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10 July 2013

Mr Patrick Chan
Executive Director
SmarTone Mobile Communications Limited
31/F, Millenium City 2
378 Kwun Tong Road
Kwun Tong
Kowloon

Dear Mr Chan,

**Re-assignment Arrangements for
Spectrum in the 1.9-2.2 GHz Band (“3G Spectrum”)**

I refer to your letter of 31 May 2013 to the Chairman of the Communications Authority (“CA”) with copy to the Secretary of Commerce and Economic Development (“SCED”). As you mentioned the consultancy study commissioned by the Government in relation to the impacts on service quality and customers of adopting the proposed hybrid option in re-assigning the 3G Spectrum (the “Study”), SCED has in this regard authorized me to reply on his behalf.

First of all, we would like to emphasize here that service continuity and quality, important as it is, is but one of the considerations underlying the way forward with the 3G Spectrum re-assignment arrangements. As explained in both the first and second consultation papers jointly issued by the CA and the Government, we aim at achieving multiple policy objectives in re-assigning the 3G Spectrum, viz. ensuring customer service continuity, efficient spectrum utilisation, promotion of effective

competition, encouragement of investment and promotion of innovation services. Thus, apart from evaluating the extent to which the proposed hybrid option may meet the objective of ensuring customer service continuity, there is also a need to holistically evaluate the proposed hybrid option against all other important policy objectives in spectrum re-assignment, and would then choose the re-assignment arrangements which would best meet the multiple policy objectives, in accordance with the policy principles promulgated in the Spectrum Policy Framework in April 2007.

Following the publication of the second consultation paper on the subject in December 2012, various interested parties have zeroed in on the impacts on service quality and customers if the proposed hybrid option is adopted for re-assigning the 3G Spectrum in expressing their views and concern on way forward. The Government therefore appointed an independent consultant (the “Consultant”) to undertake the Study with a view to providing an objective quantitative assessment on the matter. We note that the Office of the Communications Authority (“OFCA”) has in its letters of 21 May 2013 and 29 May 2013 invited the mobile network operators (“MNOs”) to participate in the Study at various stages. The involvement of MNOs in the Study includes the provision by MNOs of relevant data to facilitate the conduct of the Study, the Consultant providing to the MNOs an overview of the assessment model in early June, it presenting to the MNOs the preliminary assessment results during the last week of June and the provision of comments by MNOs on the preliminary assessment results by 12 July 2013.

You would have noted that the timeline of the Study has been extended. It will now take around 11 weeks for the Consultant to complete the Study and in particular, an extended period of time is allowed for MNOs to comment on the preliminary assessment results. We consider such an approach to seek input from and to involve the MNOs in the Study sufficient and appropriate in order to preserve the independence of the Consultant and the findings of the Study. We also consider that, with the extended timeline, the MNOs have sufficient opportunity to express their comments on the preliminary assessment results. We encourage you to provide your comments to the Consultant on the preliminary assessment results by the deadline set so that it could duly take into account your comments in undertaking the Study.

We note that you have also requested for further consultation on the level of the spectrum utilisation fee (“SUF”) for this 3G Spectrum re-assignment exercise. Two methods have been proposed in the second consultation paper for setting the SUF of the “Right of First Refusal Spectrum” under the proposed hybrid option, which are both premised upon the market-based approach. The Government will duly consider the views and comments on the proposed two methods as expressed in the submissions. We do not see the need to consult again on the issue.

As a matter of fact, the consultation exercise of the subject matter was kick started in March 2012 and has gone through two rounds of public consultation, with a combined consultation period lasting for 7 months. We trust that ample opportunities have already been given to all interested parties to give their views and comments.

We have sent the same letter to the other three parties who have signed on the letter of 31 May 2013.

Yours faithfully,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line that ends in a small upward tick.

(Ivanhoe Chang)

for Secretary for Commerce and Economic Development

c.c. Mr Ambrose Ho, Chairman, Communications Authority
Fax: 2507 2219

Hon Charles Mok, Member of the Legislative Council
Fax: 3020 9867