

LEGISLATIVE COUNCIL
Hon SIN Chung-kai, JP

BY Fax 2803 5111 and Post

18 March 2005

Mr. M H AU
Director-General
Office of the Telecommunications Authority 29/F Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong

Dear Mr. AU

Response to the Consultation Paper on
the Licensing Framework for Deployment of Broadband Wireless Access

On 20 December 2004, Office of the Telecommunications Authority invited the public views on a Consultation Paper on the Licensing Framework for Deployment of Broadband Wireless Access (Consultation Paper). I would like to express my views to various issues concerning the establishment of the regulatory framework for BWA services in Hong Kong.

2. OFTA rightly noted in the Consultation Paper, the BWA provides a possible alternative to the conventional wireline technologies as well as a platform towards new services such as IP based telephony and advanced multimedia services. It is considered that the successful deployment of BWA could allow a potentially quicker and cost effective rollout of an alternative broadband access network.

3. More importantly, BWA services could render the element of portability or mobility which will enable future convergence of fixed and mobile services. BWA, in fact, can be served as a "missing link" between fixed and mobile network that will drive the adoption of innovative applications and growth of

wireless technology industry in the next few years. Many advanced economies including Singapore have allocated wireless broadband spectrum bands for trials or commercial deployment. To fully realize and reap the benefits of BWA technologies, BWA services should be promoted in Hong Kong as soon as possible.

4. With this potential in mind, I consider that OFTA's attempt to dedicate the 3.5 GHz bands to BWA is appropriate for Hong Kong. There are three reasons to support this argument. First, it is my understanding that 3.5 GHz and 5.8 GHz bands have been identified as the priority spectrum for Phase I Profile Tests at the WiMAX Forum.

5. Second, this spectrum has already been allocated for BWA and other advanced wireless services in many countries. Indeed, there are already a number of vendors offering equipment in the 3.5 GHz frequency bands in the market. Hence, users in Hong Kong are likely to bear fewer burdens with higher equipment cost due to the need for customization.

7. In relation to the licensing framework, OFTA has proposed the BWA spectrum to be reserved for fixed carrier licensees on the grounds that the fixed access is likely to be the major commercial application of BWA in the near future. However, I consider that this argument does not carry much weight. I submit that OFTA's approach has apparently deviated from the "technology-neutral" principle and "market-driven" policy on which the success of our telecoms industry rests.

8. Technology neutrality is the key for promoting innovation. For greater development of any technology, it is inappropriate for Government to limit the use of technology and the choice of technologies that operators can use. The deployment of technology should always be based upon the market needs. Accordingly, OFTA's restriction on the use of BWA spectrum for fixed telecom services is artificial and could potentially deter the rollout and adoption of BWA technology in long run.

9. Apart from the issue of technology neutrality, ineffective competition is another concern under OFTA's proposal for allocating BWA spectrum to fixed

carrier licensees. Considering the "mobility" or "nomadic" nature of BWA, it will be untenable to mobile operators and other industry players, such as ISPs if fixed carrier licensees are given more leeway in their use of BWA spectrum. Such discrimination on industry players would discourage investment in BWA services, resulting in a less vibrant industry.

10. Similarly, I perceive that there is no basis to require any interested parties who are not already fixed carrier licensees should apply for a fixed carrier licence before they are eligible to bid for the BWA spectrum. Instead of bringing in more competition in the broadband market, such proposal represents a significant barrier to new entrants. In a market-driven economy, whether investment is made should entirely depend on the business case. OFTA, therefore, should allow all industry players the eligibility to bid for BWA spectrum and determine the investment choice based on their respective business case rather than to prejudge the market outcome and impose restrictions based on hypothetical assumptions that might not reflect actual market situation.

11. Recently, OFTA has indicated its intention to launch a unified telecoms licensing system in Hong Kong. While such attempt is a right direction to keep our regulatory regime abreast with industry development, OFTA did not spell out the transitional arrangement for BWA framework if there was a future convergence of mobile and fixed licences. Without mentioning how the existing proposal for BWA would synchronize with a "merged" licensing system, I consider that OFTA appears to be sending conflicting signals to the industry, instead of giving the market more clarity than before about likely opportunities to the use of new spectrum.

12. To determine the most appropriate licensing framework for BWA market, it is necessary for the Government to provide further information as to how the BWA licensing framework can be "merged" with the proposed unified licensing system. Unless we have more concrete ideas about the future development of regulatory regime, it will be pre-mature for the industry to evaluate the several important issues including spectrum packaging, licence conditions, award process, and approach of spectrum usage fee under BWA licensing framework at the present stage.

13. As the proposed unified licensing system will be a key issue to the introduction of BWA technology, I respectfully request Government to speed up the reviewing exercise on spectrum policy in order to clarify all surrounding regulatory uncertainties that may discourage investment incentive to and full realization of BWA market.

14. I would be happy to further discuss or clarify with you any of the issues raised above.

Yours sincerely

Sin Chung Kai
Legislative Councillor (IT)