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9 September 2013

Mr Peter Wong
Chief Executive Officer
Hutchison Telephone Company Limited
19/F, Hutchison Telecom Tower
99 Cheung Fai Road
Tsing Yi
Hong Kong

Dear Mr Wong,

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

I refer to your letter of 26 July 2013 to the Secretary of Commerce and Economic Development (“SCED”). I am authorized to reply on his behalf.

On the continued focus of the incumbent 3G mobile network operators (“MNOs”) on the impacts on service quality in expressing views and concerns on the way forward with the 3G Spectrum re-assignment arrangements, we are obliged to remind you here again that, as explained clearly in our letter of 10 July 2013 as well as the first and second consultation papers, there are 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. Our goal has been, and remains to be, to map out the re-assignment

arrangement which would best meet the multiple objectives, in accordance with the policy principles promulgated in the Spectrum Policy Framework (“Framework”) in April 2007.

In relation to the consultancy study on the impacts on service quality and customers of adopting the proposed hybrid option in re-assigning the 3G Spectrum (the “Study”), we consider it of utmost importance to preserve its independence in order that the consultant can provide an objective and impartial quantitative assessment. As such, neither it is appropriate nor is there any need for the consultant to obtain prior agreement from the MNOs, or from the Government for that matter, on the methodology of the Study and the assessment model used. We note that you and the other MNOs had been working with the consultant during the Study by providing the relevant data and comments on the assessment model and the preliminary assessment results. Your comments on the Study to the Office of the Communications Authority (“OFCA”) vide the joint letters of 28 May 2013 and 7 June 2013 had already been conveyed to the consultant for their consideration.

Your allegation that *“the extension of the timeline of the Study has not been to allow greater participation by MNOs but is due to other constraints, for example the belated realisation by OFCA that appropriate confidentiality agreements needed to be put in place before the MNOs could release data to Network Strategies”* is baseless. As a matter of fact, the presentations by the consultant to the MNOs on the overview of the assessment model and the preliminary assessment results had been conducted in early June 2013 and in the last week of June 2013 respectively, in accordance with the timeline of the Study first communicated to the MNOs in OFCA’s letter of 21 May 2013. The Study had been conducted as per the original timetable till the presentation of the preliminary assessment results in the last week of June 2013. It was primarily due to the feedback from the MNOs that the Study timeline was extended to allow more time for MNOs to comment on the preliminary assessment results and for the consultant to consider the comments received. The Study was originally scheduled to be completed in early July 2013. With the above extension, the Study is now expected to be completed in end August 2013. It is considered that the duration of the Study with more than one-month extension is both sufficient and commensurate with the scope of the Study.

In your letter, you also quoted paragraph 4.4 of the Framework to argue for a cost and benefit analysis for the 3G Spectrum re-assignment arrangements. As you are aware, paragraph 4.4 of the Framework concerns the appraisal of impacts of different options before a spectrum

refarming exercise. Generally speaking, spectrum refarming refers to the exercise of vacating existing spectrum users so that the vacated spectrum could be allocated to another higher value use. The decision made by the then Telecommunications Authority in March 2012 to withdraw, subject to a three-year transitional period, the frequency allocation for personal handy phone system (“PHS”) in the 1895-1906.1 MHz band so that the vacated spectrum could be used for the provision of other telecommunications services is an example of such spectrum refarming exercises.

In contrast, the 3G Spectrum re-assignment exercise does not involve the allocation of vacated spectrum to a new use. The concerned spectrum in the 3G re-assignment exercise will continue to be dedicated for the provision of public mobile services. Given that the re-assignment of 3G Spectrum is not a spectrum refarming exercise, paragraph 4.4 of the Framework simply bears no relevance.

In regard to the methods for setting the spectrum utilisation fee (“SUF”) of the “Right of First Refusal Spectrum” under the proposed hybrid option, the SCED has proposed two methods in the second consultation paper for further consultation. These two methods were proposed having taking into account the views and comments received in response to the first consultation and the reasoning was given in paragraphs 41 - 44 of the second consultation paper. The SCED will take into account the further views and comments received during the second consultation in making the final decision.

You repeated in your letter the requests for the disclosure of the Study report, further consultation (on the Study findings and SUF) as well as a relaxation of the October 2013 working target. We note that such requests have been raised vide the joint letter of 31 May 2013 and would like to refer you to our response given in our letter of 10 July 2013. The consultation exercise was kick started in March 2012 with a combined consultation period lasting for 7 months. All interested parties were given ample opportunities to give their views and comments on the exercise including the Study. Please rest assured that the Government and the Communications Authority will carefully examine all the views and comments received during the consultation in considering the way forward with the 3G Spectrum re-assignment.

We have sent the same letter to the other three parties who have signed on the letter of 26 July 2013.

Yours sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line and a short vertical stroke.

(Ivanhoe Chang)

for Secretary for Commerce and Economic Development

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

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