

SUBMISSION
TO
OFFICE OF TELECOMMUNICATION AUTHORITY
ON
Licensing of Mobile Services on Expiry of
Existing Licenses for Second Generation Mobile Services

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by

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In response to your Consultation Paper dated the 1st August 2003, I am glad to submit my views on the following three particular topics :

A. Vacation of Spectrum by CDMA and TDMA licensees

Although it is undeniable that the CDMA and TDMA services are not as successful as the GSM and PCS services, the TA must consider the following factors which may be contributing to the situation :

1. the two services are not of the mainstream or dominant mobile technology in Hong Kong as well as in mainland China; their acceptance by local users is therefore severely restricted;
2. since the two services at their peaks attracted 280,000 and 140,000 users respectively¹, the TA simply cannot deny the two operators once they did make efforts to market the two technologies;
3. one of the fastest growing areas in mobile services recently is pre-paid sim cards² which, because of technology constraint until recently, is simply not available for the two services;

The TA should also take into account the following issues before making a decision on whether the two services need to be vacated from spectrum :

- a. operators will be discouraged from adopting alternative mobile technology which is more risky in future;
- b. the existing CDMA network can easily be upgraded to cdma2000, a 3G standard; shutting down the CDMA network is a waste of an upgradeable infrastructure;
- c. at present there is no urgent need to release spectrum because there is no shortage; spectrum allocated for 2G has already accommodated over 7 million mobile users; 3G services are using up other bands of the spectrum and there are additional bands available for future expansion; and
- d. although TA has the statutory function to ensure efficient use of the spectrum, no guideline or standard by which such oversight can be measured in an objective manner has ever been set up; in fact no prior warning has been given by the TA to any operator on the rate of spectrum utilization before the surprising proposal in

¹ OFTA. *Licensing of Mobile Services on Expiry of Existing Licenses for Second Generation Mobile Services – Analysis of Comments Received, Preliminary Conclusions and Further Consultation*. 19th March 2004, para. 25

² OFTA. *Key Statistics on Telecommunications in Hong Kong – Wireless Services*. 16th April 2004. “Pre-paid sim cards account for about 38% of all mobile telephone services in Hong Kong”

the Consultation Paper. Whenever possible, the TA should exercise its duties in an objective and transparent manner rather than by an arbitrary way.

It is therefore recommended that :

- i. the “right of first refusal” be extended to the CDMA and TDMA networks; and
- ii. an objective spectrum utilization standard measured by the average users over a period of time, say 5 years, be published by the TA so that mobile services operators can have a common and transparent standard to follow.

B. PROPOSED SPECTRUM UTILIZATION FEE (SUF) PAYMENT

This writer is strongly opposed to the imposition of any SUF on spectrum use because there is simply no evidence whatsoever to support the argument that SUF can benefit mobile services users. It is particularly regrettable that there is support for SUF on 2G licensees for the reason of equality with 3G licensees.³ It is puzzling how a tax in the form of SUF on 3G as well as on 2G will further the interest of the consumers.

One of the reasons put forward by the TA in having a convergence date, i.e., 1st January 2010, for the imposition of SUF on both 3G and 2G networks is based on a forecast that by that time the capability of the 2G networks to provide innovative data and multimedia services will be on par with that of 3G.⁴ However, since the TA simply does not have enough market information yet to forecast to what extent mobile services users in Hong Kong will embrace the high-value data-based 3G services which were launched just recently, to predict the business direction of the 2G services six years down the road is not only premature but unrealistic. Consumers may still prefer low-cost voice-based 2G services to high-value 3G technology. To have a decision on changing the cost structure of the 2G services at present without knowing how the 3G services will perform is not in the best interest of consumers.

It is therefore recommended that the issue of SUF be shelved for the licensing of the 2G licenses and another consultation on the issue can be carried out five years later when the roll-out of 3G networks are completed and the market situation can be evaluated more realistically.

³ *Supra.* Note 1, para.62

⁴ *Supra.* Note 1, para.70

C. MINIMUM NETWORK CAPACITY FOR MOBILE DATA SERVICE

As discussed hereinabove, how 3G services will fare is still very much a question at the moment. Save Japan and Korea, data services represent only a negligible share of the market of the mobile services all over the world at present. The situation may be due to technology constraint of 2G or low demand or even both. If the TA is to impose a minimum standard for data services whether in terms of traffic, revenue or user on 2G licenses, the condition is tantamount to central planning for consumption. It is suggested that the extent to which consumers embrace data services is a matter for the market, not the TA. It is recommended that this condition be left out from the new 2G licenses.

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