

26 February, 2003

Miss Polly Yeung
Clerk to Bills Committee
Legislative Council
Legislative Council Building
8 Jackson Road, Central

Dear Miss Yeung,

Re: **Telecommunications Bill 2002 (Amendment) (“Telecoms Bill”)**

Further to our previous submissions regarding this issue, we have been provided with additional information on the guidelines to the proposed legislation. Although several of the issues which we raised in our initial submissions remain unanswered, in principle and in line with our preliminary view, we continue to support the objectives in the proposals set out in the Telecoms Bill. As we have stated, given the state of affairs in the Telecoms industry locally and world-wide, we believe that the adoption of M & A legislation is inevitable and appropriate. We also believe that OFTA is the most appropriate body to implement Telecoms M & A legislation in Hong Kong.

Having reviewed the guidelines which were recently made available to us, we are of the view that conceptually, the guidelines support the objectives which the legislation is aiming to achieve. However, there does not appear to be any specific practical provisions as to how the Telecoms Bill will be actually implemented. For e.g., we had raised in our preliminary submissions that the phrase “substantially lessening competition” had not been well defined and there are no specific provisions under which OFTA will regulate mergers and acquisitions under the proposed framework. These issues and others will need to be further clarified in detail.

Finally, in the absence of master competition policy, we also believe that it is important to consider the precedent that is being established through the adoption of Telecoms M & A legislation. That is, the question must be considered whether taking the Telecoms sector in isolation in formulating M & A legislation may be too restrictive an approach which could set an unhealthy precedent for future competition law.

In summary, SUNDAY continues to support the objectives of the proposed legislation but we do wish to see further clarification and the opportunity for further comment on the new Bill’s guidelines.

Yours faithfully,
SUNDAY COMMUNICATIONS LIMITED

Bruce Hicks
Group Managing Director

c.c. Hon SIN Chung-Kai, Chairman of Bills Committee