

Cable & Wireless HKT CSL LIMITED
Submission on Issues Arising out of the
Telecommunication (Amendment) Bill 1999

Cable & Wireless HKT CSL Limited (CWHKTCSL) submits to the Bills Committee of the Legislative Council concerning the Telecommunication (Amendment) Bill 1999 (“the Bill”) its comments as follows:

1. Power to place and maintain telecommunications lines, etc. on Land, etc.

Mobile communication has demonstrated phenomenal growth over the past few years in Hong Kong and in other parts of the world. The increasing use of mobile communication means it is as important a means of communication as traditional fixed communication in Hong Kong. This is evident from the following:

- The total number of public mobile radiotelephone subscribers at the end of June 1999 stood at some 3.5 Million, compared to 3.8 Million exchange lines. It is further expected that the total number of mobile telephone subscribers will exceed the total number of exchange lines by the end of 1999.
- Mobile communication is a means of essential communication as well as for emergency service in places like country parks and closed areas such as tunnels, MTR, etc.
- Mobile communication will become an equally important platform as fixed communication for E-commerce and Internet applications in the foreseeable future.

Despite the fact that mobile communication has become as equally prominent a means to communicate as fixed communication, under the Bill, mobile operators will not enjoy the same right to access land to install telecommunication facilities as their fixed counterparts. In fact, mobile operators have been facing the following difficulties in gaining site access:

- Property developers or their property managers have been unfairly favoring their affiliated mobile operators, denying access to or demanding prohibitive rentals for access from nonaffiliated mobile operators.
- The level of access fees/rentals is very often determined not by market forces, but by the level of exploitation made possible by a monopolistic position to extract maximum fees/rentals from the mobile network operators. This is the case for providing coverage in tunnels, confined areas (e.g., shopping malls), the Mass Transit Railway and the Kowloon-Canton Railway where the level of access fees/rentals charged far exceed that for roof-top sites.

- Even worse, the levels of access fees levied by tunnel operators have meant that CWHKTCSL is actually making operating losses in providing coverage in these tunnels.

In view of the status of mobile communication has acquired and the practical need for site access, CWHKTCSL submits that mobile operators should have an unconditioned right to install radiocommunication facilities on land and in the public areas of buildings, just as fixed operators have the same right to install tabling.

2. Spectrum utilization fee

The Bill (s.32I) provides that the Telecommunications Authority may “by order designate the frequency bands in which use of spectrum is subject to the payment of spectrum utilization fee by the users of the spectrum.”

The Bill further proposes the utilization fee may be calculated on a cost-plus basis. However, there is no indication as to how the fee level would be arrived at.

CWHKTCSL objects to the principle of charging for spectrum usage for the following reasons:

- The cost of acquiring use of spectrum may have to be recovered from customers, which means more expensive mobile phone services for them. Hong Kong consumers will be worse off as a result.
- This Bill means spectrum may be awarded by auctions. Auctioning of spectrum may lead to the concentration of the precious spectrum resources in the hands of a few who can afford but may not be fully or efficiently using the spectrum.
- Demand for spectrum will be substantially increased in view of the imminent arrival of Third Generation mobile technologies. It therefore becomes even more important to ensure an equitable allocation and efficient utilization of spectrum resources.
- The existing mechanism of spectrum allocation is based on a demonstration of the need and efficient utilization. This ensures an equitable allocation and efficient utilization of spectrum. Any change to this methodology will disturb the existing equilibrium.

CWHKTCSL recommends the preservation of the existing mechanism of spectrum allocation.