

**APPLICATION FOR RECLASSIFICATION OF  
THE SINGAPORE ROUTE AS CATEGORY A  
BY CABLE & WIRELESS HKT LIMITED**

**Statement of the Telecommunications Authority**

**10 June 2000**

**INTRODUCTION**

The Telecommunications Authority (TA) has received from Cable & Wireless HKT Limited<sup>1</sup> (*CWHKT*) an application for reclassification of the Singapore route as Category A route (the “Application”). *CWHKT* also requests that *CWHKT* be declared non-dominant in the retail market for the Singapore route upon reclassification, in accordance with the TA Statement entitled “Application for a Declaration of Non-Dominance in the International Call Services Market for Non-China Routes by Cable & Wireless HKT Telephone Limited” issued on 4 August 1999 (the “August 1999 Non-Dominance Statement”). The TA issued a consultation paper (the “Consultation Paper”) on 29 May 2000 seeking views from the industry on the Application. In response to the Consultation Paper, the TA received five submissions. Respondents included *CWHKT*, Hutchison Global Crossing Limited, New T&T Hong Kong Limited, New World Telephone Limited and Smartone Mobile Communications Limited. A summary of comments from the respondents is given in Annex.

**COMPETITION TESTS AND NON-DOMINANCE DECLARATION**

2. In considering the application for route reclassification, the TA would apply the same tests on the status of competition as stated in paragraph 7 of the TA Statement entitled “Local Access Charge and Modified Delivery Fee Arrangements” issued on 25 November 1998 (the “November 1998 Statement”). As regards the request for declaring *CWHKT* non-dominant in

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<sup>1</sup> The application was submitted by *CWHKT* on behalf of the group of companies comprising Cable & Wireless HKT Telephone Limited, Cable & Wireless HKT International Limited and Cable & Wireless HKT CAS Limited which jointly hold a Fixed Telecommunication Network Services (FTNS) Licence. In this paper, *CWHKT* (*in italics*) denotes Cable & Wireless HKT Limited submitting the application while *CWHKT* denotes the group of companies holding the FTNS Licence.

the retail market for calls to Singapore upon reclassification, the TA affirms his decision in the Direction pursuant to General Condition 44 under CWHKT's licence issued on 4 August 1999 (Annex B to the August 1999 Non-Dominance Statement) that CWHKT will be given a non-dominant status in the retail market of non-China routes which are classified as Category A.

### **COMPETITION IN THE INCOMING DIRECTION**

3. In the TA Statement entitled "Reclassification of Category B Routes on the Observation List" issued on 4 August 1999 (the "August 1999 Reclassification Statement"), the TA lifted the gateway price control on the Singapore route. However, in the incoming direction, the TA accepted that the terminating prices in Hong Kong were determined by the correspondent agreements which were all with a single carrier at the distant end. There appeared to be no genuine price competition in the incoming direction because of the same accounting rate adopted for all correspondent agreements with operators in Hong Kong. Hence, the TA concluded that the Singapore route together with the other nine routes should stay on the Category B Observation List until such time when *genuine price competition in the incoming direction can be established*.

4. Some respondents who argued against reclassification opined that it is necessary to have evidence of competition in the incoming direction for the Singapore route before reclassification. The TA would like to point out that the competition tests for route classification in the November 1998 Statement considers the existence of alternative connections and whether or not the alternative connections can allow genuine price competition. Whether or not competition has materialised is not necessarily a determining factor although the market share through the alternative connections could be evidence of whether or not the alternative connections could offer sustainable genuine price competition. In the case of the Singapore route, in the first quarter of this year (just before the deregulation of the Singapore telecommunications market), about one third of the incoming traffic from Singapore was not routed through CWHKT's gateway whilst the corresponding figure for the whole year of 1999 was less than 25%. This showed an upward trend of incoming traffic bypassing the CWHKT's gateway. The information was compiled from the statistical returns from external telecommunications service operators. This phenomenon is not surprising because correspondent agreements for the

Singapore route have been in place since 1999 and competition in the incoming direction has been expected to intensify even before the full liberalization of the Singapore telecommunications market.

5. Some comments highlighted that Category I under the classification of the Info-communications Development Authority (IDA) of Singapore is different from Category A in Hong Kong. The TA agrees the two sets of classification under different jurisdictions may be for different purposes. However, the TA considers that the criteria of Singapore's classification are similar to those in Hong Kong's route classification. With the full deregulation of the Singapore telecommunication market, International Simple Resale (ISR) is permitted in Singapore. The IDA has classified Hong Kong as a Category I route. The TA notes that a criterion of determining whether a particular route falls under Category I is that there is effective price competition for the provision of international telecommunication facilities and services *along the route*.

6. Some respondents were concerned that the inpayment enjoyed mostly by CWHKT would make its competitors unable to compete with CWHKT. The costs of using ISR for conveying traffic between Hong Kong and Singapore in both directions are estimated to be only 25% to 50% of the cost (without net costing from inpayment revenue) of sending the traffic through traditional accounting rate arrangement. Even when net accounting is applied for the traffic sent through the accounting rate arrangement, the ISR cost still enables ISR operators to compete effectively with CWHKT's gateway service. CWHKT has provided details of the existing leased circuit capacity of its competitors between Hong Kong and Singapore. This capacity amounts to 39 E1's and 2 T1's which is enough to carry all Hong Kong – Singapore – Hong Kong traffic. Although the purposes for the capacity of the leased circuits are not known, some of the lessees of these leased circuits have affiliated companies in Singapore which have obtained licences to operate external telecommunications service in the country.

## **NON-DOMINANCE**

7. In the August 1999 Non-Dominance Statement, the TA has already stated his decision that the reclassification of a non-China route at the wholesale level should be used as an automatic trigger for moving it from the

non-competitive market to the competitive one and thus lifting the constraints at both the wholesale and retail levels. A direction pursuant to General Condition 44 has been issued on 4 August 1999 waiving the application of certain licence conditions to CWHKT over the non-China routes which have been reclassified as Category A. This direction is still in effect.

## **CONCLUSION**

8. Although the Singapore telecommunications market has been opened for competition for just two months, in view of the availability of adequate capacity of leased circuits between Hong Kong and Singapore and the level of ISR cost relative to the cost of sending traffic under the conventional accounting rate arrangement, ISR operators can establish the operations fairly quickly and compete effectively with the gateway service of CWHKT if they wish to do so. Since direct ISR is officially permitted in Singapore, the competition is genuine and sustainable. Furthermore, because of the ongoing competition of the market for calls originating from Singapore and terminating in Hong Kong, CWHKT's market share in the incoming direction is declining even before the deregulation in Singapore.

9. CWHKT's retail market share of the call market to Singapore has been declining since early 1999 and is now less than 50%.

10. The TA therefore forms the opinion that the Singapore route should be classified as a Category A route. In accordance with the decision in the Direction issued on 4 August 1999 and annexed to the August 1999 Non-Dominance Statement, the reclassification of a destination at the wholesale level should be used as an automatic trigger for moving it from the non-competitive market to the competitive one and thus lifting the price restraints at both the wholesale and retail levels. Accordingly CWHKT should be declared non-dominant in the retail call market to Singapore.

**Office of the Telecommunications Authority**

10 June 2000

**Summary of Comments in Submissions in Response to  
the Consultation Paper Issued on 29 May 2000 on  
the Proposed Reclassification of the Singapore Route  
from Category B to Category A**

*Cable & Wireless HKT*

CWHKT provided details of the existing leased circuit capacity of its competitors between Hong Kong and Singapore which amounts to 39 E1's and 2 T1's – it is enough to carry all Hong Kong – Singapore – Hong Kong traffic. CWHKT submitted that it is not fully aware of the purposes for which this capacity is employed by its competitors, but the deployment of this capacity for whatever purpose answers the TA's question about whether these links can be established. CWHKT stated that it is unaware of any constraints on other operators acquiring leased circuit capacity – thereby satisfying the TA's requirement that the potential for competition exists even if CWHKT's competitors choose not to avail themselves of this opportunity.

2. CWHKT submitted that in addition to the direct leased circuit capacity between Hong Kong and Singapore, it believes that some of its major competitors are in a position to engage in direct ISR operations between Hong Kong and Singapore without necessarily using direct leased circuit connections. CWHKT opined that the economics of the international telecommunications market are now such that it may be less expensive for an operator to route traffic from Hong Kong to North America and then onward to Singapore – because they achieve economies of scale by using high capacity circuits to North America; for example, CWHKT understands that at least one operator uses TeleGlobe for most of its international connectivity – regardless of the ultimate destination of the traffic.

3. CWHKT submitted that it fails to see the relevance of a specific request by the TA as to whether operating agreements have been concluded. Since the Singapore telecommunications market is now unrestricted, if CWHKT's competitors have chosen not to do so, this does not impact negatively on the potential to compete on the Singapore route. Further, with

the ability of ISR operators in Singapore and Hong Kong to use indirect routing – via large capacity circuits to/from North America – it is highly unlikely that an ISR operator is going to enter into a route specific operating agreement. Instead, any agreement would most probably be a broad agreement for a domestic / external hand-off of traffic without specific reference to the destination of the traffic and CWHKT's competitors simply acquire international leased circuit capacity without necessarily identifying the nature and ultimate destination of all traffic that will be carried over that leased capacity.

4. CWHKT submitted CWHKT's competitors have already entered into direct correspondent operating agreements with SingTel. The full liberalisation of the Singapore telecommunications market can only have facilitated further operating agreements.

5. CWHKT concluded that it has clearly demonstrated that a very significant quantity of direct leased circuit capacity between Hong Kong and Singapore has already been deployed and connected, and further cost efficient leased circuit capacity is available through indirect connections. Additionally, on the basis that CWHKT's competitors are in a position to self-correspond and that some of them already have operating agreements, there are no impediments to competitors entering into viable operating agreements. Also, for the purpose of meeting the reclassification tests, it is only necessary for the potential for such agreements to exist, not that CWHKT's competitors have actually taken advantage of this opportunity. Therefore, CWHKT requested the TA to reclassify the Singapore route as Category A, and simultaneously declare CWHKT as non-dominant in the external call services market for Singapore.

*Hutchison Global Crossing Limited (HGC)*

6. HGC objected to the reclassification of the Singapore route as a Category A route.

7. HGC was of the opinion that the liberalized market for direct ISR in the incoming direction from Singapore is very much at its infancy therefore it is premature to determine whether competitive tariffs could be supported by ISR operators. HGC submitted that CWHKT has failed to demonstrate that

competitive retail tariffs can be supported in the incoming direction.

8. HGC disagreed with CWHKT's submission that the TA has already concluded in the August 1999 Reclassification Statement that competitive retail tariff could be supported by ISR operators on the Singapore route because the TA's conclusion was only made in connection with the outgoing direction. HGC argued that CWHKT's purported market share information is not conclusive evidence in support of its contention that competitive retail tariffs could be supported by ISR on the Singapore route.

*New T&T Hong Kong Limited (New T&T)*

9. New T&T submitted that the Application does not warrant a fast track reclassification process as set out in paragraph 19 of the TA Statement entitled "Local Access Charge and Modified Delivery Fee Arrangements" issued on 25 November 1998. The fast track process only applies in the case where the route in question is included in the observation list. Whilst the Singapore route is included in the observation list, however, the Application does not only deal with reclassification, rather the Application also asks the TA to declare CWHKT non-dominant in the retail market for the Singapore route upon reclassification. Both issues raised in the Application require totally different consideration and should not be considered using the fast track process.

10. New T&T considered that the TA should focus more on the state of competition in the Hong Kong market rather than what happens at the Singapore market.

11. New T&T did not believe that the new licensees have commenced services and was the opinion that it is too soon to assess the impact of the deregulation in Singapore.

12. New T&T disagreed with CWHKT's submission that since the IDA has classified the Singapore – Hong Kong – Singapore route as a Category I route, the Hong Kong – Singapore – Hong Kong route must also be competitive because the criteria on competition status adopted by the IDA are not the same as those adopted by the TA.

13. New T&T submitted in the case of Singapore, the IDA considers the provision of ISR and other alternative calling substitutes is fully liberalised in the overseas destination, whereas the TA considers whether a service provider in Hong Kong may physically establish connections to and from a particular location without going through CWHKT; further the IDA considers the presence of “effective price competition” for the provision of international telecommunication facilities and services along the route, whereas the TA considers the cost of using alternative connections and whether it allows genuine price competition in the supply of external services to and from that location.

14. New T&T requested that the TA to critically examine the figures supplied by CWHKT with respect to the volume of traffic from Hong Kong to Singapore going through the CWHKT’s gateway, as well as the volume of traffic from Singapore to Hong Kong going through the CWHKT’s gateway.

15. New T&T agreed with the TA that the same tests on the status of competition as stated in paragraph 7 of the November 1998 Statement apply to the review of the Application, i.e. whether there are alternative physical connections *to and from* a particular location, and whether there is genuine price competition in the supply of external services *to and from* that location.

16. New T&T opined that in order to show that there is genuine price competition, it is necessary to establish price competition in fact exists *at both the wholesale and retail markets*. New T&T disagreed with CWHKT that the criteria laid down by the TA in paragraph 7 of the November 1998 Statement is confined to demonstration of “*competitive retail tariffs could be supported by ISR operators on that route*”. It did not believe there is inconsistency between paragraph 7 and paragraph 16 of the November 1998 Statement as CWHKT appears to suggest. New T&T considered that paragraph 16 of the November 1998 Statement is intended to supplement paragraph 7 of that Statement.

17. New T&T requested the TA to critically examine:

- (a) the physical connections established (by whatever means) between Hong Kong and Singapore by the other operators;

- (b) the cost of the delivery rates and IPLC costs available to ISR operators;
- (c) the market share of outgoing traffic to Singapore and incoming traffic from Singapore going via CWHKT, and via alternative means, at both wholesale and retail levels;
- (d) the wholesale rates and retail price trend for external call services to Singapore; and
- (e) availability of suppliers of IPLCs connecting Hong Kong and Singapore,

from the information supplied through this consultation as well as information which he may have collected through the usual reporting requirements.

18. Regarding whether ISR operators need inpayments to compete effectively with CWHKT, New T&T argued that the issue is if CWHKT controls the inpayments, it is then able to use the supra-normal profit from incoming traffic to finance reduction in the gateway prices, undercutting the prices of CWHKT's competitors in the outgoing calls. New T&T maintained that it is not a question of whether the ISR operators need the inpayments, rather it is what CWHKT could do with the inpayments to the disadvantage of its competitors.

19. New T&T submitted that the TA should reject CWHKT's request to be declared non-dominant in the retail market for the Singapore route as it has failed to demonstrate that such declaration is warranted. New T&T believed that the automatic trigger suggested by the TA is dangerous; there should not be any assumption that when a route is considered competitive at a wholesale level then it must be competitive at the retail market. It contended that both wholesale and retail markets are different where the market behaviour in terms of suppliers and buyers are completely different and any request for declaration of non-dominance in a relevant market must be assessed in that light.

20. New T&T requested the TA to critically assess the Application and New T&T concluded that the TA should reject CWHKT's request to be declared non-dominant in the retail market for the Singapore route because

CWHKT has failed to demonstrate that it is not dominant in the relevant market.

*New World Telephone Limited (NWT)*

21. NWT maintained that CWHKT must be able to demonstrate that there is fundamental change in circumstances which renders the TA's prior decision on the Singapore route made on 4 August 1999 no longer appropriate but CWHKT has failed to provide any justifiable argument in its application.

22. NWT pointed out that the procedures for categorization of external routes in Singapore and Hong Kong are for distinct purposes and the fact that the Singapore authority categorized the Singapore – Hong Kong route as competitive for the purpose of preventing practices which distort competition in the external market should not trigger the TA to reclassify the Hong Kong – Singapore route as Category A for the implementation of Local Access Charge arrangement.

23. NWT argued that the fact that competitors of CWHKT used CWHKT's gateway service for 10 to 20% of their respective wholesale traffic as submitted by CWHKT only indicates limited degree of competition in the outgoing direction. The TA has already relieved CWHKT's pricing restriction by allowing it to discount its gateway price without the need of prior TA approval. NWT believed that this "Special Category B" treatment already allows CWHKT enough flexibility to respond to the market while at the same time prevents CWHKT to abuse its dominance in incoming traffic to cross subsidize its IDD service and ensures FTNS operators which provide local access will receive fair compensation.

24. NWT observed that the Federal Communications Commission (FCC) classified Singapore as competitive route on the ground that more than 50% of U.S.-billed traffic on the U.S. Singapore route was being settled at or below the applicable benchmark rate. The order declared when SingTel was still the monopoly international operator in Singapore was arrived at based on completely different criteria compared to the route classification in Hong Kong. NWT argued that the order has nothing to do with the Hing Kong. – Singapore route and thus is irrelevant in CWHKT's current application.

25. NWT disagrees with CWHKT's submission that the presence of ISR is necessary and sufficient for the reclassification of Singapore into Category A. NWT maintained that the two sets of relevant criteria mentioned in the Application are consistent with each other and they were meant to apply under different stages of liberalization and none of them should be perceived as secondary to others.

26. NWT was of the view that CWHKT is still enjoying a significant proportion of incoming traffic for a number of external routes. It is this unique cost advantage enjoyed by CWHKT that renders the external routes under observation list not genuinely competitive, at least in the incoming direction. NWT maintained that despite the fact that the Singaporean authority has licensed a number of licensees in competition with SingTel, it is too early to conclude the new entrants can bring in effective competition and without any noticeable changes in the operating environment, in particular the share of incoming traffic delivered by CWHKT's competitors, NWT saw no logical basis for the TA to alter his position in his statement of 4 August 1999.

27. NWT was concerned that once the Singapore route is reclassified, CWHKT would be automatically declared non-dominant in the respective retail market and freed from the associate pricing restriction; further, with the inherent cost advantage and the ability to offer cut-throat pricing without the need of TA's prior approval, CWHKT is able to cross subsidize its IDD service at the expense of its competitors.

28. NWT concluded that the Singapore route is not yet competitive enough to justify a full reclassification into Category A. While there are signs of increasing competition associated with the recent liberalization, it is too early to conclude effective competition would emerge immediately. NWT therefore requested the TA to reject CWHKT's current application to reclassify Singapore into Category A.

*SmarTone Mobile Communications Limited (SmarTone)*

29. SmarTone submitted that although the telecommunication market in Singapore has been liberalised since 1 April 2000 and a number of operators (both service-based and facility-based) have now obtained licences in Singapore, there is no conclusive evidence that true competition has already

taken place for incoming traffic from Singapore. SmarTone recognised there is potential competition but it is yet to be established over time. SmarTone believed genuine competition would only be established if there is proven evidence of a significant drop of incoming traffic from Singapore being delivered through CWHKT's gateway.

30. SmarTone was concerned that if a route is prematurely reclassified as a Category A route, CWHKT can use the supra-normal profit from its inpayment to subsidise the cost of delivery for outgoing traffic. This would only drive down the wholesale and retail prices to Singapore further, hence making the other FTNS/ETS operators unable to compete on the Singapore route. Furthermore, SmarTone opined that the ability of CWHKT to negotiate a higher than cost-based inpayment clearly indicated that true competition in the incoming direction is still not yet established.

31. SmarTone believed that reclassification of the Singapore route should not be considered until the following has been established:

- (a) Proven evidence there is substantial reduction in the volume of incoming traffic from Singapore through CWHKT's gateway after 1 April 2000;
- (b) Operators have already established alternative means of delivering incoming traffic from Singapore;
- (c) ETS operators are free to set up bilateral traffic arrangement with operators in Singapore; and
- (d) A cost-based accounting rate is being used in the route for incoming traffic.

32. In summary, SmarTone considered that it is too early to conclude that genuine competition has been established on the Singapore route to warrant a reclassification.

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