

**China Mobile Hong Kong Company Limited's  
Submissions on Application for Prior Consent Under  
Section 7P of the Telecommunications Ordinance in respect  
of the Proposed Acquisition of CSL New World Mobility Limited  
by HKT Limited – Public Consultation Paper dated 23<sup>rd</sup> Dec., 2013**

**China Mobile Hong Kong Company Limited (“CMHK”) refers to the Application for Prior Consent Under Section 7P of the Telecommunications Ordinance in respect of the Proposed Acquisition of CSL New World Mobility Limited by HKT Limited – Public Consultation Paper dated 23<sup>rd</sup> Dec., 2013 (“the Consultation Paper”) and would submit its views as follows.**

**A. The Market**

- i. As per HKT Limited’s application (“the Application”) as attached to the Consultation Paper (page 3 of the Application), they submitted that the “mobile market in Hong Kong is the relevant market” and this was repeated on page 5 under the paragraph entitled “No Substantial Lessening of Competition” in which they submitted that “The relevant market is the supply of mobile services.”
- ii. And HKT further submitted that the “competitive process will remain strong, consumers will continue to have choice, the market will remain very contestable and there will be no creation of a dominant position.”
- iii. Regarding the above, CMHK would like to submit that the market is not confined to mobile services only nor will it be restricted to Hong Kong market only. This can be seen partly from Pages 7, 15 and 24 of the Application in which HKT submitted that “.. HKT’s customers will also obtain access to improved international roaming arrangements under CSL’s roaming agreements.... CSL customers will gain access to HKT’s extensive WIFI network to off-load traffic (including 3G traffic) and improve service quality....”
- iv. Our above view is confirmed when, as submitted by HKT Limited on page 28, Hong Kong Telecommunications (HKT) Limited (“HKT”) is also the primary fixed network service provider in Hong Kong. On page 30, HKT Limited also mentioned it has a 50% ownership share in the Genius Brand joint venture with Hutchison and a 50% ownership share in the Reach Networks joint venture with Telstra, both of which will not be affected by this transaction.
- v. The combined effect of the above is that, upon completion of the Proposed Transaction, HKT/CSL will become a giant all-in-one service provider of fixed telephone service, fixed broadband service, 2G/3G/4G mobile service and even

wi-fi service. HKT/CSL might become a dominant or near-dominant operator in the combined fixed and mobile services market.

- vi. In light of the above, the Communications Authority (“CA”) is asked to consider the present Application not only from the mobile market in Hong Kong only but also its impact on other markets (i.e. fixed market and mobile broadband market, etc.) and its possible reach outside of Hong Kong. In particular, CMHK would recommend the CA to evaluate the competitive advantages of HKT/CSL after the Proposed Transaction and if the Application is approved, HKT/CSL shall be required to take necessary measures to narrow down their competitive advantages over other operators.

**B. Market share and potential competition lessening effects**

- i. On page 4 of the Application, HKT Limited submitted that it will unlikely raise competition concerns if the resulting market share is less than 40%.
- ii. On page 6 of the Application, HKT Limited committed that “HKT and CSL would acquire not more than a total of 2 x 15 MHz of spectrum in the 1.9-2.2 GHz (“3G Spectrum”) band upon expiry of the existing assignment of the 3G Spectrum in October 2016. HKT and CSL would not participate in the auction for the 3G Spectrum (see Note). And in that Note, it specified that “This 3G related commitment would reduce the “merged” entity’s spectrum market share from 38.3% to 33.4%.
- iii. On the above, it is CMHK’s understanding that the scenario below will arise before Oct. 2016.

	MTV	850/900 Band	1800 Band	1900 Band	2100 Band	2300 Band	2600 Band	Total
<b>Total</b>	8	84.8	148.8	20	118.4	90	140	<b>610</b>
<b>HKT</b>	0	15	26.4	5	29.6	0	20	<b>96</b>
<b>CSL</b>	0	16.6	46.4	5	29.6	0	40	<b>137.6</b>
<b>HKT/CSL</b>	<b>0.0%</b>	<b>37.3%</b>	<b>48.9%</b>	<b>50.0%</b>	<b>50.0%</b>	<b>0.0%</b>	<b>42.9%</b>	<b>38.3%</b>

As can be seen from the above table, upon completion of Proposed Transaction, HKT/CSL will hold 38.3% of total spectrum assigned for mobile services. If the 8MHz spectrum for Mobile TV is excluded, HKT/CSL will hold  $(96+137.6)/(610-8) = 38.8\%$ .

- iv. We understand that HKT Limited committed to give up 2x 15MHz of 3G spectrum in Oct 2016, HKT/CSL will be holding near 40% of total spectrum for more than 2 years' time (before Oct. 2016) and this will have potential competition lessening effect in this pre-Oct. 2016 period.
- v. In connection with the above, CMHK opines that the CA should study the Proposed Transaction considering that the spectrum holding is near the margin of 40%.

**C. Market Power**

- i. HKT Limited submitted in para. 2.4, page 19 of the Application that the intense level of competition will continue and HKT's acquisition of CSL (and relevant assets) will not result in HKT gaining additional market power.
- ii. On the above, CMHK submits that HKT will gain additional market power in the following areas:-

(a) Vertical Integration – supply of backhaul services to MNOs

We submit that the Proposed Transaction may result in HKT gaining additional market power as all MNOs rely heavily on FNOs to provide backhaul services connecting their radio base stations and core networks.

CMHK recommends the CA to consider the effect of vertical integration resulted from the Proposed Transaction. Consideration should be given to the fact that HKT remains the largest fixed network operator and HKT/CSL will become the largest mobile network operator having 38.3% of all assigned spectrum. If the Application is to be approved, CMHK opines that it is necessary to impose necessary measures so that the mobile business unit of HKT/CSL will not enjoy preferential or unfair advantages in the purchase of backhaul services.

(b) Indoor coverage and capacity (shopping malls, hotels, MTR, etc.), with existing IRS

By back of background, indoor coverage in the following types of venues is now implemented on an Integrated Radio System (“IRS”) basis: - MTR, large

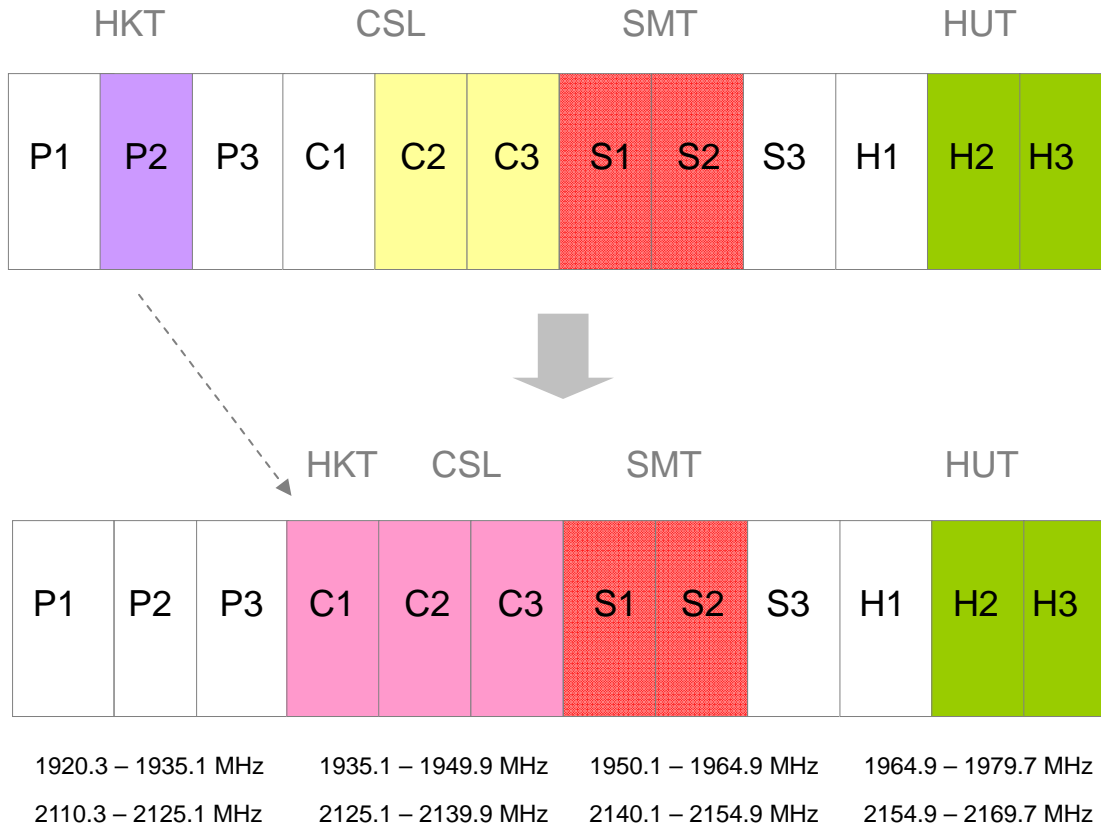
shopping malls, the Airport, hotels, certain office buildings, especially grade A/B buildings, hospitals, Convention Centres and University campuses.

The number of the above IRSs is in the magnitude of [ ✂ ] or more for each operator. Indoor 3G coverage is mainly provided through 850MHz / 900MHz / 2100MHz spectrum and indoor 4G coverage through 900MHz/1800MHz spectrum. At present, there are very few IRS supporting 2300MHz and 2600MHz.

Even if HKT/CSL will give out 2 x 15MHz of its 2100MHz spectrum, the supply of indoor mobile broadband services will be reduced for 2-3 years. This is because the points of interface (“POI”s) of existing IRS are pre-fabricated to support each operator’s frequency blocks. Since each IRS is shared by several operators, the process to work out the commercial and technical arrangements will take long time to finalize. In addition, installation works in above types of venues can be arranged only during non-business hours of retail operations (e.g. in shopping malls) or even in short time window in the midnight (e.g. in MTR). These will create certain entry barriers for each new joining operator, in terms of application to the landlords, commercial negotiation and installation of equipment.

Hence, CMHK proposes that, HKT should own block C1 (by swapping with P2) while CSL should retain blocks C2 & C3, and neither of them should seek renewal of blocks P1, P2 and P3 as more particularly detailed below.

HKT			CSL			SMT			HUT		
P1	P2	P3	C1	C2	C3	S1	S2	S3	H1	H2	H3
1920.3 – 1935.1 MHz	2110.3 – 2125.1 MHz		1935.1 – 1949.9 MHz	2125.1 – 2139.9 MHz		1950.1 – 1964.9 MHz	2140.1 – 2154.9 MHz		1964.9 – 1979.7 MHz	2154.9 – 2169.7 MHz	



The merit of the above proposal is that it allows a trunk of 3 continuous blocks of spectrum be released for open bidding by the potential bidders which may be able to maximize the efficient use of spectrum through optimal planning. And if the same operator is able to obtain such 3 continuous blocks of spectrum, no POI change is necessary. Furthermore, when the demand for 3G services is getting smaller, 3 continuous blocks of spectrum will facilitate future re-farming of spectrum from 3G to 4G, this together with the available 4G spectrum will cater for demand for 4G services.

**(D) Potential impact on wholesale market**

On page 6 of the Application, HKT Limited committed that “HKT would continue to provide wholesale services now provided by CSL and HKT (e.g. MVNO, resale and network sharing arrangements)”. On page 29, HKT Limited also specifically committed to CMHK that “HKT will continue post acquisition to provide unchanged these MVNO, resale, wholesale and network sharing services.”

Notwithstanding the above commitments, HKT Limited only briefly mentioned on page

8 of the Application that “The second transition period .... will focus on more efficiently using the retained 3G spectrums, and migrating... while meeting all of HKT’s and CSL’s 3G wholesale obligations (including MVNO, resale, and network sharing requirements). Indeed, although not at all painless or costless, HKT is confident that it can manage both transitions.”

Even though HKT committed to continue the existing network sharing arrangements with CMHK now provided by HKT to CMHK, the continuity and service levels will be highly affected due to HKT will only renew 2 x 5 MHz of 3G spectrum and will not bid for further block of spectrum, resulting in retaining 1/3 of its original spectrum holding only. This will have material adverse impact on the continuity and service levels of CMHK’s existing network sharing services and the end-users using services in relation to such network sharing arrangements. Besides, it is not clear whether there will be further change of 3G Spectrum of HKT in future.

In light of the above, HKT Limited should be asked to provide more details as to its transition plans for the network sharing arrangements with CMHK. CMHK would further request the CA to impose suitable measures to maintain the continuity and service level of existing network sharing services now being provided by HKT and CSL to CMHK if the Proposed Transaction is approved.

We should be most grateful if the CA could look into the above issues before approving the Proposed Transaction.

China Mobile Hong Kong Company Limited  
4<sup>th</sup> Feb., 2014