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19 June 2008

Hon Bernard Chan, GBS, JP
Chairman - Subcommittee on Subsidiary Legislation
to Introduce a Unified Carrier Licence under the Telecommunications Ordinance
Legislative Council
Legislative Council Building
8 Jackson Road
Central, Hong Kong

By Facsimile (2537 1469) and Mail

Dear Mr. Chan,

**Subcommittee on Subsidiary Legislation to Introduce a Unified Carrier Licence ("UCL")
under the Telecommunications Ordinance**

We refer to the Subcommittee meeting on 14 June 2008 regarding the licence fees proposed by the Commerce and Economic Development Bureau for the UCL.

Please find enclosed our submission to the Subcommittee. We respectfully request the Subcommittee to further consider our views on this subject matter in its upcoming meetings on 20 and 23 June 2008.

If further information or clarification is required, please do not hesitate to contact us.

Thank you.

Yours sincerely,

Agnes Tan
VP, Legal, Regulatory & Carrier Affairs

Encl.



WHARF T&T LIMITED**SUBMISSION
TO THE SUBCOMMITTEE ON SUBSIDIARY LEGISLATION
TO INTRODUCE A UNIFIED CARRIER LICENCE UNDER THE
TELECOMMUNICATIONS ORDINANCE****20 JUNE 2008**

- 1 We wish to thank the Honorable Chairman and members of the Subcommittee for affording us the opportunity to further give our views on the proposed subsidiary legislation to introduce a unified carrier licence ("UCL") under the Telecommunications Ordinance.
- 2 We reiterate our strong objection to the licence fee schedule, in particular the customer connection fee (\$8 per connection per year) and the number fee (\$3 per number per year). To substantiate our objection to the licence fee for UCL, we respectfully put forward the following issues for consideration by the members:
 - The licence fee schedule for the UCL, which will apply across all fixed and mobile carriers when they migrate to UCL, represents a selective overall increase of licence fee for fixed carriers by about 160%. This increase is not justified given the light-handed regulatory regime in Hong Kong. On the other hand the proposed licence fee represents a significant saving for the mobile carriers. Why should one segment of the industry enjoy a licence fee reduction whilst the others face an increase? Yet the biggest demand for number resources in fact came from mobile services – according to the data released by the Administration, the numbers of fixed lines in Hong Kong has grown by less than 0.5% from 1998 to 2007 (3.71 millions in 1998 to 3.72 millions in 2007) whereas during the same period, mobile phone subscriptions in Hong Kong has grown by over 260% (2.90 millions in 1998 to 10.59 million in 2007). Therefore in our view such an increase is unjustified, unfair and discriminatory.
 - The \$3 number fee is premature and unnecessary. We do not believe the number fee would lead to better number management or delay the social costs of digit lengthening in Hong Kong. There are operation measures, which could be put in place to address the number resource concerns. Indeed OFTA has formed a work group to formulate these measures so we have yet to see the intended effect of these measures.
 - As the new licence fee will apply to fixed or mobile carriers when they migrate to UCL either on expiry of their existing licences or earlier date if they choose to convert (which is unlikely for the fixed carriers given the increase in their costs), the new licence fee will have different start date for each licensee. Some fixed carrier licences will not expire until 2018 and consequently the number fee will not be applicable to them - this defeats the purpose of the Administration's intention on the number fee.

- With the increase of licence fee for fixed carriers, inevitably there would be pressure to pass on the costs to consumers: Does this inevitable transfer of costs lie within public interest? Can the Administration ensure that mobile carriers will pass on the savings from the reduction of licence fee to the consumers?
- 3 There seems to be an unjustified assumption that operators are the root cause for inefficient number management, they profit by hoarding the numbers and that the number fee would force them to become more efficient in managing number and lengthen the life span of the 8-digit plan. It should be noted that there is no disagreement between the operators and the Administration on the wish to delay this social cost by prolonging the lifespan of the 8-digit plan, but this must be achieved by a workable and effective policy. Regrettably the \$3 number fee is far from being workable and effective.
 - 4 Whether operators are managing number efficiently one needs to understand how numbers are allocated from the Administration to the operators and finally to the consumers. Numbers in sequential order are allocated to operators in 100,000 blocks at operators' requests. To ask for additional allocation operators would need to have used at least 60% of the numbers at hand (i.e. number utilization ratio has to be at or above 60%).
 - 5 For allocation to end-users, it is the consumers, not the operators, who have the final say in which numbers they use. We all know that most consumers in Hong Kong have a special preference for lucky numbers such as 3 or 8 over other numbers like 4 and 5. At present, there is no extra charge for lucky numbers and the amount of unused lucky numbers available within the 8-digit regime has been steadily declining. All these have contributed to the excess demand of lucky numbers in the market.
 - 6 To satisfy the market's demand for lucky numbers naturally operators would try to maximize their access to the lucky numbers by asking for more number blocks from the Administration and would continue to do so until their utilization ratios reach the 60% threshold. This explains why both fixed and mobile operators, despite of their different customer bases, both operate at a utilization ratio of slightly below 60% (in the past when the threshold ratio was set at 50%, the utilization ratio for the industry was slightly below 50%). This is not a coincidence – it is the market's response to the threshold. Ironically, this phenomenon was being seen as mismanaging numbers.
 - 7 The number fee would be applied across ALL numbers allocated to the operators, be the numbers considered lucky or not. This across-the-board number fee would not change consumers' preference for lucky numbers as they do not have to pay extra for them – so called unlucky numbers would still be rejected by consumers and underutilized. It is expected that at the end the utilization ratio would still be the same as the threshold set by the Administration. On the other hand, operators would be worse off with the number fee – they would be paying more licence fees when they could have invested the extra fees for innovations. Perhaps the Administration should educate the public so that they would be willing to accept the not so lucky numbers.
 - 8 Further, even if the \$3 were able to compel the fixed operators to relinquish the idle numbers to the Administration for subsequent reallocation, given the fact that fixed-mobile number portability ("FMNP") is still not preferred by the general public as

confirmed by the survey conducted by the Administration, those numbers relinquished from the fixed operators would not be able to meet the substantial demand for numbers from the mobile operators. If the Administration intends to use \$3 number fee as an incentive to promote better number usage by operators, it would appear that the proposal would be incapacitated unless the issue of FMNP is duly consulted and resolved in the first place.

- 9 For the above reasons we submit that the number fee proposal would not have any impact on prolonging the lifespan of the 8-digit regime and we therefore urge the Administration to defer the introduction of the new licence fee schedule and to look for more practical and effective measures to address the number resource issue.
- 10 In response to Honorable Albert Chan's request for counter-proposal to the Administration's \$3 number fee schedule, we have given it some very serious consideration and we are pleased to proposed two options below for the Sub-committee's consideration:
- **Option A:** Allowing the industry to exhaust all the allocated numbers at hand before imposing a number fee on new number allocation. A free number block could be allocated for newly start-up licensees. This option would encourage operators to fully utilize all numbers at hand while providing a relief to the start-up licensees for adjusting to a cost-based numbering regime; or
 - **Option B:** Imposing a number fee on all allocated numbers but exempting all used numbers and a number buffer (say 20%), which is formed in reference to the averaged rate of growth of operators' new number usage – this option would discourage operators from acquiring numbers more than its normal use while ensuring operators would have sufficient numbering resource to meet their business growth.

Our preference is Option A given its simplicity in administering the number resources.

- 11 At the meeting on 14 June 2008, we also discussed a number of operation measures that would help to conserve the current 8-digit regime. These operation measures are:
- Increase the current utilization ration from 60% to 80% - this would greatly reduce the volume of idle numbers accumulated by operators;
 - Levels 5 and 7 for mobile operators – only the mobile services are driving the demand for numbers, fixed operators' demands are significantly lower than that of mobile. The available numbers from these 2 levels should be more than sufficient for the mobile operators for a long time;
 - Shorten the quarantine period of relinquished numbers;
 - Reduce the block size of numbers to be allocated say from the current 100,000 to 10,000;
 - Shorten the validity period of prepaid SIM cards;

- Shorten the turn around time for allocation of additional numbers by the Administration to operators from current 12 working days to 2 working days (as suggested by the Administration on 14 June 2008) to avoid unnecessary stockpile;
 - The Administration to promote the awareness of the general public on the adverse impact of inefficient use of existing 8-digit number regime; and
 - The Administration to review its guidelines on allocating number for DDI/IDA circuits which currently permit users to have up to 300 numbers per DDI/IDA circuit.
- 12 We submit that adopting Option A or B and couple with the various conservation measures as advocated above, we should be able to prolong the current 8-digit regime very significantly. It should also be noted that at present, not only is number shortage far from being an emergency, its emergence also looks distantly remote. We refer members to the information provided by the Administration that clearly shows that there are 16.5M numbers already allocated to operators but are idle, and there are some 17.2M numbers that are still available and not yet allocated to operators. Therefore there are at least 33.7M numbers available to be used, not including numbers that would be recycled from the pool of numbers currently in use. On the basis of these facts, we agreed with PCCW's submission that there is no shortage and therefore there is no urgency.
- 13 We note the Administration's concern that as a responsible regulator it has to take some actions to ensure that the lifespan of the current 8-digit regime is extended as far as possible, therefore the conservation measures we believe would be more effective. We agreed with Honorable Albert Chan that instead of having any meaningful deterrent effect, this \$3 number fee would most likely be passed on to consumers. It would be naïve for the Administration to believe that \$3 per number per annum is insignificant and that there would be competitive pressure between fixed and mobile to safeguard consumers' interests. It should be recognized that the proposed licence fee schedule from the Administration amounts to wealth distribution from fixed to mobile operators, the same as it did with the fixed-mobile interconnection charge where an estimated \$600M per annum will be shifted from fixed to mobile operators when the sunset ends in April 2009. This wealth redistribution will create ripple effect(s) in the retail segment and these effects would inevitably put consumers' interests at stake.
- 14 Finally we understand that both of the stated options above might entail some inevitable adverse financial impacts to the Administration's Trading Fund. Notwithstanding these financial impacts, we strongly opine that should the Administration believe that a readjustment to its earlier proposed connection fee schedule is warranted, such a readjustment should not occur unless all affected parties have been duly consulted, even if it means a temporary delay of the auction for the BWA spectrum. A delay of the BWA spectrum would not necessarily be a bad move in light of the development of LTE technology.

THANK YOU.