

# **Industry Briefing**

## **Auction of Spectrum for the Provision of CDMA2000 Mobile Services**

**Hong Kong, 24 September 2007**



**Office of the Telecommunications Authority**  
The Government of the Hong Kong Special Administrative Region

# Agenda

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1. **Opening Remarks**
2. Timetable and Highlights
3. Auction Arrangements and Logistics
4. Highlight of Important Auction Rules
5. Question & Answer

# Opening Remarks

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## Objectives

- Outline the licensing framework for CDMA2000 service
- Present the auction framework for the CDMA2000 spectrum lot
- Provide a forum for stakeholders to raise questions and provide feedback

# Opening Remarks

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## Speakers

- Mrs. Marion Lai, Director-General of Telecommunications, and Auctioneer
- Mr. T Y Chan, Assistant Director (Regulatory)
- Ms. Natalie Wu, Senior Legal Adviser
- Mr. Yang-Soon Lee, Spectrum Strategy Consultants
- Mr. James Ong, Spectrum Strategy Consultants

# Agenda

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1. Opening Remarks
- 2. Timetable and Highlights**
3. Auction Arrangements and Logistics
4. Highlight of Important Auction Rules
5. Question & Answer

# Timetable and Highlights

## Major Milestones and Indicative Timetable

### TA Statement

- 27 April 2007
  - OFTA provided responses to the industry consultation

### Designation of frequency bands and SUF

- 18 May 2007
  - Relevant Telecommunications Order and Regulation were published on the Gazette

### Release of Information Memorandum

- 31 August 2007
  - Release of Information Memorandum and application package

### Application Dates

- 11 & 12 October 2007
  - Applications should be submitted to OFTA between 9:00am and 5:00pm

### Prequalification of Bidders

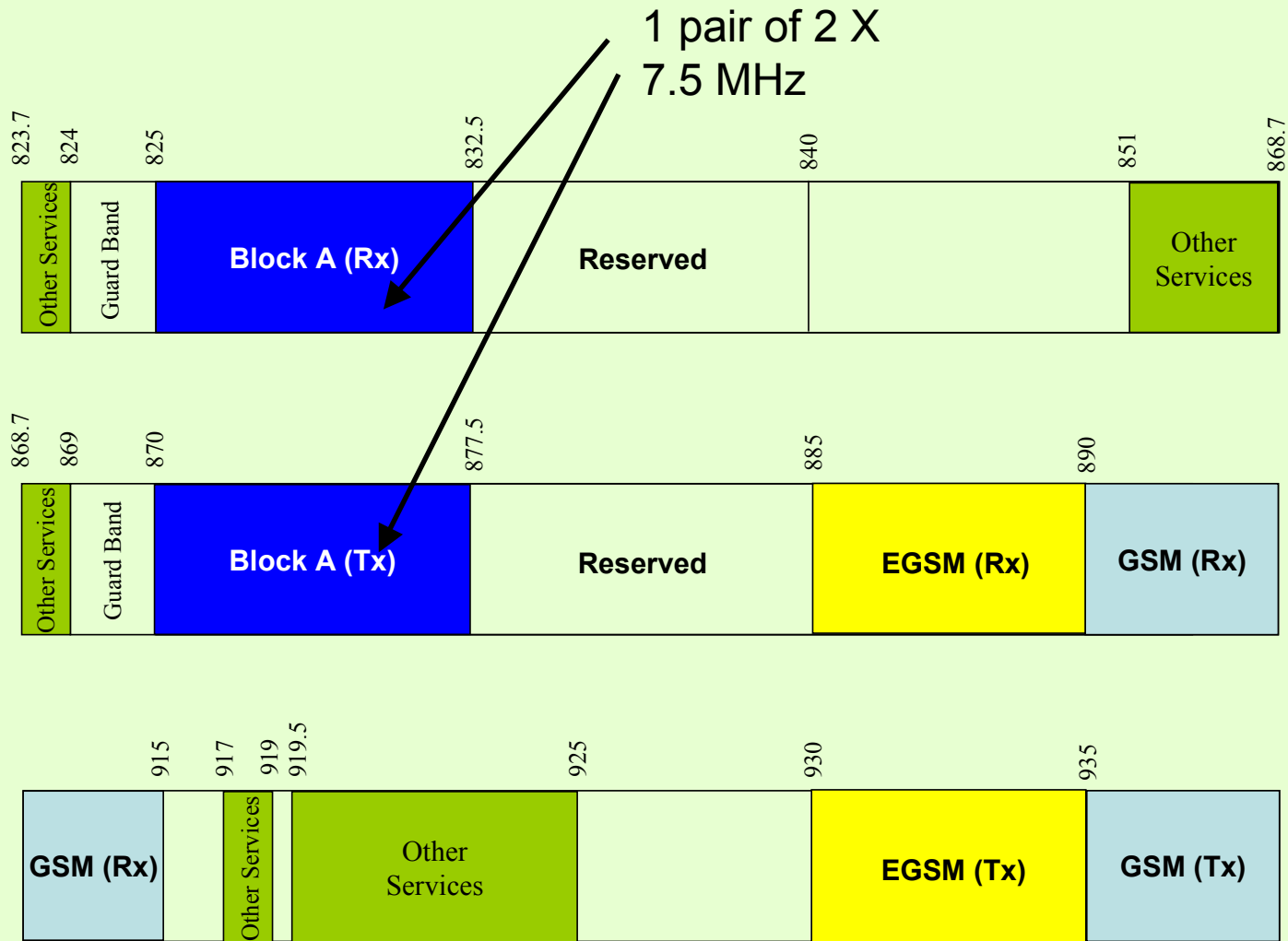
- To be completed by the week of 22 October 2007
  - OFTA to issue Bidder Notice
  - OFTA to determine whether the Auction should be proceeded with

### Date of Auction

- A day in the week beginning 29 October 2007
  - Details of Auction Location to be specified
  - Trial Auction on the same day

# Timetable and Highlights

## Spectrum on offer



# Timetable and Highlights

## Licensing Framework

Terms of Licence	Network obligation	Other obligation
<ul style="list-style-type: none"><li>• Provision of CDMA2000 service starting from 20 Nov 2008</li><li>• Adoption of CDMA2000 1xEV-DO Release 0 standard</li><li>• Mobile Carrier Licence with term of 15 years</li><li>• Non transferable without express approval from the Authority</li></ul>	<ul style="list-style-type: none"><li>• Provision of service to the Golden Bowl Area, which primarily includes the urban areas of Hong Kong</li><li>• Provide network and service coverage to road tunnels, Mass Transit Railway (MTR) and Kowloon Canton Railway (KCR) stations and adjoining tunnels, the airport and other border control points</li><li>• Performance bond of HK\$150m</li></ul>	<ul style="list-style-type: none"><li>• To implement mobile number portability from launch of service</li><li>• Where directed by the Authority, to implement fixed mobile number portability</li><li>• Not subject to Open Access Network requirements</li></ul>



# Timetable and Highlights

## Pricing and payment terms

Payment	Value
Spectrum Utilisation Fee (SUF)	To be determined by the Auction
Auction Reserve Price	HK\$76m
Deposit for Auction Participation	HK\$76m

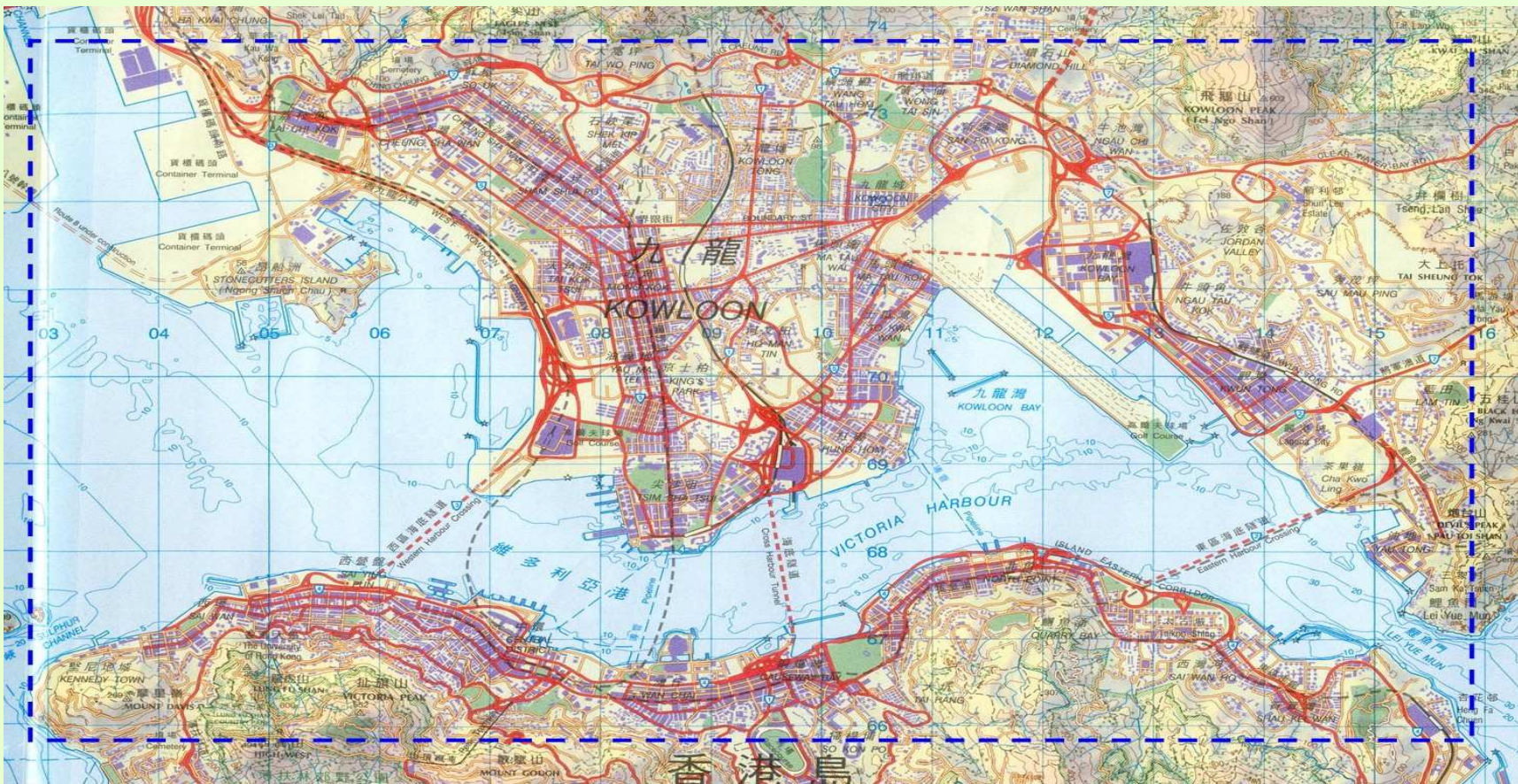
- The Provisional Successful Bidder of the Auction is required to pay SUF within 30 Business Days after the publication of the Auction Result Notice

# Timetable and Highlights

## Performance Bond

- To guarantee compliance with the Network and Service Coverage Obligation

Golden Bowl Area (Northing 815 000m – 822 850m, Easting 830400m – 843 300m)



# Timetable and Highlights

## Pre-Auction Process: Application

### Qualification Criteria

1. Provision of duly completed Application Form and supporting documents
2. Provision of Deposit either through cleared funds or Letter of Credit
3. Provision of duly completed Bidder Compliance Certificate
4. Provision of any other relevant information as the Authority may deem necessary
5. Bidders must be companies formed and registered under the Companies Ordinance
6. No restriction on the participation of existing licensees
7. Existing licensees may participate on their own and / or cooperate with each other or other persons, in form of joint venture or other types of agreements
8. No spectrum cap restriction
9. Each individual company is not allowed to submit more than one Application though there are no ownership rules / bidder association rules prohibiting associated or connected bidders

# Timetable and Highlights

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## Submission of Application

**Date: 11 or 12 October, 2007**

**Locations: OFTA office at 26/F, 29/F or 36/F Wu Chung House**

**Contact: Mr. TY Chan or Ms. Winchi Wong**

**Phone Number: 29616733**

*Applicants are advised to contact Ms Wong by phone in advance and she will inform the applicants the exact time and location to submit the applications*

# Agenda

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1. Opening Remarks
2. Timetable and Highlights
- 3. Auction Arrangements and Logistics**
4. Highlight of Important Auction Rules
5. Question & Answer



# Auction Arrangements and Logistics

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## Terminology

**Authority/Auctioneer** – Overall in charge of the Auction i.e. the Telecommunications Authority

**Authorised Representatives** - Persons appointed by the Bidder to represent the Bidder in the Auction

**Authority's Representatives** – Persons appointed by the Authority at the Auction Location with the responsibilities to -

- observe the activities of the Authorised Representatives inside the Bidding Room to ensure their compliance with the terms & conditions of the Notice;
- receive the Bidding Form sent by the Auctioneer; and
- collect the Bidding Form from the Authorised Representatives

**Valid Bid** – Bidder places a proper bid for the spectrum in accordance with the terms and conditions of the Notice

**No Bid Notification** – Bidder chooses to submit a notification that it does not wish to submit a Bid equal to or higher than the Minimum Bid Specification

**Tied Bids** – arise where there is more than one Bidder having submitted the same highest Valid Bid in the Final Bidding Round

# Auction Arrangements and Logistics

## Auction mechanics overview

### Bidding mechanism

- Closed multiple round ascending format
- Bidder submits “Valid Bid” or “No Bid Notification”

### Bid increment

- Auctioneer sets the Minimum Bid Specification for subsequent Bidding Rounds
- Bidders to submit a Valid Bid that is equal to or higher than the Minimum Bid Specification according to the rounding off criterion

### Auction closure

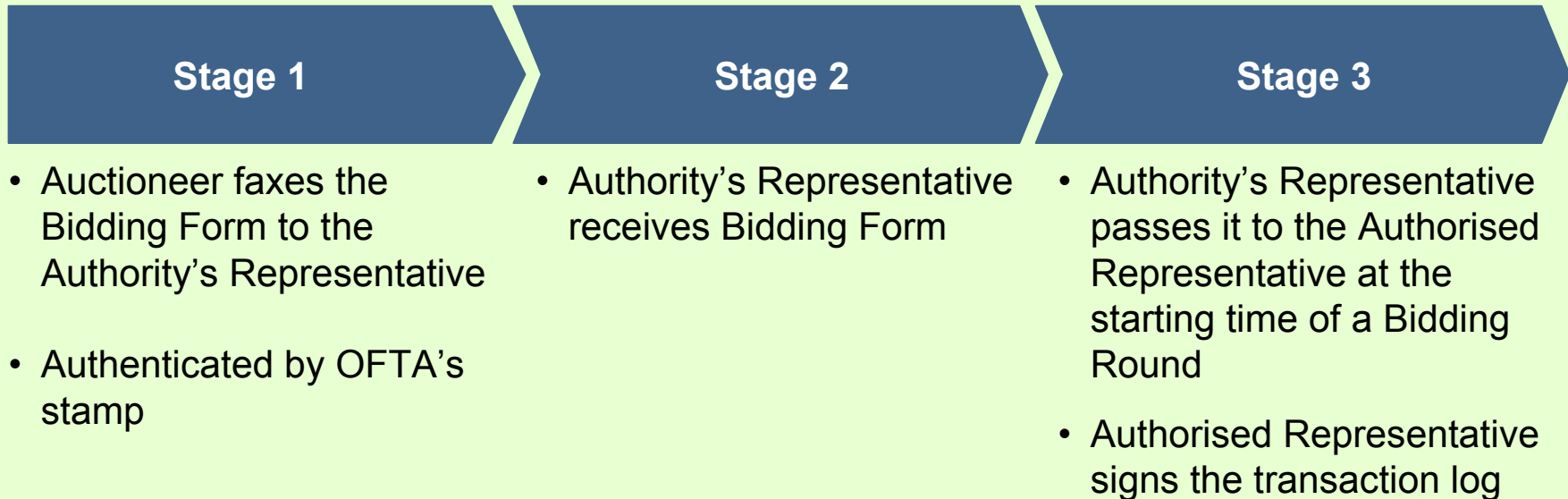
- The Auction will end where:
  - (a) only one Bidder submits a Valid Bid in a Bidding Round (i.e. the **Final Bidding Round**);
  - OR (b) all Bidders submit No Bid Notification even though the Minimum Bid Specification has been set at the lowest level (i.e. the **Extraordinary Bidding Round**);
  - OR (c) the Bidding Round is specified by Authority as the Final Bidding Round (i.e. the **Specified Closing Round**)

### Tied bid avoidance

- The Auction will continue even if two or more Bidders offer Valid Bids of an identical amount. Such Bids will be replaced by those submitted in subsequent Bidding Rounds. No resolution is required
- If the Auction reaches a stalemate with Tied Bids in the Final Bidding Round, the Provisional Successful Bidder will be determined by making reference to previous Bidding Round(s). The Bidder who submitted the highest Valid Bid among the Tied Bidders should be the Provisional Successful Bidder

# Auction Arrangements and Logistics

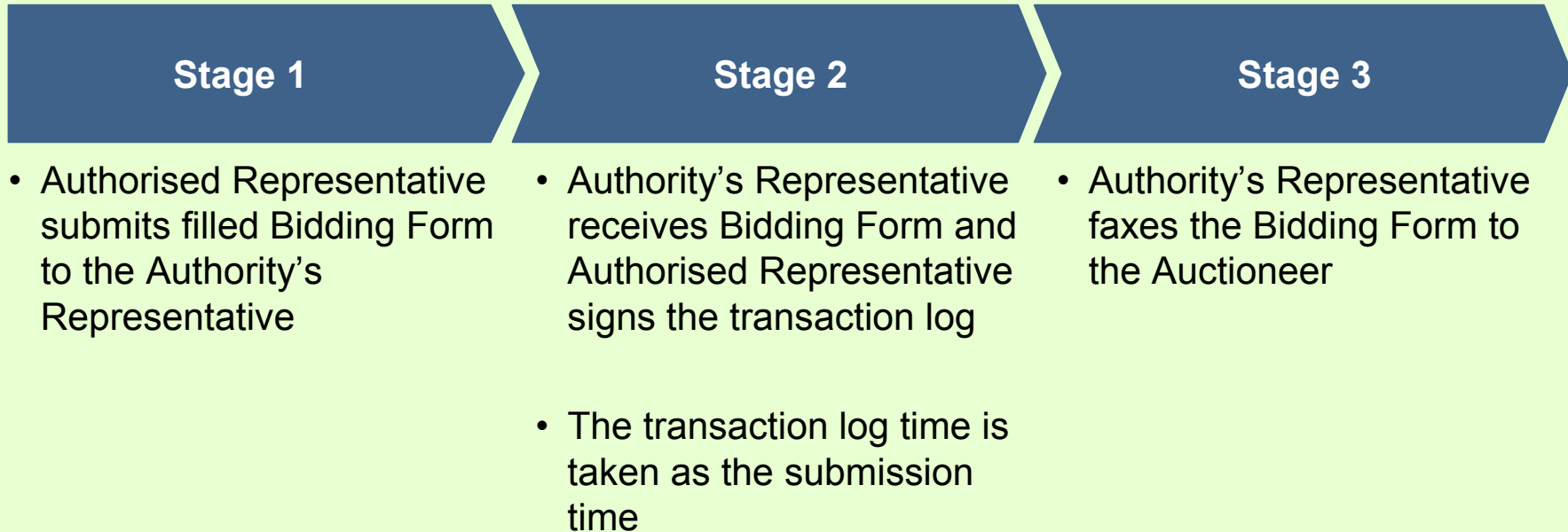
## In-Auction Process: Notification by the Authority/Auctioneer





# Auction Arrangements and Logistics

## In-Auction Process: Submission of Bids to the Authority/Auctioneer



# Auction Arrangements and Logistics

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## Auction timings

- **Trial Auction**

- To conduct on the same day as the Auction

- **Auction**

- To commence after the Trial Auction

- **Indicative Auction timings**

- Bidding Round length – 10 minutes
- Time between Bidding Rounds – 10 minutes

# Auction Arrangements and Logistics

## Worked Examples

### Scenario 1: No simultaneous No Bid Notifications nor occurrence of Tied Bids

Bidding Round	Highest Bid in the Previous Bidding Round (HK\$)	Min Bid Specification (HK\$)	Action of each Qualified Bidder				
			A	B	C	D	E
1		76m	76m	79m	77m	76m	78m
2	79m	80m	80m	85m	90m	No Bid (Withdrawn)	95m
3	95m	105m	110m	120m	150m		130m
4	150m	170m	No Bid (Withdrawn)	175m	180m		170m
5	180m	200m		No Bid (Withdrawn)	210m		220m
6	220m	250m			250m		260m
7	260m	290m			No Bid (Withdrawn)		290m

- Yellow highlighted boxes indicate highest Valid Bid of that Bidding Round
- Bidder B is the Leading Bidder in Bidding Round 1; Bidder E in Bidding Round 2; etc
- In Bidding Round 2, Bidder D is deemed to have withdrawn as it submitted a No Bid Notification and there is at least one Valid Bid from other Bidders in that Bidding Round
- Auction ends when there is only one Valid Bid in Bidding Round 7
- Bidder E is the Provisional Successful Bidder and the SUF payable is HK\$290m

# Auction Arrangements and Logistics

## Worked Examples

### Scenario 2: Simultaneous submissions of No Bid Notifications

Bidding Round	Highest Bid in the Previous Bidding Round (HK\$)	Min Bid Specification (HK\$)	Action of each Qualified Bidder				
			A	B	C	D	E
1		76m	76m	77m	78m	76m	76m
2	78m	80m	90m	90m	81m	85m	82m
3	90m	100m	No Bid (Withdrawn)	120m	150m	No Bid (Withdrawn)	130m
4	150m	170m		170m	180m		170m
5	180m	200m		No Bid	No Bid		No Bid
5'	180m	198m		No Bid	No Bid		No Bid
5''	180m	190m		No Bid (Withdrawn)	192m		191m
6	192m	195m			195m		No Bid (Withdrawn)

- Bidder B is the Leading Bidder in Bidding Round 2 although it submits the same Valid Bid in Bidding Round 2 as that of Bidder A, it had a higher Valid Bid in Bidding Round 1
- Bidding Round 5 is deemed to have not been conducted as all Bidders submitted No Bid Notifications
- Auction ends when there is only one Valid Bid in Bidding Round 6
- Bidder C is the Provisional Successful Bidder and the SUF payable is HK\$195m

# Auction Arrangements and Logistics

## Worked Examples

### Scenario 3: Extraordinary Bidding Round occurs and Tied Bids do not occur

Bidding Round	Highest Bid in the Previous Bidding Round (HK\$)	Min Bid Specification (HK\$)	Action of each Qualified Bidder				
			A	B	C	D	E
1		76m	76m	78m	79m	76m	78m
2	79m	80m	80m	90m	86m	85m	82m
3	90m	100m	No Bid (Withdrawn)	No Bid (Withdrawn)	150m	140m	No Bid (Withdrawn)
4	150m	170m			No Bid	No Bid	
4'	150m	160m			No Bid	No Bid	
4''	150m	150.1m			No Bid	No Bid	

- In Bidding Round 4'', Bidders C & D submit No Bid Notifications despite the Authority reducing the Minimum Bid Specification to HK\$100,000 above the highest Valid Bid in Bidding Round 3
- Bidding Round 4'' becomes the Extraordinary Bidding Round
- The Valid Bids in Bidding Round 3 are then used to determine the Provisional Successful Bidder
- Bidder C is the Provisional Successful Bidder and the SUF payable is HK\$150m

# Auction Arrangements and Logistics

## Worked Examples

### Scenario 4: Both Extraordinary Bidding Round and Tied Bids occur

Bidding Round	Highest Bid in the Previous Bidding Round (HK\$)	Min Bid Specification (HK\$)	Action of each Qualified Bidder				
			A	B	C	D	E
1		76m	76m	78m	76m	79m	78m
2	79m	80m	80m	90m	86m	85m	82m
3	90m	100m	No Bid (Withdrawn)	No Bid (Withdrawn)	150m	150m	No Bid (Withdrawn)
4	150m	170m			No Bid	No Bid	
4'	150m	160m			No Bid	No Bid	
4''	150m	150.1m			No Bid	No Bid	

- Similar to Scenario 3, Bidding Round 4'' becomes the Extraordinary Bidding Round and Bidding Round 3 is the Final Bidding Round
- Since both Bidders C and D have the highest Valid Bid in Bidding Round 3, Tied Bids occur
- The Valid Bids of Bidders C and D in Bidding Round 2 (i.e. the Reference Bidding Round) is then used to determine the Provisional Successful Bidder
- Bidder C is the Provisional Successful Bidder and the SUF payable is HK\$150m

# Auction Arrangements and Logistics

## Worked Examples

### Scenario 5: Tied Bids occur with the use of the random method

Bidding Round	Highest Bid in the Previous Bidding Round (HK\$)	Min Bid Specification (HK\$)	Action of each Qualified Bidder				
			A	B	C	D	E
1		76m	76m	78m	79m	79m	78m
2	79m	80m	80m	90m	90m	90m	82m
3	90m	100m	No Bid (Withdrawn)	No Bid (Withdrawn)	150m	150m	No Bid (Withdrawn)
4	150m	170m			No Bid	No Bid	
4'	150m	160m			No Bid	No Bid	
4''	150m	150.1m			No Bid	No Bid	

- In Bidding Round 1, Bidders C and D submit the same highest Valid Bids, but with no preceding Round, there is no Leading Bidder
- With Bidding Rounds 2 and 3, Bidders C and D continue submitting the same highest Valid Bids, so there is no Leading Bidder in these Bidding Rounds
- Bidding Round 4'' becomes the Extraordinary Bidding Round and Bidding Round 3 is the Final Bidding Round and Bidding Round 2 is the Reference Bidding Round
- As the Valid Bids submitted by Bidders C and D in Bidding Round 2 are identical, Bidding Round 1 then becomes the Reference Bidding Round
- Since Bidders C and D have submitted the same Valid Bid in Bidding Round 1, a random method is used
- In either case of Bidder C or Bidder D being determined the Provisional Successful Bidder by random method, the SUF payable is HK\$150m

# Auction Arrangements and Logistics

## Worked Examples

### Scenario 6: Auction is closed with a Specified Closing Round

Bidding Round	Highest Bid in the Previous Bidding Round (HK\$)	Min Bid Specification (HK\$)	Action of each Qualified Bidder				
			A	B	C	D	E
1		76m	76m	78m	79m	76m	78m
2	79m	80m	80m	85m	90m	95m	95m
...	...	...	...	...	...	...	...
10	210m	220m	220m	225m	220m	230m	235m
11	235m	245m	245m	260m	No Bid (Withdrawn)	250m	255m
12	260m	280m	280m	290m		No Bid (Withdrawn)	285m
13	290m	310m	310m	320m			315m

- After Bidding Round 10, the Authority informs all Bidders that Bidding Round 13 will be the Specified Closing Round by giving prior notice of 3 Bidding Rounds
- In Bidding Round 13, Bidder B submits the highest Valid Bid, so it is the Provisional Successful Bidder and the SUF payable is HK\$320m



# Auction Arrangements and Logistics

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## Auction Location

- Venue: To be determined for each Bidder
- Note that the Authority's Representatives at the Auction Locations will not entertain any queries regarding the Auction at any time

# Auction Arrangements and Logistics

## Bidding Room and equipment (indicative)

Bidding Room	Quantity	Remarks
Room	1	
Equipment provided by OFTA	Quantity	Remarks
Fax machine	1	Pre-set auto-dial to Auctioneer Room
Fixed telephone line/mobile phones	1/2	
Tables	2	
Chairs	6	
Power sockets	6	
Digital clocks	2	Synchronised
Video recording equipment	1	
Stationery		

# Auction Arrangements and Logistics

## Equipment allowed to be brought into the Bidding Room by Authorised Representatives

Equipment	Quantity	Remarks
Notebook computer	As required	Without external communication abilities

- **Each Bidder will need to bring a company stamp to authenticate their submissions**
- All communication devices including, without limitation, mobile phones and pagers of the Authorised Representatives will be retained by the Authority's Representatives before they enter the Bidding Room

# Auction Arrangements and Logistics

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## Registration

- Between 0915-0930hrs on the Auction day (please refer to Bidder Participation Notice)
- All Authorised Representatives (minimum of 2 and maximum of 3) of a Bidder must arrive together
- No latecomers will be admitted into the Bidding Room
- Authorised Representatives will be asked to synchronise their clocks/watches with OFTA's time

# Auction Arrangements and Logistics

## Bidding Procedures


Documents provided to each Bidder	Purpose
Bidder password	For filling up the Bidding Form
Authority password (Bidder specific)	For authenticating information from the Auctioneer (if necessary)
Bidding Forms	Extra copies to be used if the communication system by fax is not available or faxed copies become unusable
Auction Manual	For reference
Information Memorandum	For reference

# Auction Arrangements and Logistics

## Bidding Procedures – Sample Bidding Form

- Information
- Bidding Action
- Bid Notification
- Submission Details

CONFIDENTIAL

  
OFTA  
電話管理局

OFTA CDMA2000 AUCTION BIDDING FORM

Part A – Notification from Auctioneer to Bidder

Information

Bidding Round Number	2	
Specified Closing Round Announced?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Round(s) Remaining: ___
High of valid Bid in the Previous Bidding Round	HK\$ 78,300,000	
Were you the Leading Bidder in the Previous Bidding Round?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
Minimum Bid Specification for this Bidding Round	HK\$ 78,000,000	
Number of Bidders remaining	4 (four)	
Starting time	10.00am	
Ending time	10.10am	
Other Notifications	Nil	

Part B – Notification from Bidder to Auctioneer



B (I) Bidding Action

Option	<input checked="" type="checkbox"/> Bid Notification	<input type="checkbox"/> No Bid Notification
	Please fill up Part B (I) and B (II)	Please fill up Part B (II)

B (II) Bid Notification

In Block Letters (e.g. SEVENTY EIGHT MILLION AND FOUR HUNDRED THOUSAND ONLY)	HONG KONG DOLLARS SEVENTY NINE MILLION AND FIVE HUNDRED THOUSAND ONLY.								
In Numbers (e.g. 78,400,000)	HK\$ <table border="1" style="display: inline-table;"><tr><td>7</td><td>9</td><td>5</td><td>0</td><td>0</td><td>0</td><td>0</td><td>0</td></tr></table>	7	9	5	0	0	0	0	0
7	9	5	0	0	0	0	0		

B (III) Submission Details

Company	ABC TELECOM LTD.	
Representative 1	NAME: JOHN TAN	SIGNATURE: 
Representative 2	NAME: ROBERT LIM	SIGNATURE: 
Password	A. E. 1. 2. P. 7	
Company stamp	ABC Telecom	

Note: a) Please only mark ONE Option with a tick.  
b) Valid Bid has to be equal or higher than the Minimum Bid Specification for this Bidding Round.  
c) Please cross out any number boxes that are unused.

# Auction Arrangements and Logistics

## Bidding Procedures – Sample Bidding Form

### Information provided to Bidder

- Bidding Round Number
- Whether the Specified Closing Round is announced and the number of Bidding Round(s) remaining
- Highest Bid in the Previous Bidding Round
- Whether the Bidder is the Leading Bidder in the previous Bidding Round
- Minimum Bid Specification
- Number of Bidders remaining
- Starting time
- Ending time

Part A – Notification from Auctioneer to Bidder	
Information	
Bidding Round Number	2
Specified Closing Round Announced?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No      Rounds Remaining: ____
Highest Valid Bid in the Previous Bidding Round	HK\$ 76,300,000
Were you the Leading Bidder in the Previous Bidding Round?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Minimum Bid Specification for this Bidding Round	HK\$ 78,000,000
Number of Bidders remaining	4 (four)
Starting time	10.00am
Ending time	10.10am
Other Notifications	Nil

# Auction Arrangements and Logistics

## Bidding Procedures – Sample Bidding Form

### Bidding Action

- Indicate the option with a tick

### *Valid Bid*

<b>Part B – Notification from Bidder to Auctioneer ..</b>		
<b>B (i) Bidding Action ..</b>		
Option ..	<input checked="" type="checkbox"/> Bid Notification Please fill up Part B (ii) and B(iii)	<input type="checkbox"/> No Bid Notification .. Please fill up Part B (iii) ..

### *No Bid Notification*

<b>Part B – Notification from Bidder to Auctioneer ..</b>		
<b>B (i) Bidding Action ..</b>		
Option ..	<input type="checkbox"/> Bid Notification Please fill up Part B (ii) and B(iii)	<input checked="" type="checkbox"/> No Bid Notification .. Please fill up Part B (iii) ..



# Auction Arrangements and Logistics

## Bidding Procedures – Sample Bidding Form

### Valid Bid

- Indicate the bid value as specified in the instructions
- Amount rounded up requirement of this Bidding Round
- Cross out any number boxes that are unused

<b>B (ii) Bid Notification</b>											
In Block Letters (e.g. SEVENTY EIGHT MILLION AND FOUR HUNDRED THOUSAND ONLY)	HONG KONG DOLLARS. <i>SEVENTY NINE MILLION AND FIVE HUNDRED THOUSAND ONLY.</i>										
In Numbers (e.g. 78,400,000)	HK\$ <table border="1"><tr><td><del>0</del></td><td><del>0</del></td><td>7</td><td>9</td><td>5</td><td>0</td><td>0</td><td>0</td><td>0</td><td>0</td></tr></table>	<del>0</del>	<del>0</del>	7	9	5	0	0	0	0	0
<del>0</del>	<del>0</del>	7	9	5	0	0	0	0	0		

# Auction Arrangements and Logistics

## Bidding Procedures – Sample Bidding Form

### Submission Details

- Fill in the required fields clearly with company name, Authorised Representatives' names and signatures, password and company stamp

B (iii) Submission Details		
Company	ABC TELECOM LTD.	
Representative 1	NAME JOHN TAN	SIGNATURE <i>JOHN TAN</i>
Representative 2	NAME ROBERT LIM	SIGNATURE <i>ROBERT LIM</i>
Password	A E 1 2 P 7	
Company stamp	ABC Telecom	

# Auction Arrangements and Logistics

## Bidding Procedures – Sample Bidding Form

Correction of mistakes

**DO NOT** use liquid paper or white-out

Cancel or shade the mistake and sign next to it

B (ii) Bid Notification											
In Block Letters (e.g. SEVENTY EIGHT MILLION AND FOUR HUNDRED THOUSAND ONLY)	HONG KONG DOLLARS. <i>SEVENTY NINE MILLION AND FIVE HUNDRED THOUSAND ONLY. THREE.</i>										
In Numbers (e.g. 78,400,000)	HK\$ <table border="1"><tr><td><del>0</del></td><td><del>0</del></td><td>7</td><td>9</td><td>5</td><td>0</td><td>0</td><td>0</td><td>0</td><td>0</td></tr></table> <i>3</i>	<del>0</del>	<del>0</del>	7	9	5	0	0	0	0	0
<del>0</del>	<del>0</del>	7	9	5	0	0	0	0	0		

# Auction Arrangements and Logistics

## Prohibitions

### Communication restrictions

- All communication devices to be surrendered to the Authority's Representatives
- No communication allowed by the Authorised Representatives with any person other than the Authority's Representatives, the Auction Officer at the Auctioneer Room, and the Auctioneer where appropriate

### Movement restrictions

- All Authorised Representatives are to remain in the Bidding Room
- Authorised Representatives are allowed to go to the washroom but must be escorted by an Authority's Representative
- Notification must be given by the Auctioneer before any Authorised Representative is allowed to leave

### General restrictions

- No submission of a Bidding Form which is illegible
- Mode of Bidding Form submission must be as specified in the Auction Manual
- No damage or improper use of the equipment supplied for the Auction

# Auction Arrangements and Logistics

## Post-Auction indicative timeline

Activity	Remarks
Auction Result Notice	Two Business Days after the Auction result is available
Payment of SUF	Thirty Business Days from the Auction Result Notice
Performance Bond	Thirty Business Days from the Auction Result Notice
Return of Deposit	Returned with interest less penalties after the SUF is paid and Performance Bond submitted
Award of Licence	20 November 2008 subject to compliance of all formalities

# Agenda

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1. Opening Remarks
2. Timetable and Highlights
3. Auction Arrangements and Logistics
- 4. Highlight of Important Auction Rules**
5. Question & Answer

# Highlight of Important Auction Rules

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## General

- Terms and conditions of the Auction are published in the Gazette by the Authority on 31 August 2007 (see Appendix B of Information Memorandum)
- Each Bidder must comply with the terms and conditions of the Notice
- The Authority has the discretion to disqualify and/or impose Penalty for any breach of terms and conditions of the Notice

# Highlight of Important Auction Rules

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## Important Rules in relation to Application

- No person other than a company formed and registered under the Companies Ordinance (Cap.32) may make an Application
- No rule to prohibit any forms of ownership
- Local / Mainland / foreign ownership ✓
- Solely / jointly owned by other company(ies) ✓



# Highlight of Important Auction Rules

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## Important Rules in relation to Application

- No ownership rules / bidder association rules to restrict participation of connected or associated bidders
- But a company may make no more than one application
- If 2 or more applications are filed by the same company, the Authority may consider only one application or no application at all

# Highlight of Important Auction Rules

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## Examples

x

Application by  
Alpha (HK) Ltd

Application by  
Alpha (HK) Ltd

x

Application by  
Alpha (HK) Ltd

Joint Application by  
Alpha (HK) Ltd  
+ Bravo (HK) Ltd

# Highlight of Important Auction Rules

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## Examples



Application by  
Alpha (HK) Ltd

Application by  
JV (HK) Ltd  
(Joint venture of  
Alpha (HK) Ltd &  
Bravo (HK) Ltd



Application by  
Alpha (HK) Ltd

Application by  
Charlie (HK) Ltd  
(a subsidiary  
company of Alpha  
(HK) Ltd

Application by  
Delta (HK) Ltd  
(a sister company  
of Alpha (HK) Ltd  
under common  
ownership)

# Highlight of Important Auction Rules

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## Important Rules in relation to Application

- New entrants and existing carrier licensees are permitted to participate in the Auction on their own and/or cooperate with each others
- But compliance with competition provisions of the Telecommunications Ordinance is necessary
- Example: cooperation which involves a change of ownership / control of an existing carrier licensee may trigger ex post merger & acquisition regulation under section 7P
- Recommendation: independent professional advice

# Highlight of Important Auction Rules

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## Important Rules in relation to Application

- An Application must be accompanied with a Deposit of HK\$76 million to guarantee compliance of the auction rules
- The Deposit may be in the form of cash deposit or a Letter of Credit
- Cash deposit must be cleared before 4 pm on 12 October 2007
- Interest at the rate given by the Deposit Bank earned will be included in the returned cash deposit after the Auction
- Letter of Credit must be issued by a Qualifying Bank in the form prescribed in Appendix 4 of the Notice

# Highlight of Important Auction Rules

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## Qualifying Banks

- A “Qualifying Bank” is an institution holding a full banking licence under the Banking Ordinance whose long term debt rating is, or is higher than:
  - Moody’s A2;
  - Standard & Poor’s A;
  - Fitch Ratings’ A; or
  - equivalent

# Highlight of Important Auction Rules

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## Important Rules in relation to Confidentiality, Collusion, etc.

- Bidders must not disclose or permit to disclose “Confidential Information”
- Definition of “Confidential Information”: Para 6.5.7 of the Notice
- Includes:
  - interest or participation in the Auction
  - business case
  - Auction strategy
  - highest offer / bid
- Excludes
  - Information which has come into public domain / made public by the Authority
  - Information given by one Bidder to another Bidder prior to the Applications Dates for the purpose of considering cooperation with each other in the Auction.

# Highlight of Important Auction Rules

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## Important Rules in relation to Confidentiality, Collusion, etc.

- “Insider” means, in relation to a Bidder, any person to whom Confidential Information is disclosed directly or indirectly
- Examples:
  - directors, senior executives, employees
  - professional advisers
  - mother company
  - regulatory authorityto whom confidential information is disclosed
- Bidder must ensure that each Insider is aware of the rule not to disclose and must use best endeavours to ensure the Insider’s compliance
- Bidder must not take steps to obtain Confidential Information of another Bidder



# Highlight of Important Auction Rules

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## Important Rules in relation to Confidentiality, Collusion, etc.

- If a director/ employee/ agent / Insider of a Bidder is also a director/ employee/ agent / Insider of another Bidder, the Bidders must ensure that person:
  - shall not take part in the preparation of the Auction; and/or
  - shall not pass Confidential Information from one Bidder to another Bidder or its Insiders; and /or
  - shall not be an Authorised Representative of any of the Bidders
- See Para 6.5.8 of Notice

# Highlight of Important Auction Rules

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## Important Rules in relation to Confidentiality, Collusion, etc.

- Para. 6.5.9:

- No cooperation, collusion, discussion with each other about their Final Officer / bidding strategy
- No manipulation or attempt to manipulate the outcome of the Auction

- Para. 6.6.1:

- No contravention of Prevention of Bribery Ordinance

# Highlight of Important Auction Rules

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## Important Rules in relation to Auction Stage

- Bidder must attend the Auction and submit a Valid Bid equal to or higher than the Minimum Fee in the 1st Bidding Round
- Bidder must not act in a manner which disrupts the Auction, e.g.:
  - leaving the Bidding Room without the consent of the Authority's Representatives
  - bringing into the Bidding Room communication device
  - communicating / attempting to communicate with people outside the Bidding Room
  - submitting more than one Bidding Form  
(see para.4.13.1 of Notice)

# Highlight of Important Auction Rules

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## Important Rules in relation to Auction Stage

- The Authority has the discretion to impose Penalty and/or to disqualify the Bidder
- For reference, see an indicative table of possible Penalty in the IM
- Examples of Major Contravention:-
  - Failure to attend the Auction      Penalty (100% of Deposit) + Disqualification
  - Collusion      Penalty (100% of Deposit) + Disqualification
- Examples of Minor Contravention:-
  - Bringing communication device to Bidding Room      Indicative penalty of HK\$200,000
  - Leaving the Bidding Room without Authority's consent      Indicative penalty of HK\$200,000

# Highlight of Important Auction Rules

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## Important Rules applicable to Provisional Successful Bidder

- “Approval”: shareholder approval required by law or regulatory authority not capable of being obtained prior to Application
- Within 2 Business Days after the Auction Result Notice, Provisional Successful Bidder must inform the TA whether it is subject to an “Approval” and if yes, the details
- Provisional Successful Bidder must obtain the Approval (if required) within 10 Business Days after the publication of the Auction Result Notice
- In very exceptional circumstances, the deadline may be extended for a maximum of another 20 Business Days at the discretion of the Authority

# Highlight of Important Auction Rules

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## Important Rules applicable to Provisional Successful Bidder

- Within 30 Business Days after the Auction Result Notice, Provisional Successful Bidder must:
  - pay to the Government Spectrum Utilization Fee and
  - provide a Performance Bond to the Authority
- The Performance Bond must be issued by a Qualifying Bank
- See definition of Qualifying Bank in Special Condition 3 of the Licence (Appendix 1 of the Notice)

# Agenda

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1. Opening Remarks
2. Timetable and Highlights
3. Auction Arrangements and Logistics
4. Highlight of Important Auction Rules
- 5. Question & Answer**

# Question & Answer

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***“The Industry Briefing and the presentation therein are for general guidance of the interested parties. They do not constitute professional advice. For a complete and definitive statement of the terms and conditions of the auction, interested parties should refer to the notice published by the Authority in the Gazette on 31 August 2007. While we endeavour to ensure that the information given in the Industry Briefing and the presentation is correct, no warranty or guarantee is given as to the accuracy or completeness of the information. The Government of HKSAR, the Telecommunications Authority, OFTA, Spectrum Strategy Consultants Ltd and the speakers of the Industry Briefing accept no liability, and disclaim all responsibility, for any direct, indirect, special or consequential losses or damages arising from the use of the information, or from any action or decision taken in reliance on the information given in the Industry Briefing and the presentation.”***