropriate, would be consistent with the “market-based” approach the Government has publicly espoused. Re-auctioning spectrum in a market which is already highly competitive and delivering such obvious public benefits would not. On the contrary it would amount to a highly interventionist, and dangerously speculative, attempt to “re-engineer” a market which is already working extremely well for Hong Kong and its citizens.