



Our Ref.: S&L/TC/193/04

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

BY FAX (2803 5111) & HAND

Attn: Senior Telecommunications Engineer
(Technical Regulation)

18 June 2004


Dear Sirs,

**Re : Submission of the MTR Corporation
Consultation Paper on 'Licensing of Mobile Services on
Expiry of Existing Licenses for Second Generation Mobile Services**

With reference to the second consultation paper issued by the Office of the Telecommunication Authority on 19th March 2000, the MTR Corporation would like to make a submission of its comments and recommendations as are more particularly contained in a submission paper enclosed in this letter.

Do not hesitate to contact the undersigned if you have any question or query or should you require any further information. We would appreciate very much if you can favourably consider our comments and suggestions.

Yours faithfully,


Teresa Cheung
Legal Manager General

TC/pl
Encl.

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MTR CORPORATION LIMITED

SUBMISSION TO THE TELECOMMUNICATIONS AUTHORITY IN CONNECTION WITH THE LICENSING OF 2G MOBILE COMMUNICATIONS OPERATORS FROM 2005

1. BACKGROUND AND PURPOSE

Hong Kong has been well served by her efficient and effective railway systems and a significant portion of her population travels on the Mass Transit Railway System ("MTR") and Kowloon Canton Railway. Quality mobile communications coverage on the railway system brings significant benefits and support to the business and social communities and has been accomplished after substantial effort. The existing mobile coverage on MTR must therefore continue from 2005 under the new licences ("New Licences").

MTR Corporation Limited ("MTRC") supports grant of right of first refusal to existing licensees to ensure continuity of customer service as proposed in the consultation paper in this regard.

MTRC further suggests that the New Licence contains a condition and warranty with sanction and that the Office of the Telecommunications Authority ("TA") should satisfy itself in advance of granting the New Licence that the New Licensee can provide continuous service coverage of quality and standard to the MTR of no less than the existing coverage and standard.

2. INTRODUCTION

This submission is made by MTR Corporation Limited and its subsidiaries involving in telecommunications business to TA on issues relating to the Consultation Paper dated 19th March 2004 issued by the TA ("**Consultation Paper**") entitled "Licensing of Mobile Services on Expiry of Existing Licences for Second Generation Mobile Services".

The focus of this submission is on the continuation of existing mobile communications services on MTR from 2005/06 and the means by which TA can under the New Licences ensure continuing provision of mobile communications coverage on major transport systems.

The MTRC takes the view that it is important for Hong Kong and the consumers to continue to enjoy quality mobile communications services to be continuously delivered on the MTR from 2005/06. To ensure that this can be achieved, it is our proposal that certain issue condition and licence conditions should be included in the New Licences in addition to the right of first refusal to existing 2G licensees proposed in the consultation paper.

3. CONTINUOUS MOBILE COMMUNICATIONS PUBLIC SERVICE ON MTR

With densely populated urban areas and as an international city, Hong Kong has been well served by her efficient and effective telecommunication systems. With some of the recent new railway lines and other lines and extensions under construction or planning, the railway systems plays an important role in Hong Kong economic development and the well being of its citizens.

It is the common concern and interest of the MTRC and TA to ensure continuous mobile communications coverage on significant railway systems as good customer service and as good support to Hong Kong's economic development and social well-doing.

MTRC recognizes that not allowing existing mobile operators to continue by licence to offer their services to their customers would be severe service interruption causing confusion and inconvenience to the public.

4. SERVICE TO CONTINUE FROM 2005 - EXISTING ARRANGEMENTS MUST ALSO CONTINUE

The mobile communications coverage on MTR has been made available and possible after substantial efforts by MTRC having regard to its busy operation and works schedule, and tight safety control for railway operation.

In the Consultation Paper, the TA states his consideration of offering the existing 2G licensees the "right of first refusal" for the New Licences operating on the existing 2G spectrum.

Based on the above policy in paragraph 3, we agree that the licensees of existing GSM and PCS licences should be offered "right of first refusal" with an expectation that this can ensure continuity of customer service, etc. We have assumed that there is an expectation by the TA that by granting the "right of first refusal" to the existing 2G spectrum licensees, continuity of service will occur. However, such expectation is unilateral and there is no guarantee of service continuity to the mobile users especially in enclosed sites after grant of the New Licences.

5. POLICY EXTENSION

Having regard to significant public interest some of which are described in paragraph 3 of this submission, Hong Kong cannot risk failure of mobile coverage in dense urban areas like the MTR. MTRC proposes that the government policy should be extended to maintenance of the status quo on all other supporting services relating to such existing 2G spectrum in granting the "right of first refusal".

The TA has from time to time expressed or explained the importance of mobile communications coverage on the major public transport systems. Having considered such representation, we are of view that we have a legitimate expectation that, when

issuing further mobile communications licences, the TA is duty bound to impose on the New Licensees an obligation of providing mobile communications coverage on such major transport systems.

6. AVOID RISK OF CONTINUATION FAILURE

The means of addressing the issue (mentioned in paragraph 4 and 5 above) to remove or reduce risk of service continuity failure include by way of inclusion in the New Licences on the New Licensee (now a 2G licensee) a license obligation, guarantee or warranty on service coverage and standard of no less than that provided under the existing licences with sanction (right to terminate licence) in the event of breach, and for TA to be reasonably satisfied with advance evidence from the New Licensees that they have the ability to do so before decision on issue of the New Licences. It is fair, simple and convenient to do so prior to grant of the New Licences.

Where the TA cancels the New Licence in the event of breach by the existing Licensees for failure to provide continuous 2G service on the day of commencement of the New Licence, TA shall grant the licence to any third party by open tender.

7. SUMMARY OF RECOMMENDATIONS

MTRC supports TA's proposal to grant the right of first refusal of the New Licence to the existing 2G licensees in 2005/6 but identifies a risk of non-continuity of the existing service on the day of commencement of the New Licences due to support or other failures which would jeopardize service enjoyment of mobile users and the public benefits of Hong Kong as a whole.

MTRC now proposes an extended policy to maintain the status quo of 2G service on the commencement day of the New Licence by inclusion of licensing condition/warranty/guarantee for same service coverage and standard on the day of commencement and that advance evidence of a proposed New Licensee of its capability to perform each condition be produced to the TA prior to the TA making a decision to issue a New Licence, more particularized in paragraph 6 aforesaid.