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12th June, 2014

Clerk to Subcommittee on Three Regulations
Under the Telecommunications Ordinance Gazetted
on 16th May, 2014
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road, Central.

Dear Sirs,

**Re: Subcommittee on Three Regulations under the Telecommunications
Ordinance Gazetted on 16 May, 2014**

We refer to the Invitation for Submissions for the subject matter sent to us on 5th June, 2014 and would submit as follows.

Our key concern is on s3 of the Telecommunications (Method for Determining Spectrum Utilization Fee)(Administratively Assigned Spectrum in the 1.9-2.2 GHz Band) Regulation. According to that section, "the spectrum utilization fee determined under this Regulation is to be paid in a lump sum and payable at the time and in the manner required by the Authority."

From the above section, it is not clear if that lump sum payment of SUF is deductible for income tax purpose. But our recent correspondence with the IRD seems to indicate that such payment of SUF will be considered as capital in nature, hence, no deduction will be allowed for income tax purpose.

We have grave concerns on this because millions of dollars are at stake here. More importantly, as an important business and telecommunication hub in Asia, investors would like to see that the same principle and consistency will apply in Hong Kong particularly in the area of tax.

The reason being that as early as in the 2001 3G spectrum auction, there was a clause specifically addressing the issue of tax deductibility for annual SUF payment. We are bewildered to see that no tax deduction will be allowed simply because of the change of payment terms from an annual one to a lump sum method. As a matter of fact, there has not been any change in the nature of the subject matter itself, i.e. spectrum. Based on the foregoing, we do not see any reason for not adopting the same tax deductibility principle to different payment methods while the subject matter remains the same.

In light of the above, we would urge the sub-committee to make necessary amendments to the abovementioned s3 to the effect that tax deduction shall be allowed in respect of such lump sum payment of SUF for income tax purpose or to change the payment method back to annual payment so as to avoid triggering unnecessary tax burden to the industry

Yours faithfully,

For and on behalf of

China Mobile Hong Kong Company Limited

PP 

SE Sean Lee

Director and Chief Executive Officer