



Written Submissions of New World PCS Limited

Background

New World PCS Limited is one of the existing Public Radiocommunications Service (PRS) licencees for second generation (2G) mobile services. Unlike other PRS licencees, we (together with another 2G licencee) did not bid for a third generation (3G) licence in 2001.

The proposed amendment of the subsidiary legislation made under the Telecommunications Ordinance (Cap. 106) (L.N.208-210 of 2004) aims at imposing spectrum utilization fee (SUF) on the 2G licence at the following amounts: (a) for the first 5 years at HK\$145 for every 1kHz per annum, and (b) for the subsequent 10 years at the similar level as the other 3G licencees (i.e., the higher of 5% of the Network Turnover or \$1,450 for every 1kHz per annum).

To a PCS operator, it means that it has to pay an additional \$3.3 million per annum in the first 5 years and *at least* 33 million per annum in the next 10 years, totally at least \$346.5 million for the 15 years licence renewal. This is in addition to the annual licence fee for mobile station and base station approximately at \$20 million per annum.

Our Comments

1. Imposition of SUF on 2G Licencees is harmful to consumers in Hong Kong

The proposed imposition of SUF on 2G licencees poses as a huge financial burden on the 2G licencees, which may have 2 possible consequences. First, the retail charge for 2G service would inflate to reflect the imposition of SUF. Alternatively, the 2G service would extinguish in Hong Kong since the same level of SUF is imposed on less-technologically-advanced 2G service. Both would harm the consumers in Hong Kong since they either have to pay more for the same 2G service or have less choice for different mobile technologies.

2. Imposition of SUF on 2G Licencees is based upon a doubtful assumption

Paragraph 4 of the Legislative Council Brief (File Ref.: CTB(CR)7/23/11) reads "*the spectrum allocated to 2G licensees should be able to provide services similar to those offered by 3G networks in a few years*" ("Assumption"). We would like to ask the relevant authorities to provide statistics and evidence for establishing such Assumption.

In this connection, we submit that it is doubtful that the Assumption would materialize for the following reasons:-

- (a) ***It is undeniable fact that 3G is a more advanced technology than 2G service.*** For example, 3G can transmit higher speed data and can support such functions as video-conferencing or location service.
 - (b) ***Spectrums are not homogenous.*** The spectrum allocated by OFTA to us when we obtained our 2G licence in 1996 (i.e., 1710-1880MHz band) is different from the spectrum allocated to the 3G operators in 2001 (i.e., 1900MHz-2170MHz band). Since 1900MHz-2170MHz band was globally deployed as the 3G spectrum, equipment manufacturer would only focus on research and development for the infrastructure facilities for 3G service on 1900MHz-2170MHz spectrum. As of today, there is no cogent evidence that 3G infrastructure equipment would be available for 2G spectrum, not to mention its availability in 2010 or 2011.
3. The SUF for 3G service was determined during bullish market.

As mentioned in paragraph 5 of the Legislative Council Brief (File Ref.:CTB(CR)7/23/11), “*the mobile environment has changed substantially since the auction for 3G in 2001*” and “*it has become much less bullish*”. In this connection, we would like to seek explanation from the relevant authority for the rationale behind for using the level of SUF which was determined during bullish market as the benchmark for subsequent renewed 2G licencees in 2010 or 2011.

Conclusion & Way-forward

To conclude, we believe that SUF at the same level as 3G licence should only be imposed on 2G licencees if the 2G licencees deploy 3G service on the assigned spectrum. It should not be imposed on 2G licencees if the 2G licencees choose to continue to provide 2G services.

As a practical way-forward, we propose that instead of imposing SUF based on the uncertain Assumption, SUF for 2G licencees should be reviewed again in 2010. The review factors should include the availability of infrastructure equipment, the nature (2G or 3G) of mobile services provided by 2G licencees and profit level of the 2G licencees.

Dated this 5th day of January 2005
Submitted by New World PCS Limited