

China Mobile Hong Kong Company Limited
("CMHK")

Response to

**Arrangements for the Frequency Spectrum in the 1.9-2.2 GHz Band upon
Expiry of the Existing Frequency Assignments for 3G Mobile Services**

("Consultation Paper")

Date of Submission: 13th July, 2012

CMHK would like to submit its views on the Consultation Paper issued by OFTA on 30 March, 2012.

All abbreviations have the same meaning as in the Consultation Paper.

Question 1: Given there is clear indication of competing demand for the 3G spectrum, are there good public policy reasons for the TA to adopt Option 1, instead of the market-based approach as stipulated in the Framework, when the current 3G frequency assignments expire in October 2016?

CMHK takes the view that there are no good public policy reasons (let alone overriding public policy reasons which are the requirements under the Spectrum Policy Framework of 2007) for the TA to adopt Option 1. Spectrum remains a scarce resource and there are competing demands. Also, it may not be conducive to the efficient use of spectrum as new players will be precluded.

In addition, the 3G incumbent operators should have been well aware that, under the Spectrum Policy Framework of 2007, there is no legitimate expectation on the part of the licensees that there will be any right of renewal or right of first refusal of any licence or frequency assignment upon the expiry of a licence or frequency assignment. In light of the foregoing, it should have been within the contemplation of the incumbent 3G operators and should be within their business plan that there is a real risk that their licence or spectrum may not be renewed. Accordingly, disruption to continuity of customer service should not be a convincing reason for the incumbent 3G operators and not be a valid ground for the TA to adopt Option 1.

Question 2: In offering the right of first refusal to the incumbent 3G operators to acquire the 1.9 – 2.2 GHz spectrum under Option 1, what would be the preferred method for setting the SUF so that it may reflect the full market value of the spectrum?

To protect the scarce resources, CMHK takes the view that auction would be the preferred method for setting the SUF which will best reflect the market price. A case in point is the spectrum auction in March 2011 in which each of SmarTone and Hutchison successfully obtained 5 MHz x 2 bandwidth at SUF of HK\$875 million and HK\$1,077 million respectively.

From our perspective, SUF set by administrative means may not be able to truly reflect the market situation.

Question 3: How would the prospect to re-auction the entire 120MHz of spectrum in the 1.9-2.2 GHz band impact on the investment plan and network planning of the incumbent 3G operators, and how would that further impact on their mobile network capacity?

CMHK takes the view that it is unlikely that such re-auction would have any great impact on the investment plan and network planning of the incumbent 3G operators. The reason being that, as mentioned in paragraph 1 above, the incumbent 3G operators shall have been well aware that they may not be able to retain their existing spectrum upon expiry of the current term.

Question 4: The number of players in the mobile telecommunications market may or may not remain unchanged after the auction. Would competition in the mobile market be enhanced if the entire 120 MHz of spectrum in the 1.9-2.2 GHz band is to be re-auctioned under Option 2?

CMHK agrees that competition in the mobile market would be greatly enhanced if the entire 120 MHz of spectrum in the 1.9-2.2 GHz band is to be re-auctioned under Option 2. As mentioned by OFCA in para. 34 of this consultation paper, the market mechanism will ensure that the successful bidders which value the spectrum the most will obtain the spectrum by paying the highest SUF, and as a result they will put the spectrum to the most productive uses. In other words, even if the number of players may remain unchanged if the entire band is to be re-auctioned under Option 2, market forces will make the successful bidders to put the spectrum to the most productive users, thereby enhancing competition in the mobile market.

Question 5: What would be the transitional plans for an incumbent 3G operator if under Option 2(a) it cannot retain any of its original frequency assignment; (b) it can retain only part of its original frequency assignment; and (c) it gets spectrum in a different sub-frequency band?

CMHK foresees that the incumbent 3G operators will move their existing 3G traffic to their other frequency spectrum in order to ensure continuance of services. Also, the current regulatory regime allows those operators with 900 MHz spectrum to re-farm such spectrum for 3G services, if they so

wish, under the current terms and conditions of their existing licences.

Question 6: What are the estimated costs and the areas of investment for implementing the transitional plans for tackling the three scenarios mentioned in Question 5?

CMHK has no comments as CMHK has no information about this.

Question 7: If an incumbent 3G operator is unable to obtain any of the 3G spectrum or if it manages to obtain less spectrum than what it currently has, to what extent the spectrum that it currently holds in other frequency bands could act as effective substitute for the spectrum foregone?

CMHK takes the view that the spectrum that the incumbent 3G operators hold in other frequency bands could act as effective substitute for the spectrum foregone.

Question 8: How effective would be the application of alternative technologies (e.g. Wi-Fi, femtocell, etc) help economise on the use of radio spectrum through offloading the mobile data traffic?

CMHK agrees that such alternative technologies would be very effective to help economise on the use of radio spectrum through offloading the mobile data traffic. Indeed, wi-fi is a very mature technology which is being provided by government in various places as well as by some incumbent 3G operators.

Question 9: Do you have any comment on the preliminary proposal of the TA to offer each of the incumbent 3G operators the right of first refusal to a frequency assignment of 2 x 10 MHz of 3G spectrum post October 2016 under Option 3?

CMHK does not have any view on this since CMHK does not opt for Option 3.

Question 10: Similar to Question 1, given there is clear indication of competing demand for the 3G spectrum, are there good public policy reasons for the TA to offer Spectrum RFR to the incumbent 3G operators, instead of assigning it through the

market-based approach as stipulated in the Framework, when the current 3G frequency assignments expire in October 2016?

CMHK takes the same position as expressed in its response to Question 1 above.

Question 11: Do you have any comment on the preliminary proposal of the TA under Option 3 to devise an arrangement so that all interested parties will have the opportunity to get hold of at least a contiguous band of 2 x 10 MHz of paired 3G spectrum?

Although CMHK does not opt for Option 3, however, purely from technical perspective, such a proposal of making sure that all interested parties will have the chance to get hold of at least a contiguous band of 2 x 10MHz of paired 3G spectrum is acceptable. If Option 2 is to be adopted, CMHK opines that the same arrangement shall apply, i.e. there must be at least a contiguous band of 2 x 10 MHz of paired 3G spectrum for each interested party in order to ensure efficient use.

Question 12: Taking into account the merits of having contiguous spectrum of 2 x 10 MHz paired spectrum and the investment in capital equipment that the incumbent operators have already put in the 3G spectrum, should the TA draw up the band plan as described in paragraph 46?

CMHK supports the idea that TA should draw up the band plan.

Question 13: What are your views and comments on the proposed arrangement discussed in paragraph 54?

CMHK does not support the proposed arrangement as the price shall be based on the auctioned price in order to reflect the true market price.

Question 14: What are your views and comments on the proposal to benchmark the SUF of Spectrum RFR with the Spectrum Re-auctioned as proposed in paragraphs 55-58 above?

Although CMHK does not support option 3, CMHK supports the idea that any SUF shall be

determined through auction in order to reflect the true market value.

Question 15: What are your views on the proposal to put the unpaired 3G spectrum to reserve?

CMHK supports the idea.