



Hong Kong Broadband Network Limited

Submission of Comment on Further Consultation of “Licensing of Mobile Service on Expiry of Existing Licences for Second Generation Mobile Service”

Summary

1. HKBN welcomes the opportunity to submit comments on the consultation paper issued by the Telecommunications Authority dated March 19, 2004 titled “Licensing of Mobile Services on Expiry of Existing Licences for Second Generation Mobile Services – Analysis of Comments Received, Preliminary Conclusion and Further Consultation” (“The Consultation Paper”).
2. HKBN shares the TA’s view in that deciding the future licensing arrangements for mobile services, Hong Kong needs to create an environment that nurtures the development of innovative mobile data services and applications with an objective of turning Hong Kong into the preeminent mobile services hub in Asia, if not the world.

3. With regards to point 2, Hong Kong has its own backyard success showcase - FTNS liberalization has resulted in Hong Kong becoming a global leader in fixed line service innovation, with world leading achievements such as – vibrant facility-based and unbundled local loop competition, 1st commercial scale for Content over IP, 2nd highest broadband penetration in the world, highest New Generation SMS enabled fixed-line phone penetration, the world’s largest Metro Ethernet IP deployment, vibrant IDD competition etc. In short, Hong Kong’s mass consumers now enjoy many of the world’s most innovative fixed line voice and data services with choice of multiple vendors and at unprecedented low prices.
4. On the other hand, Hong Kong’s wireless liberalization track record is far less compelling. Whilst penetration and affordability of mobile services is very high, Hong Kong clearly trails behind our Asian peers in Taiwan, South Korea and Japan in terms of mobile data innovation and affordability.
5. Hong Kong’s consumers are early adaptors of new technologies. Failure of mobile data take-up in Hong Kong is not due to lack of demand, but rather lack of affordable supply, limited service innovation. To accelerate the pace of mobile data development, the TA should not artificially restrict the number of new Mobile Carrier Licences beyond spectrum limitations. This was a critical success factor in the FTNS liberalization success story.

6. Contrary to embracing harmonization of mobile developments with China, the Hong Kong industry has instead maintained an artificial separation in order to profit from extremely high roaming fees. Currently, for a Chinese subscriber roaming in Hong Kong to call Guangdong/outside Guangdong provinces, it would cost between HK\$10-17/minute using a typical Hong Kong roaming services, some 30-40 times higher than the cost of a fixed line IDD call.
7. On this vision of innovation stimulation, as well as for the facilitation of efficient utilization of frequency band as a scarce resource, HKBN maintains its strong support of the TA's decision not to offer the 'right of first refusal' to the existing CDMA and TDMA licensees. It is crucial to mandate these two (2) licensees to return the under-utilized spectrum blocks to the Government for re-licensing to committed operators. As such, HKBN fully supports the TA's decision to re-allocate the vacant 800 MHz band for issue of two (2) more new Mobile Carrier Licences with specific commitments to develop more advanced and innovative mobile data services.
8. Similarly, given the reluctance of existing GSM and PCS licensees to catalyze the development of the mobile data services in Hong Kong, HKBN strongly opposes the TA's proposal to offer the 'right of first refusal' to the existing GSM and PCS licensees. This inequitable proposal is contradictory to the Government's policy of maintaining a

fair competition platform among all existing and new operators. It unfairly rewards the existing GSM and PCS licensees simply for their legacy and artificially raises the barrier to entry for new operator(s) whom are more committed to service innovation.

9. HKBN considers the best way to achieve the Government policy objective would be to mandate all the existing 2G licencees (including existing GSM, PCS, CDMA & TDMA licensees) to surrender their licences and align with the new licensees to commence 3G operation at the same time.
10. The existing 2G licensees should submit separate application to the Government showing their merits which entitle them to new licences. The selection criteria for the award of new Mobile Carrier Licences should be equitably applied to both existing 2G licensees and the new applicants. Incumbent operators will rightfully command commercial advantages with existing scale, but this should not be unconditionally converted into a 'first right of refusal'. New entrants should be treated in the same manner as the incumbents, and deserve an equitable chance to overcome the commercial disadvantage relative to incumbents through innovation and operational efficiency.
11. In considering the consumers' choice of services and the global trend of CDMA-based 3G developments, *both* the issue of more new Mobile Carrier Licences and an equitable licensing regime among both existing

and new operators could catalyze the swift demand of travelers on data roaming services between Hong Kong and its neighboring countries which can bring in significant revenue. The TA should grant more new license to meet the genuine requirements of the new entrants instead of reserving certain frequency spectrum for future use.

12. In considering the possible deployment of existing 2G spectrum for the provision of 3G or 3G-like mobile data services by 2G licensees, HKBN supports the imposition of SUF on 2G licensees, upon the expiry of their existing licences and then licence renewal to Mobile Carrier Licence, if this eventuates. However, the level of SUF should *not* follow the high fees of the existing 3G licensees. Instead, the structure shall adjust to “*current market*” conditions, making reference to present weak economic and telecom industry investment climate in comparison with the TMT bubble of the early 2000s when the last 3G licensing exercise was conducted.
13. HKBN does not agree that the new licensees should pay the same level of SUF as the existing 3G licensees to maintain a level playing field in the market. The SUF for existing 3G licensees was set by a commercial bidding process at the time (2001). Since then, technological and market conditions have progressed, hence it would be illogical to enforce outdated considerations into the current business plan for new entrants. To do so, it would be akin to imposing 1997 peak market property prices on current government land auctions on the presumption

that this act ensures a ‘fair’ competitive environment for new and existing property developers.

Large Pent-up Demand for Mobile Data Service in Hong Kong

14. Whilst Hong Kong is notably cited as one of the world’s most competitive market in the mobile voice services, the industry achievements with mobile data have been far less compelling. In the global context, the successful provision of low-cost conventional voice services by the mobile operators does not necessarily mean they have been also successful in introducing innovation to the public. In fact, as the TA agreed in the Consultation Paper, Hong Kong’s track record for new mobile data services deployment has significantly lagged behind that of our Asia Peers such as Japan and South Korea.
15. Some existing licensees (including existing GSM, PCS, CDMA & TDMA licensees) would claim that the demand of mobile data service in Hong Kong is minimal and thus object to the Government issuing new Mobile Carrier Licence for the introduction of advanced and innovative mobile *data* services, citing that the mobile *voice* market is already overly competitive.
16. The fact is that *it is not the community that has no genuine demand in mobile data service, but it is the limited service innovation and unreasonably high retail prices of mobile data services that discourage*

the public to use it and inhibit its popularity. The price level of mobile data service is far more expensive than that of conventional voice service. It is the pricing structure itself deters the customers from usage, rather than the attractiveness of the mobile data services. For example, the sending of a MMS would cost HK\$1.5-15 while the usage charge for data surfing by GPRS would be as high as HK\$12-49/Megabit. The high price level of mobile data service deters the public's interest to subscribe, thus imposing wrong impression that demand of mobile data services in Hong Kong is low.

17. Therefore, the TA should exercise its regulatory power *to unleash the pent-up huge demand of mobile data services* in the public by introducing as much as “new blood” into the market as possible. The first step is to vacate the 800MHz band.

Licensing Arrangements for the Existing CDMA and TDMA Licences

18. HKBN welcomes the recognition of the TA on the inefficient use of the scarce spectrum resources by existing CDMA and TDMA licensees, thus determining that they are not entitled to the “right of first refusal”. Upon the expiry of their existing licences, the two (2) licensees should be required to vacate the frequency spectrum in 800MHz band that they are currently assigned. The regulatory decision realizes the TA's determination in ensuring the efficient use of spectrum resources for the

best interest of the public. The TA should stand firm on its position without hesitation. HKBN also agrees that by giving sufficient advance notice, these two (2) licensees should have practically no difficulty in devising a smooth migration arrangement for their existing customers.

19. The existing CDMA and TDMA licences might have strong objection against the return of their under-utilized spectrum to the TA by alleging that the existing market is of excessive competition and defending by paradox that the consumers have been no longer interested in mobile data services, etc. (In fact the same paradox is also being bantered by existing GSM & PCS Licensees and we have discussed in para. 15-17.). However, in accordance with the falling number of subscribers and number of installed base stations by these two (2) licences as quoted in the Consultation Paper, the reality is that they are actually *wasting the spectrum resources* in the provision of conventional voice services, not to mention their reluctance in developing high-speed mobile data services.
20. In any case, if the existing CDMA and TDMA licencees finally recognize the importance of mobile data services and would like to initiate investment into developing such services, they could submit separate applications to the TA for new Mobile Carrier Licences upon the expiry of the existing licences, as per the process that new applicants would be required to go. Such equitable licensing approach would be the most effective way in driving up the mobile data market.

Issue at Least Two New Mobile Carrier Licences

21. In the Consultation Paper, the TA made it clear that *Block A* is to be made available for issuing a new licence while it proposed to reserve *Block B* for the future expansion and frequency rationalization by incumbent GSM and PCS operators. HKBN considers limiting the issuance to one (1) new licence would reduce the competition incentive critical to accelerating market innovation. Again, HKBN refers to the World Class leading success of Hong Kong's FTNS experience, which did not impose arbitrary limitations on the number of FTNS licences.
22. Most importantly, as the TA envisaged, the introduction of new licences should stimulate public demand for mobile data services. With current conventional voice services, the industry has shown little service differentiation but instead has have relied predominately on price to capture market share. It turns out that "revenue pie" of the entire mobile market has actually diminished since peaking in 1998. The introduction of new licences could medicate the market distortion and ensure the long term healthy and sustainable development of the mobile industry.
23. HKBN believes that with more new players in the market, telecommunication technology would evolve more promptly which would stimulate the existing players to provide higher quality with

reasonable priced innovative services to the consumers. The TA should enable the mobile market environment to be driven by the natural market forces.

24. This can be evidenced by the proven track record in the success of the full liberalization of FTNS market since 2001. Upon the Government's opening-up of the market for unlimited issue of new FTNS licences, the consumers now enjoy a wide range FTNS services including voice, broadband Internet access and Pay-TV services at attractively low prices. The introduction of new entrants has even caused the ever reluctant incumbent operator, PCCW-HKT to provide wide range of innovative value-added services, such as New Generation Fixed Line SMS, Now-Broadband TV, and Convergence etc.
25. Within a very short period of time, new FTNS entrants have accelerated the evolution of the whole FTNS market landscape and Hong Kong is now often renowned as a "success showcase" for world-leading achievements with universally affordable local services including leading broadband penetration with multiple carrier choices. HKBN encourages the Government to continue on with these merits and provide a conducive environment for similar innovation to be emerged in the mobile data market.
26. Based on the above rationale in promoting the development of content and applications for the local market, HKBN reiterates its view to

support the TA in issuing as many Mobile Carrier Licences as possible, within the vacant spectrums constraints.

Issue more New Mobile Carrier Licences employing Block A & Block B

27. Whist the TA agreed that issue of new licences would stimulate growth of the mobile market; the TA should fully utilize the frequency spectrum to issue as many new licences as practicable. In fact, with allocation of 2 x 5 MHz being commercially viable, the existing 20MHz spectrum from CDMA and TDMA is capable of accommodating at least two (2) new licensees at a minimum. In that case, the design of the TA's licensing regime should cater for the following objectives: -

- to maximize the number of new licences upon the availability of spectrum, and so;
- to maximize the availability of mobile data services in future;
- to enhance the momentum of the driving force to bloom up the mobile data services

28. In this connection, the TA should try its utmost to introduce the most committed operators to invest in the mobile data services market rather than solely relying on the existing less committed operators whom have failed to capitalize on their allocation of very valuable public resources. In this respect, upon the expiry of the existing CDMA and TDMA

licensees, without offering of “first right of refusal” and the subsequent availability of these two (2) vacant spectrum range of *Block A* and *Block B*, HKBN strongly supports *the re-offering of entire two (2) bands to at least two (2) new Mobile Carrier Licences* such that the bands could be used more efficiently by more committed operators for introducing greater variety of advanced and innovative mobile data services to the public.

29. For *Block A*, in view of aligning the local 800MHz frequency band plan with that of Mainland, the TA considered *Block A* would be deployed for mobile systems under cdma2000 standards. HKBN supports the proposal in consideration of facilitating automatic roaming service between the two regions and thus convenience to be brought to the public. Moreover, as the TA also advocated, cdma2000 standard is developing fast and launched with commercial success in many foreign countries.
30. For *Block B*, the TA proposed to reserve it for the future expansion and frequency rationalization of the incumbent GSM and PCS operators. The TA’s rationale is that *Block B* would also be offered a new entrant deploying the EGSM standard. However, in considering the deployment of EGSM standard may only induce possible replication of 2G mobile services, the TA would rather reserve it for future expansion and rationalization. This stand is less rational.

31. In fact, likewise to the arrangement in *Block A*, *Block B* should not be necessarily set aside for deploying EGSM, but instead cdma2000. However, under no circumstance would HKBN see that the TA should determine to reserve the block for future expansion and frequency rationalization as far as both blocks are available and able to be offered to new licences. The TA therefore should also offer *Block B* to new entrant for deployment of new services rather than reserving for future rationalization.

Licensing Arrangements for the Existing GSM and PCS Licences

32. HKBN opposes the TA's proposal for granting the "right of first refusal" to the incumbent GSM and PCS Licences. Considering that the development of mobile data services in Hong Kong has lagged behind our regional peers, the TA should not grant unconditional preference to them, which discourages and blocks the incentive of new entrants to join the market. The proposed arrangements allow the existing GSM & PCS licensees to continue the licences with the existing terms and conditions whereas the new entrants would have limited chance to be awarded new licences. Such proposal is going against the Government's policy objective of promoting investment and also jeopardizing the opportunity to the new entrants who have keen interests to invest in advanced and innovative technology.

33. The proposal of the TA to offer “right of first refusal” to the incumbent GSM and PCS licensees took into consideration that if they were not allowed to continue offering their services to the customers, there would be severe service interruptions, causing confusion and inconvenience to the public. The TA considered the social consequence would not be acceptable to society as a whole.
34. The TA tried to justify the cost of the “right of first refusal” by arguing that any interested parties who wish to enter the market are free to invest through merger and acquisition or simply apply for a MVNO licence to provide their own services.
35. HKBN disagrees that the proposed merger and acquisition is a proper means to eliminate or avoid the social impact of service interruptions to the public. HKBN maintains its view to oppose the offering “right of first refusal” to any one of the existing 2G licensees, not least existing CDMA and TDMA licensees. This unequal privilege would raise the barrier to entry to the new entrants and thus stifles competition in the market. Instead, bidding for the frequency spectrum and the licenses should be treated on a *fair* and *equal* basis for existing 2G licensees and new applicants.
36. Given the reluctance of the existing 2G licensees to develop advanced and innovative mobile service and applications, the offering of the “right of first refusal” would give the wrong signal and further enhance their

reluctance. It turns out the customers would not be given the chance to be served by the best choices of quality mobile data services. The social consequence of the absence of advanced and innovative mobile data service and application to the public as a driver for the recovery and development of economy would not be less significant to that of service interruptions to the public. The TA should weight the balance.

37. To address the TA's concern on the social consequence of not offering the "right of first refusal" to incumbent GSM and PCS licensees, HKBN has already proposed in its last submission that upon the expiry of those 2G licensees who fail to renew their existing licences to Mobile Carrier Licence, ex-2G licensees should be mandated to dispose its assets at the *net book value*, subject to any commercial merger and acquisition raised by existing/new industry players. The proposed commercial mechanism is to avoid disruption of service to consumers.
38. One may argue that commercial merger and acquisition would take substantial time to proceed before "deal closure". Therefore, the TA could take initiative to launch the licence renewal exercise in the soonest. It is suitable if the TA could finalize the eligibility of the 2G licensees for licence renewal *one-year* prior to the expiry of their existing licences. In case the result is negative, commercial merger and acquisition could be commenced at once.

39. Aligning with the global trend of mobile data development, HKBN strongly recommends that the existing 2G operators should be required to upgrade to 3G licences and all existing 2G licences should surrender their existing licences and required to participate in the same bidding process with the new entrants. This approach is coherent with the TA's agreed policy objective to introduce advanced and innovative mobile data services.

Need for Rationalizing the Existing Frequency Allocation

40. As explained earlier in this submission, one of the factors for the success of mobile data services would greatly depend on the driving force of the new entrants. The TA therefore should take this opportunity to rationalize the frequency allocations of the incumbent 2G licensees such that the vacated frequency can be allocated for issuance of new licences. At least, it would not be necessary to reserve *Block B* for future use.

41. Considering the existing licencees will expire soon, the TA should take this opportunity to re-rationalize the frequency for all GSM and PCS licensees such that the spectrum could be utilized in a more efficient way and that more new licencees could be grant to stimulate the market.

“Selection by Merits” Approach for Awarding New Licences

42. While HKBN supports the TA to issue as many additional licences as possible for the provision of advanced and innovative mobile data service, however, HKBN has reservation to subscribe to the same licensing method as that in the last 3G licensing exercise conducted in 2001 for awarding the new licence for vacant spectrum. If the TA is to promote innovation, the award of new licences should be based on ‘selection by merits’ approach, rather than by auction. The selection criterion should require new industry players to introduce the greatest economic benefit to the community and promote wider range of innovative services to the public.
43. In this connection, HKBN supports the “Stage 1 – Pre-Qualification” that the applicants will be evaluated on the amount of investment, technical strength, network rollout, financial capability and proposed innovative services. In this premise, new licences shall be granted to those who can demonstrate the capability to run a mobile business with new types of applications and services to the consumers.
44. Following our support on non-offering of “right of first refusal” to existing 2G licensees, pre-qualification criteria should be made available prior to application submission with transparent and fair selection criteria applying equally to all applicants including *both* the existing 2G licensees and new players.

Spectrum Utilization Fee (2G Licensees Vs New Licensees)

45. In the Consultation Paper, respective respondent said that, SUF should be made applicable to similar 3G services regardless of frequency or technology adopted in future, but a clear definition of 3G services would be required. HKBN shares the same view on the first part of the statement in the sense all licensees, both existing and new one, should pay SUF. However, HKBN believes the level of SUF should be different from, in particular lower than, that of the existing 3G licensees. The detail of which would be discussed later. Meanwhile, we highlight that there is a practical difficulty in defining 3G services. In essence, *both* existing 2G & 3G licensees could be capable of offering 3G or 3G-like voice and data services under different frequency and technology such as WCDMA (3G), GSM (2G) and PCS (2G).
46. For 2G licensees, deploying General Packet Radio Service (GPRS) can achieve the maximum speeds of up to 171.2 kbps by using all eight timeslots concurrently. The availability of Enhanced Data Rates for Global Evolution (EDGE), which has been deemed as a 3G radio technology that triples the capacity of GPRS-enhanced GSM networks of up to 384kbps, also enables GSM operators to provide high-speed Mobile Internet services over existing 2G infrastructure.
47. Based on the premise that both 3G and 2G licensees could provide similar types of service by utilizing public spectrum resources, HKBN

cannot agree the TA's proposal to delay the leverage of SUF for 2G licensees until year 2010. In fact, the proposed arrangements are in favour of the existing 2G licensees which will be an unfair disadvantage on new entrants.

48. HKBN maintains our view that to encourage the efficient use of frequency spectrum and in order to maintain a level playing field, HKBN supports that all existing 2G or new licensees shall be obliged to pay the same level of SUF. That is to say, the existing 2G should be required to surrender their existing frequencies and acquired by going through the same 'selection by merits' process as the new entrants required. The existing 2G licensees once acquired new licensees should required paying SUF in the same level as the requirements apply to new licensees.
49. Moreover, following our standpoint that migration from 2G to 3G services should be made mandatory upon renewal of existing licences into Mobile Carrier Licences, there is no need to separate the 3G business from 2G business. The timing of making SUF payment should not commence by a specified cut-off date from which 3G services were expected to be provided, because they have been providing the same already.
50. Instead, the levy of SUF shall become effective upon the granting of new Mobile Carrier Licensees irrespective of whether they are existing

2G operators or new entrants. No differential treatment should be imposed for setting SUF for 2G licensees with that for new licensees. In fact, it is a generous offer to existing 2G licensees for SUF payment rather than requesting them to pay with immediate effect, in case the TA hold a view SUF should be levied if 3G or 3G-like services are provided.

51. However, if the TA eventually allows 2G licensees not to pay any SUF upon expiry of the existing licences, it would be fair to maintain a level playing field by granting the same waiver to the new entrants. If the TA were promoting innovation, the TA should encourage new players who have proven track records in bringing innovative data services to join the market. In that case, the TA should only require the new entrants to pay license fees based on the number of customers and installed base stations by the licensees. Such policy would be similar to the licensing regime of the current issue of Fixed Carrier Licences.

Spectrum Utilization Fee (3G Licensees Vs New Licensees)

52. Whilst HKBN supports the immediate imposition of SUF upon the grant of Mobile Carrier Licences to either existing 2G licensees or new applicants, however, HKBN holds its view that the structure of SUF should *not* follow the high fees of the existing 3G licensees. Instead, the structure should be set according to “*current*” conditions, making reference to current weak economic and industry investment climate,

both in term of local and global sentiments, in stark contrast to the TMT bubble of the early 2000s when the last 3G licensing exercise was conducted.

53. The TA believed initially that as long as the new licensee are mandated to provide advanced and innovative mobile data services, they should be obliged to pay similar level of SUF payment as existing 3G licensees do. However, HKBN believes, even the new licensee should be obliged to pay SUF; the payment level should be much lower than that of existing 3G licensees.
54. The last 3G licensing exercise conducted in 2001 was just before the bursting of the over-investment in technology industry, when many sectors in the Internet and telecommunications industry had over-estimated the potential prosperity of the market and thus over-invested. The over-bidding of 3G licences all over the world has seen very apparent. The existing 3G licensees should be held responsible for their prediction of market as made in 2001, resulting in the relatively high of licence fee and SUF payment.
55. This phenomenon could be compared to the situation in Hong Kong land auctions. For example, it would be illogical to use 1997 peak property prices as the minimum clearing price for land auctions in 2004.

Performance Bond

56. In the Consultation Paper, the TA considered maintaining the performance bond requirement for the new licensees while the same requirement should be waived on existing GSM and PCS licensees as they have had a solid on-going business with a wide customer base.
57. With regards to the performance bond, the TA has already waived this requirement for the existing 3G licencees over the past two years. Under the current economic climate, and with a view of fair play, HKBN considers the performance bond mechanism is not necessary and appropriate for the new entrants as well.
58. The TA should be mindful of its original intention for new licensing arrangement is to promote the advanced and innovative mobile data services. The long-standing reluctance of the existing 2G licensees to develop advanced and innovative mobile data services is a key reason that triggered the TA to review the current licensing regime. Therefore, the TA should not penalize the new licensees by imposing performance bond requirement whilst providing the 2G licensees a privileged exemption.
59. Conversely, HKBN proposes that the performance bond requirement for the new licensees should be waived so as to minimize the hurdle in building its market footprint during start-up stage of the mobile business.

While the performance bond requirement should be imposed to existing GSM and PCS licensees upon their licence renewal in view of setting a right signal to them and make up their mind to correct their wrong business direction in the past and take initiative to develop advanced and innovative mobile data services.

60. Alternatively, in case the TA insists performance bond requirement be maintained, the arrangement should also be made equitably among all mobile under new licensing regime in order to maintain a level-playing level among all licensees.

Equal Licensing Condition among Existing and New licensees

61. In the Consultation Paper, the TA considered that as the new licensees will be required to develop a brand new mobile network, the new mobile licence to be issued will carry *more stringent* licence conditions than that of existing 3G licensees, especially on quality and variety of services. HKBN strongly opposes the proposal.
62. HKBN believes no matter existing and new licensees, they should have equitable level of responsibility and commitment to Hong Kong society in contributing itself to develop Hong Kong as a mobile service hub in Asia. This level of commitment should have *no differentiation and*

correlation among those licensees who acquired their licences in the different period of time, whenever they are earlier or later.

63. Given that the world trend of relaxing licensing requirement to encourage new investors to telecommunications market including FTNS market in Hong Kong, HKBN would propose to adopt similar policy in mobile licences. If the TA is keen to encouraging innovation in the mobile data service, the new licensees should not be required to adopt more stringent licence conditions.

Mobile Network Capacity for Mobile Data Service

64. The TA proposed that for new licencees, “suitable targets” be specified in licence conditions to correspond to an active level of mobile data usage. HKBN holds the similar argument as in above paragraphs that “suitable targets” for the new licensees should be waived so as to minimize the hurdle in building up its market footprint during start-up stage of the mobile business. Conversely, “suitable targets” should be imposed to existing GSM and PCS licensees, in case they could be renewed into Mobile Carrier Licences. In case the TA insists that “suitable targets” be maintained, the arrangement should also be made equitably among all mobile operators under the new licensing regime.

65. Moreover, given that the Government is sincere to promote innovation, HKBN sees no reason as to why a new licensee should be burdened with more licensing responsibility than the existing GSM, PCS licensees and 3G licensees.

Network Rollout and Geographic Coverage Requirements

66. In the Consultation Paper, the TA is prepared to impose a new licence condition to require the new licensee (1) to provide its network and services to cover at least 50% of population with a specified peak data rate per radio carrier in 3 years' time from the grant of licence; (2) to provide coverage at strategy locations, including tunnels and major transport systems like the MTRC and the KCRC railway systems.

67. HKBN strongly objects to these unreasonable and unfair licence conditions. For both proposed conditions, the TA should have been aware that building access is always no longer an easy task for any operator to achieve. From our practical experience in the operation of FTNS services, the acquisition of approval from the building management to place and maintain telecom equipment is of great difficulty even though HKBN is empowered under Section 14(1A) of Telecommunications Ordinance to do so. Being a new mobile licensee, the progress would even be foreseeably more complicated.

68. The TA should not under-estimate the difficulty in this aspect, which would always be beyond the reasonable control of any mobile licensee including new licensee during the start-up of the mobile business. As a matter of fact, existing GSM & PCS incumbent operators' requirement for assistance from OFTA to place and maintain installation in public utility such as tunnels, MTRC and KCRC proves the seriousness of the problem. The TA should not set up this regulatory hurdle to deter the incentive of potential applicant to apply for the new licence.
69. HKBN believes that market competition would be the most effective driving force to decide the network coverage of the new licensee. In order to maintain competitiveness in the market, the new licensee would expand its network to those areas whether there is service demand.

Conclusion

70. HKBN sincerely urge the TA to make available the opportunity for wireless innovation to develop in Hong Kong. In particular, the upcoming expiry of existing CDMA and TDMA licences is a rare opportunity for Hong Kong to repeat the global showcase success of its FTNS market liberalization.
71. Given the opportunity, the TA should create a conducive environment to attract global service and content talent into Hong Kong in order to

nurture world class innovation and ensure harmonization of mobile developments with overseas carriers for roaming services. The new entrants to the mobile services should be based on innovation and value rather than price which has already evidenced by the FTNS track record. In our view, the Government should take this golden opportunity to become a leading global force in mobile data developments.

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