

i-CABLE Communications Limited
Response to the Industry Consultation Paper
Licensing Framework for the Third Generation Mobile Services

1. Introduction

i-CABLE Communications Limited (i-CABLE) welcomes the opportunity to respond to the Industry Consultation Paper regarding the Licensing Framework for the Third Generation Services. In particular we would like to comment on:

- licensing options,
- the concept of separating service provision from network operation, and
- the strengthening of effective competition within the 3G mobile services market.

2. New Entrants versus Incumbent Operators

The Consultation Paper quite correctly, in our view, suggests that the 3G services will provide new market opportunities for mobile operators such as mobile Internet access and electronic transaction activities requiring considerable new service development. These new services will fuel the continued growth of the mobile services market. The paper makes the point that new entrants would not be constrained by any network element legacy which could result in more flexible development of its network and new service applications.

We agree with the TA's comment (paragraph 4.3 refers) that the introduction of new entrants to the 3G market will be beneficial to market development and to consumers. Ensuring new entrants are allowed to gain 3G licences will achieve Government's aim of promoting competition in the telecommunications market.

The paper also considers the situation of existing operators and points out that economies of scale will exist between 2G and 3G mobile networks and that there would be economical migration paths between the two technologies. We agree with the paper's view (paragraph 4.4 refers) that there are benefits in allowing incumbent operators to bid for 3G service licences but that they should not be given priority.

It is clear from the arguments set out in the paper that there are clearly benefits for both new entrants and incumbent operators to be awarded 3G license. However it is likely that incumbent operators would be advantaged in any selection process because of the availability of existing networks and business infrastructures required to operate mobile services. i-CABLE considers that the benefits to be gained from ensuring both existing and new operators should be licensed should not be left to chance, but determined as an integral part of the licensing process.

i-CABLE recommends that as a matter of principle at least half of the 3G spectrum should be reserved for a minimum of two new operators (to ensure new operators are able to enter the market) and the remaining spectrum reserved for incumbent operators. Such an approach will ensure that the consumer is able to benefit from the advantages to be gained from both existing and new operators.

3. Interconnection Policy

The Consultation Paper points out that mobile operators and other telecommunication networks and services are governed by section 36A of the Ordinance. Mobile operators are “carriers” in interconnection and have the right to seek interconnection with other carriers and the interconnection charges may be negotiated on a “carrier-to-carrier” basis. In other circumstances, the regulators take the view that service providers are entitled to interconnection with network operators on the basis of interconnection between “carrier to service provider”. It is our view that the same principles will need to be consistently applied in all cases.

Although the paper indicates that the TA encourages commercial settlement of interconnection issues, we believe it should be made clear that failing commercial settlement of an issue, the TA would impose a determination. We see no reason why 3G network operators should be treated any differently from fixed network licensees

4. Mobile Virtual Network Operator (MVNO)

The Consultation Paper considered the concept of Mobile Virtual Network Operator (MVNO). The paper suggests that an MVNO would not have a licence to use radio spectrum but would be able to gain access to the radio networks of 3G mobile network operators. The MVNO would be able to offer a fully independent range of call services and tariff packages. This could include combinations of value added services and mobile calls.

The paper argues that separating service provision from network operation would enhance competition in the service market, providing customers with more choice and variety of service and price packages.

The paper noted that the disadvantage of opening up the mobile networks to service providers on the basis of cost-based interconnection charges, would be that the network operators would have less commercial incentive to invest in building the network infrastructure. The paper also highlighted some of the issues that would need to be resolved to facilitate separation and commented that some regulators consider that such matters should be resolved by commercial negotiation rather than regulatory intervention.

5. The Case for MVNO Prior to 3G

The main benefit of introducing MVNO is, that in a market in which competition is constrained because of spectrum limitations, it is possible to introduce a greater degree of choice for the consumer. In Hong Kong where the mobile operator is not allowed to provide external services himself and there is no trunk traffic (unlike the UK and US) prior to 3G technology an MVNO operator would simply be offering mobile voice telephony utilising mobile operators network infrastructure without adding value to the service. There would be little opportunity for the MVNO operator to package the mobile connection with fixed networks or with added value services.

This lack of an ability to add value to the basic service together with the large number of mobile operators licensed has meant that prior to 3G technology being available there has been little to be gained from the introduction of MVNO type operations in Hong Kong.

6. The Case for MVNO Post 3G

With the introduction of 3G technology the situation outlined above is likely to change. First of all the degree of competition is likely to decrease because the number of 3G mobile network operators will reduce to 5 (or possibly 4).

Secondly however, the upgrade to 3G technology will facilitate the introduction of broadband services with data rates up to 2 Mbps. This will enable multimedia and other innovative services to be offered, expanding the range of services substantially beyond voice telephony. The ability of 3G to facilitate non-voice services should enable MVNO operators to develop fully independent ranges of services and tariff packages to enable them to offer discriminatory service offerings which add significant value to the basic network service offered by the mobile network operators.

This decrease in the number of competitors on the one hand, and increase in the ability to differentiate service offerings on the other, is likely to substantially increase the benefits of separating service provision from network operation inherent in MVNO operation. The introduction of MVNO could enhance competition in the mobile service market providing customers with more choice and variety of service and price packages. Without MVNO competition in the mobile telecommunications market could decrease to the disadvantage of the consumer.

7. Interconnection and Charges

The paper indicates that the disadvantage of MVNO operators is the use of cost-based interconnection charges which could act as a disincentive for network operators to invest in networks and infrastructure. The same issue is being considered by the regulators in relation to other forms of interconnection between network operators and/or service providers. The same principles (when eventually adopted) will need to be consistently applied in all cases.

8. Non-discriminatory Open Access

Existing Public Radio-communication Service Licences (PRSL), only allow mobile operators to provide PMRS or PCS services between mobile stations and customers of public fixed or mobile networks. PRSL licensees can provide their customers with access to external services including external gateways of FTNS licensees and the external services of PNETS licensees, i.e. Internet Service Providers (ISPs).

Network operators will have a distinct advantage in the sale of added value services to its network customers in comparison with other service providers like ISPs because of the natural inertia of customers to accept the network operator as their service provider on the basis of the simplicity inherent in one-stop-shopping.

There is a distinct possibility that 3G network operators (if not de-barred from doing so) will chose to close their networks to the maximum possible extent so as to control as much of the value chain as possible. Control of the value chain increases the margin to the operator whilst restricting consumer choice. Any closing of the network will therefore be at the expense of the consumer and should be resisted by Government.

Not only should the networks be open but legislation should be in place to ensure that access is non-discriminatory. Network operators should not be able to package added value services with call charges, and access to value added services should be on the same (non-discriminatory) basis for all players - that is 3G network operators and service providers alike.

9. Conclusion

i-CABLE recommends that as a matter of principle at least half of the 3G spectrum should be reserved for a minimum of two new operators (to ensure new operators are able to enter the market) and the remaining spectrum reserved for incumbent operators. Such an approach will ensure that the consumer is able to benefit from the advantages to be gained from both existing and new operators.

Prior to the capabilities provided by 3G technology there was no case for the introduction of MVNO operators in Hong Kong. Because of the regulatory structure and operating characteristics, it was not possible for MNVO operators to offer service packages that significantly discriminated the service from that of the underlying network operator. However, with the introduction of 3G the situation is potentially transformed and HKC consider that a strong case exists for the introduction of MVNO operators.

The paper suggests that a demerit of MVNO is the use of cost-based interconnection charges could act as a disincentive for network operators to invest in networks and infrastructure. This and other fundamental issues are being considered by the regulators in relation to other forms of interconnection between network operators and/or service providers. i-CABLE considers the same principles (when eventually adopted) should be consistently applied in all cases.

There will be a natural inclination for network operators to close the network to the maximum possible extent so as to control the value chain. Such an approach would restrict choice for the customer and should be resisted. i-CABLE considers there should be a clear policy directive that value added services will be provided on a non-discriminatory open access basis.

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22 May 2000