



## Hong Kong Information Technology Federation

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For the attention of:

Office of the Communications Authority  
29/F, Wu Chung House,  
213 Queen's Road East,  
Wan Chai, Hong Kong

Attention: Dr. Gary Shiu, Principal Regulatory Affairs Manager  
Email: [s7P@ofca.gov.hk](mailto:s7P@ofca.gov.hk)

15 January 2014

Dear Sir,

### **In Support of the Proposed Acquisition of CSL New World Mobility Limited by HKT Limited**

The Hong Kong Information Technology Federation (HKITF) is a non-profit association which has the objective of promoting IT business in Hong Kong. HKITF provides a forum for IT-related businesses in Hong Kong to work together, and also to network with international IT companies. Over the years, HKITF has developed into a dynamic and highly respected organization with over 300 members and works closely with the Government to develop Hong Kong's IT industry. In recent years, HKITF has advised the Government in detail on policy matters, including anti-spam, intellectual property rights and IT quality. HKITF represents the industry on the Telecommunications Regulatory Affairs & Telecommunications Users and Consumers Advisory Committee of the Office of the Communications Authority (OFCA); The Consumer Council and Occupational Safety and Health Council (OSHC) etc.

We would like to make the following points in support of HKT Limited ("HKT")'s proposed acquisition of CSL New World Mobility Limited ("CSL") (the "Transaction"):

1. The mobile market in Hong Kong is extremely competitive. The Transaction will not have the effect of substantially lessening competition and may make the market even more competitive

As you are aware, the mobile market in Hong Kong is uniquely competitive. It is one of the least concentrated markets in the world and competition is successfully enforced by, among other things, regulatory requirements in relation to interconnection, number porting and resale. A plethora of well known brands backed by financially strong companies compete aggressively in the market. Consumer brand loyalty is low which further promotes vigorous competition for customers in the market. Advertising spend is high as is the level of investment and innovation by companies

in order to attract new customers and retain existing ones. None of this will change after the Transaction. Post-Transaction there will still be four well-resourced, committed and highly competitive facilities-based competitors in the market as well as a number of Mobile Virtual Network Operators (MVNOs) and unlicensed Mobile Value-Added Resellers (MVARs). Consumers will still have a wide range of choices and the market will remain very competitive. HKT will not be in a position to price above competitive levels. Indeed the Transaction may even have the effect of making the market even more competitive as the efficiencies arising from the combination of the number three competitor (CSL) and the number five competitor (HKT) in the market will result in a stronger competitor with more resources to fund investment and innovation. Other companies in the market will have to raise their game in order to remain competitive. This will be beneficial to both HKT's and CSL's own customers and to the market more generally.

## 2. Approval of the Transaction would be in accordance with international and Hong Kong precedents and in line with expectations

OFCA's approval of the proposed Transaction would be in accordance with both Hong Kong and global precedents both with respect to the post-Transaction market shares and with respect to the number of competitors remaining in the market. Post-Transaction the parties' joint market share will be<sup>1</sup> 31% (by subscribers), 29% (by revenue) and 38.8%<sup>2</sup> by spectrum. Regardless of the basis used for calculating market share, the result is less than the 40% share which, according to global best practices, is the level at which competition concerns generally arise. The reduction in the number of competitors from 5 to 4 is also well within the scope of previously approved mergers both in Hong Kong and globally. The Transaction will not result in HKT gaining additional market power in the mobile market in Hong Kong. Post-Transaction, HKT will not be in a position to price above competitive levels. It will remain constrained by its competitors and customers. In addition to this suggestion, Communications Authority is suggested to impose certain conditions on HKT if it approves the transaction so that there are sufficient regulatory tools to prevent HKT from abusing its market power.

## 3. HKT's proposed commitments in relation to 3G spectrum will be beneficial for the competitive landscape and for consumers

Finally, with respect to the 3G spectrum, in its application to the Communications Authority for prior approval of the Transaction under 7P of the Telecommunications Ordinance, HKT proposes that (i) HKT and CSL will not seek to renew 2x5 MHz of 3G spectrum respectively in the 1930.2–1935.1 MHz paired with 2120.2–2125.1 MHz and 1935.1–1940.0 MHz paired with 2125.1–2130 MHz bands upon expiry of the existing assignment in October 2016; (ii) HKT will not seek to renew

<sup>1</sup> Based in the figures provided by HKT in the non-confidential version of its application for the Communications Authority's prior consent to the Transaction under section 7P of the Telecommunications Ordinance.

<sup>2</sup> See also section 3 below on HKT's proposed commitments in relation to 3G spectrum. If implemented, these commitments will reduce the combined entity's spectrum market share from 38.3% to 33.4%. If HKT's CDMA 2000 spectrum is also excluded, then the spectrum market share will fall to 31.7%. This is consistent with the post-Transaction subscriber and revenue market shares and is well below the 40% threshold generally considered to raise possible concerns.



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the assignment of/acquire 2x5Mhz of 3G spectrum in the 1920.3–1925.3 MHz paired with 2110.3–2115.3 MHz bands; and (iii) HKT and CSL will not participate in the next auction for the 3G spectrum. This commitment to returning 3G spectrum and not participating in the auction will ensure that other interested parties will be able to bid for the newly available spectrum and will facilitate new entry to the market all without risking the quality of the spectrum and the service which would be detrimental to consumers. All of this is pro-competitive.

For the reasons described above, we strongly support the proposed acquisition of CSL by HKT.

We are grateful for this opportunity to provide our comments.

For and on behalf of  
Hong Kong Information Technology Federation,

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Francis Fong (FCIS, FCS, FHKCS)  
President  
Hong Kong Information Technology Federation