

1998 Review of Fixed Telecommunications - A Considered View Summary of Submissions

<u>Person/Organisation</u>	<u>Comment</u>
1. Alcatel China Holding	<p><i>External telecommunications - services</i></p> <p>Supports not limiting the number of service-based providers. Government should guarantee a fair environment for competition.</p> <p><i>External telecommunications - facilities</i></p> <p>Supports not limiting the number of facilities-based operators. Government should provide incentives on investment of new equipment or technologies and guarantee a fair environment for competition.</p> <p><i>Interconnection and access</i></p> <p>Supports the creation of a new form of licence for the construction and operation of in-building and in-estate broadband networks. The same licensing system should apply to wireless networks (e.g. DECT), wireline networks as well as hybrid infrastructure combining both.</p> <p>Government should ensure that tenants on these properties will not be overcharged if in-building / in-estate networks are allowed. Developers should be requested to invite tenders which should be open to the public for bidding.</p> <p>Developers should be required to use a standardised open interface on access facilities.</p> <p>For buildings and estates where it is either difficult or uneconomical to rebuild the telecommunications facilities, Government should introduce and encourage the use of state-of-the-art technologies to maximise the utilisation of existing copper-wire networks for broadband applications.</p>
2. AT&T Asia/Pacific Group	<p><i>External telecommunications - services and facilities</i></p> <p>Supports the proposals to place no limits on the number of external services licences and the number of external facilities-based licences when the two market segments are liberalised from 1.1.1999 and 1.1.2000 respectively.</p> <p>Expresses concern that some of the proposed provisions in the External Telecommunications Services Licence will actually inhibit competition.</p>

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	<p><i>Local FTNS licences</i></p> <p>Believes the same principle of placing no limits on the number of licences should apply to FTNS operators. Imposing a build-out requirements on new FTNS licensees, however, would constrain competition by limiting entry strategies. It was appropriate to impose a build-out criterion on the existing new FTNS licensees since they were given a three-year moratorium, but that is not the situation new FTNS entrants will be facing.</p> <p><i>Interconnection and access</i></p> <p>Agrees that the appropriate costs are forward-looking ones, and that the relevant costs include an appropriate cost of capital.</p> <p>Opines that, in addition to non-discriminatory access, the adoption of open standards for interconnection and cost-based charges for interconnection are also important issues.</p>
<p>3. British Telecommunications plc</p>	<p><i>Local FTNS licences</i></p> <p>Incentives may be provided to the FTNS operators to ensure that the desired level of competition is reached. This needs to be balanced against the need for the regulator to ultimately allow the market maximum flexibility for potential new entrants to review whether they want to participate and if so, in what way. Restricting the number of new licences is one method of ensuring competition provided by the current new FTNS operators develops; however, that means the market is dependent upon these current new FTNS operators to provide all the competition needed. Furthermore, restricting the number of operators does not necessary mean that these operators need retain exclusivity on services provided. Service level competition can be encouraged to ensure maximum use of the infrastructure put in place by FTNS operators. This includes policies such as equal/indirect access and infrastructure sharing, particularly in difficult to access areas such as in-building and the last mile.</p> <p>Less regulatory intervention is required if the development of competition were left to the market. This is to ensure that there is no penalty for them having joined the market later than the current new FTNS operators. Furthermore, any further infrastructure investment needs to be carefully considered to prevent cream-skimming and an overload of infrastructure in certain areas. Market power also needs to be taken into consideration when providing an open door licensing regime.</p> <p><i>External telecommunications - services</i></p>

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	<p>Supports the issue of an unlimited number of licences for voice ISR.</p> <p>Urges that the licensing be done simply, with the usual high degree of transparency. This is to ensure maximum flexibility for the market to determine the range and price of services to be offered.</p> <p>With circuits provided to voice ISR services on monopoly pricing rather than cost-based pricing, the potential for voice ISR services to develop is in essence reliant on an artificially high cost base.</p> <p>Appropriate, fair, transparent interconnection arrangements will be required to ensure that there is no discrimination against those voice ISR providers who require onward domestic connection to their customers. The interconnection charge should be calculated by reference to the cost-based long-run incremental cost pricing. Supports the recommendations that forward looking methods be used by the TA to calculate the cost.</p> <p>Supports the incorporation of fair competition safeguards in the PNETS licences if such safeguards are likewise incorporated into the licences of all other licensees. This is to ensure that there is a level playing field for all licensees competing in service provision.</p> <p><i>External telecommunications - facilities</i></p> <p>In general, there can be few situations in which Government or TA will be better able to predict the optimum number of external facilities-based operators than the market for these operators itself. The TA should ensure that the new entrants put in place plans that will enable Government to meet its policy objectives, including making Hong Kong a hub for telecommunications infrastructure and improving the employment situation. With a year of voice ISR competition, sufficient demand should have built up for facilities-based services and will make it easier for potential new entrants to evaluate the market.</p> <p>The costs to be paid to local access service providers should be based on actual costs of service provision and should be consistently applied to all groups of external service providers. These should be calculated on the basis of unbundled local loops rather than simply a "local access fee" so that there are appropriate incentives for local service providers to build out networks where viable and rely on existing infrastructure only as a last resort.</p> <p><i>Interconnection and access</i></p> <p>Agrees with the general principle that it is not desirable to over-regulate services or geographic areas because this will increase</p>

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	<p>regulatory complexity by segmenting the market, best done by the customers rather than the regulatory authority. New technologies will invariably be used to more efficiently provide services or applications and these can easily be regulated under these categories.</p> <p>Does not believe that broadband networks in-building should be undertaken without full business plans and therefore such activity should be left to market forces.</p> <p>Regulation</p> <p>Supports the measures to formalise the current informal consultation process undertaken by the TA prior to making significant decisions.</p> <p>Supports measures to introduce a class licensing regime.</p> <p>Any legislation introduced to specifically provide competitive safeguards should be firm and yet flexible enough to meet changing market conditions. As a general rule though measures to restrict abuse of dominant market power can be specific rather than couched in general terms, because abuse of dominant market power can lead to damaged competition which in itself is difficult to prove in the absence of certain tests. The penalty for such abuse should be set at an appropriate level such that it becomes economically non-viable to do so. These penalties can be calculated from the loss of economic value from damaged competition in each test.</p>
4. Champion Technology Holdings	<p>Local FTNS licences</p> <p>TA should publish the criteria for the issue of new licences.</p> <p>Opines that the 2% penetration achieved by the three new FTNS operators was not sufficient justification for the moratorium to continue.</p> <p>There should be a specific local content specified for future licences granted.</p>
5. Citizens Party	<p>It is essential to ensure that there is appropriate regulation in place before liberalisation occurs so as to maintain healthy competition and to avoid abuse by the dominant market player. It is widely acknowledged that the current regulatory structure, which is ineffective to curb anti-competitive behaviour, has stymied effective competition.</p> <p>Local FTNS licences</p> <p>Supports the Government's proposal to enhance the competition</p>

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	<p>safeguards so as to promote more effective competition.</p> <p>Supports the proposal for granting additional local FTNS licences. Noted that the total investment in the local infrastructure has increased substantially after the market was opened to competition in 1995.</p> <p>The existing disparity in the market shares of Hong Kong Telephone Company and the three new local FTNS providers needs to be further studied.</p> <p><i>External telecommunications - services</i></p> <p>An unregulated monopoly has strong incentive to charge the monopoly price to maximise its profit.</p> <p>There may be an optimal number of competitors because of economy of scale and economy of networks. But it is difficult for Government to determine the appropriate number of service providers without a market test. Recommends that the external services market be opened up to an unlimited number of operators, with no restriction on foreign ownership.</p> <p><i>Interconnection and access</i></p> <p>Supports the legislative proposals to clarify the powers of the TA with respect to interconnection. Supports the legislative proposals to facilitate access to buildings, and to encourage the provision and operation of in-building and in-estate broadband networks.</p> <p><i>Fixed vs mobile</i></p> <p>Fixed and mobile services have already converged and there appears to be no technological reason for maintaining a distinction in the licensing conditions.</p>
6. City Telecom (HK)	<p><i>Local FTNS licences</i></p> <p>In favour of allowing an unlimited number of service suppliers in all market segments. The number of FTNS licences will best be determined by market forces.</p> <p>An extension of the three-year moratorium, coupled with the proposed "forward-looking" interconnection regime, will place future ISR operators at a disadvantage in competing with the FTNS licensees.</p> <p>Objects in principle to the concept of a forward-looking interconnection fee to cover the investment risks of the FTNS licensees.</p>

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	<p>Depending on the final terms and conditions for future entrants, CTI is prepared to submit a detailed technical and financial proposal in due course.</p> <p><i>External telecommunications - services and facilities</i></p> <p>Supports Government's proposal to refrain from imposing a ceiling on the number of both external services licences and external facilities licences.</p> <p>All ISR operators should be granted an international access prefix 00X. FTNS operators should not be granted International Point Codes and C7 signalling codes for ISR purposes ahead of their competitors.</p> <p>The authorities should make a decision on the granting of additional external services licences no later than 1 November 1998. Licences for external facilities-based operations should be issued before 1 April 1999. New entrants require at least nine months to put in place the relevant international arrangements.</p> <p><i>Interconnection and access</i></p> <p>In favour of Government's proposal to create a new form of licence for the provision of in-building and in-estate broadband networks. This will be conducive to the introduction of a wide range of new services for residents and a necessary step to promote diversification in both telecommunications and television services.</p> <p><i>Regulation</i></p> <p>Opines that Government's proposal to increase the existing penalties ten times will not be sufficient to curb anti-competitive conduct, when compared with the benefits to those engaged in anti-competitive practices. It will be more effective for the penalties to be based on the revenue derived from anti-competitive behaviour or the losses inflicted on their competitors without any upper limit.</p>
7. Consumer Council	<p><i>Local FTNS licences</i></p> <p>Government should be cautious in deciding the extent to which it imposes licensing conditions if the FTNS market was to be opened up freely. An equitable balance has to be worked out to encourage innovation on the one hand, and to control the extent of "cream skimming" by the new operators on the other. Government should request the operators to show a long-term commitment to Hong Kong in terms of technology transfer, capital investment etc.</p>

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	<p><i>Interconnection and access</i></p> <p>Government should consider encouraging utility companies to co-operate in the construction of a common duct system. This would reduce the frequency of road openings and facilitate the entry of new operators and the introduction of new technologies. To avoid barriers to competition, it would be essential that those entities controlling the duct should act in a transparent manner and provide access to new operators on equitable terms.</p> <p>Welcomes the proposals to prohibit restrictive arrangements in respect of access to old buildings and to require mandatory provision of access facilities in new buildings. However, considers that the issue of barriers for access to old building had not been addressed adequately. Suggests that new provisions be included in the licences to mandate sharing of their facilities in old buildings and non-exclusive access.</p> <p><i>Regulation</i></p> <p>The current powers of the TA to enforce the fair competition provisions in licences are inadequate. The imposition of financial penalties for breaches of licence conditions should also take into account the benefits derived by the operator so as to provide a demonstrative deterrent effect. Further, the regulatory powers of the TA should be extended to provide a range of sanctions against anti-competitive behaviour such as corrective advertising.</p>
<p>8. Democratic Alliance for Betterment of Hong Kong</p>	<p>Policy objectives should include:</p> <ul style="list-style-type: none"> • facilitating Hong Kong as Asia's information technology, telecommunications and broadcasting centre; • enabling the entire community to have a right to choose fixed telecommunications network services and television broadcasting services; • ensuring that the entire community can connect to the broadband network to enjoy the services conveyed through broadband networks; • maintaining an environment conducive to fair competition; • ensuring that the community can obtain telecommunications services at reasonable costs. <p><i>Local FTNS licences</i></p> <p>The community is disappointed with the lack of choice for FTNS services since the penetration of the residential market by the three new FTNS operators is a meagre 0.5%. However, if the competition environment is not improved, could the community's expectation be</p>

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	<p>met? What role should Government play in maintaining a fair competitive environment?</p> <p>Supports the issue of licences to operators willing to make substantial commitments to the development of Hong Kong.</p> <p>Urges Government to:</p> <ul style="list-style-type: none"> • set a clear target that the entire community (particularly residential users) will have at least two service providers to choose from; • prevent operators from focusing their efforts and resources on non-FTNS services; • require new entrants to make explicit investment commitments, including the geographic reach of the network and the rollout timetable; • reflect on the experience gained during the past three years and remove obstacles to competition. <p>Regulation</p> <p>On Type II interconnection, considers that:</p> <ul style="list-style-type: none"> • Type II interconnection should be available to all FTNS operators; • all FTNS operators should be required to allow their customers to choose the services provided by other operators. The interconnection charges should be based on long-term investment costs and operational costs; • Government should review whether the approach of requiring the FTNS operators to negotiate commercially in the first instance was conducive to fostering competition in the local FTNS market; • Government should submit the policy proposal and the Bill to strengthen the powers of the TA as soon as possible. <p>Regulation</p> <p>Government should draft a "Fair Competition Ordinance"</p> <p>OFTA should be given more manpower resources to in particular handle regulatory functions aimed at maintaining fair competition.</p>
9. Global One	<p>Local FTNS licences</p> <p>Supports the immediate lifting of the moratorium on the issue of additional local FTNS licences. Rejects a policy approach based on vague promises of future investment levels. Liberalisation, reliance on market forces and appropriate regulation would be the best way forward.</p> <p>Would not propose that the issue of new FTNS licences should be</p>

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	<p>contingent on build-out requirements, performance bonds or other artificial/non-market approaches. It is time to let the market do what it does best : allocate capital and drive investment decisions based on market forces.</p> <p><i>External telecommunications - services</i></p> <p>Fully supports the proposal to fully liberalise the ISR voice market through the issue of an unlimited number of ISR voice licences from 1.1.1999.</p> <p><i>External telecommunications - facilities</i></p> <p>Fully supports the proposal to fully liberalise the external facilities market and issue an unlimited number of facilities-based licences from 1.1.2000.</p> <p><i>Interconnection and access</i></p> <p>Interconnection charges must be cost-based and permit a reasonable return on the investment. A forward-looking costing methodology based on incremental costs (i.e. long run incremental costs) best reflects a competitive market.</p> <p>Critical for Government and the TA to recognise that essential facilities such as submarine cables, cableheads, backhaul, earth stations, conduits/ducts, are bottlenecks and to prevent any FTNS licensee from acting in an anti-competitive manner to block or delay needed access on fair and reasonable terms.</p> <p><i>Regulation</i></p> <p>Fully supports legislative changes which would enable Government and the TA to more effectively regulate and oversee the market. Sector-specific regulation is appropriate in Hong Kong since one carrier is so clearly dominant and competition is so fragile. The global trend is not to regulate entities without market power in any manner (except perhaps local loop rates and interconnection) and to concentrate the regulator's limited resources on those entities with market power.</p> <p><i>Licensing</i></p> <p>Suggests that the expeditious licensing of ISR voice providers as per the PNETS process occur as quickly as possible. Further suggests that the licensing for new facilities-based external entrants also occur expeditiously. New local FTNS licence applications should also be invited.</p>

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10. Hong Kong DECT Forum	<p><i>Fixed vs mobile</i></p> <p>Previously, the CAS licence requirements were for a limited number of operators who were expected to provide a near-territory-wide service in competition with cellular systems. Suggests that operators (who need not be one of the territory-wide operators) should be allowed to provide service of this kind in limited areas. The future regulatory framework should not preclude a company, of any size, to provide localised services of this type.</p>
11. Hong Kong Democratic Foundation	<p>Strongly suggests that Hong Kong should not re-invent the wheel, but should try to identify and follow best practices in advanced overseas jurisdictions.</p> <p><i>Local FTNS licences</i></p> <p>Government should investigate why the three new carriers have together achieved less than 2% market share, and if appropriate, take vigorous action against any anti-competitive practices identified. Notes that competition has resulted in greatly reduced IDD prices, which have been very beneficial to Hong Kong.</p> <p>Government may wish to commission a study on the dynamics of the telecommunications market in Hong Kong compared with leading overseas markets.</p> <p>Opines that there should be no restriction on the number of licences issued if more carriers wish to enter the market.</p>
12. Hong Kong Internet Service Providers Association	<p>A free, open, consistent and competitive telecommunications and broadcasting regulatory regime is necessary for the development of Hong Kong's information infrastructure and the development of Hong Kong into a hub for information technology, telecommunications, and electronic commerce. It is also a pre-requisite for Hong Kong to take advantage of the changing paradigms in the new globalised, digital economy.</p> <p><i>Local FTNS licences</i></p> <p>Do not see a need for an arbitrary upper limit on the number of licensees; we should leave it to the market to decide. It is of equal importance to focus on the removal of impediments to optimal competition between existing and future competitors. These impediments include problems over interconnection, anti-competitive practices, predatory pricing etc.</p>

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	<p data-bbox="491 273 1018 304"><i>External telecommunications - services</i></p> <p data-bbox="491 344 1406 416">Agrees to an unlimited number of licences for services-based competition.</p> <p data-bbox="491 456 1406 631">The PNETS licences held by ISPs should be automatically expanded for the provision of Internet telephony services from 1.1.1999. Clarifications should be given to ISPs whether certain forms or classes of Voice over IP (or Frame Relay, etc.) services would require an ISR licence.</p> <p data-bbox="491 672 1026 703"><i>External telecommunications - facilities</i></p> <p data-bbox="491 743 1406 999">Agrees to an unlimited number of licences for facilities-based competition. However, concerned about the level of competition in 1999 because HKTI's exclusivities for external facilities will remain in force until 31.12.1999. This would have adverse effect on the full application of the latest, most advanced and economically efficient technologies in Hong Kong, thus hampering Hong Kong's competitiveness as a regional telecommunications and IT hub.</p> <p data-bbox="491 1039 858 1070"><i>Interconnection and access</i></p> <p data-bbox="491 1111 1406 1254">Interconnection between networks is critical to bring about the benefits of competition, and effective enforcement by the TA is necessary. The TA should determine a reasonable and cost-based interconnection charge.</p> <p data-bbox="491 1294 1406 1581">As an example, PNETS charges for Internet access is not conducive to the development of Internet in Hong Kong. PNETS charges should be kept low to enable more under-privileged and young users to access the Information Superhighway. Determination of a fair PNETS level should be transparent. A reasonable and cost-based interconnection charge is important for Hong Kong's attempt to build up itself as a regional traffic hub for telecommunications and the Internet.</p> <p data-bbox="491 1621 1406 2018">Access charges should not apply to ISP providing Internet telephony or Voice over IP (or Frame Relay or similar emerging technology) services. ISPs should be regarded and regulated as value-added service providers supplying services over networks operated by other infrastructure service providers. Such access charge would narrow or even eliminate the cost savings enjoyed by consumers making Internet calls, making it impossible for Hong Kong to compete with other regional and international competitors like the US and Japan, and to maintain its status as a regional telecommunications hub and Internet exchange. Strongly against the imposition of any access or universal service charges on ISPs for voice, data or multi-media</p>

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	<p>services.</p> <p>Regulation</p> <p>Call for stronger enforcement of competitive safeguards to ensure a fair and open competitive environment for all types of telecommunications and Internet services, to maintain a healthy environment for the development of the IT industry which depends on telecoms services with quality and choices. There must be stronger enforcement against violators and the level of penalty should be increased by at least ten-fold. In addition, competing service providers and consumers which suffer as a result of anti-competitive practices should be given a means to seek compensation against damages.</p>
<p>13. Hong Kong Telecom</p>	<p>Government's vision of Hong Kong as a world leader in the application and integration of telecommunications, broadcasting and information technology will not be realised if regulatory policies do not provide the right incentive for investment and innovation.</p> <p>The strategy of promoting competition in all sectors is also the best suited to build on Hong Kong's special strengths, but that strategy will not work if it includes policies which continue to limit Hong Kong Telecom's incentives to invest and its ability to compete against the intense competition which the Government's approach will introduce.</p> <p>January 1999 marks a fundamental change in the competitive landscape for telecommunications. Corresponding changes must be made in the Government's regulatory policies:</p> <ul style="list-style-type: none"> • Hong Kong Telecom must have greater flexibility to price and package service offers to compete with the new global competitors; • Government-imposed disconnection of network elements ("Type II Interconnection") is not necessary to assure the availability of unbundled local loops and would deter new investment by all operators. <p>Government should promote open entry into the Hong Kong market and proceed with its existing timetables to make available additional licences for telecommunications operators:</p> <ul style="list-style-type: none"> • additional local FTNS licences as soon as possible; • licences for ISR voice from January 1999; • licences for international facilities from January 2000. <p>Amendments to the Telecommunications Ordinance must be reasonably related to the objectives advanced by the Government and not be undertaken simply to extend authorities already adequately covered in existing provisions of law and regulation. These</p>

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	<p>proposals deserve extensive and detailed discussion and may need to be significantly revised before they are finally considered by the Legislative Council.</p> <p><i>Interconnection and access</i></p> <p>Agrees that domestic origination and termination charges paid by international service providers to local operators should be set according to cost-based standards. To do otherwise would subject Hong Kong to accusations of discriminatory practices that favour the existing FTNS operators and in turn deny Hong Kong the reciprocity opportunities that foreign markets may offer.</p> <p>To offer an "incentive premium" for the local delivery of international traffic would distort the incentives and mechanisms of a rational market. A non-cost based charge would only help to promote local network investment if the Government ensures that:</p> <ul style="list-style-type: none"> • the payment is received only by the FTNS operator who operators the network over which the traffic is either originated or terminated, otherwise it will simply promote arbitrage that will again distract the other carriers from facilities investment; and • there must be appropriate and enforced safeguards in place to deter attempts to abuse the arrangements proposed by Government. <p>Opposes the issue of licences with a limited geographic coverage because of concerns that such licences would only encourage "cream-skimming" and the creation of further access bottlenecks by property developers.</p> <p>Supports licensing in-building (and in-estate) broadband networks provided that the licences ensure parity of regulation for all "transmission providers" regardless of the technology applied, and that the licences prevent the exercise of bottleneck leverage by the property developers which are affiliated with the other three FTNS operators. If this cannot be achieved then combining property ownership with telecommunications network provision could cause significant competition problems.</p> <p>Supports Government's proposals to facilitate better access to new buildings.</p> <p>Supports interconnection for basic switched services, but believes that the proposals to broaden the TA's powers to require the provision of network elements is misconceived.</p>

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	<p data-bbox="496 273 703 304"><i>Fixed vs mobile</i></p> <p data-bbox="496 344 1406 452">Supports the view that we need not make any substantial changes to the ways in which mobile and fixed telecommunications are currently regulated.</p> <p data-bbox="496 492 1406 600">Supports Government's proposal to improve in-building access for mobile operators. This will further improve the range and quality of mobile services available to the public.</p> <p data-bbox="496 640 639 672"><i>Regulation</i></p> <p data-bbox="496 712 1406 999">The current regulatory environment could scarcely be described as "light-handed". Opines that the regulatory environment is tilted very much in favour of the other carriers, as evidenced by the "Competitive Checklist". Considers that as the telecommunications market is fully opened, regulation should be adjusted accordingly. Given the significant openness of the current market and the imminent entry of major global operators, further streamlining of the regulatory processes is justified.</p> <p data-bbox="496 1039 1406 1258">Fully supports a common set of competitive safeguards across the industry. However, they should be enshrined in objective competition tests that reflect internationally accepted economic principles. Decisions regarding competition regulation should not be made at the unfettered discretion of the TA and should be subject to an appeal mechanism on the merits of the decision.</p> <p data-bbox="496 1299 1406 1361">From 1999, a new approach to tariffing that focuses on the post-vetting rather than the pre-vetting of tariffs should be implemented.</p> <p data-bbox="496 1514 687 1545"><i>Local tariffing</i></p> <p data-bbox="496 1585 1406 1662">Supports the urgent need for rebalancing in the manner contemplated by the Framework Agreement. Rebalancing is essential:</p> <ul data-bbox="496 1671 1406 2002" style="list-style-type: none"> <li data-bbox="496 1671 1406 1733">• to send the right pricing signals for efficient entry into both the international and the local markets; <li data-bbox="496 1742 1406 1805">• to provide incentives for new entrants to invest in the local infrastructure; <li data-bbox="496 1814 1075 1845">• to promote competition in local services; <li data-bbox="496 1854 1406 1917">• to reduce the reliance of new entrants on revenue from international traffic; and <li data-bbox="496 1926 1406 2002">• to remove the cross-subsidy from international to local services and reduce the requirement for universal service contributions.

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<p>14. Hong Kong Telecommunications Users Group</p>	<p><i>Local FTNS licences</i></p> <p>Wishes to see effective competition in the local network. Does not consider that issuing more FTNS licences is likely to address the root problem. In fact, it could make those problems worse.</p> <p>Opines that Government could consider issuing one or more new FTNS licences, but such licences would need to be issued on the understanding that the new licensees would make a meaningful contribution to the local community. More of the same is not enough.</p> <p>Opines that competition has failed to develop in the local network because Government has not been diligent enough in ensuring that competition would develop following the issue of the licences to the new operators.</p> <p>Any new FTNS licence must be issued under extremely stringent conditions. In addition to the special services that it is to provide, the licensee must make serious commitments to Hong Kong in general and to its staff in particular.</p> <p>Users experienced serious concern about operators who reap the fruits of Hong Kong's economic success when times are good but do not shoulder any responsibility vis-a-vis either the community or their staff when conditions change for the worse.</p> <p>User concerns stem from the fact that, when a telecom operator treats its staff in a shabby fashion, the better staff leave and those remaining are demoralised and thus become less efficient. Either way, the standard of service to the user will fall substantially. Would like to see a situation where any new licensees commits the resources necessary to be a good corporate citizen just as much as to providing network infrastructure.</p> <p><i>External telecommunications - services</i></p> <p>Full liberalisation should be implemented from 1.1.1999 with no pre-determined limit on the number of licence.</p> <p>Is not fully convinced that the PNETS licence as it stands provides sufficient competition safeguards. Is concerned that an external service operator may set up an arrangement with a facilities-based operator which would essentially establish a cartel to the disadvantage of its competitors and, ultimately, its users. Conditions of the PNETS licence should exclude this possibility.</p> <p><i>External telecommunications - facilities</i></p>

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	<p>Opines that, in principle, there should be no pre-determined limit on the number of licences. However, where resources (e.g. radio spectrum) are limited, then the ideal position of issuing licences to all qualified operators cannot be attained. In such circumstances, licences should be awarded up to the maximum that the TA considers desirable or physically possible. The number of licences to be awarded should thus depend upon the constraints of each transmission medium (if any) and the practicalities of the situation, not on some set overall and arbitrary figure.</p> <p>The licence should contain very strict conditions so that the licensee is not able to take advantage of its privileged position to manipulate the dependent value-added services market. The licence should ensure that the services offered by the licensee and the charges it imposes are available to all value-added service providers, without discrimination. It is necessary for all licensees, existing and potential, to advertise the services they provide and the charges they make to anyone that requests such information.</p> <p><i>Interconnection and access</i></p> <p>Particularly concerned about the limited access to buildings being experienced by local operators. In principle, the in-building infrastructure should be made available to all telecommunications service licensees in a non-discriminatory manner. When this cannot be done (e.g. as a result of space limitations in old buildings), then access via the incumbent's lines must be mandated. Where access is possible but is denied by the landlord for financial or other reasons, sanctions must be put in place.</p> <p>Positive efforts must be made to ensure that all new buildings have sufficient space to accommodate all existing and potential operators.</p> <p>The definition of what comprises a "basic" telecom service must be addressed. A range of other telecom services are now considered essential to a modern business. The question is not simply the provision of equal access among the existing FTNS operators for basic services, but one of providing for a much wider range of services in the future.</p> <p>In-building network licences should not be issued to FTNS operators or their associates. The separation of functions such as this is common to effect the transition from a monopolistic to a liberalised regime elsewhere.</p> <p>Government must take much more effective action in ensuring that competition develops in the local network and, shortly in the</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>international network as well. It must be much more active in ensuring that interconnection arrangements are reached in a fair and rapid manner. It must also ensure that the new operators have full access to Hong Kong Telecom's exchange lines.</p> <p>Regulation</p> <p>Government must take much more effective action in stopping anti-competitive practices. The sanctions available must be meaningful. Current sanctions are not adequate, and might be taken to suggest that the Government is not particularly committed to eliminating anti-competitive practices. The TA should be empowered to impose more stringent sanctions.</p> <p>Welcomes the fact that convergence is a central factor defining the current Review so that a coordinated policy can be formulated and implemented. Do not see any rational reason for the continued distinction between the Broadcasting Authority and the TA. The two should be merged to avoid unnecessary overlaps in responsibilities and/or conflicts in policies and their implementation.</p> <p>The means of transmission should be available on a totally non-discriminatory basis to every information provider who is willing to pay. Believes that operators that provide the means of transmission should not be allowed to provide the content as well. Otherwise, there would be a conflict of interest.</p> <p>Opines that:</p> <ul style="list-style-type: none"> • new licences to provide transmission services should be awarded only to those applicants that can demonstrate conclusively that they have no connections with any information provider; • where existing licensees are already information providers, or have connections with an information provider through a strategic alliance or a common shareholding, the licensee should be required to take all appropriate measures to separate the two operations; and • any move by a licensee to circumvent the principle of separation of the two activities would automatically lose its licence.
15. Hutchison Telecommunications (Hong Kong)	<p><i>Local FTNS licences and external telecommunications - facilities</i></p> <p>The granting of new licences would fragment competition, dilute market shares and lead to scaling back of investment. Redundancies will result and no competitive network will be built. The industry must have Government's support in its efforts, and does not want a policy which undermines it.</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>Before Government decides on the number of FTNS licences to be issued in 1995, a study was conducted to determine the maximum number of operators for the Hong Kong market. The conclusion then was four. That was at a time when the economy was buoyant. Given Hong Kong's current economic and financial turmoil, this is not the time to pursue idealistic notions of unlimited access to an already overly competitive market.</p> <p>While much has been achieved by Hutchison, it has proved impossible for Hutchison to deliver thriving local network competition in all areas of Hong Kong in such a short time because of the physical and logistical constraints faced by the new operators in building their networks.</p> <p>Major difficulties encountered in building a network and securing market share:</p> <ul style="list-style-type: none"> • building a second network takes time. Physical constraints distinguish Hong Kong from other markets where space is less of a problem; • equipment room space and building access facilities such as lead-in ducts are already in critically short supply. In many existing buildings, the space allocated by the landlord to telecommunications equipment is already fully occupied by Hong Kong Telecom. The granting of FTNS licences of a limited scope will considerably exacerbate the problem of landlords blocking access for commercial or financial reasons; • space under roads and pavements in commercial areas is also severely restricted; • road opening for duct works imposes a severe adverse environmental impact; • Hong Kong Telecom is hugely dominant and places many barriers; • Hong Kong Telecom thwarts Hutchison's sales efforts in many ways. <p>Hong Kong Telecom has exploited its dominance very well to create effective barriers against real progress by the new operators. Further licences would only serve to strengthen that dominance and there will be no pressure on Hong Kong Telecom to deliver innovative services at competitive prices.</p> <p>Government has a major role in maintaining the right balance by not issuing more licences, by being more active in tackling building access issues and by strengthening the remedies for breaches of licence conditions and for anti-competitive conduct.</p> <p>Support needed from Government:</p> <ul style="list-style-type: none"> • new FTNS licences should not be issued until at least 2003 to

<u>Person/Organisation</u>	<u>Comment</u>
	<p>allow FTNS operators sufficient time to complete the building of their network, to enable rebalancing to take effect, to establish true international facilities-based competition and to allow the Asian economy to recover from its current turmoil;</p> <ul style="list-style-type: none"> • an independent study of progress should be undertaken in 2003 so that Government could form a rational view of whether the market can sustain more operators; • international gateway facilities licences should only be issued to existing FTNS operators. Foreign carriers will be able to accept no profit or even losses on the Hong Kong outbound international traffic and ultimately put the existing FTNS operators out of business. Foreign carriers will also be able to bypass the payment of local access charge by leasing dedicated circuits for connection to their major corporate customers; • Unlike operators in some countries, FTNS operators in Hong Kong could not earn domestic long distance call revenue to support below cost local services. Local access charges must therefore fairly compensate FTNS operators. The proposed level of charge is too low. The basis for setting the local access charge should be based on forward looking costs incurred by the new FTNS operators. Transit local access charges should represent an appropriate share of the full local access charge. The operator of outbound indirect access international call services should receive a transit local access charge which reflects the value of service provision and the costs customer ownership including marketing and billing; • Government should not issue FTNS licences of a limited scope, which would give landlords the opportunity to impose high access costs and facilitate cream skimming. Regulatory safeguards will not be adequate to prevent such abuse; • Government should take a more pro-active role in dealing with building access issues. Welcome mandatory minimum standards of telecommunications access facilities for new buildings. TA should have power to order the sharing of types of facilities on a class basis and to facilitate shared construction of facilities; • the proposed strengthening of remedies for breaches of licence conditions does not go far enough. Significant financial penalties are necessary.
16. JOS Telecom	<p>Regulation</p> <p>Government must focus on the market power of the dominant operator and put in place effective competitive safeguards to promote fair competition.</p> <p>Regulation must be in place to disallow a company with dominance in one market segment to extend its market power to other market segments.</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>Supports forbidding the bundling of services, but should extended the measure to include restricting the bundling of customer premise equipment with services.</p> <p>Supports the proposal to increase the penalty for anti-competitive behaviour. In addition to a set fine, the penalty imposed should be a multiple of the benefits received by the violator as well as the damages done to its competitor.</p> <p>The TA should be given more power to deal with issues relating to cross-subsidisation and anti-competitive behaviour.</p>
<p>17. KDD Telecomet Hong Kong</p>	<p><i>External telecommunications - services</i></p> <p>In favour of opening up the external services market to an unlimited number of operators from 1.1.1999 in order to foster effective competition in this market.</p> <p>Supports the measures for promoting open and fair competition in Hong Kong.</p> <p>Steps should be taken to open up dialling resources to new entrants. Options may include the use of alternative dial up formats, such as 00XX, 00XXX or 3-digit numbers that do not begin with 00.</p> <p><i>External telecommunications - facilities</i></p> <p>In favour of granting an unlimited number of licences to operate external facilities-based services from 1.1.2000. As innovation and technology development decrease the cost of establishing a network, operators other than international mega-carriers would also be able to compete in this market segment.</p> <p><i>Interconnection and access</i></p> <p>Agrees that the TA should be empowered to determine fair charges for interconnection between new entrants and operators of the local infrastructure. The powers set out in s36A of the Telecommunication Ordinance should be clarified as necessary to ensure effective regulation of all aspects of interconnection arrangements.</p> <p>Believes that interconnection charges should be:</p> <ul style="list-style-type: none"> • based on Total Element Long-run Incremental Cost; • non-discriminatory; and • transparent. <p><i>Regulation</i></p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>Providers of ISR services are being called upon to bear a disproportionate burden with respect to the funding of the Universal Service Obligation. Urges the TA to monitor the situation closely, and to be prepared to reduce the Universal Service Contribution and broaden its basis of calculation as international call prices begin to fall, in accordance with the principles of a level playing field.</p>
<p>18. Kowloon Federation of Associations</p>	<p><i>Local FTNS licences</i></p> <p>Government should not issue further local FTNS licences as too many licences would weaken the ability of the existing three new FTNS operators to compete with Hong Kong Telecom. Their existing investment strategies might be affected, resulting in scaled down investments and significant job losses. Government should review in two years time whether further licences should be issued.</p> <p>Government should create a fair competitive environment. OFTA should play a more active role in the monitoring and distribution of access rights of network conduits, and to facilitate the accelerated leasing of Hong Kong Telecom's networks, conduits and ducts to other operators. Government should request the three new FTNS operators to increase their investment commitments and raise the level of their services in order to increase their competitiveness.</p> <p><i>External telecommunications - services and facilities</i></p> <p>Supports the complete liberalisation of the external telecommunications services market from 1.1.1999.</p> <p>Government should not restrict the number of external telecommunications facilities licences to the existing four FTNS operators alone as this would hinder competition in the external telecommunications market.</p> <p>External telecommunications operators must also increase their commitment to the development of the local telecommunications market. Government should adopt measures to ensure this.</p> <p><i>Regulation</i></p> <p>Supports the proposal to simplify the licensing arrangements to meet the needs of technological development and the community's needs. Also supports the class licence regime for certain external telecommunications services and networks and the proposal to bring</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>all public telecommunications services within the licensing framework of the Telecommunication Ordinance.</p> <p>Proposes to increase the power of OFTA, particularly in respect of vetting of licence applications and enforcing competition safeguards. May also give OFTA reasonable arbitration powers to deal with disputes between telecommunications operators that may affect the community's overall interests.</p>
<p>19. Kwun Tong Resident Union</p>	<p><i>Local FTNS licences</i></p> <p>Government should not issue further local FTNS licences as too many licences would weaken the ability of the existing three new FTNS operators to compete with Hong Kong Telecom. Their existing investment strategies might be affected, resulting in scaled down investments and significant job losses. Government should review in two years time whether further licences should be issued.</p> <p>Government should create a fair competitive environment. OFTA should play a more active role in the monitoring and distribution of access rights of network conduits, and to facilitate the accelerated leasing of Hong Kong Telecom's networks, conduits and ducts to other operators. Government should request the three new FTNS operators to increase their investment commitments and raise the level of their services in order to increase their competitiveness.</p> <p><i>External telecommunications - services and facilities</i></p> <p>Supports the complete liberalisation of the external telecommunications services market from 1.1.1999.</p> <p>Government should not restrict the number of external telecommunications facilities licences to the existing four FTNS operators alone as this would hinder competition in the external telecommunications market.</p> <p><i>Regulation</i></p> <p>Supports the proposal to simplify the licensing arrangements to meet the needs of technological development and the community's needs. Also supports the class licence regime for certain external telecommunications services and networks and the proposal to bring all public telecommunications services within the licensing framework of the Telecommunication Ordinance.</p> <p>Proposes to increase the power of OFTA, particularly in respect of vetting of licence applications and enforcing competition safeguards. May also give OFTA reasonable arbitration powers to deal with</p>

<u>Person/Organisation</u>	<u>Comment</u>
	disputes between telecommunications operators that may affect the community's overall interest.
20. Lam, Charles (Dr.)	<p><i>Regulation</i></p> <p>If current methods (e.g. OFTA's Accounting Manual, fines) are not effective in solving cross-subsidy problems between various services provided by the same operator, Government should consider alternative methods, including physical separation.</p> <p>Plans can be made to materialise a vision where traffic could flow between networks of all kinds without the operators paying to one another.</p> <p>As an international city, Hong Kong needs to abide by the WTO Agreement, particularly on opening our telecommunications sectors with no numerical limit on the number of licences and applying cost-based tariffs.</p> <p>Government needs to know the up-to-date picture of traffic flows through all major telecommunications links, and what major facilities are being installed to meet new demands. It should also find out how effectively network resources are being and would be utilised.</p> <p>Government needs to demarcate responsibilities to be played by existing and new entrants in building gateways, links, community centres, software, information resources etc., in the information infrastructure and to make concrete plans for materialising various parts of the information infrastructure and the one-wire-per-family vision.</p> <p><i>Local FTNS licences</i></p> <p>If low profit margin is the key reason for the slow progress in achieving competition, Government can accelerate tariff re-balancing to motivate the new entrants to compete. Network operators can use innovative service packages that would be allowed under the convergence of technologies and regulation in telecommunications, broadcasting and information technology.</p> <p>If regulatory constraints are the key reason for the slow progress in achieving competition, new regulations can be used to accelerate competition - relaxing the use of wireless local loops to by-pass existing ones, issuing new licences, redefining boundaries of services.</p> <p>If the current penalties for anti-competitive behaviours are not effective, heavier penalties should be imposed.</p> <p>Before making a decision on the way forward, Government should</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>analyse and publish findings on the utilisation of network resources, services provided to users and consumers, the reasons for the slow progress in achieving competition in the past three years as well as the benefits of entry by global carriers.</p> <p><i>Interconnection and access</i></p> <p>Heavy penalties, stronger Government intervention and legislative changes may be needed to tackle anti-competitive behaviours and barriers to Type II interconnections.</p> <p>Interconnection charges should be calculated in a forward-looking and holistic way rather than a backward looking and piecemeal manner.</p>
21. Lee, C.	<p><i>Local FTNS licences</i></p> <p>Supports extending the existing moratorium for a further period for the following reasons:</p> <ul style="list-style-type: none"> • Direct Exchange Line penetration over a 3-year period does not give enough statistics for a conclusion to be drawn on the new entrants' performance; • questions the availability of sufficient manpower and expertise to support more fixed line operators when some of the existing work force will migrate to the external services and facilities-based business; • concerns about declining quality standard of service in the industry; • concerns about further facility and access congestion and inconvenience to the public with extra roadwork; • granting further licences would discourage further investment from existing FTNS operators. <p>Observes that there has been very little development in high capacity/broadband services in Hong Kong. Services like ATM and multi-media services are the way ahead and Government should facilitate and encourage more investment in these areas.</p> <p>Government should consider defining service-based commitments in the "Special Conditions" of the FTNS licence in return for an extension of the moratorium. Service-based commitments add more value to the telecom market than just an increase in the numbers of buildings covered.</p> <p><i>External telecommunications - services</i></p> <p>Supports issuing an unlimited number of external services licences. The key benefit is the encouragement of more competition on price and service.</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p data-bbox="496 309 1023 342"><i>External telecommunications - facilities</i></p> <p data-bbox="496 383 1406 562">Supports opening up partially the external facilities market. Government should consider issuing a limited number of new licensees. A total of six to eight operators could create a useful mixt of FTNS, mobile, broadcasting and overseas operators in the external market.</p> <p data-bbox="496 602 858 636"><i>Interconnection and access</i></p> <p data-bbox="496 676 1406 822">A licensing system for the provision of in-building cabling system can prevent developers from unfairly exploiting their positions. This may also prevent congestion in risers and cable conduits in the buildings and avoid duplication in resources.</p>
22. Liberal Party	<p data-bbox="496 864 772 898"><i>Local FTNS licences</i></p> <p data-bbox="496 938 1406 1189">Agrees that the market should be opened in the long run to enhance competition, but has reservation on the issue of further local FTNS licences now. Government should consider factors such as whether the competitive environment is fair and whether the telecommunications market will have a healthy development. Blindly opening the market will only bring the opposite effect, stifling the development of the industry to the disadvantage of the community.</p> <p data-bbox="496 1229 1406 1554">Since the issue of three additional local FTNS licences in 1995, Government had not drawn up corresponding laws to supervise the operation of the market, thus allowing the dominant operator to thwart the network rollout by the new operators. Government had also not actively intervened in the negotiations for interconnection arrangements. Government had not formulated the appropriate measures to enable the new operators to quickly access all buildings in Hong Kong, thus allowing Hong Kong Telecom and the building owners the opportunity to create obstacles for new operators to access.</p> <p data-bbox="496 1671 1406 1957">The current problem is not caused by too few competitors, but the lack of a fair competition environment for effective competition to develop. The solution does not lie in issuing more licences, but in improvements to the operation of the market and the resolution of the problems arising from the existing framework, e.g. the legal basis for OFTA to pro-actively investigate and penalise anti-competitive conduct, and to require future buildings to provide sufficient space for all FTNS operators to install their facilities.</p>
23. New T&T	<i>Local FTNS licences</i>

<u>Person/Organisation</u>	<u>Comment</u>
Hong Kong	<p>The single biggest impediment to the development of effective competition is the flagrant display of anti-competitive behaviour and abuse of dominance by Hong Kong Telecom. Government's single most important task is to defuse the time bomb of no price control over local tariff from 2002 when Hong Kong Telecom still remains dominant. The entire attention of the regulator should now be focused on this crisis, rather than being distracted by other matters which are "nice to have" by comparison to what we "must have". Government should also ensure that any moves it makes in the short term do not preclude longer term options.</p> <p>Extremely concerned that Government has not clearly identified specific measurable targets for the further liberalisation of the market and has simply kept to the unsubstantiated conclusion that more competition must be good for Hong Kong. There is no evidence that simply increasing the number of licensees will deliver competition to more of consumers.</p> <p>Welcomes truly full and open competition across all sectors of Hong Kong's telecommunications market as soon as practicable. However, this must be supported by a well-defined regulatory framework as well as effective and real competitive safeguards against the ongoing abuse of dominance and anti-competitive behaviour displayed by Hong Kong Telecom. Considers that the issues of anti-competitive behaviour and the abuse of dominance are the most significant stumbling blocks in bringing real and effective benefits of competition to the people of Hong Kong.</p> <p>Considers that the three new entrants have not reached the size and scope necessary to maintain sustainable effective competition with Hong Kong Telecom. Many smaller new operators will never reach the required economy of scale required to be able to effectively compete on a viable footing with Hong Kong Telecom. The introduction of further licensees at this critical, embryonic stage of market development would only serve to reinstate the monopoly.</p> <p>Considers that Government should not issue further FTNS licensees until 2001.</p> <p><i>External telecommunications - services</i></p> <p>There is already no shortage of competition in the external services market. Given Government's proposals for the new delivery fee arrangements were only released three days prior to the deadline for the consultation exercise on the Telecommunications Review, New T&T reserves its position until it has had the opportunity to fully understand the impact of the proposals.</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>Not convinced of ITBB's arguments for the introduction of an unlimited number of external services-based licensees and considers that the proposed implementation of the ISR Local Access Charge will simply benefit Hong Kong Telecom.</p> <p><i>External telecommunications - facilities</i></p> <p>External gateway facilities are the main link between Hong Kong's emerging information infrastructure and global networks. It is critical that Hong Kong's local networks tie seamlessly into international facilities at reasonable costs. Do not consider it prudent to hand these critical international facilities to overseas operators whose priorities and focus are not centred on Hong Kong.</p> <p>Does not support the proposal to license further external facilities-based operators from 1 January 2000 and to let the market set the number of such licences.</p> <p><i>Interconnection and access</i></p> <p>Extremely concerned that OFTA has chosen to release another consultation paper on 30.9.1998 regarding the future arrangements for delivery fees, given that there are only three months left before the termination of the current arrangement. Whilst access lines continue to be provided below cost and the market for external services is opened from 1.1.1999, Delivery Fees provide the only profitable revenue stream from which the new entrants can fund network development.</p> <p>Concerned that the proposed in-building licensing regime will undermine any attempt to foster further network development by the FTNS operators.</p> <p>The scope and the implementation of the class licence proposal should be subject to greater research and further public consultation.</p> <p><i>Regulation</i></p> <p>Supports the proposal to increase the penalties for anti-competitive activities, but submits that the new penalties are still too low to act as an effective deterrent.</p> <p>Welcomes the proposal to specify the functions and powers of the TA, particularly the area of interconnection and the policing of anti-competitive activities.</p> <p>Frustrated with TA's unwillingness to use his powers to promote</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>efficient interconnection and to undertake pro-active investigation of (and to impose punishment on) anti-competitive activities and abuse of dominance. Whilst welcomes the proposed legislative amendments with regard to the functions of the TA, economic regulation, financial penalties and civil remedy, these proposals do not go far enough.</p> <p><i>Other issues</i></p> <p>Supports Global One's proposal that the rebalancing of local tariffs would encourage investment in the local infrastructure.</p> <p>Government should develop clear strategic policy statements underpinned by quantifiable and timebound objectives to which it should be held accountable.</p> <p>Before Government proceeds with its current proposals, it should conduct an independent economic review of the scope of the market similar to the study carried out in 1993 prior to the liberalisation of the FTNS market in 1995.</p> <p>Government should commission a separate review of its policies for the telecommunications industry since 1995. It should also commission an independent review of the performance of OFTA in assisting all players in the market to fulfill these policy objectives.</p>
24. New World Telephone	<p><i>Local FTNS licences</i></p> <p>Government should shelve the decision to issue additional local FTNS licence because:</p> <ul style="list-style-type: none"> • the market is not able to determine the number of licences because it is distorted; • prices fail to deliver the right investment signal because local tariffs will not be fully rebalanced at least until 2002, and there is no guarantee full rebalancing will be achieved by 2002; • companies faced different cost of input, as Hong Kong Telecom can charge rivals at above-cost while the genuine transfer cost to itself is substantially lower, sometimes even negligible for fully depreciated assets; • substantial economy of scale exists in the facilities of the ex-monopoly operator. Such facilities should be allowed to be shared by competing operators; • tilted market power in favour of the incumbent through significant market share in both the international and the local markets, affiliate relationship with the monopoly gateway operator, and possession of critical information including traffic distribution and customer spending pattern; • restricted access to key components of input because of limitation

<u>Person/Organisation</u>	<u>Comment</u>
	<p>of road openings, lack of enough space to accommodate additional capacity and delaying tactics by Hong Kong Telecom or building developers;</p> <ul style="list-style-type: none"> • Government's proposal is not supported by any economic analysis; • Hong Kong has already fulfilled its WTO commitment for basic telecommunications; • the recent economic downturn has retarded the growth of fixed telephone lines and telecommunications usage; • the root of the problem is access to customers; • fragmented market force would only work to reinforce Hong Kong Telecom's dominance; • requirements in licence obligations have been exceeded by a huge margin; • awarding more FTNS licences would only lead to wasteful duplication of resources and prevents the existing FTNS operators from making full use of the resources deployed in rolling out their network in the last three years; • without effective unbundling of the incumbent's network, the market share of the new operators will be far from satisfactory for another three years no matter how many new licences are issued. <p><i>External telecommunications - services</i></p> <p>Proposes that external services licences should be granted only to the four existing FTNS operators until local tariffs are fully re-balanced in 2002.</p> <p>There is already enough competition in the market. Sees no imminent need for further liberalisation.</p> <p>Prospective ISR operators will retreat from the market if the market opportunity recedes, leaving no real benefit to the economy.</p> <p>A moratorium on the issue of further external services licences is consistent with the international norm whereby facilities competition precedes service competition.</p> <p>The local access charge should sufficiently compensate the local FTNS operators for the use of their local network by other ISR operators while offering enough opportunity for FTNS operators to compete for ISR operators. The proposal that the terminating network should receive the local access charge will have a substantial impact on the new FTNS operators. The proposal deviates from the principle of the delivery fee. The proposal will also further strengthen Hong Kong Telecom's dominant position.</p> <p><i>External telecommunications - facilities</i></p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>With scarcity of land for the landing facilities, an excessive number of external facilities licences would only consume valuable social resources with no real benefit generated.</p> <p>Allowing foreign mega-operators to compete head on with FTNS operators in Hong Kong while letting them exploit their positions against Hong Kong's operators attempting to enter their home territories is actually favouritism to these foreign operators. The risk of foreign operators assuming a dominant role in the market segment should not be underestimated.</p> <p>In the longer terms, an excess number of licence would only introduce more failing companies into the industry and at the end only the dominant operator survives. Consolidation diverts social resources which could have been better utilised. Government should give due consideration to the possible unemployment thus created and the resulting social instability.</p> <p>Licensing of additional external facilities-based operators should be shelved until the existing FTNS operators have been given sufficient time to compete and yet competition provided by the existing FTNS operators proved to be ineffective.</p> <p><i>Interconnection and access</i></p> <p>The proposal to license building developers to operate telecommunications services within their buildings is like granting them quasi-monopoly and it will encourage them to focus on areas with high customer concentration, while neglecting customers in sparsely populated areas.</p> <p>Skeptical about the effective implementation of the promise that the TA would ensure full interconnection at reasonable cost.</p> <p>The TA should get actively involved in resolving interconnection between network operators and consider mandatory provision of access facilities, both local and international, to FTNS operators.</p> <p>Welcomes the proposal on mandatory facilities provision in new buildings. More need to be done in old buildings where attempts have often been frustrated by the uncooperative attitude of the building occupiers.</p> <p>Government should step up its effort in coordinating with building owners to provide alternative access facilities.</p> <p><i>Regulation</i></p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>Generally supports the proposed amendments to the Telecommunication Ordinance, but is concerned that the TA has not effectively exercised its authority. The TA has not been active enough in handling the anti-competitive behaviour of the incumbent. This results in customers being taken away from the new operators by unauthorised discounts offered by the incumbent.</p> <p>Supports the proposal to increase the existing level of penalty. Proposes that Government should consider increasing the maximum penalty substantially and tying the penalty to the benefit derived. More effective sanctions, e.g. suspension of licence, should be considered.</p> <p>The TA should assume a more proactive role in investigating breaches of licence conditions by operators and ITBB should ensure that sufficient and necessary resources are allocated to the TA to perform his duties.</p> <p>There should be stricter regulation to control the use of subsidiaries. There were incidents where the dominant operator used other subsidiaries to offer discounts to customers.</p> <p>OFTA should gather essential information, including traffic statistics and the accounting rates with overseas administrations, from the industry and publish the information at more frequent intervals to provide a level playing field for the other market players to compete with Hong Kong Telecom.</p>
<p>25. Office of Telecommunications (UK)</p>	<p><i>Local FTNS licences</i></p> <p>Impossible to directly compare the UK and Hong Kong where different demographic and geographic conditions prevail. But it is worth noting that the UK experience has been that customers have benefited from the policy of not limiting the number of licensed operators. Competing networks have enabled other operators to free themselves from reliance on British Telecom for access to customers and provided more effective competition at the service level.</p> <p><i>External telecommunications - services</i></p> <p>Not sure if the differential charges for call termination between inland traffic and international traffic delivered to Hong Kong by external service providers are cost-justified. Differential charges which are not reflective of genuine cost differences would create difficulties for foreign operators seeking to operate ISR. Concerned that this would be detrimental both to competition in international services and to consumers at both ends of the route.</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>Believes in establishing a system whereby interconnection charges are the same irrespective of where the call originates. This is an important element of the UK interconnect market which ensures that anti-competitive situations do not arise from the fact that British Telecom still has the largest market share. This has enabled ISR operators to compete more effectively on international routes and has been an important factor in the increasing competitiveness of international services and consequent dramatic decreases in retail prices.</p>
<p>26. SmarTone Mobile Communications</p>	<p><i>Fixed vs mobile</i></p> <p>Given the significant support in the submissions to the earlier consultation exercise, Government's proposal to defer the elimination of the differences in the regulation of the mobile and the fixed telecommunications sectors is surprising. Proposes that such differences be eliminated in the interest of developing a world-class information infrastructure in Hong Kong and as the first step towards fixed-mobile convergence.</p> <p>Current regulation of the fixed and mobile sectors tilts the competitive game in favour of FTNS licensees. PMRS/PCS licenses are allowed to build only part of their network to provide their licensed services. Fixed transmission facilities are an integral part of a mobile network and are essential for delivering services to mobile subscribers. Mobile operators should be permitted to build fixed transmission facilities for their own use.</p> <p>PMRS/PCS licensees are required to pay interconnection charges to FTNS licensees for both incoming and outgoing calls. Urges that the method of calculating interconnection charges and the responsibility for bearing these charges should be the same for both fixed and mobile operators.</p> <p><i>Regulation</i></p> <p>Government had not paid adequate attention to the policy requirements of a fast changing mobile communication sector. This will hurt the development of a world class information infrastructure in Hong Kong.</p> <p>Today, mobile operators are not permitted to build fixed transmission facilities for their own use. This increases their operating costs and thus limits the benefits of competition - i.e. wider and better choices of telecommunications services, lower prices for all and affordability for many more.</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>The basis of competition in the mobile market is changing in favour of integrated players. The ability of "pure" mobile operators to contribute to infrastructure development in Hong Kong will be weakened.</p> <p><i>Local FTNS licences and external telecommunications</i></p> <p>Endorses a pro-competition policy for mobile, FTNS, external telecommunications and other services. Supports a licensing policy that encourages fair and effective competition in the provision of telecommunications services by FTNS, PMRS/PCS or external services operators. However, caution should be taken to avoid inefficient competition. A set of well-defined criteria should be established to screen prospective entrants prior to admitting them to any market segment. Priority should be given to committed players that have contributed to the development of Hong Kong's telecommunications infrastructure and have been instrumental in realising benefits to consumers.</p> <p><i>Interconnection and access</i></p> <p>Seeks clarification that the different approaches for interconnection charging for PMRS/PCS and FTNS operators will not be replicated in determining the interconnection charges between international gateway operators and the fixed or mobile network operators.</p> <p>The determination of interconnection charges between international gateway operators and local network operators by the TA should be based on the same charging principles used for determining interconnection charges between local FTNS operators. The rate of return allowed to be recovered by the local network operator should not be excessive. Government should also make it clear that the charges as set by the TA do not prevent interconnecting parties from negotiating lower rates.</p> <p>Seeks clarification that Government does not intend to remove the existing right of PMRS/PCS operators to directly interconnect with international gateway facilities.</p> <p>Leased lines constitute a bottleneck facility for mobile operators. Their charges should be based on costs.</p>
27. Sun Hung Kai Properties	<p><i>Local FTNS licences</i></p> <p>Regardless of whether new FTNS licences will be issued, Government should ensure that effective competition exists in the local fixed line market so that genuine alternatives are available to consumers.</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p data-bbox="491 456 1026 488"><i>External telecommunications - facilities</i></p> <p data-bbox="491 528 1406 741">Support Government's plan of not restricting the number of external facilities-based licences. Government should speed up the licensing process to avoid any delay in the introduction of effective competition in this market segment on 1.1.2000. Any undue delay would give the three new FTNS operators a head-start with the first-to-launch advantage.</p> <p data-bbox="491 786 1018 817"><i>External telecommunications - services</i></p> <p data-bbox="491 857 1406 1037">The interconnection charges must be set at sufficiently low levels so that non-FTNS operators would not be disadvantaged. Proposes that the TA set charge caps instead of fixed charge levels. Market forces in a competitive FTNS market will determine the levels of interconnection charges below the caps.</p> <p data-bbox="491 1081 707 1113"><i>Fixed vs mobile</i></p> <p data-bbox="491 1153 1406 1366">Mobile operators should be given full carrier status. This serves to provide a level playing field for the mobile operators and encourage investments in mobile telecommunications infrastructures. In particular, mobile operators should be given the rights to build and own their own backbone facilities and to maintain their right of direct interconnection with international gateway operators.</p> <p data-bbox="491 1411 858 1442"><i>Interconnection and access</i></p> <p data-bbox="491 1482 1406 1628">Welcomes the proposed licensing system for in-building and in-estate broadband networks, but emphasises that it is crucial to maintain the Universal Service Obligation (USO) of FTNS operators so that no consumer will be denied high quality telecommunications services.</p>
28. Teledesic LLC	<p data-bbox="491 1671 1406 1955">Hopes that Government will make use of the current review to formulate a policy that will promote inter-service competition through technical rules such as band segmentation of portions of the radio spectrum among non-geostationary orbit fixed satellite services systems and terrestrial wireless providers, where appropriate. This would ensure that everyone, especially the multinational businesses, in Hong Kong would have access to Teledesic's "Internet-in-the-sky" network that will offer high-speed Internet and broadband access.</p>
29. Telstra	<i>Local FTNS licences</i>

<u>Person/Organisation</u>	<u>Comment</u>
Corporation	<p>Believes that the FTNS licensees have successfully created market presence and the moratorium has served its purpose. The staged nature of the liberalisation schedule also gives them a first mover advantage in providing ISR to an existing customer base.</p> <p>To impose artificial structure barriers to entry, based on licence mandated rollout obligations, does not make economic sense and will not lead to a truly competitive market.</p> <p><i>External telecommunications - services</i></p> <p>An open ISR licensing regime will see a significant new force for competition and a lowering of costs in the Hong Kong market, thereby enhancing employment, productivity and profitability.</p> <p><i>External telecommunications - facilities</i></p> <p>Believes that the market should be opened to avoid market domination by the existing FTNS licensees.</p> <p>Welcomes the practical steps being taken to provide potential satellite uplink sites and to allow IRU access. This is tangible assistance to foster competition.</p> <p><i>Interconnection and access</i></p> <p>Welcomes the proposal which in broad terms will facilitate multiple access to in-building customers.</p> <p>Sees a number of definitional issues arising - technical configuration and interface for broadband network, basis for determining and agreeing access charges.</p> <p>Sees a danger that access charges to such networks will create additional costs for service providers.</p> <p><i>Regulation</i></p> <p>Subject to detailed comments, supports the intention to include the competitive safeguards in the Telecommunication Ordinance.</p> <p>Agrees that the existing penalties for anti-competitive conduct should be increased. However, not convinced that an increase in penalties by a factor of ten is sufficient. Penalties of the magnitude of AUD 10 million with AUD 1 million a day for continuing offences would generate instant management attention.</p>

<u>Person/Organisation</u>	<u>Comment</u>
30. TMI TeleMedia International (HK)	<p><i>External telecommunications - services</i></p> <p>Strongly against the proposed inclusion of Item 3(b) of the First Schedule of the Draft PNETS Licence since prohibiting simple resale of HKTI's circuits would in effect preserve and reinforce HKTI's monopoly in the external sector.</p>
31. Ure, John (Dr.), Director, Telecommunications Research Project, Centre of Asian Studies, University of Hong Kong	<p><i>Interconnection and access</i></p> <p>There has been insufficient progress on interconnection. The two issues are (a) what powers does OFTA actually have and should have; and (b) how effective can OFTA be in using its powers.</p> <p><i>Regulation</i></p> <p>There are too many regulatory anomalies arising as technologies and business cases change. It is unclear from the Telecommunications Review and the Television Review exactly who would need what licences to enter which businesses as video, Web-services and telecommunications converge, and how flexible can the regulations be in meeting changing circumstances.</p> <p>Government should consider ways in which OFTA can provide guidelines and criteria for the pace of regulatory relaxation while at the same time strengthening its powers of enforcement where required, and removing any legal ambiguity over these powers.</p> <p><i>Local FTNS licences</i></p> <p>The lack of bandwidth at reasonable prices seems to be holding back the growth and development of local new media service companies. Two ways of looking at this problem - individual business case for investing in, or paying for, higher bandwidth; and the externality perspective. More bandwidth at low prices will stimulate local SME's innovation in new media services which will be good for Hong Kong.</p> <p>There is a need to accelerate the rollout of a broadband public infrastructure and broadband applications. Social investment of this nature usually has a high economic return even when the financial return may not warrant a private commercial initiative. A beneficial spin off is the demand such a public initiative creates for private sector involvement. Concerned that, apart from the central government information infrastructure services, community information infrastructure services are currently given a low priority listing. There is a direct telecommunications demand involved, and would argue that more attention be given to it.</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>Common standards have been traditionally strong in the telecoms sector, weaker in the TV market and totally unregulated in the computer industry. The lack of effective standards will have an externality effect on Hong Kong if local service innovators are held back while international providers leverage de facto standards from their home markets. This needs careful thought and monitoring in the different markets.</p> <p>Corporate users are reportedly frustrated by the lack of bandwidth at reasonable prices and by a lag in the introduction of innovative services. These problems are only likely to be resolved if facilities-based competition in the local loop is accelerated. Any shift towards a reliance on services competition on its own should be resisted. Service innovation requires service operators to have bandwidth at their disposal and the flexible use of it with equipment of their own choosing. Only facilities-based competition is likely to make this happen.</p> <p>The ongoing dilemma is whether some level of protection or competition is the most effective way to spur investment. There is little reason to doubt that competition is the most effective means of spurring investment, because the companies that fail to invest will simply lose their business. On the other hand, moratoria to provide short-term protection are practical means of jump-starting the investment cycles where uncertainty is high, as in local loop investment. The use of a moratorium can be effective as a practical measure if, but only if, it is sufficiently short to raise the prospect and threat of competition. Whether it is effective depends largely upon the commitments Government extracts from the beneficiaries.</p> <p>A moratorium is a trade-off or bargain, one side committing itself to investment targets and the other to protective regulation. It is a negotiation to which game theory would be appropriate to apply. To have the moratorium extended, the three non-dominant FTNS licensees are asked to make commitments to local loop investment which is greater than any commitments outside carriers wanting to enter the market would make. The outsiders are asked to make commitments that exceed the local FTNS commitments if they want to gain market entry immediately.</p> <p>Main concern would be on the length of any extension to the moratorium on the issue of additional FTNS licences. If outside companies are willing to outbid local FTNS operators, the market should be opened immediately. If not, then any extension to the moratorium should not go beyond two years unless a very substantial investment commitment is secured, and under no circumstances should it go beyond three years.</p>

<u>Person/Organisation</u>	<u>Comment</u>
<p>32. US Government</p>	<p><i>Local FTNS licences</i></p> <p>Believes that the benefits of market liberalisation would be maximised if Hong Kong opts not to limit the number of additional FTNS licences and maintains a cost-based, non-discriminatory interconnection policy.</p> <p>Requiring a certain level of investment or restricting the number of licences can severely limit consumer benefits in the form of lower prices and better service. It is these benefits that can create a favourable economic climate for businesses to grow and expand in Hong Kong. Therefore, supports ending government-imposed limits on the number of FTNS licences.</p> <p><i>External telecommunications</i></p> <p>A non-cost based delivery fee would stifle the growth of a competitive market for international telecommunications services, and favour only the existing facilities-based operators. Also essential to the development of a competitive telecommunications market that any delivery fee be applied on a non-discriminatory basis to facilities-based operators and private line resellers.</p>
<p>33. Western Harbour Tunnel Co. / Cross Harbour Tunnel Co. / Route 3 (CPS) Co. / New Hong Kong Tunnel Co.</p>	<p><i>Interconnection and access</i></p> <p>There is no need for the TA to have any powers under section 14 of the Telecommunication Ordinance in respect of access to the Tunnel/Toll Areas.</p> <p>Since most of tunnel toll levels are a function of revenues including ancillary revenues such as wayleave fee for the access of utilities, any increase or decrease in such a revenue source will consequently affect the toll levels. It would create a possibility of inequitable interference to the free market mechanism. Shareholders of BOT tunnels had allowed for a reasonable income to be derived from utilities that may be installed within the toll area when they negotiated the franchise with Government.</p> <p>We should not allow telecommunication users to be cross-subsidised by the BOT tunnel users. To uphold this principle, any proposed mechanism for the determination of a fair utility access fee must make references to the recent contract terms established and concluded by the telecommunication operators and the BOT tunnel operators.</p>
<p>34. Wharf</p>	<p><i>Local FTNS licences</i></p>

<u>Person/Organisation</u>	<u>Comment</u>
Communications Investments	Awarding more licences should be no more than a means to an end, the end being to promote a vibrant and truly competitive market to give the consumer the service he wants at the price he wants. In most other markets, it was well recognised that the best means was to start by curbing the dominance of the dominant operator. If successful, the market would develop by itself and prosper. The consumer would be the biggest winner in that case.
35. WorldCom Asia Pacific	<p data-bbox="491 607 774 640"><i>Local FTNS licences</i></p> <p data-bbox="491 678 1407 1003">There is abundant and credible evidence that communications access drives economic and so social development. Countries whose governmental policies recognise this paradigm will reap the substantial rewards of competition. Those countries whose governments do not recognise this will experience serious set-backs in market expansion and will witness stagnant or negative market growth. Notes that every market that has deregulated its telecommunications sector has nearly tripled its growth rate and has substantially increased its telecommunications revenue base.</p> <p data-bbox="491 1301 1407 1659">Since the three new FTNS operators entered the market three years ago, they have themselves taken the "cream skim" approach. The overwhelming majority of their network build has been concentrated on serving corporate customers in the Golden Bowl area and they currently serve few residential customers. They have focused on developing their major callback revenue stream, which requires only minimal investment in facilities, at the expense of network rollout. Any new competition in the domestic market would actually require them to compete and make investment in facilities that they have been so far reluctant to make.</p> <p data-bbox="491 1704 1407 2020">Demand in the Hong Kong market seems to vastly outstrip supply. In addition, it appears that there are more than enough investors willing to make new investment in the local market should one of the FTNS operators decide to cease operations. Therefore, it can safely be anticipated that the number of people willing to invest in Hong Kong will only increase over time as telecommunications become more and more important to the conduct of business and our daily lives. An open licensing environment would mitigate against the risk of job loss, as the larger and more dynamic the industry, the easier it</p>

<u>Person/Organisation</u>	<u>Comment</u>
	<p>will be for displaced workers to find new jobs.</p> <p>Given the clear and unswerving dedication to opening the market to greater competition, it would be wrong to state that OFTA and the Government have not done their best to create a regulatory environment conducive to market entry.</p> <p>So long as the number of FTNS licence is artificially restricted, it is almost impossible to encourage a foreign carrier to buy into an existing FTNS operator since the new FTNS operators perceive the value of their businesses to be based on the principle of scarcity. Advocates lifting the moratorium on the issue of additional FTNS licences to encourage new operators to enter the market either through their own initiative or by taking an equity stake in an existing FTNS business at a fair price.</p> <p>Market fragmentation has never been an issue or even a minor problem in markets where full competition has been introduced. Instead, the introduction of full competition will enhance the market through growth and increases in profits as well as by being a powerful curb against negative incumbent dominance.</p> <p>Urges Government to take the opportunity to fully liberalise the domestic FTNS market and place no restrictions or conditions on market access. This will allow new carriers to enter the market with relative ease, thus encouraging the flow of private sector investment and entrepreneurial spirit into the telecommunications sector. Not only will this step create a more vibrant industry, but it will also have the knock on effect of creating more jobs and maintaining Hong Kong's position as an economic hub. The creation of jobs and the building of infrastructure will help Hong Kong maintain its position as one of the world's leading centres of commerce.</p> <p>Although WorldCom believes that market forces, not regulatory fiat, are the appropriate vehicle to govern investment decisions, WorldCom has nonetheless indicated its "readiness" to invest substantially in the local FTNS market.</p> <p><i>External telecommunications - services and facilities</i></p> <p>Supports the recommendation to fully liberalise ISR and external facilities-based competition.</p>
36. Xu, Yan (Dr.)	<p><i>Local FTNS licences</i></p> <p>The following distortions have reduced the incentive for the new FTNS operators to invest in the local FTNS market:</p> <ul style="list-style-type: none"> • local tariffs are way below costs; and

<u>Person/Organisation</u>	<u>Comment</u>
	<ul style="list-style-type: none"> • relatively high delivery fees for international services. <p>The distortions will soon disappear through:</p> <ul style="list-style-type: none"> • re-balancing of local tariffs in three years' time; • liberalisation of international services; and • downward adjustment of delivery fees. <p>Hence, as the telecommunications market is completely liberalised, Government should be confident that the industry will invest in the FTNS sector, but the paid back period for the significant investment is inevitably long. After re-balancing is achieved in three years' time, it would be easier for the supplying carrier and the re-selling operators to agree on mutually beneficial terms for interconnection arrangements.</p> <p>Other factors that will encourage investment in fixed networks:</p> <ul style="list-style-type: none"> • building own networks could address the constraints imposed by the supplying carrier; • resources devoted to negotiations would be more constructively used for building own networks; and • new value-added services would emerge in the convergent digital era. <p>The regulator's role should be to remove the distortions in the market, rather than to persuade the licensed operators to increase their investments.</p>
37. Yam, Kam-sing (Mr.)	<p><i>Local FTNS licences</i></p> <p>The result of issuing further local FTNS licences could be that six to seven new operators fighting for 3-4% of the market. This would waste resources and cause nuisance to the community.</p> <p>It is irrational of the Government not to plug the loop holes in the existing system, but to issue additional licences that would further thin out the competition against Hong Kong Telecom, thereby strengthening the company's stranglehold on the market.</p>

(31.10.98)