



消費者委員會 CONSUMER COUNCIL

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來函檔號 YOUR REF.

本函檔號 OUR REF.

6 November 2000

Senior Regulatory Affair Manager (Services Licensing)
Office of Telecommunications Authority
29/F Wu Chung House
213 Queen's Road East
Wan Chai
Hong Kong

Dear Sir/Madam,

**Further Industry Consultation on
Licensing Framework for Third Generation Mobile Services**

In reference to the 'Licensing Framework for Third Generation Mobile Services, Further Industry Consultation', the Council would like to comment on the issues discussed in the paper. Enclosed please find a copy of the Consumer Council's submission.

Should you have any queries on the submission, please feel free to contact me at 2856-8523 or you can call my colleague Dr Victor Hung on 2856-8554.

Yours sincerely,

Ron Cameron
Head, Trade Practices Division

RC/VH
Encl.

Consumer Council's Response to Further Industry Consultation on Licensing Framework for Third Generation Mobile Services

1. The Council welcomes the opportunity to provide comments on the issues raised in the 'Further Industry Consultation Paper on a Licensing Framework for Third Generation Mobile Services'.

Allocation of licences and licence conditions

2. The Council shares the TA's view that there are significant risks and drawbacks in adopting any of the "purist" options, whether by spectrum auctioning based on cash, selection by "beauty contest" or a "reverse auction" on the wholesale prices of 3G services.

3. The Council supports the hybrid method put forward by the TA, involving a pre-qualification exercise before spectrum auctioning. The Council welcomes the incorporation of an "open network" requirement and agreements to a minimum level of rollout over 5 years, as elements for pre-qualification. This is in line with the Council's previously stated view that there should be some merits based element in the auction process.

4. The Council concurs with the TA's view that there should be minimum requirements and conditions regarding financial and technical capability to roll out and operate a 3G network in Hong Kong before applicants are able to join the auction. In addition, the Council believes both requirements on the "open network" and the provision of domestic roaming, when applicable, will facilitate competition.

Network capacity for non-affiliated providers and interconnection charges

5. The Council notes the TA's preliminary view on opening up between 30% to 50% of network capacity to any non-affiliated providers, be they Mobile Virtual Network Operators (MVNOs) or resellers. Within this range, the Council would opt for the high end, i.e. 50% of network capacity to be opened.

6. Regarding access charges of the 3G network licensees to MVNOs and resellers, the Council considers it reasonable that the price level should first be left to commercial negotiations among the parties. Only if commercial negotiation fails, should the TA intervene by way of making a determination. In case of a determination, the Council is of the view that the "retail minus approach" should be adopted as the basis for interconnection charges. This would seem to encourage more competition in the market through providing for reseller arbitrage, MVNO services competition, and cost minimization.

Collusive bidding

7. The Council pointed to the need for additional safeguards against collusive bidding in its previous submissions, as bidders are outside the licence regime administered by the TA. The proposed pre-requisite for bidders to lodge a specified deposit (which would be forfeited if a bidder is found to have violated the bidding rules, or has failed to take up the licence after winning the auction) would appear to be a suitable measure to counter collusive bidding.

Auction payment mechanisms and licence conditions

8. The Council is mindful of the arguments that that bidders may over-bid for strategic reasons, or otherwise raise bid prices to untenable levels. Among the four payment mechanisms put forward by the TA, the Council tends to opt for the up-front lump sum option, which would seem to act as a deterrent against over-bidding.

9. The Council is also mindful of the possibility that bidders may bid for licences as a speculative asset. The Council anticipates that the TA will be in a better position to exercise control against the transfer of 3G ownership, as a measure to discourage speculative bids, when TA is conferred with power to regulate the transfer of licences under the Telecommunications (Amendment) Bill. In this regard the Council would strongly urge that the definition of ownership is extended up to a level of ultimate beneficial interest.

3G standards and domestic roaming between 3G and 2G networks

10. The Council welcomes the approach taken by the TA, similar to that of the Council in its first submission, that:

- prospective operators should be permitted to use any IMT-2000 standard adopted by the ITU, subject to the TA being satisfied that the various technical standards are compatible with each other from the users' point of view (para.4.2.7); and
- the domestic roaming requirement will be included as an obligation under the 3G licences issued to incumbents (para.4.7.3).

Trade Practices Division
6 November 2000