



Hutchison Telecom  
Hong Kong

**HUTCHISON TELECOMMUNICATIONS (HONG KONG) LIMITED**

**SUBMISSION**

**ON**

**CONSULTATION**

**ON**

**“DIGITAL BROADCASTING : MOBILE TELEVISION AND RELATED ISSUES”**

**May 2007**

**Response of Hutchison Telecommunications (Hong Kong) Limited to  
Consultation on Digital Broadcasting:  
Mobile Television and Related Issues**

We are pleased to have this opportunity to comment on the various proposals that the Government would like to consult the public for the regulation of Mobile TV services in Hong Kong. Our views regarding some of the issues raised in the consultation paper are as follows.

**Spectrum Availability**

We are of the view that the Government should avoid proposing new usages for a particular part of the spectrum when the intended usage of that part of the spectrum has already been earmarked. For example, the S Band (2500MHz – 2690MHz) has already been allocated as the expansion band for 3G mobile services. The Government should not introduce uncertainty in this intended usage of S Band by proposing that S Band may be made available for other potential services such as Mobile TV and other services. S Band shall continue to be earmarked for future 3G expansion.

Unless there is no other viable alternative for deployment of the new services in question, the Government should not disturb the already intended usage of the relevant block of the spectrum. This is conducive to providing planning certainty to the operators of existing services for their future expansion deployment, as they should be accorded with necessary regulatory certainty for their business and operation planning. This is to the ultimate benefits of consumers.

**Spectrum Assignment**

We support the continued application of the general principle that the use of spectrum for commercial services (such as Mobile TV services) should be made subject to payment of Spectrum Utilization Fee and an appropriate set of rollout requirements.

**Licensing Arrangement**

Mobile TV services as covered in the consultation paper refer to “the wireless transmission of video for reception on the move by mobile or portable devices”.

As acknowledged in the consultation paper, such services are not new to Hong Kong. Mobile TV services in the form of video-on-demand or video streaming have already been available in Hong Kong on the 2.5G or 3G mobile telecom platform for many years. In particular, the regulatory framework for the provision of audio and visual contents by way of 3G mobile services had already been specifically addressed and prescribed in the 2001 Information Memorandum for the 3G Mobile Services and the subsequent licensing exercise in 2001. The Government had clearly represented in the Information Memorandum for the 3G Mobile Services Licensing that if an audio and video service transmitted over a network is provided

over an internet platform, such contents will not be regarded as a television programme service and the provider does not therefore need a licence under the Broadcasting Ordinance (Cap. 562 of the Laws of Hong Kong)<sup>1</sup>.

At present, it is clear regulatory position that audio and visual contents conveyed over the telecommunications network (as opposed to terrestrial broadcasting network) are not regulated by the Broadcasting Ordinance. This position is confirmed by the Broadcasting Authority in a most recent case<sup>2</sup>, after hearing (amongst others) the views of the existing 3G licencees.

In reliance of these clear regulatory statements regarding the regulations of 3G contents service, the operators had structured their operations and business models accordingly. The Government's initiative to now change the law in this regard is creating a considerable amount of regulatory uncertainty for the existing operators.

Nor do we find that there is valid justification for such a change of regulatory framework. As pointed out in the consultation paper, there is at present no regulatory vacuum in regulating the contents transmitted over telecom platforms. The provision of such services is governed by applicable laws such as the "Control of Obscene and Indecent Article Ordinance" (Cap. 390 of the Laws of Hong Kong). So far, there has not been any prevalent breach of these laws in relation to the contents that have been made available on telecom platforms, nor are these contents subject matter under prevalent complaints.

In fact, *Mobile TV as a new service* would refer to Mobile TV which is to be provided by means of terrestrial broadcasting networks. We do not agree with the Government's proposal to include all forms of "wireless transmission of video for reception on the move by mobile or portable devices" as broadcasting activities subject to broadcasting licence and their applicable broadcasting rules and regulations. We are of the view that such proposal would in effect overturn the longstanding Government's light-handed policy position of not regulating contents available on telecom platform by way of broadcasting regulations.

For contents available on telecom platforms, they are retrieved by customers by means of mobile/wireless access to the telecom network, which is entirely different in nature from broadcasters making their contents available by means of terrestrial broadcasting. We are of the view that terrestrial broadcasting of Mobile TV service should be regulated on the same basis as that currently applicable to other terrestrial broadcasting services.

*Hutchison Telecommunications (Hong Kong) Limited*  
May 2007

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<sup>1</sup> Schedule 3 of the Broadcasting Ordinance provides that a service provided on the Internet is excluded from the definition of "television programme service". Paragraph 2.2.8.2 of the Information Memorandum on Hong Kong Third Generation Mobile Services Licensing issued by the Office of the Telecommunications Authority dated July 2001 refers to this "Internet" exception.

<sup>2</sup> No. P4139/2006(A).