International Regulators Forum, 7 – 8 October 2013, London

Session Topic: Access infrastructure issues and is getting the best deal for the consumer the best for society?

Speech by Miss Eliza Lee
Director-General of Communications, Hong Kong

Fabio, Stuart, fellow speakers, distinguished guests, ladies and gentlemen,

It is my pleasure to kick off this morning's discussion by sharing with you Hong Kong's approach and experience in managing issues relating to access infrastructure.

Market overview

2. Before I start, let me give you a quick overview of Hong Kong's telecommunications market. We are a very tiny city with a population of just 7 million, but we have 21 local fixed carriers and 5 mobile carriers. 97% of our households are covered by fixed broadband network. 87% and 76 % of our households have a choice of at least two and three self-built fixed broadband networks respectively. Competitive offers of broadband speeds up to 1 gigabit per second are commonly available in the market at prices as low as US$27 per month. For mobile services, all our five mobile carriers have launched their 4G LTE services, with speed as high as 150 megabits per second. Mobile penetration rate stands at 229%. 10 million plus 3G or 4G mobile subscribers, with a penetration rate of 144%, consume 9,200 terabytes of data per month. The monthly charges of 4G services range from less

than US$13 for a monthly plan with 500 megabyte data usage to around US$25 for a monthly plan with an unlimited data usage.

Avoiding bottleneck – is it possible?

3. From this very brief overview, you would have a taste of how intensively competitive our telecommunications market is and how as a result of it our consumers can derive the most benefits in terms of variety, quality and affordability of our telecommunications services. Our market liberalisation efforts have borne fruits.

4. Our mobile market has been liberalized since the early 1980's, and our fixed telecommunications market since 2003. Hong Kong does not have any pre-set limit on the number of licences to be issued, unless there are constraints such as the availability of radio spectrum. The scale of network rollout, the choice of technology and the type of services on offer are the commercial decisions of our licensees. Put simply, our pro-competition licensing regime has minimised the formation of bottleneck facility. That said, even in a fully liberalised market, there are instances still where it is simply not technically viable to establish additional facilities. For example, in some very old, standalone buildings, where there may not be sufficient space to establish another in-building telecommunications system. Under our telecommunications legislation, the Communications Authority in the

public interest can direct licensees to share bottleneck facilities.[1] And yet under our market-driven approach, our licensees have always been able to share bottleneck facilities through commercial arrangements and there is seldom any need for the regulator to intervene.

Model of funding – public vs. private; what role does the regulator play?

5. You may wonder, under the market-driven approach, what role does the regulator play. And do we subsidise the telecommunications infrastructure development in Hong Kong? The short answer is no. We follow the guiding principle of "Market Leads, Government Facilities" and do not provide any direct investment or subsidy of any form to finance the roll out of telecommunications infrastructure. Under the market-driven approach, the investment decision on the development of infrastructure is solely based on the commercial considerations of the private sector. Our role is to provide an environment that facilitates the market to operate effectively. The implication of the market-driven approach is that, in making any decision to regulate or deregulate, an objective assessment should be made on whether the market itself can serve the public interest. Regulation is justified only if the market fails to serve the public interest.

Connectivity –interconnection charges, landing rights,

[1] Under section 36AA of the Telecommunications Ordinance, the Authority may direct a licensee to coordinate and cooperate with another licensee in the public interest to share the use of any facility owned or used by it. In considering such direction, the Authority shall take into account various factors, including but not limited to (i) whether the facility is a bottleneck facility; (ii) whether the facility can be reasonably duplicated or substituted; and (iii) the existence of technical alternatives.

6. Let me use "interconnection charge" as an example to illustrate our market-driven approach. In Hong Kong, interconnection charges between mobile carriers have never been subject to any regulatory guidance. Interconnection charges between fixed and mobile carriers were once subject to regulatory guidance under the principle of "mobile carriers pay", but we withdrew the guidance in 2007 in view of the fixed mobile convergence, subject to a two-year transitional period. It is the commercial decision of the fixed and mobile carriers as to whether to pay charges for their interconnection and if yes the charge level. Now, our industry adopts in general the bill-and-keep arrangement for fixed-mobile interconnection charges. As for interconnection charges between fixed carriers, we decided early this year to withdraw the regulatory guidance as well, viz. the originating fixed carrier pays, subject to an 18-month transitional period. The reason is that with the keen facility-based competition in the fixed market, consumers' interests are safeguarded by the availability of choices and affordable prices. The market itself can serve the public interest well. The regulatory guidance, which is actually a form of regulatory intervention, should therefore be withdrawn.

As licences end, how should the regulator position new licensing regimes (e.g. the re-assignment of spectrum for public mobile services)?

7. Now, let's move to the topic of re-assignment of spectrum upon the expiry of assignment period. Radio spectrum is a scarce public

resource and must be managed effectively for the benefit of both the community and the industry. It is stipulated in our law that the Communications Authority shall promote the efficient allocation and use of the radio spectrum. Recognizing the importance of regulatory certainty to parties who are making, or plan to make, long term investments in mobile services, the Hong Kong Government, in consultation with the industry, promulgated the Spectrum Policy Framework in 2007, setting out the guiding principles in radio spectrum management in Hong Kong. Under the Framework, a market-based approach, such as auction, will be used for assigning spectrum wherever there are likely to be competing demands from providers of non-Government services, unless there are overriding public policy reasons to do otherwise. Such a market-based approach ensures that radio spectrum would be assigned to operators which value it the most and are able to put it to the most efficient use. The Framework also stipulates that there is no legitimate expectation that there will be any right of renewal or right of first refusal of any spectrum assignment upon the expiry of a spectrum assignment. If a spectrum assignment is to be renewed with different radio frequencies assigned, or not renewed upon the expiry of an assignment, notification would be given to the spectrum assignee within a reasonable time before expiry.

8. In Hong Kong, the assignment of the 2 x 60 MHz of 3G spectrum in the 1.9 – 2.2 GHz band to four incumbent operators will expire in October 2016, and two rounds of public consultation on the re-assignment arrangements have been conducted since March 2012. In

re-assigning the 3G spectrum, we are set to achieve multiple spectrum management objectives, namely ensuring customer service continuity, efficient spectrum utilisation, promotion of effective competition, encouragement of investment and promotion of innovative services. Having taken the above factors into account, we have put out for consultation a hybrid option, viz. to offer to the incumbents right of first refusal on 2/3 of their existing 3G spectrum holding, and to put out for auction 1/3 of the remaining spectrum. We would choose the re-assignment arrangement which will best meet these multiple objectives, in accordance with the Framework. Our target is to announce the decision later this month in order to give a notice period of three years to the incumbent 3G operators. With this advance notice, the incumbent operators would have sufficient time to carry out system re-planning in case there is any change to their 3G spectrum holding.

Concluding Remarks

9. In the interest of time, I would have to stop here. I hope my sharing would help you to understand more about our facilitating role under the market-driven approach. Thank you very much.

Office of the Communications Authority, Hong Kong

October 2013