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By E-Mail

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Communications and Technology Branch
Commerce, Industry and Technology Bureau
2/F Murray Building
Garden Road
Hong Kong

Re: CITB Public Consultation Paper on Draft 2004 Digital 21 Strategy

Dear Sir/Madam:

On behalf of AT&T Global Network Services Hong Kong Limited and its parent corporation AT&T Corp. (collectively, "AT&T"), I am pleased to submit these comments on the Commerce, Industry and Technology Bureau's ("CITB") Consultation Paper entitled "*Draft 2004 Digital 21 Strategy*," issued on 10 October 2003 (the "*Consultation Paper*").

The International Telecommunications Union ("ITU") published in this November the ITU Digital Access Index ("DAI") 2002, the first global index to rank Information and Communication Technology ("ICT") access. In arriving at the overall country score, the DAI examined eight variables, covering five areas, specifically: availability of infrastructure; affordability of access; educational level; quality of ICT services; and Internet usage. The DAI forms a vital reference for governments, international development agencies, non-governmental organizations and the private sector to assess national conditions in information and communications technology. In this context, AT&T is most delighted to find Hong Kong ranked 6th among the 178 economies studied and 2nd in the Asia Pacific region.

The excellent performance of Hong Kong is a formal recognition by the international community of the concerted efforts of the public and private sectors in transforming Hong Kong from a service-based economy to one embracing high technologies, notably information

technology (“IT”). During the process, Hong Kong has also been well positioned as a leading digital city in the globally connected world. In this regard, Hong Kong owes much of its success to the vision and an all-encompassing strategy for the development of a high capacity communications infrastructure, establishment of an open and secure common interface for electronic transactions, enablement of the people with the know-how to use IT, and nurture of a culture that stimulates creativity and welcomes advance in the use of IT.

In both his 1997 and 1998 Policy Address, the Chief Executive shared his vision to make Hong Kong a leader in the information world of tomorrow and emphasized the importance of using IT to help Hong Kong retain its competitive edge as well as to fuel its overall economic expansion. In realizing the Chief Executive’s vision on IT, the 1998 Digital 21 IT Strategy was promulgated to focus on building Hong Kong’s information infrastructure and putting in place the right environment for e-business to flourish. The Strategy was reviewed, updated and published in 2001, striving to position Hong Kong as a leading e-business community and digital city in the globally connected world. To sustain the momentum created in the last five years and to also harness the benefits of IT for business, the community and Hong Kong as a whole, the CITB has conducted a review and update of the 2001 Digital 21 Strategy and invites public comments on its Draft 2004 Digital 21 Strategy (“Draft 2004 Strategy”).

AT&T commends the Hong Kong Special Administrative Region Government for its tremendous efforts in promoting the development and adoption of IT by setting its own vision, initiatives and programs of how Government, business, industries, academia and the public can work together to make Hong Kong a leading digital city. This government-led demand side stimulus of IT is essential, and the achievements speak for themselves:

1. As a result of the Government’s full liberalization policy, Hong Kong is renowned for its world-class telecommunications infrastructure that facilitates competitive innovative domestic and international communications by voice or data at affordable prices. Mobile penetration at 96% (2003) is among the highest in the world. Broadband facilities reach all commercial buildings and 95% of residential buildings, giving rise to a 48% (2003) household penetration for broadband Internet service. Hong Kong is also among the first batch of economies to open up the relevant frequency bands for IEEE 802.11 types of wireless services regulated under a class license regime. All these serve to provide and maintain Hong Kong’s competitive edge in the age of electronic commerce.
2. Hong Kong has one of the most developed IT markets in the region with one of the highest per capita IT spending. Respective household and business personal computer penetration was as high as 53% and 55% in 2002.
3. To facilitate the transacting of e-commerce which is having a profound effect on the Government, the industry and the community on the way people live and work, the Government has done a tremendous job in eliminating or minimizing the barriers for the wider adoption of e-commerce -- notably the concerns about security of transactions conducted over the Internet. In this regard, the Government has taken the lead to establish a public Certification Authority through the Hongkong Post, which has in turn established a Public Key Infrastructure. Through the use of digital certificates and the public/private keys mechanism, security and integrity of electronic transactions can be ensured. The

Government is also providing a legal framework through the Electronic Transactions Ordinance to enhance certainty and security in the conduct of electronic transactions. This has contributed to an over-50% e-business adoption rate by businesses in Hong Kong.

4. More important, the Government leads by example in the adoption of e-business by putting in place a comprehensive E-government strategy which addresses both the breadth and depth of E-government development for Government-to-Citizen, Government-to-Business, Government-to-Employee and Government-to-Government services. By June 2003, the Government has already provided an e-option for 86% of public services amenable to the electronic mode of service delivery, well within the target of 90% by end 2003.

In its focused transformation into an information society and a digital economy, the Government has committed itself to strengthening the community's ability to exploit the digital environment by promoting and enhancing IT awareness and knowledge in the community, increasing the number of people able to use digital-age technology tools, and educating and fostering the correct attitude among the community as regards the ethical use of information. AT&T applauds the Government's commitments, policies and initiatives in this regard. As a result, Internet is fast becoming an increasingly indispensable medium through which people in Hong Kong engage in their daily routine activities such as education, business transactions, personal correspondence, research and information gathering.

As with any society, there are bound to be certain sections of the community who are less well-off and disadvantaged in terms of knowledge of and access to IT/the Internet and, hence, their ability to make effective use of new information and communications tools and, more importantly, their continued participation in the society. Again, we are pleased to note the Government's full awareness of the problem of digital divide and its various policies and programs to address it.

Economic development and the digital divide go hand-in-hand for various reasons. Communities with the tools and skills to compete in the digital economy are at a distinct advantage over communities that do not. A community with a well-educated, technology-literate population is more likely to attract and sustain new businesses, and these new businesses in turn attract more well-educated, technology-literate people into the area. Conversely, a community that lacks reliable access to technology and the skills to use it is less likely to attract and sustain new businesses that could potentially serve as a catalyst to economic prosperity. To put it simply, if Hong Kong is to remain competitive in attracting, retaining and developing businesses in today's economy, it must ensure advanced communications facilities are maintained and a well-trained workforce is available.

It is on top of such a strong foundation that AT&T welcomes the opportunity to comment on the Draft 2004 Strategy. The Draft 2004 Strategy proposes actions in eight main areas embracing government leadership; sustainable e-government program; infrastructure and business environment; institutional review; technological development; a vibrant IT industry; human resources in a knowledge economy; and bridging the digital divide. AT&T concentrates its comments on the area of institutional review.

One of the CITB's initiatives under the area of institutional review is the current review of the telecommunications and broadcasting regulatory structure in the era of convergence and deregulation¹. AT&T agrees that there is already strong supply side convergence of the two industries. At an ever-accelerating pace, the communications market is evolving to one which is globally focused, data based, with players and alliances within and across the traditional boundaries. In the Hong Kong context, consumers can now enjoy subscription television services delivered via telecommunications networks and the Internet, Internet access services provided over cable television networks and voice and data services transported over the Internet.

Regulators do face an environment where product life cycles are no longer measured in months or years but in weeks, potentially challenging traditional approaches to the application of regulation. Further, the fast-moving markets and different speeds at which competition is being developed in the different service markets mean that an overly prescriptive approach to regulation is no longer appropriate. Such an approach may lead to over-regulation and, hence, under-investment and under-innovation of competitive sectors of the market. It may also lead to under-regulation and with it the resultant lack of real competition in areas where the dominant players retain control. Accordingly, it is high time that this approach to regulation is reviewed.

Hong Kong is highly regarded for the quality and efficiency of its telecommunications and broadcasting regulations. This has certainly been the experience of AT&T in its dealings with the telecommunications regulator, the Office of Telecommunications Authority ("OFTA"). AT&T is delighted that the achievements of OFTA are well recognized by professional peers in Asia and around the world and that OFTA has been named the "Best Asian Regulator" for the fifth time since 1998.

In considering the case for a unified regulatory body, although AT&T can see the potential benefits arising from a horizontal merging of the two industry regulators, a trend in Western economies, e.g. the Federal Communications Commission of the United States, the Canadian Radio-television and Telecommunications Commission, and the Office of Communications of the United Kingdom, AT&T submits that the following factors should be fully considered:

1. The scope of the regulatory regime should be the entire field of electronic communications, i.e. all communications utilizing the electronic transmission networks, including access to those networks. At a practical level, the term embraces traditional broadcasting and telephony and the control functions of IT devices, hardware and software attached to electronic communications networks.
2. The current high-quality and efficient regulations should not, in any case, be compromised. In this regard, the revised regulatory framework must result in cost savings for industry players (in terms of regulatory compliance and transaction), the regulator (in terms of manpower and administrative efficiency) and benefits to the general public in the forms of lower service charges, higher quality and/or more innovative services. Quality of

¹ *Consultation paper*, at ¶ 20 (The broadcasting industry) and ¶ 25 (The case for a unified regulatory body).

formulating and enforcing pro-competition regulations must be improved by any restructuring.

Further, AT&T believes the current review of the institutional regulatory structure is only the first step of an overhaul of the regulatory regime, the Government will be proceeding in due course to the review of the regulations, particularly the “if” and “how” of the integration of the Telecommunications Ordinance and Broadcasting Ordinance. In this respect, AT&T submits that the regulation of electronic communications should be founded on the following principles:

- Promotion of competition in the interests of consumers;
- Wealth creation and jobs in Hong Kong;
- Access for all, including the disadvantaged, at affordable price to the information and communications services they require for participation in political, economic and social life;
- Interoperability and interconnection of network systems to establish “any-to-any” communications;
- Facilitating consumers’ control over the types of content that they wish to use;
- Predictable and consistent regulation, where appropriate;
- Regulatory transparency and accountability; and
- Sufficient regulatory flexibility to deal with changes to technologies and markets in a timely manner.

AT&T believes there can be barriers to effective competition which do not necessarily derive from abusive behavior, nor from dominance and are usually characterized by bottlenecks, either of a physical nature (most consumers will choose to have only one fixed telephony connection to their homes), by virtue of control of some product/service which is key to provide a retail communications service to end-users by virtue of control over interfaces. Specific prescriptive rules are often more effective in dealing with bottlenecks where:

- Operators with a degree of market power have incentives to seek commercial advantage by refusing to interconnect with other operators or grant access to service providers on reasonable terms;
- There are network externalities such as network access, interoperability (including numbering and addressing) and call termination; and
- A supplier has control of “bottlenecks” services or products, thereby preventing or restricting service providers from competing for customers or preventing or restricting end users from accessing the service.

Regulations must also deal with problems arising from control over key enabling products or services or over interfaces such as:

- Control of the conditional access system embodied in a digital television receiver in order to restrict competition in the supply of interactive services via that receiver;
- Refusal to allow creation of interoperable interfaces, thereby making it impossible for particular services to be accessed using particular customer-owned hardware or software;

- Partial specification of software interfaces so that an independent supplier of services cannot get full access to the functionality of a product essential to the supply of its service.

Social and consumer policy objectives will not all necessarily be achieved through the operation of well-functioned competitive markets. Regulators should therefore be vested with sufficient powers to ensure that such Government-defined objectives are not lost. Universal service is one such significant objective and is a dynamic and evolving concept. Currently access to voice telephony and public service broadcasting at no cost or affordable prices is defined as the key constituent of the universal service “basket” because it is necessary for full participation in society. In the foreseeable future, access to a digital and/or high capacity line might be defined as part of the universal service obligation. It follows that sufficiently flexible rules and regulatory powers should be allowed to enable timely responses to market changes and the needs of the consumer, particularly the least advantaged members of the society. It is equally important that rules for achievement of universal services are enforced in an efficient, transparent, competitively neutral and cost effective manner, particularly no firm should be allowed to gain competitive advantage from delivery of the universal services.

Thank you for the opportunity to submit AT&T’s views on this important subject. I would be pleased to respond to any questions concerning the above comments. Please do not hesitate to contact me in that regard.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Vincent Ma', written in a cursive style.

Vincent Ma