

**SUBMISSION TO  
CONSULTATION PAPER ON  
DIGITAL BROADCASTING:  
MOBILE TV AND RELATED ISSUES**

**BY  
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AND SMARTONE 3G LIMITED**

**1. INTRODUCTION**

- 1.1 SmarTone Mobile Communications Limited and SmarTone 3G Limited ("SmarTone-Vodafone") are pleased to provide its comments in response to the Consultation Paper on Digital Broadcasting: Mobile TV and Related Issues ("Consultation Paper") issued by the Commerce, Industry and Technology Bureau ("CITB") on 26 January 2007.

**2. SUMMARY OF KEY POINTS**

- 2.1 In summary, SmarTone-Vodafone submits that:

- The current licensing regime in respect of mobile TV services provided over 3G mobile network should not be changed. It is similar to existing Internet TV services, which only requires a licence under the Telecommunications Ordinance but not the Broadcasting Ordinance ("BO"). Furthermore, the convergent regulator for telecommunications and broadcasting will soon be established to review issues arising from convergence, such as the licensing regime applicable in the convergent marketplace. We therefore opine that it may not be appropriate to make any change to the existing licensing regime for mobile TV at the moment.
  
- It would be premature to decide spectrum allocation for the spectrum that could be used to provide Mobile TV service at the moment. Mobile TV

technologies (such as DVB-H, CMMB) are still in the early stages of development so it would be too soon to make a permanent allocation of spectrum for mobile TV.

- As there are competing demand for the spectrum available for mobile TV (like WiMax, 3G services, etc.), we request the authority to carefully study the interference issues in case both services are co-existed in the same frequency range.
- On the proposals in relation to spectrum assignment, we submit that:
  - ~ Auction should be generally used in spectrum assignment;
  - ~ The reserve price set by the Government should be consistent with past auction for spectrum of similar nature;
  - ~ There should be a review of the spectrum utilization fee ("SUF") policy so as to ensure that there is a level playing field among spectrum users.

### 3. LICENSING ARRANGEMENT

3.1 In paragraph 52 of the Consultation Paper, the Government invites comments on whether mobile TV programme services should be licensed under the BO and regulated accordingly through appropriate licensing conditions and codes of practice by the relevant authorities, and if so, how this should be achieved vis-à-vis the current licensing framework.

3.2 In our view, the current arrangement in fixed TV market to exempt Internet TV from licensing should be applicable to mobile TV services offered under 3G mobile network. Schedule 3 of the BO stipulated a list of services that are not regarded as television programme services, in which clause 5 stipulates:

*"Any service provided on the service commonly known as the INTERNET"*

3.3 Internet<sup>1</sup> is the worldwide, publicly accessible network of interconnected computer networks, linked by copper wires, fiber-optic cables and wireless

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<sup>1</sup>Definition of Internet in Longman Dictionary of Contemporary English (<http://pewebdic2.cox.idm.fr>):

connections etc, that transmit data by packet switching as the standard Internet protocol.

- 3.4 In 3G mobile network, there are 2 domains, one circuit switched and one packet switched. The circuit switched domain is for voice and video telephony whereas the packet switched domain is for mobile Internet. The packet switched domain in 3G mobile is just one of the interconnected computer networks in the worldwide Internet. 3G mobile video service is just one of the many services which we offer to our customers over the mobile Internet. Basically, the video/audio clips are encoded and are sent as packets through the mobile Internet to the users' mobile device. Mobile phone users surfing WAP<sup>2</sup> portal, downloading ringtones or accessing intranet, etc, also go via this mobile Internet just like PC users surfing web or downloading files in fixed Internet. WAP is an open international standard for applications that use wireless communication. Its principal application is to enable access to the Internet from a mobile device.
- 3.5 In this regard, as 3G mobile video service is provided over the Internet it should also be exempted from the licensing requirement under the BC.
- 3.6 A further point worth noting is even the current licensing regime on mobile TV remain unchanged, the content of mobile TV services will still be subject to regulation by other laws of Hong Kong, including the Control of Obscene and Indecent Articles Ordinance (Cap 390). Also the content to mobile TV customer is for reception by individual, which distinguish mobile TV from traditional terrestrial TV services that are for viewing by all family members. Thus, the strict licence condition for terrestrial TV broadcasting services may not be appropriate for mobile TV services.

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#### **Internet**

*The Internet is a computer system that allows millions of computer users around the world to exchange information*

<sup>2</sup> Definition of WAP based on Longman Dictionary of Contemporary English (<http://pewebdic2.co.uk/>):

**WAP** [uncountable]

**wireless application protocol**

*A system that uses radio waves to allow electronic equipment that is not physically attached to a computer, for example a mobile phone, to use the Internet*

3.7 We further submit that the scope of telecommunications licence applicable to the coming mobile TV operators should be confined to operating mobile TV services only (i.e., not for providing telecommunications service). This is similar to the existing licensing arrangement for the fixed carrier licence granted to terrestrial TV broadcasters for the transmission of terrestrial TV programme services. We consider that the same licensing arrangement should be adopted for mobile TV in order to prevent operators from taking advantages of offering similar telecommunications services as 3G operators without the same licence obligations such as payment of spectrum utilization fee, account separation, SUF, coverage and transmission rate commitment, open network access requirement and location services obligation, etc.

3.8 Lastly, we consider that there should be a review of the licensing regime, possibly by the future convergent regulator, on whether more stringent control should be put in place to avoid abuse of dominance or substantial market power in the telecommunications and/or media industries. Considerations should be taken to prevent Mobile TV service be used to strengthen the dominant positions of the traditional broadcasters, which already have substantial market power in the media industries.

#### **4 RESPONSE TO SPECIFIC ISSUES**

4.1 SmarTone-Vodafone's responses to other specific questions put forward in the Consultation Paper are set out below.

*CITB: We welcome advice on other emerging mobile technologies that support video transmission services and what forward planning the Government should take to facilitate the deployment of such technologies in Hong Kong*

*CITB: We welcome views and information on the trial or rollout of mobile TV services in other parts of the world and comments on the risks and opportunities afforded by mobile TV services for Hong Kong's industry and market*

4.2 The mobile TV technology is developing in two directions - one originated from the digital broadcasting technology like ISDB-T and DMB and the other originated from the radio-communication technology like MBMS. The Government should take into account these two different approaches in formulating policy towards mobile TV. Further, we opine that the Government should also take into account the emerging China's standard on mobile TV like China Multimedia Mobile Broadcasting (CMMB) and 3G standard like TD-SCDMA in the rollout of mobile TV services in Hong Kong.

*CITB: We welcome comments on the above analysis of spectrum availability for digital broadcasting services, In particular, we invite comments on whether the spectrum in Band III and L Band and two SFN multiplexes in the UHF Band should also be made available for mobile TV services, subject to review of the spectrum allocation and assignment arrangements.*

4.4 It seems that the Government has not taken into account the potential demand of frequencies from other services like wireless broadband services using HSDPA, TD-SCDMA, CDMA2000 and WiMax on the proposed frequencies.

*CITB: We invite comments on the approach to allocate spectrum resources for the three digital broadcasting services in question. We also welcome any suggestions other than the above three proposed options.*

4.5 It would be premature to decide spectrum allocation for the spectrum that could be used to provide Mobile TV service at the moment. Mobile TV technologies (such as DVB-H) are still in the early stages of development and it would be too soon to make a permanent allocation of spectrum for mobile.

*CITB: We invite comments on whether, in pursuance of a market-led approach, we should assign the spectrum available in Band III and L Band and two SFN multiplexes in the UHF Band for relevant digital broadcasting services by auction with appropriate rollout obligations, and whether a SUF should be charge for such uses.*

4.6 Without prejudice to our view in paragraph 4.6 above, SmarTone-Vodafone considers that the market-based approach (i.e., assignment of spectrum via auction) should be used in most circumstances. This will ensure that spectrum is

put to its most valuable use and is used efficiently. It is considered that auction should be used with or without competing commercial demands. First the Government may not have full information about whether there are competing demands in the market before the auction. It can only be known when the auction is carried out (for example, there were only four interested bidders for the available 3G spectrum in 2001).

4.7 SmarTone-Vodafone is of the view that SUF should apply. The considerations are as follows:

- Spectrum is valuable resources and therefore it should generate a fair compensation to the community for the use of spectrum;
- No one can assure whether there is market demand for the spectrum unless the spectrum is actually put to an auction;
- With the policy of spectrum trading, reforming and liberalization, the value of spectrum may change over time – spectrum without market demand today may become valuable tomorrow;
- Since it has been the policy of OFTA in assigning spectrum to 2G and 3G operators subject to the payment of SUF, other spectrum users should also subject to the same SUF to ensure fair competition in the market.

4.8 In relation to auction and SUF, the reserve price for spectrum bidding is also an important issue that should be subject to due consideration. As a general principle, SmarTone-Vodafone opines that the Government should ensure consistency in its regulatory decision so as to provide the necessary certainties to investors. Consistency of spectrum price paid by operators providing the same kind of service is an issue considered by the Government in the 3G licence bidding. A uniform royalty level was suggested at that time so that the successful bidders of 3G licence pay the same royalty fee percentage. This is to ensure that there will be a level playing field in the market. Following the same principle, the reserve price for any auction of spectrum for mobile TV services should refer to previous reserve price set by the Government.

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*CITB: we invite comments on whether mobile TV programme services should be licensed under the Broadcasting Ordinance and regulated accordingly through appropriate licensing conditions and codes of practice by the relevant authorities, and if so, how this should be achieved vis-à-vis the current licensing framework.*

4.9 As explained in paragraphs 3.1 to 3.5 above, we consider that the current licensing regime for mobile TV should not be changed.

**SmarTone Mobile Communications Limited**  
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