

**Electronic Transactions (Amendment) Bill 2003 –  
Submission by PCCW-HKT Telephone Limited**

**Introduction:**

PCCW-HKT Telephone Limited (PCCW-HKT) welcomes the opportunity provided by the Legislative Council Bills Committee to comment on the Electronic Transactions (Amendment) Bill 2003 published in the Gazette on 13 June 2003. The following are comments from PCCW-HKT on the Bill.

**1. Service of Documents by Electronic Means**

The proposed section 5A and Schedule 3 would provide for service of a document in the form of an electronic record having the same effect as service by post or in person for the purposes of the provisions set out in the proposed Schedule 3 to the Ordinance.

**PCCW-HKT Comments:**

PCCW-HKT welcomes the proposed section and Schedule as it is our view that the provisions will encourage greater use of electronic means to communicate and transact with the Government departments. Therefore, the Government should expand the list of provisions in the Schedule 3 as soon as possible after the enactment of the Bill. This will help speed up the implementation of “E-government” for the benefit of the economy as a whole.

**2. Legal Recognition of Other Forms of Electronic Signatures**

The proposed section 6 would classify the signature requirements for transactions under a rule of law into two types: one is with the Government and the other between non-Government parties. Digital signatures are stipulated for electronic transactions with the Government. Any electronic signature can be used in transactions between non-Government parties, provided the person to whom the signature is to be given consents to the method used.

**PCCW-HKT Comments:**

**Consent for Method Used:** We are of the view that it is not necessary for the person to whom the signature is to be given to consent to the method used. The courts have never required the consent of the person to whom the signature is to be given to consent to the method used. The courts simply look to see whether the method used could be objectively regarded as being intended by the parties to function as a signature. In many cases the identity of the person or persons to whom the signature is to be given will not be known at the time of signing. How would a party to an electronic document prove that the other party or parties consented to the use of a particular signature method? Presumably neither party could rely on the 'signing' of

the electronic document to evidence consent. Would external evidence therefore be required? In our view this qualification will create uncertainty about all electronic signature methods and moves away from another important principle that electronic transactions should be functionally equivalent to paper-based transactions.

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