

**Auction of Radio Spectrum in the 3.5 GHz Band**  
**for the Provision of Public Mobile Services**  
**- Questions and Answers**

*The Communications Authority (the “Authority”) has received questions in relation to the Information Memorandum (“IM”) published on 19 July 2019 for the Auction of Radio Spectrum in the 3.5 GHz Band. The Authority hereby sets out under paragraph F.2.1 of the IM its responses to the questions.*

*Terms not otherwise defined herein shall have the same meaning ascribed thereto in the Notice issued by the Authority on 19 July 2019 for the Auction, or as the case may be, in Annex D “Glossary of Terms” of the IM.*

**AUCTION ARRANGEMENTS AND LOGISTICS (AL)**

**AL.1 At the Assignment Phase of the Auction, the Bidder who places the lowest Valid Bid will not be required to pay any Spectrum Utilization Fee at the Assignment Phase whilst each of the remaining Bidders will be required to pay Spectrum Utilization Fee equivalent to the lowest Valid Bid among them. If two Bidders place Valid Bids at the same amount of HK\$0, does it mean that none of the Bidders will be required to pay any Spectrum Utilization Fee at the Assignment Phase?**

Ans. Yes.

**AL.2 For the 3.3 GHz Band Auction, the amount of Spectrum Utilization Fee payable at the Assignment Phase for each Bidder will be the amount of the lowest Valid Bid among the Bidders. This is different from the mechanism mentioned in AL.1 above for the Auction. Please explain why there is such a difference.**

Ans. For the Auction, the Licensee of Frequency Block A1 is required to coordinate with the concerned operator of the licensed earth stations for telemetry, tracking and control (“TT&C”) of satellites in orbit for the implementation of the necessary measures to protect the TT&C channel operating within the frequency range of 3.400 – 3.405 GHz. Accordingly, the Authority announced in the statement entitled “*Arrangements for Assignment of the Spectrum in the 3.4*

– *3.6 GHz Band for the Provision of Public Mobile Services and the Related Spectrum Utilisation Fee*” on 13 December 2018 (the “3.5 GHz Statement”) that the Bidder which is assigned Frequency Block A1 is not required to pay any Spectrum Utilization Fee at the Assignment Phase, whilst each of the remaining Bidders not assigned Frequency Block A1 is required to pay a Spectrum Utilization Fee at the Assignment Phase at an amount equivalent to the lowest Valid Bid among them.

In contrast, all the Frequency Blocks (i.e. C1 to C10) in the 3.3 GHz band are homogeneous in general. Accordingly, the amount of Spectrum Utilization Fees payable by all Bidders at the Assignment Phase of the 3.3 GHz Band Auction is the same, i.e. at the amount of the lowest Valid Bid among them.

**AL.3 When will the Deposit (either in the form of cash or a Letter of Credit) be returned to a Losing Bidder and a Provisional Successful Bidder of the Auction?**

Ans. The Deposit will be returned to a Losing Bidder and a Provisional Successful Bidder of the Auction as specified respectively in paragraphs 4.24.1 and 5.3.1 of the Notice:

- for a Losing Bidder, the Deposit will be returned to it after the publication of the Provisional Successful Bidder Notice; and
- for a Provisional Successful Bidder, the Deposit will be returned to it after it has performed the duties of a Provisional Successful Bidder as specified in the Notice and the publication of the Successful Bidder Notice.

In all the circumstances as stated above, the return of the Deposit to a Bidder is subject to:

- (a) no outstanding investigation being carried out by the Authority against that Bidder in respect of any suspected contravention of the terms and conditions of the Auction;
- (b) any amount forfeited by the Authority by way of Penalty; and
- (c) the lead time required for the administrative arrangement of the return of the Deposit.

**AL.4 The Provisional Successful Bidders are required to collectively contribute a total of HK\$32,000,000 to the Fund for the Subsidy Scheme to support the upgrade of the existing SMATV systems. What are the consequences if the Provisional Successful Bidders cannot agree among themselves whether to administer the Subsidy Scheme by themselves or to appoint OFCA to administer the Subsidy Scheme on their behalf?**

Ans. Paragraph 5.2.1 of the Notice provides that the Provisional Successful Bidders are required to choose either to (a) administer the Subsidy Scheme by themselves or (b) jointly appoint OFCA to administer the Subsidy Scheme on their behalf. If the Provisional Successful Bidders fail to reach an agreement in taking either one of the options, the Authority will not assign any Frequency Block to them and will disqualify them from the Auction and forfeit an amount by way of Penalty up to the full amount of their Deposits in accordance with paragraph 5.2.5 of the Notice.

**AL.5 Please explain why the remaining Provisional Successful Bidders are required to make additional contribution to the Fund to replenish the Outstanding Contribution amount that other Provisional Successful Bidders fail to make? Further, will the Frequency Block(s) not assigned to the Provisional Successful Bidders who fail to make the required contribution to the Fund be re-assigned amongst the remaining Provisional Successful Bidders?**

Ans. As stipulated in paragraph 36 of the 3.5 GHz Statement, the Authority considers that it is fair and reasonable for a Successful Bidder to bear an amount of the Fund proportionate to the amount of the 3.5 GHz band spectrum acquired by it in the Auction. In the event that there would be unassigned spectrum in the Auction, it should be fair and reasonable to adopt the same principle, i.e. proportionate to the amount of spectrum assigned, for the remaining Provisional Successful Bidders to contribute to the Fund to replenish the Outstanding Contribution amount.

As regards the handling of the unassigned spectrum, in accordance with paragraph D.5.8 of the IM, any Frequency Block which is not assigned in the Auction (whether unsold or not assigned to a Provisional Successful Bidder or a Successful Bidder which was subsequently disqualified by the Authority) will remain vested in the Authority.

## **LICENSING (LG)**

**LG.1 If a Successful Bidder in the Auction already holds a Unified Carrier Licence (“UCL”) and requests to merge its existing UCL with the Licence to be granted, will the Authority refund the unexpired portion of the licence fee of the existing UCL that the Successful Bidder already paid (including (i) fixed fee of HK\$1 million; (ii) customer connection fee; (iii) number fee; (iv) base station fee; (v) frequency assignment fee; and (vi) Wireless Internet of Things device fee)?**

Ans. Based on Part 6 of Schedule 3 of the Telecommunications (Carrier Licences) Regulation (Cap. 106V) (“Telecommunications Regulation”), licence fees should be payable on the issue of a UCL and on each anniversary of the issue of the licence while the licence remains in force. In other words, a Successful Bidder is required to pay the concerned licence fees as stipulated under the Telecommunications Regulation on the grant of the Licence.

If a Successful Bidder of the Auction already holds a UCL, it may request to merge its existing UCL with the Licence issued for assignment of the spectrum in the 3.5 GHz band. The Authority has the sole discretion to decide whether or not to accede to such requests. Such requests will be considered by the Authority on a case-by-case basis taking into account factors such as the applicant’s compliance with the terms of its existing UCL.

In the case of licence merger, calculation of the licence fee for the Licence will among others, take into account licence fees already paid by the Successful Bidder concerned (including all types of licence fee components as stated in the question) and the remaining period before the next anniversary date for the existing UCL.

**Office of the Communications Authority  
23 August 2019**