

Office of the Telecommunications Authority
29/F Wu Chung House
213 Queens Road Central
Wanchai
Hongkong

**Subj.: Siemens Response to Consultation Period Extended for
Licensing of Mobile Services on Expiry of Existing Licences for Second
Generation Mobile Services**

Dear Sirs,

Siemens takes the opportunity to comment in the extended period of the Consultation on the Expiry of Existing Licences for Second Generation Mobile Services. We have the following comments:

1. Extended Consultation Period

Siemens appreciates the extension of the Consultation period. It also has been seen in the other part of the world that 2G Licence Expiration is meanwhile seen in a wider context. Siemens, therefore, recommends to extend the Consultation further in order to reach a Licence Renewal solution, which would take this wider context into account.

In Europe, for example, it is recognised that 2G licenses will expire in a timeframe whereby other regulatory developments will lead to decisions changing the overall framework towards a more liberalised spectrum licensing regime; and normally which will be more innovative.

Innovation is important in the field of mobile data and mobile multimedia. From Siemens' point of view, such wider context should be supported, as it will bring more flexibility for the industry to create new mobile data services; which is one of the main targets also from OFTA's point of view. Some of the responses to the first Consultation document have stated already, that the mobile data market needs more stimulation. Flexibility for the operator and the industry is therefore key instead of a regulatory measure which is, for example, intended to be introduced as "Open Network Access" licence condition.

2. Transparency

As regulatory policy has a long-term impact on the market, policy changes have to be done carefully and in a transparent way by involving the market players early in order to provide planning security and to give confidence to the investors.

High license fees should be avoided, because they will impact users and will bring uncertainty into the investors' climate. Siemens, therefore, recommends intensive information exchange and experts' investigations prior to any decisions on this level.

3. Right of First Refusal

In evaluating the performance of a licensee, we recommend OFTA to not only use spectrum utilization as a measurement yardstick. OFTA could consider to provide specific guidelines or benchmarks as to how and in what frequency during the licensed period would the licensee's performance be measured and henceforth periodically monitor this performance.

As a technology neutral vendor who is not currently a CDMA or TDMA network manufacturer, Siemens maintains that the incumbent service operators of these networks should not be penalized and should receive the equal benefit as incumbent GSM and PCS operators to a 'Right of First Refusal' when being considered for license renewal.

From a purely operational perspective, established CDMA and TDMA roaming availability with the rest of the world will be disrupted for the well-established telecom market in Hong Kong for a long while if OFTA insists on pulling back the CDMA and TDMA licenses from the incumbent operators.

In addition, the proposed policy of not granting the 'Right of First Refusal' to all existing licensees will create uncertainty among operators as they will not be able to efficiently and effectively plan their capital expenditure investment and estimate the return on investment horizon.

4. Ensuring Healthy Investment Environment

Hong Kong is recognised as one of the most competitive telecommunications markets in the world. This has certainly been achieved through OFTA's adoption of a competitive policy which has been facilitating the market forces. Investors and analysts alike expect the regulatory authorities to ensure such an environment exists. Therefore, OFTA should also be careful to consider the potential imminent impact, e.g. limited marginal business gains or even losses, brought about by over-competition.

The mobile service market is currently highly saturated with over 100% market penetration rate. Introducing another new 3G license to the market will probably:

- a) create a highly fragmented market;
- b) threaten the existing operators not to do further investment or at least to defer their planned investment; and
- c) signal the warning of an overheated market which brings uncertainty to investors' confidence in the profitability of investing in the Hong Kong telecommunications sector.

Although investments in the telecommunications markets are more often than not, long-term, increasing competitiveness and volatility of market conditions would surely reduce the attractiveness to invest. This, in turn, might affect Hong Kong's overall economic development and performance.

5. Spectrum Utilization Fee

In the past, many license auctions and license fee discussions have been resulted in high costs burdening and slowing down the infrastructure investments and not benefiting the end users. High fees are transferred directly or indirectly to the users. Thus, it is recommended to avoid additional high fees for spectrum use.

6. Data Service Offerings

Siemens agrees with the expressed views in the analysis of comments received to the Consultation from October 2003, which state that mobile data services and applications need to be stimulated. Siemens already contributes to such developments for a number of years very actively fully supporting End-to-End interoperability. In this context, Siemens therefore recommends to OFTA, that interoperability is considered as an important parameter in the new approach for stimulating the mobile data market.

Yours sincerely

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(signed)

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