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16 June 2014

Ms Debbie Yau  
Clerk to the Subcommittee on three regulations  
under the Telecommunications Ordinance (Cap. 106)  
gazetted on 16 May 2014  
Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road, Central  
Hong Kong

Dear Ms Yau,

**Subcommittee on three regulations under the  
Telecommunications Ordinance (Cap. 106) gazetted on 16 May 2014**

**Meeting on 17 June 2014**

Thank you for your letter dated 13 June.

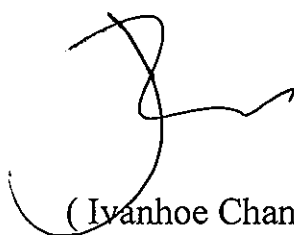
The submissions received by the Subcommittee raised two issues – (i) the minimum level of spectrum utilisation fees (SUF) for the spectrum to be re-assigned through right of first refusal (RFR spectrum); and (ii) tax treatment of lump sum SUF payment.

On (i), the re-assignment arrangements for the 3G spectrum, including the method for determining SUF for RFR spectrum, was discussed thoroughly during the two rounds of public consultation which

together lasted seven months. All the views received during the consultation, including those expressed at the public hearing held by the Legislative Council Panel on Information Technology and Broadcasting on 27 March 2013, were duly considered before the Communications Authority and the Secretary for Commerce and Economic Development jointly announced the re-assignment arrangements on 15 November 2013. The considerations on the level of SUF for RFR spectrum were detailed in paragraphs 52 – 63 of the Joint Statement<sup>1</sup> published on the same day. We do not need to repeat them here.

One should note that the minimum SUF for RFR spectrum and the auction reserve price are two separate concepts. They should not be compared directly as suggested by some of the received submissions. The minimum SUF for RFR spectrum is the minimum fee an incumbent 3G operator has to pay if it exercises the right of first refusal to be re-assigned part of its current 3G spectrum holdings (i.e. without entering into any competitive process). On the other hand, auction reserve price aims to shed light on the possible value of the spectrum for kicking start the competitive bidding process.

On (ii), it is fundamentally a matter of tax policy. The level of SUF aims to reflect the market value of spectrum as a scarce public resource. Tax treatment of SUF has never been a consideration of the Administration in deriving the level of SUF. Tax policy is an entirely separate subject. An organisation should seek assistance from its tax advisors or the Inland Revenue Department on queries or questions relating to tax treatment.



( Iyanhoe Chang )

for Secretary for Commerce and Economic Development

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<sup>1</sup> [http://www.cedb.gov.hk/ctb/eng/paper/pdf/Complete\\_Joint\\_Statement.pdf](http://www.cedb.gov.hk/ctb/eng/paper/pdf/Complete_Joint_Statement.pdf)