

LEGISLATIVE COUNCIL BRIEF

The Secretary for Information Technology and Broadcasting submits the following note for Members' information -

<u>Title of Note</u>	<u>Date of ExCo</u>
Licensing of Cable-based External Fixed Telecommunication Network Services	1 February 2000

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Information Technology and
Broadcasting Bureau

LEGISLATIVE COUNCIL BRIEF

LICENSING OF CABLE-BASED EXTERNAL FIXED TELECOMMUNICATION NETWORK SERVICES

INTRODUCTION

At the meeting of the Executive Council on 1 February 2000, the Council took note of the information below.

BACKGROUND

2. At the meeting of the Executive Council on 4 May 1999, the Council ADVISED and the Chief Executive ORDERED, inter alia, that Government would issue licences for the operation with effect from January 2000 of external telecommunications facilities based on submarine or land cables only to those who would invest directly in bringing new physical cables to Hong Kong.

3. By the closing date of 30 September 1999, the Telecommunications Authority (TA) received a total of 19 applications for cable-based external fixed telecommunication network services (FTNS) licences (see Annex A). 15 of them propose to bring in new submarine cables; three propose to bring in new overland cables between Hong Kong and the Mainland of China; and one proposes to bring in both. It should be noted that some of the applicants' proposals relate to the same cable system. This is because they are part of a consortium which is investing in that new cable system, but they wish to obtain their separate external FTNS licences. The response of the market has exceeded our expectations.

4. A Working Group, comprising members from the Office of the Telecommunications Authority (OFTA) and the Information Technology and Broadcasting Bureau (ITBB), with the Independent Commission Against Corruption as an observer, was formed to assess the proposals and to make recommendations to the TA. The proposals, together with other supplementary information provided by the proposers, were carefully evaluated against the set of criteria laid down in the Guidance Note for the

invitation of proposals, as set out in Annex B. The TA has accepted the recommendations put forward by the Working Group on the selection.

Letter of Intent to Eligible Cable-Based External FTNS Applicants

5. After careful evaluation of the proposals, the Working Group recommended and the TA agreed that there is no physical constraint which might limit the number of licences to be granted for the operation of external telecommunication facilities based on cables. Although it is more difficult to identify suitable sites to accommodate cable landing stations than satellite facilities, there are suitable sites on Government as well as private land along our coast (see also paragraphs 13 to 15 below). As a result, the TA intends to license **all** applicants who meet the licensing criteria and who agree to offer a performance bond to guarantee their commitments on service launch date, capital expenditure and the capacity they own in the proposed cable to be brought into Hong Kong^{Note 1}.

6. Under the normal licensing procedure for a telecommunications licence, the TA would offer a draft licence to the successful proposers. Upon their confirmation on the acceptance of the licence conditions and their agreement to put up performance bonds to guarantee commitments of major milestones, the TA will formally issue the licences. On this occasion, the TA considers that the unique circumstances the cable operators face as explained below warrant the adoption of a more flexible approach :

- (a) All applicants who meet the licensing criteria are proposing substantial capital investment in new submarine or land cables. They may be at different stages of planning and preparation, with a view to concluding the construction and maintenance contracts with their consortium partners, acquiring the right to land/terminate the cables at distant ends, or reaching agreement for interconnection with networks and other cables at distant ends for onward delivery of traffic over the new cables. To facilitate the negotiations of these agreements, the applicants would need some form of assurance on the prospects of their external FTNS licence applications from the regulatory authority in Hong Kong;

^{Note 1} Following completion of this exercise, if there is further interest in the laying of new submarine or overland cables to/from Hong Kong, the TA will issue a fresh invitation for applications for external FTNS licences.

- (b) Once the TA issues a licence to the applicants, they are obliged under licence conditions to submit a performance bond within a specified period (normally two weeks) from the date of grant which will guarantee the achievement of defined milestones by certain dates. Failure to meet the milestones by the specified dates would result in the TA calling the bonded sum which would be substantial. Given the current state of planning for most of the applicants, they are unlikely to be able to commit to performance bonds at this stage.

7. To take into account the unique circumstances of these investment projects, the TA has decided to issue to eligible applicants "Letters of Intent" (LOIs). The LOIs will stipulate that the TA intends to issue to the LOI holders external FTNS licences upon their successful negotiations with other relevant parties and authorities on such matters as construction and maintenance and landing rights, and to their commitments to performance bonds acceptable to the TA in guaranteeing major milestones. The offer in the LOIs will be valid for 18 months. This may be extended at the sole discretion of the TA, if the circumstances of a particular LOI holder warrant. Applicants who are at an advanced stage of preparation will be able to meet the requirements and obtain the licences from the TA within a short period. Other applicants who are at a less advanced stage of preparation will welcome the flexibility for them to proceed with all the planning and preparation work in the meantime, and be given the necessary assurance in the LOIs which would facilitate their negotiations with overseas regulatory authorities and any relevant parties.

8. A list of the **thirteen** successful applicants who will be issued the LOIs is set out at Annex C. Their proposals involve a total of seven new submarine cables and four overland cables to and from Hong Kong. A map showing the new cables the LOI holders propose to bring in is at Annex D.

9. The liberalisation of the external telecommunications facilities market to new licensees by bringing in new cables will benefit the industry and consumers in the following ways :

- (a) new capital investment of the successful applicants in the first three years in building up of their telecommunication

infrastructure relevant to Hong Kong would amount to about \$9 billion but this is subject to refinement as there may be consolidation of the proposed cable systems by the applicants^{Note 2};

- (b) the external telecommunications capacity of Hong Kong would increase significantly from 44 Gigabits per second (Gbps) by 384 to 428 Gbps in the next three years but this is subject to refinement as there may be consolidation of the proposed cable systems by the applicants^{Note 2}. Depending on market conditions, there would be scope for further expansion of the external capacity by as much as five-fold. Expansion in our external connectivity is key to Hong Kong's development into a regional telecommunications centre and Internet hub; and
- (c) there will be more choice in the supply of external circuits. The increased competition in the market is expected to drive down prices, improve the quality of service and induce the introduction of more innovative services.

FINANCIAL AND STAFFING IMPLICATIONS

10. OFTA will collect from each new operator an FTNS licence fee of \$1 million per annum. This will cover the administrative costs plus the target rate of return to the OFTA Trading Fund. OFTA will strengthen its service to monitor and regulate the new services through internal deployment and hiring of new staff.

ECONOMIC IMPLICATIONS

11. This is a further major step in liberalising our telecommunications market and in introducing competition to the external facility-based sectors. We estimate that the total additional investment in the telecommunications infrastructure could amount to about HK\$9 billion in the first three years. Since all the new cables will bring in a significant amount of bandwidth for

^{Note 2} The amount of investment and the increase in capacity are derived from the applicants' proposals. Since the LOIs are not binding, the investment as well as capacity of the cables may be subject to change, depending on the business arrangement they finally adopt and negotiation with other overseas authorities.

external connection, this will greatly strengthen Hong Kong's position as a leading telecommunications, Internet and broadcasting hub in the region. The overall economic benefits, including creation of jobs, are likely to be considerable.

PUBLIC CONSULTATION

12. We announced our policy decisions on the progressive liberalisation of the telecommunications market on 5 May 1999 and briefed the LegCo Panel on Information Technology and Broadcasting on the same day. Both the community and the telecommunications industry welcomed the decisions to liberalise the external facilities market when the monopoly of the Cable and Wireless HKT expired on 1 January 2000.

LAND IMPLICATIONS

13. To tie in with the liberalisation of the external telecommunications facilities market, timely availability of land for both cable-based and satellite-based FTNS operators is important. The Teleport in Chung Hum Kok is designed to meet telecommunications operators' need for land. We will put out sites at the Teleport to tender shortly to meet the anticipated demand from the newly licensed external FTNS operators.

ENVIRONMENTAL IMPLICATIONS

14. The cable-based external FTNS licensees will not be allowed to open up roads in Hong Kong as they are required to use the networks of the existing FTNS licensees for connection to local telecommunications users^{Note 3}. There may however be some increase in road openings by the four existing wireline-based FTNS licensees to increase the capacity of their networks for connection with the external facilities. All road openings will continue to be coordinated by the TA to minimise any environmental disturbance. Applicants who will lay new submarine cables to Hong Kong may have to carry out dredging works and would require statutory approvals under the Environmental Impact Assessment Ordinance before such works may proceed.

^{Note 3} This will be a form of interconnection which is governed by the Telecommunication Ordinance. Should the parties fail to reach a commercial arrangement on their own, either party may seek a determination by the TA on the terms of the interconnection, including the charges for the interconnection.

15. To facilitate the speedy processing of applications by the LOI holders for the necessary statutory approvals in the laying of submarine cables and the construction of cable landing stations on their chosen sites, OFTA will issue guidelines on the procedures to be followed under the relevant Ordinances (i.e., the Environmental Impact Assessment Ordinance, the Foreshore and Seabed (Reclamation) Ordinance and the Town Planning Ordinance).

ENQUIRIES

16. For any enquiries relating to this Brief, please contact –

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1 February 2000
Information Technology and Broadcasting Bureau

**Licensing of
Cable-based External Fixed Telecommunication Network Services**

- Annex A - List of 19 applications for external cable-based FTNS licences

- Annex B - Criteria for selection of proposals for external cable-based FTNS licences

- Annex C - List of 13 successful applicants who will be issued Letters of Intent for external cable-based FTNS licences

- Annex D - A map showing the new cables to be brought into Hong Kong

**19 家申領固網服務牌照利用
電纜提供對外電訊設施的公司一覽表**

**List of 19 Applicants for
External Cable-based FTNS Licences**

- I. 建議鋪設新海底電纜的申請公司
Applicants who propose to bring in new submarine cables
1. Asia Global Crossing Hong Kong Limited
 2. AT&T Asia/Pacific Group Limited
 3. BT (Hong Kong) Limited (英國電訊)
 4. **CTI International Limited** (城市電訊國際有限公司)
 5. Far East Gateway Limited (遠東電信服務有限公司)
 6. Flag Telecom Asia Limited
 7. GB21 (Hong Kong) Limited (新加坡(香港)電訊)
 8. Global One Communications Limited (冠博通訊有限公司)
 9. Gold Arrow Limited (置金有限公司)
 10. Level (3) Communications Limited
 11. MCI WorldCom Asia Pacific Limited
 12. NTT Com Asia Limited
 13. OneLink Communications Limited (華立電訊有限公司)
 14. **PSINet Hong Kong Limited**
 15. **Qwest Communications International, Inc.**

16. United Telecom International Limited

II. 建議鋪設新陸上電纜的申請公司

Applicants who propose to bring in new land cables

1. CLP Telecommunications Limited (中電數碼有限公司)
2. Far East Gateway Limited (遠東電信服務有限公司)
3. Teltec Electronic Systems Limited (菱彩電子工程有限公司)
4. Unicom International (HK) Limited (聯通國際通信(香港)有限公司)

**Criteria for Selection of Proposals for
External Satellite-based FTNS Licences**

1. Scale of investment
 - capital investment
 - extent of commitment
 - business plan
 - level of performance bond
2. Financial capability
3. Technical soundness and a satisfactory quality of service
 - connectivity to places
 - increase in capacity of external connectivity
4. Proven management and technical expertise
5. Service quality and charges
6. Implementation schedule
7. Quality of proposal
8. Benefits to the local telecommunication industry and to the economy as a whole
9. Corporate structure

獲發意向書的 13 家申領固網服務牌照
以利用電纜提供對外電訊設施的公司

**Thirteen Applicants who will be issued
Letters of Intent for Cable-based EFTNS Licences**

I. 獲發意向書以鋪設新海底電纜的 11 家申請公司 (註一)

**Eleven applicants who will be issued Letters of Intent to bring in
new submarine cables (Note 1)**

1. Asia Global Crossing Hong Kong Limited
2. AT&T Asia / Pacific Group Limited
3. BT (Hong Kong) Limited (英國電訊(香港))
4. CTI International Limited (城市電訊國際有限公司)
5. Far East Gateway Limited (遠東電信服務有限公司)(註三)(Note 3)
6. Flag Telecom Asia Limited
7. Global One Communications Limited (冠博通訊有限公司)
8. Level (3) Communications Limited
9. MCI WorldCom Asia Pacific Limited
10. NTT Com Asia Limited
11. PSINet Hong Kong Limited

II. 獲發意向書以鋪設新陸上電纜的 3 家申請公司 (註二)

**Three applicants who will be issued Letters of Intent to bring in new
land cables (Note 2)**

1. CLP Telecommunications Limited (中電數碼有限公司)

2. Far East Gateway Limited (遠東電信服務有限公司) (註三)(Note 3)
3. Unicom International (HK) Limited (聯通國際通信(香港)有限公司)

註一： 該十一家獲發牌的申請公司將鋪設總數達七條新的海底電纜。這些電纜將在亞洲不同的地點；如日本、汕頭、台灣等地終接，並從這些地點連接各條國際海底電纜。舉例說，在日本終接的電纜可能連接美國或日本電纜，而在汕頭終接的電纜可能連接美國或中國電纜。

註二： 該三家獲發牌的申請公司將鋪設四條新的陸上電纜，並全部在深圳終接。

註三： 這家申請公司建議投資連接香港的新電纜，包括一條海底電纜及一條陸上電纜。

Note 1 : The 11 successful applicants will bring in a total of 7 new submarine cables. The new cables will terminate in different points in Asia, such as Japan, Shantou (汕頭), Taiwan, and through these points connected to other international submarine cables. For example, the cables terminating in Japan may be connected to the US/Japan cable; the one terminating in Shantou (汕頭) may be connected to the US/China cable.

Note 2 : The 3 successful applicants will bring in 4 new land cables, all terminating in Shenzhen.

Note 3 : This applicant proposes to invest in both a new submarine and a new overland cable to and from Hong Kong.