Legislative Council Panel on Information Technology and Broadcasting

Submission by Hong Kong Telecommunications (HKT) Limited for Meeting on 27 March 2013

Hong Kong Telecommunications (HKT) Limited ("**HKT**") appreciates both the holding of this special panel session and the opportunity to present its views on this extremely important issue. Indeed, we view this as the most important issue on OFCA's agenda in many years.

The spectrum issue now being considered via a public consultation raises the question of what to do when spectrum already in use by millions of consumers comes up for renewal. Should the spectrum simply be re-auctioned in whole or in part, or should some other spectrum allocation solution be found? Since the Government acknowledges that even a partial auction of this spectrum will substantially disrupt service quality to users, HKT supports a way forward that preserves service quality and service continuity for users.

This is not a case of new spectrum where an auction, such as was conducted last week, is appropriate. This is a spectrum renewal case.

In OFCA's two Consultation Papers, 3 options have been raised. The industry generally supports Option 1. OFCA supports Option 3. Those two options are further discussed below.

The Government correctly acknowledges in both consultation papers that Option 1 is best for users in terms of service quality and service continuity. In our view this is the most important factor to consider.

Based on this factor and the other relevant factors, our conclusion is that Option 1 coupled with a fair and reasonable spectrum fee best meets the public interest and should be the way forward. Indeed, this is what has happened before in Hong Kong and represents global best practices in regards to spectrum renewals.

The Government has also acknowledged that under its preferred option, Option 3, the result will be a substantial decline in service quality for users. The Government says that under its proposal there will *only* be an 18% decline in service quality. To be clear, this means in plain language that the Government is quite content if consumers face at peak periods or high use areas such as the MTR, a substantial increase in dropped calls, dropped data sessions, failed attempts, traffic congestion and service degradation. The Government's 18% decline in service quality conclusion, as scary as it is, actually underestimates the actual decline in service quality. The government's assumptions as to future market demand, operator capacity, cell site numbers, handsets and technology downplay the level of consumer harm. In our view the admitted service degradation of 18% will actually be substantially higher.

It is not clear why LegCo should support or accept an option where consumers and the economy are so adversely affected.

The Government opines that its preferred option will increase investment, innovation, spectrum efficiency and competition. I use the word opine because there is no real data or analysis behind this opinion. The Government talks in terms of possibly's, might's, could's and maybe's, not facts or analysis.

For example, the Government says that Option 3 might increase competition. Yet, the mobile market with its 5 active competitors is extremely competitive. This is recognized by the Government and other observers. Indeed, in terms of competition and price levels, the Hong Kong market is well known to be in the category of "global bests." Further, all 5 competitors have access to 3G spectrum, either through direct ownership, resale, or network sharing arrangements. It is not the case that one competitor lacks 3G capacity.

In reality, Option 3 would just as likely or more likely upset the competitive balance in the market.

The Government also says that its proposal might increase efficiency, possibly enhance investment and maybe increase innovation. All conjecture, all unlikely to occur in a market already generating global best benefits to consumers. For example, a fragmentation of the 3G spectrum into 6 smaller spectrum blocks as proposed under Option 3 could leave each competitor with too little spectrum to efficiently compete in the offering of high speed services to users. All these possibly's, might's and maybe's are done to counter the one undisputed and uncontested fact that under the Government's proposal consumers will suffer substantial service quality declines. In other words, all these possibly's, might's and maybe's are done to allow the Government to conclude that option 3 is somehow overall better for consumers than Option 1. The Government's approach is both wrong and irrational.

Hong Kong is a service based economy. Data traffic increased 450 fold from 2007 to 2011, and increased 124% in 2011 alone. Future demand curves are even more extreme. Yet, the Government is proposing to harm users and undermine an industry which is essential for Hong Kong's businesses and personal use, as well as its position as a regional hub. One really must ask why. Certainly your constituents will ask you why.

The proper way forward is to do what Hong Kong and other OECD countries have done before in cases of spectrum renewals. This was done in Hong Kong in 1995 and 2004, and is the way renewals have been handled in almost all OECD countries such as the UK, Canada, Australia, Singapore, etc. Renew the spectrum licenses to the incumbents at a price based on past relevant auction results here and abroad. This approach ensures the highest possible levels of service quality and provides a fair return to the Government. This does not tilt the playing field to assist any one licensee, nor does it provide the most possible money to a Treasury that has huge surpluses. But consumer interests and precedents both indicate that Option 1 is best.