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Panel on Information Technology and Broadcasting

Meeting on 12 July 2004

**Background brief on
the policy and regulation of Type II interconnection
in the local fixed telecommunications network services market**

Purpose

This paper summarizes Members' major concerns on issues relating to Type II interconnection in the local fixed telecommunications network services (FTNS) market.

Background

2. In a multi-network environment, Type II interconnection enables an operator without its own customer access network to also provide services to customers through the network of another operator. It can help to jumpstart competition by allowing a new FTNS operator to compete with the incumbent operator without having to roll out its own network first.

3. Competition in the local FTNS market was introduced on 1 July 1995 when Hutchison Telecom (Hong Kong) Ltd (now Hutchison Global Communications Limited), New T&T Hong Kong Limited (now Wharf T&T Limited) and New World Telecommunications Limited were licensed as FTNS operators in addition to the former monopoly operator, Hong Kong Telephone Company Limited (now PCCW-HKT Telephone Limited (PCCW)). It was also the date when Type II interconnection was introduced for narrowband services. In early 2000, the Telecommunications Authority (TA) issued a number of local wireless FTNS licences to enable operators, including the Hong Kong Broadband Network Limited to provide fixed services via wireless technology. Type II interconnection was also extended to broadband services

as announced by TA's Statement entitled "Broadband Interconnection" issued on 14 November 2000. The FTNS market has been fully liberalized with effect from 1 January 2003.

The current regulatory framework

4. The Administration has stated that its policy on Type II interconnection aims at facilitating effective competition, enhancing consumer choices and encouraging investment in networks. It has also included the obligation to interconnect promptly and efficiently in the licence conditions of FTNS operators.

5. According to the Administration, the existing framework is based on well-established market-driven principles. Operators should seek to reach agreements on interconnection through commercial negotiation, failing which TA may make a determination in accordance with section 36A of the Telecommunications Ordinance (Cap.106). TA may also resolve disputes over interconnection by way of informal mediation. For the purpose of resolving operational problems in effecting Type II interconnection, an industry forum has been set up by TA and a Code of Practice was drawn up in 1999.

Past deliberations at the Panel

6. The Panel has from time to time exchanged views with the Administration and deputations on Type II interconnection per se and in connection with the liberalization of the FTNS market. A chronology of meetings where such issues were discussed is at the **Appendix**.

7. During past discussions, the Panel has noted that on one hand, the incumbent operator PCCW has raised concern that the current Type II interconnection regime and the unbundling requirement on it are unfair and undermine incentives in facility-based investment. On the other hand, members have also received submissions from a number of FTNS operators on the problems encountered by them when effecting Type II interconnection arrangements with PCCW. The major issues of contention included whether Type II interconnection has become a disincentive to network investment, the charging principles and the manner in which interconnection has been effected by the parties concerned. Doubt has been raised as to whether Type II interconnection requirement in its present form should continue.

8. Members have followed closely changes in the market landscape since 1995. In examining the current policy and regulatory framework for Type II interconnection, members have raised the following concerns for the Administration's consideration :

- (a) As market conditions and investment environment are very different from those in 1995 when Type II interconnection was first introduced, it is necessary for TA to critically re-examine the existing policy so as to strike the right balance between promoting competition on one hand, and maintaining the incentives for investment in telecommunications infrastructure on the other.
- (b) As a result of changes in the market structure and the advent of new technologies, TA should analyze carefully the complaints received on Type II interconnection so as to ascertain the nature and parties involved in the disputes, which may be different from those in the early years of market liberalization.
- (c) TA should not overlook the tendency of new entrants to roll out their networks in profitable commercial districts and densely populated urban areas while neglecting the service needs of customers in rural or less populated areas where there may be a less compelling business case.
- (d) It will be useful if reliable performance indicators are formulated for determining the effectiveness or otherwise of Type II interconnection, and whether there is a continued need for the current arrangements.

Issues raised by the Director of Audit

9. In its Report No. 38 published in March 2002, the Director of Audit highlighted the need for the Office of Telecommunications Authority (OFTA) to monitor the time taken for conducting major interconnection negotiations between the incumbent and the new operators and to take appropriate measures to facilitate the early resolution of interconnection disputes. It was also recommended that OFTA should carry out a detailed post-determination review on the completed cases to ascertain the factors that have contributed to the long processing time. OFTA has taken on board these recommendations for improvement.

Latest consultation exercise

10. To conduct an overall review on the policy and regulatory regime, TA issued a consultation paper on the review of the policy and regulation of Type II interconnection on 23 May 2003. The consultation period ended on 22 August 2003 and a total of 11 submissions were received. Having analyzed the views received, TA issued a second consultation paper on 16 December

2003 inviting comments by 24 February 2004. The following are some of the major proposals in the second consultation paper:

- (a) The requirement for Type II interconnection to copper-based customer access networks at telephone exchanges should be withdrawn in buildings connected by at least two self-built consumer access networks offering both narrowband and broadband services to the occupants of the building;
- (b) Type II interconnection requirement should not be extended to fibre-based customer access networks so as to encourage investment in the roll-out of competitive fibre-based telecommunications infrastructure to provide innovative, high-capacity and high-speed telecommunications services;
- (c) Type II interconnection requirement at individual building level should be maintained in view of the physical and economic constraints faced by operators when installing in-building telecommunications systems; and
- (d) a proposed set of transitional arrangements for implementing the withdrawal of Type II interconnection obligations.

11. The Panel has noted that the proposal to withdraw Type II interconnection requirement in buildings connected by at least two self-built networks has the support of some FTNS operators while some operators maintain the view that the existing requirement should be retained. Having examined the Administration's and the industry's views, members agree in principle that operators should not over-rely on Type II interconnection in lieu of rolling out their own customer access networks. For this purpose, they consider that an updated regulatory regime should be put in place.

12. Some members have requested the Administration to consider mandating Type II interconnection only in buildings with proven difficulties in accessing essential bottleneck facilities in the rollout of self-built networks. On the suggestion to impose an upper limit on the number of an operator's lines served through Type II interconnection, members have noted the Administration's view that if an operator decides to serve all its lines through Type II interconnection in buildings with only one customer access network, this should be encouraged for the benefit of enhancing competition and customer choice.

13. Regarding the proposed three-year transitional period and three-year grandfathering period to phase out mandatory Type II interconnection in selected buildings, members have asked the Administration to re-consider whether the proposed six-year duration is appropriate, having regard to

technological advancement and the need to provide uninterrupted service to existing customers during network migration.

Latest position

14. Following the decision of the Executive Council on 6 July 2004, the Administration issued a Legislative Council Brief on "Review of Type II interconnection policy". The Panel will be briefed on the way forward at the next meeting to be held on 12 July 2004.

Council Business Division 1
Legislative Council Secretariat
9 July 2004

Panel on Information Technology & Broadcasting

**Panel meetings where FTNS - related issues have been discussed
(up to July 2004)**

Date of meeting	Issue
1. 28 July 1998	1998 Review of Fixed Telecommunications
2. 3 September 1998	Briefing by the Secretary for Information Technology and Broadcasting on 1998 Review of Fixed Telecommunications
3. 25 September 1998	"The 1998 Review of Fixed Telecommunications - A Considered View" (Meeting with deputations and the Administration)
4. 9 November 1998	1998 Review of Fixed Telecommunications - the Administration's response to concerns raised by non-government organizations (including concerns about the local access charge)
5. 8 February 1999	1998 Review of Fixed Telecommunications
6. 5 May 1999	1998 Review of Fixed Telecommunications
7. 10 May 1999	1998 Review of Fixed Telecommunications
8. 12 July 1999	Moratorium on the issue of further FTNS licences
9. 13 September 1999	Progress report on the moratorium on the issue of further local fixed telecommunication network services licences
10. 8 January 2001	Interconnection issues
11. 12 February 2001	Interconnection issues (Meeting with deputations and the Administration)
12. 12 November 2001	Implementation of the full liberalisation of the local fixed telecommunications network services market from 1 January 2003

13. 10 December 2001	Progress of interconnection issues (including the provision of fixed communications network services at public housing estates in new towns)
14. 14 January 2002	Implementation of the full liberalization of the fixed telecommunications network services market from 1 January 2003
15. 10 June 2002	Progress of interconnection issues (Meeting with deputations and the Administration)
16. 9 June 2003	Consultation paper on "Review of the policy and regulatory regime for Type II interconnection"
17. 25 February 2004	Second consultation paper on Review of the regulatory policy for Type II interconnection (Meeting with deputations and the Administration)
18. 12 July 2004	Review of Type II interconnection policy

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