

Our Ref. : AB-02/2001

9th April, 2001

Office of Telecommunication Authority
29/F Wu Chung House
213 Queen's Road East
Wanchai
Hong Kong

Attn.: Ms. Sara Lam
Senior Regulatory Affairs Manager

Dear Ms Lam

PEOPLES welcomes the TA's invitation to comment on,

**Annex 2: PROVISIONS RELATING TO AUCTION DESIGN RULES AND
RULES ON CONNECTED BIDDERS**

- The Application and Prequalification process is designed to "Select Bidders entitled to enter Auction.

Under the category for "joint bids by 2G Operators" the consent of the TA is required at the prequalification stage before the bidder is allowed to participate in the Main Auction.

What are the terms and conditions that will be applied by the TA to determine if a joint bid involving two or more 2G operators will be allowed?

This should be made clear in the Terms and Conditions for Prequalification.

Provisional winners of the Main Auction can still be connected and the time of the Main Auction with determination of ongoing eligibility for a license based on the bidders commitment to separate or based on the result of "highest upfront cash bid".

Why is this not addressed and resolved in the “prequalification” phase when declaration of connected interests is to be made?

This process will only serve to drive up the bidding price to unnecessarily and unfair high levels.

For example, where one of the connected parties is outbid and is denied a license, how will the replacement be chosen?

If the next in line (number five bidder) is given the provisional license which royalty percentage will be used?

PEOPLES would like to put forward that the royalty percentage should be determined at the level when the fifth bidder withdraws from the auction and that this should be applicable under all scenarios. This will facilitate greater investment for the rollout of the network and in network services.

*What terms and conditions for “common control” and “connected” licensees will be applied to licensees **after** the licenses are awarded and for the duration of licenses?*

What will be the allowed time for appeal against the result of the auction?

Point 6(b) *Telecommunications (Amendment) Ordinance 2001* cites a 3 month time frame.

What activities will the successful bidders be allowed to undertake in this appeals timeframe?

If such an appeal were to result in the cancellation of a license, how would this license be reallocated?

In addition to the issues raised by the Auction Design and Rules on Connected Bidders, PEOPLES has a number of other issues relating to the Spectrum Auction Process that we would like clarification on.

- Details for the “Prequalification” are not known at this stage. Full clarification of bidders eligibility should be ascertained before the Auction.
- Details for the timing of the full auction process are not known at this stage.

- Definition of MNVO is not known at this stage.
- Details of the structure and auction bidding levels are not known at this stage.
- When will the fees for the license be payable?
When will the license start?
Reports from Australia state that Telstra believe it would not be cost-efficient to roll out a 3G network until 2004.

Peoples would contend that the license fees do not become payable until the 3G network is taken into commercial service.

Yours faithfully,
Peoples Telephone Company Limited

Ali Bairektar
Group General Manager, Engineering