

**SUBMISSION TO LEGCO PANEL ON INFORMATION TECHNOLOGY
AND BROADCASTING
POLICY REVIEW ON TYPE II INTERCONNECTION**

For meeting on Wednesday 25 February 2004

1. Wharf T&T welcomes the opportunity to brief members of this Panel its views on the policy review of Type II interconnection. This policy review may well mark a watershed in the development of competition in the fixed lines industry in Hong Kong, and the beginning of the decimation of a competitive marketplace if the wrong outcome unfortunately follows the review.
2. Wharf T&T is a strong advocate for the retention of Type II interconnection policy, not only in its own interest but also in the interest of the consumers. We firmly believe it is in the best interests of the consumers that PCCW-HKT Telephone Limited (“PCCW”) continues to be mandated to provide other operators with access to its copper local loop. Of course PCCW wants you to believe that this mandate has reduced investment in the industry and Hong Kong Broadband Network wants you to believe that there is no bottleneck.
3. Given the scale of investment required, the cost to another operator of building an alternative network reaching as large a proportion of the population as PCCW’s existing local networks (which was built in an era of monopoly and subsidised even today by what is known as ‘Universal Service Contribution’) is a definite barrier to entry. The building of a comparable infrastructure is uneconomic in today’s de-regulated environment, and to extend one over the whole of Hong Kong will remain unrealistic even in the medium term. This prevents other operators from competing with PCCW across the board; and confines them to building networks of their own to serve limited market segments only. It will also deny these other operators of scale, which is all important in a business with large capital investments and razor thin margins. Most of these alternative networks will be overlapping rather than complementary. It is highly unlikely that the alternative networks *taken together* will be able to match PCCW’s territorial wide local networks and reach a comparable customer base within the foreseeable future. In particular, residents and businesses in the smaller buildings or buildings in the lower density parts of Hong Kong will stand a very high chance of not being able to exercise any choice.
4. Type II interconnection has been proven to be an effective tool to:
 - Combat the incumbency advantages which PCCW enjoys *exclusively*;

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- Lower the barriers to entry by overcoming various economic, physical and environmental constraints in rolling out network;
 - Bring about choice and benefits to many more consumers in Hong Kong, business or private as it allows more effective penetration of market and it is the *only* practical way to bring about competition and therefore benefits to consumers much more broadly;
 - Bridge the existing social and economic gap between those consumers who have choice of alternative telecommunication service providers and those consumers who do not have choice; and
 - Encourage efficient investments in the industry, as investments will be made where it is most needed and as money is being ploughed back into further services and network rollout.
5. Some of you would recall in November last year we ran a series of public relation campaign on Type II interconnection. For your reference we attach copies of our printed advertisements with messages we gave to the public then and these are the messages we would like to convey to you again today.
 6. We therefore have grave concerns with the proposal in the Second Consultation Paper issued by the Government on 16 December 2003 that proposes to pave the exit for Type II interconnection at Point A (i.e. interconnection to the MDF within an exchange). We will focus on this part of the policy review that is the most controversial part.
 7. The analysis by the Government on the extent whether Type II interconnection at Point A could facilitate or obstruct the policy objective and effective competition in the telecommunications market and expand the consumer choice is at best rudimentary and common sense. One thing for sure is that with more networks and availability of Type II interconnection, consumers will have more choice, with more choice, consumers can command better price, better service. With fewer customer access networks and without Type II interconnection policy, the outcome would obviously be less choice to consumers or no choice, with less choice or no choice, their ability to command better price and better service would be minimized or none in existence.
 8. In the Second Consultation Paper the Government proposes to phase out Type II interconnection at Point A over a 3 + 3 years' time frame in buildings where there are 2 self-built customer access networks or direct access networks. We have analyzed the proposal and our conclusion in a snap-shot is as follows:

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Situation	Proposal	Choices	Outcome	Conclusion
Buildings with 2 direct access networks (DA)	→ Type II to be phased out in 3+3 years' time	→ Type II may continue but on commercial terms	→ Unlikely to happen	→ Consumers' choice will be restricted
		→ Self-built network	→ Unlikely to happen	→ Consumers' choice will be restricted
		→ Lease from the 2 nd DA	→ Unlikely to happen	→ Consumers' choice will be restricted
Buildings without 2 DA	→ Type II to continue	→ Uncertainty as these buildings could cease to have Type II	→ Type II will not be pursued	→ Consumers' choice will be restricted
	→ Type II to continue	→ Lack of critical mass for Type II	→ Type II will not be pursued	→ Consumers' choice will be restricted

We reach the inevitable conclusion that the proposal from the Government will promise Hong Kong the following:

- Less choice for consumers and in some cases none;
- Creation of localised duopolies;
- More administrative and operational disasters;
- Further financial burden and inefficiency for the industry and the regulator;
- Less investment in the industry; and
- Less employment in the industry.

9. The conclusion is inevitable because:

- (a) The proposal completely ignores the reality that in majority of the cases it would not be physically and/or economically viable for third or subsequent direct access network rollout to a building that already has 2 direct access networks. There may not be enough space for third and subsequent network to install additional facilities at the lead-in to building and at the common equipment room. Even if space is not a constraint it may not be commercially viable, as the return may not justify the investment needed. Therefore when Type II interconnection policy is

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removed consumers' choice in those buildings will very likely be reduced from potential 5 to 2; and

- (b) In an exchange boundary where some buildings within the boundary have 2 direct access networks and therefore these buildings would not have Type II interconnection then the remaining buildings within the same exchange boundary might not be served at all as operators would most likely opt not to implement Type II interconnection to that exchange at all due to uncertainty, lack of critical mass or reduction in market potential. Therefore consumers' choice in those buildings (which are covered by the incumbent PCCW's network only) will be reduced to zero.

By artificially limiting the choice available to consumers, the proposal goes against the Government's policy objective of facilitating effective competition in the telecommunications market and enhancing consumer choice.

10. The proposal in the Second Consultation Paper will guarantee business and revenue to PCCW being one of the 2 direct access networks and will create a duopoly situation, which is extremely harmful to the development of competition and investment in the telecommunications industry.
11. The danger with the Government's proposal is that it would require OFTA to micro-manage the on-going availability of Type II interconnection. Such micro-management of availability is over interference by the Government and will be counter-productive. In our view the Government should simply set the broader policy direction in maintaining Type II interconnection and then move on to set the ground rules. The rest should then be left for the market to develop.
12. Regrettably the Second Consultation Paper has not considered the practical issues particularly the major disruption to consumers and to the operators when Type II interconnection ceases. It is unlikely that agreement with PCCW will be reached for the continuation of Type II interconnection after the 3+3 years; there is absolutely no incentive for PCCW to come to agreement on fair terms. Agreement is unlikely to be reached with the other direct access network operator given that its retail business would be threatened. Therefore after the 3+3 years operators that have been using Type II interconnection to provide service would have to either migrate the customers to their own direct access network (if available) or discontinue the services. In our own experience the migration process itself would not be easy and would involve the following (in very broad terms):
- Identifying buildings where Type II interconnection would cease;
 - Identifying customers in those buildings;
 - Identifying the economics and feasibility of serving these customers via direct access network;
 - If economical and feasible, build direct access network;
 - If not economical or feasible to build – any alternatives?

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- Convincing and arranging with each customer for the switch over;
- Enter into agreement with PCCW on a case-by-case basis for the switch over. From our experience PCCW will impose charges for their part; and
- Perform the switch over.

This process would undoubtedly create a lot of inconvenience and confusion to customers and they would have to suffer service interruption during the switch over, so they might not want to be put through the migration even if it means they would still stay with the same service provider.

Where migration is not possible, the affected customers would be forced to go to another service provider that may not be their choice and then go through the migration process. Moreover the new service provider may not guarantee prices and quality of services that the customers currently enjoy.

Either way there would be an enormous amount of explanation and negotiation with the affected customers. Those customers whose existing services would be affected may not understand and may simply refuse to be inconvenienced in any way. These customers would naturally be very unhappy with the whole saga that would turn into customers' dissatisfaction and complaints.

For operators who have been using Type II interconnection, for each building where Type II interconnection would be phased out, they have to keep track very closely on the expiration dates of the transitional period and the grandfathering period in order to adjust and plan their network rollout, their sales and marketing activities as well as migration activities. For those buildings without 2 direct access networks, the situation may be worse due to the high uncertainty that these buildings could cease to have Type II interconnection at any time. From an administrative and operational perspective, this would be an enormous strain on the operators.

13. To make matters worse there is no guarantee from the Government as to how it would assist operators who have been relying on the Government's mandate and have rolled out their services and network coverage using Type II interconnection to overcome the various physical and economic constraints with rolling out direct access networks. We were promised, actively urged and encouraged by the Government to implement Type II interconnection so as to assist the Government in bringing about more choices to greater segment of the consumers, the Government is now leaving us cold and dry.
14. All in all the analysis in the Second Consultation Paper is shallow and lacks the understanding of businesses and investment decisions making process. The conclusions on whether Type II interconnection policy furthers the Government's telecommunication policy objectives are also a result of wrongly applying the same analysis for residential consumers to that of business consumers. Clearly the same approach cannot be applied to 2 totally different markets with very different

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buying and usage behaviour, and two totally different types of consumers in terms of habitation and geographical cluster.

15. Wharf T&T submits the Government should not proceed with its ill-conceived proposal to phase out Type II interconnection at Point A. Instead we urge the Government to immediately move to properly and truly regulate the development of competition in the fixed lines market and proceed to:
 - Investigate the conduct and pricing of PCCW in the provisioning of Type II interconnection services for breach of General Conditions 13, 15 and 16 of its FTNS licence and Sections 7K, 7L and 7N of the Telecommunications Ordinance;
 - Determine (through regulatory action) Type II interconnection charges of PCCW pursuant to Section 36A of the Telecommunications Ordinance to ensure that the pricing are efficient and pro-competition; and
 - Finalize and issue the Industry Code of Practice for the Interconnection of Broadband and Narrowband Local Access Links pursuant to Section 6D of the Telecommunications Ordinance and determine pursuant to Section 36A of the Telecommunications Ordinance that such terms and conditions in the code of practice shall be deemed to be the essence of Type II interconnection agreement between PCCW and the requesting operators.
- 16 Finally we would like to add that after 8 years of liberalization in the fixed lines industry, today we continue to see new entrants being dealt with unfairly by the incumbent PCCW, many interconnection problems persist, such as the excessive charges imposed by PCCW and the high rejection of requests for number porting and local access links. Effective regulatory actions are desperately needed to combat them.

THANK YOU

得而復失！

近四百萬港人可能再無得揀， 打回原形！

你所要選的區議員能否捍衛你選擇電話服務的權利？

區議會選舉賦予240萬人選擇能為自己爭取權益的區議員，「第二類互連」則已令接近400萬人受惠於電話服務選擇。取締「第二類互連」將剝奪消費者及商業用戶選擇電訊服務的權利，利益受損的人數比已登記的選民還要多！

「第二類互連」掌握全港市民話線

政府開放電話市場，並透過「第二類互連」加速競爭，使其他固網商為未能開設直接接駁的大廈提供電訊服務選擇。但至今市場仍然受市場支配者所壟斷！近日更出現倡議取消「第二類互連」政策的言論，此舉實有損全港消費者及商戶的利益，令現有差不多一百萬人經由「第二類互連」提供電話服務的港人被迫經黃線，得而復失，打回原形！

中小企 都有人權！

**你所要選的區議員有否
考慮到中小企選擇
商業電話服務的權利？**

觀塘區超過四成商業電話線已轉用
九倉電訊，若取締「第二類互連」，
其中九成客戶將被剝奪選擇電話服務的權利，
而且大部份均屬於中小型企業！

「第二類互連」掌握全港市民福祉

政府開放電訊市場，並透過「第二類互連」加速競爭，使其他固網商為未能鋪設直接接駁的大廈提供電訊服務選擇。但至今市場仍然受市場支配者所壟斷！近日更出現倡議取消「第二類互連」政策的言論，此舉實有損全港消費者及商戶的利益，令現有差不多一百萬人經由「第二類互連」提供電話服務的港人被迫捱貴線，得而復失，打回原形！

有幸有不幸...

區議員可以揀, 為何電話服務無得揀?
請向閣下的區議會候選人申訴

有幸

筲箕灣有接近百分之一百的住戶可選擇電話服務,
因為有「第二類互連」!
現時有約一半住戶已選用其他固網商的服務, 每個月慳番好多。

不幸

堅尼地城的住戶幾乎全部無選擇, 因為無「第二類互連」!

你是否想有得揀?

有選擇與無選擇, 差之千里, 箇中原因關乎
政府「第二類互連」政策! 若取締「第二類互連」,
你可能會和堅尼地城的市民一樣.....

毫無選擇!

「第二類互連」掌握全港市民福祉

政府開放電話市場, 並透過「第二類互連」加速競爭, 使其他固網商為求能鋪設直接
接駁的大廈提供電話服務選擇。但至今市場仍然受市場支配者所壟斷! 近日更出現倡議
取消「第二類互連」政策的言論, 此舉實有損全港消費者及商戶的利益, 令現有差不多
一百萬人經由「第二類互連」提供電話服務的港人被迫捱貴線, 得而復失, 打回原形!

Back to Square One

**4 million people who "have" will be
relegated back to "have not"**

Which candidate running for election to the District Council can
defend your right to choose your telephone company?

2.4 million people are registered to have the right to vote for
the candidate of their choice in the District Council Election.
Thanks to Type II Interconnection, nearly 4 million people have the right
to choose their telephone company. If Type II Interconnection were
abolished, these consumers and businesses will lose their right to choose.
More people will be affected than there are registered voters.

Type II Interconnection, it's your right.

The Government has liberalised the fixed-line telecom market to bring consumers and businesses
choice. Type II Interconnection has brought competition to benefit consumers and businesses in
smaller as well as bigger buildings. If Type II Interconnection were abolished, it could well be
"back to square one" for close to one million people who are directly benefiting from competition.

SMEs have rights too

In the upcoming District Council Election, will you cast your vote in favour of a candidate who has no regard for the right of SMEs to choose their telephone company?

40% of the business lines in Kwun Tong have chosen to move to Wharf T&T.

If Type II Interconnection were abolished, 90% of these businesses will be robbed of that choice.

And most of these businesses are SMEs, the backbone of Hong Kong's economy.

Type II Interconnection, it's your right.

The Government has liberalised the fixed-line telecom market to bring consumers and businesses choice. Type II Interconnection has brought competition to benefit consumers and businesses in smaller as well as bigger buildings. If Type II Interconnection were abolished, it could well be "back to square one" for close to one million people who are directly benefiting from competition.

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