香港電訊用户協會
HONG KONG
TELECOMMUNICATIONS USERS GROUP

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HONG KONG TELECOMMUNICATIONS USERS GROUP

Licensing Framework for 3G Mobile Services
Response to Further Industry Consultation

INTRODUCTION

The Hong Kong Telecommunications Users Group (HKTUG) is pleased to respond to OFTA's consultation paper dated 3 October seeking further licensing arrangements for 3G Mobile Services. Its response is below.

In our first submission, HKTUG has proposed three objectives that the 3G licensing framework should be designed as part of a consistent and cohesive plan of what it sees Hong Kong's needs to be in terms of telecom regulation. In the second consultation, TA has done a good job of safeguarding non-discriminatory transmission of content by 3G network operators and suggestion of an open network to separate network operation and service/content operation so as to encourage competition and service innovation. However, HKTUG believes that more has to be done in the interconnection arrangement for a seamless network and licensing of service/content provider.

It believes that such objectives are currently ill-defined at operational level. General objectives, such as the need to maintain Hong Kong's competitive edge and the requirement to provide services that are user-oriented, have been expounded on many occasions. These are fine, but they do not always translate easily into specific legislation.

HKTUG believes that the overall objectives should be held in mind when framing each part of the SAR's telecom legislation, without which there is a danger of addressing each issue (currently, 3G Mobile) on a piecemeal basis.

It has formulated its response as part of a consistent and cohesive plan of what it sees Hong Kong's needs to be in terms of telecom regulation, and this is re-stated here first.

OBJECTIVES OF HONG KONG's TELECOM LEGISLATION

HKTUG proposes that the following three requirements be formally adopted by OFTA as the objectives to which Hong Kong's telecom regulations are directed:

i)   all telecom networks (whether they use fixed, mobile, narrowband, broadband, wireline, wireless or any other technologies) must be part of a comprehensive and seamless network, and the necessary interconnection arrangements must be put in place for this to happen

ii)   network operation should be completely distinct from service and/or content provision, and different licensing arrangements should be made for each

iii)   all network operators must be required to transmit content from any licensed service and/or content provider, and must do so on a completely non-discriminatory basis

The goals above are vitally important because:

- the regulation of telecom services is intended to serve the community's interests, and these can best be served by making all services fully available to all users; full interconnection of the networks is a necessary condition for this to happen.

- through licensing, operators are granted privileges (e.g. use of land for wireline services, use of radio spectrum for wireless services) so that they may provide the best possible service to users; unless full interconnection is mandated, some operators will try to use these privileges to set themselves up as gatekeepers, determining the services that individual users may or may not access. The existing situation of WAP service and Short Message Service where each operator provides such services in a closed garden basis are clear bad examples and inhibit the growth of the industry

- the separate licensing for transmission means that operators will compete solely on their ability to provide transmission services, thus encouraging competition (such as quality, price, coverage) and innovation in such services. This can be regarded as Facility Based license

- similarly, the separate licensing for the provision of service and/or content means that service and/or content providers will compete solely on their ability to provide service and/or content, again encouraging competition and innovation in such services. This can be regarded as Service Based license

- separating the licensing of transmission and content, taken together with the mandating of full interconnection, overcomes the danger of one company dominating a market by using its strength in one area to dictate terms to users in another

- full interconnection is already mandated among FTNS operators, between FTNS operators and mobile operators, between such operators and HKCTV, etc., so it is illogical for an overall policy not to include full interconnection between all existing and future operators

- other countries (e.g. Singapore) have adopted a similar policy to the objectives stated above, Hong Kong's regulatory regime must continue to build on the good foundation that we already laid, and not put users in the SAR at a disadvantage with respect to its competitors. In fact Hong Kong has already introduced Facility Based license and Service Based license in the international market

OFTA's suggestion of an open network requirement to allow Mobile Virtual Network Operator (MVNO) and/or reseller is similar in concept to the second objective as proposed by HKTUG if the percentage of network capacity to be open to any non-affiliated service providers is 100% and that 3G network operator is not allowed to operate 3G services directly. In order to promote fair competition, 3G network operators must provide network services to all affiliated or affiliated service providers at the same time and at the same cost. Similar to the Internet Service Providers and Fixed Telecommunications Network Service Providers, the 3G network providers must maintain independent account for auditing and operate at arm-length to its affiliated 3G service providers.

As such, licensing of MVNOs or resellers should be detailed in greater length, such as the procedure, number, publishing of tariffs, service level etc. Similar to Internet Service Providers, HKTUG believe there is no need to set any limit to the number of licenses as long as a minimum level of service is set.

Table 1: Comparison between 3G with Internet in telecommunications legislation

Objectives	Internet	3G Mobile
1. Comprehensive & Seamless Network	Narrowband and Broadband interconnection required	***Interconnection with 2G/Fixed network for voice and data required***
2. Network Operation separate from Service/Content Provision with separate licensing	ISP service governed by PNETS license; content by TELA	***3G service license including MVNOs and resellers have to be clearly defined;*** content by TELA
3. Network Operator to transmit content in non-discriminatory basis	Achieved as part of FTNS license	Required as part of pre-qualification criteria

* Areas for improvement

RESPONSES TO CONSULTATION PAPER

This paper will now turn to responding to those specific issues contained in OFTA's consultation paper on which HKTUG feels qualified to reply.

Operator Selection Arrangement (Ref: Part II)

Proposal

In its first response, HKTUG states that selection should be on merit rather than by auction. It rejects auctions because of the huge investment would inevitably adds substantial costs to users and give advantage to the operators that have the deepest pockets, not necessarily those that will provide the best or most appropriate services for the community. Experience elsewhere has shown that the auctioning spectrum has serious deficiencies, not least because potential operators have little firm idea of how well the 3G market will develop and are therefore being asked to make a decision on what is largely unknown.

A mix of pre-qualification and auctions yield similar effect. Only the "Open Network" would force fair competition and protect user choices. The 3G operators have to make available 100% of its network to all their affiliates, MVNOs and resellers at the same time and at a cost plus basis.

It is noted that OFTA has rejected the reverse auction option with lowest price commitment due to uncertainty in 3G acceptance and difficulty in designing the auction process. As this option clearly benefits the 3G users, HKTUG recommends that low 3G end-user pricing be one of the pre-qualification criteria.

Reasons

a) Separation of network operation and service/content operation is proven to be successful in the Internet world and promotes fast growth of the Internet services. 3G mobile with its multimedia nature and always-on capability will be similar to the Internet world hence similar licensing framework should follows

b) 3G operators can compete in service quality, pricing, coverage and innovation hence will yield best result

c)   3G operators can compete in service and/or content provision through affiliated companies. The service and/or content providers will then be able to compete on service quality, pricing and innovation hence will yield best result

d)   100% Open Network will help to reduce the perceived 3G license value as the carriage will not be as profitable as service/content operation, hence encourage development in 3G Mobile network

With respect to charging operators for the use of a community resource, HKTUG believes the pay-as-you-go utilization method best suit the trends of the telecommunications industry; e.g. by charging according to the usage of the spectrum and/or subscriber number by the successful applicants. A loyalty in the form of percentage of profit is another form that encourages efficient operation and profitability. Hence HKTUG is in support of the loyalties option with guaranteed minimum payment.

Reasons

a)   The spectrum is an extremely valuable resource, and one that is currently owned by the community. It should not be made available freely to commercial concerns without reasonable charge.

b)   Loyalties and profitability encourage further development of 3G mobile network

The money so generated should be ploughed back to the community in the form of assistance to those most in need of assistance. For example, the government should set up a training fund with the objective of, inter alias, assisting SMEs to understand and use 3G services.

By utilising the resources generated in this way, not only would the community as a whole benefit but so would the operators, as a result of the greater and more informed use of their services.

It may be argued that there is no mechanism for ploughing resources back into the user community in this way. HKTUG has little time for such an argument. If no mechanism currently exists, then it should be set up. The ultimate goal should be to adopt the most appropriate arrangements to further the interests of the community.

Need For New Entrants (Ref: Paras 4.1.1-4.1.7)

HKTUG concurs OFTA's view on same opportunity will be given to incumbent and new entrants in the licensing process. The best applicant(s) should be chosen, on the basis of the services they propose, irrespective of whether or not they are incumbents.

When choosing applicants on merit, OFTA should pay particular attention to each applicant's ability to introduce new and innovative services, the ease with which it can integrate its services into Hong Kong's seamless telecom infrastructure and the ease with which its services are made accessible to users.

3G Standards and Mobile Number Portability (Ref: Paras 4.2.1-4.2.7 and 4.5.1-4.5.4)

HKTUG supports the proposal that users must be able to move from one operator to another without impediment (Mobile Number Portability). The TA has affirms the views that the prospective operators should be permitted to use any IMT-2000 standards adopted by the ITU within their assigned 3G frequency bands for 3G mobile services, subject to the TA being satisfied that the various technical standards are compatible with each other from the users' point of view. HKTUG is, however, concerned about there are several choice of technology in the IMT-2000 standards and that the user terminal will not be able to free switch from one to another, as in the case of GSM and CDMA in the 2G mobile network.

3G Services In 2G Spectrum (Ref: paras 4.4.1-4.4.4)

HKTUG supports the proposal that 2G operators should be able to use the spectrum already allocated to them in order to offer 3G services should they so wish, whether or not they are successful in obtaining 3G spectrum.

Domestic 2G and 3G Roaming (Ref: Paras 4.7.1-4.7.6)

Proposal

HKTUG welcomes that roaming between 3G users to 2G networks as suggested, and that the ability to roam should be one of the key issues in the pre-qualification round when choosing new licensees.

Similar Regulatory Framework and Fixed-Mobile Convergence (Ref: Paras 4.8.1-4.8.7)

Proposal

HKTUG concurs that a similar regulatory framework should be adopted for 3G mobile services as for existing mobile services. While it is acknowledged that some distinction between fixed and mobile operations is unavoidable for now, because of existing license commitments, the policy should be to work towards a unified regulatory arrangement.

Reasons

a)   The concept that all networks should be part of a seamless telecom infrastructure should be one of the basic premises of Hong Kong's telecom regulations

b)   It follows that the adoption of a similar regulatory framework is essential

c)   The distinction between fixed and mobile operations is becoming increasingly blurred, and that eventually there will be no distinction. Therefore, there is no point in prolonging the distinction unnecessarily

Conclusion

HKTUG believes separation of service provision from network operation should be one of the key objectives of the SAR's telecom legislation. Hence HKTUG strongly supported the concept of Open Network and that 3G operators will be Facility-based and have to make available 100% of its network to all MVNOs and resellers at the same time and at a cost plus basis. Separate licenses will be structured for 3G service provision similar to the ISP licenses. This works well in the Internet/Broadband regulation and the same reasons should apply to 3G mobile.

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