

Auctioning of Spectrum for Third Generation Mobile Services (3G) - Proposed Rules on “Connected Bidders”

**Consultation Paper issued by
the Office of the Telecommunications Authority**

23 March 2001

Background

On 13 February 2001, the Government announced the licensing framework for third generation mobile services (3G) together with several important aspects of the regulatory framework.

2. The Government has decided that the 3G network licences will be allocated by spectrum auction, to be preceded by a pre-qualification exercise.

3. The Telecommunications (Amendment) Bill 2001 which seeks to provide the legal backing for the auctioning exercise has been introduced into the Legislative Council on 14 February 2001 and is now being examined by a Bills Committee. The relevant subsidiary legislation will be made once the primary legislation has been enacted. The Telecommunications Authority (TA) is also drafting the terms and conditions for the spectrum auction to be conducted.

4. Part of the terms and conditions for the spectrum auction will be rules on “Connected Bidders”. It is necessary to devise a mechanism to deal with “Connected Bidders” in order to:

- (a) prevent collusion which would be against public interest and affect the integrity of the auction; and
- (b) ensure that the market structure produced by the auctioning exercise would not adversely affect competition in the market for mobile services.

The Proposed Rules

5. **Annex 1** to this paper is an explanatory note on “Hong Kong 3G auction design and rules on ‘Connected Bidders’”. **Annex 2** is the text of the proposed rules on “Connected Bidders”. Annex 2 should be read in conjunction with Annex 1 to understand the context of the rules.

Invitation of Comments

6. Views and comments on **Annex 2** are invited and should reach

the Office of the Telecommunications Authority **on or before 9 April 2001**. The TA reserves the right to publish all views and comments and to disclose the identity of the source. Any part of the submission, which is considered commercially confidential, should be marked. The TA would take such markings into account in making his decision as to whether to disclose such information or not. Submissions should be addressed to:

Office of the Telecommunications Authority
29/F Wu Chung House
213 Queen's Road Central
Wanchai
Hong Kong
[Attention: Ms Sara Lam, Senior Regulatory Affairs Manager]
Fax: 2803 5112
E-mail: syflam@ofta.gov.hk

An electronic copy of the submission in Word 7.0 format should be provided by e-mail to the address indicated above.

Office of the Telecommunications Authority
23 March 2001

Hong Kong 3G – Auction Design and Rules on Connected Bidders Explanatory Note

Background

The Government has decided to use a hybrid process to allocate licences to use third generation mobile spectrum. Primary legislation to empower Secretary for Information Technology and Broadcasting (SITB) and Telecommunications Authority (TA) to undertake such a process is currently under consideration by a Bills Committee.

The Bills Committee has asked for additional information regarding proposed ownership rules and the treatment of closely related bidders (“Connected Bidders”). This note responds to the questions raised and also provides further information on the overall licence allocation framework to put the ownership rules in their proper context.

Auction Design

In designing the overall auction framework, the issues that need to be taken into account include:

1. Who should be allowed to apply?
 - Potential bidders should have in particular sufficient financial resources to satisfy their obligations under the licences (roll out of a 3G network, payment of licence fees etc).
 - A rapid and relatively light prequalification process promotes entry: bona fide bidders should be confident when submitting their applications that they will be able to prequalify. This would need to rely largely on self-certification.
 - A rapid process also makes collusion more difficult.

Working hypothesis: prequalification should be relatively light, and undertaken rapidly so that the auction can start as soon as possible after applications are submitted.

2. How are licensees selected?

- It has been decided that an auction should be used to select the licensees. In order to promote entry and mitigate the financial burden of licence fees, it has been decided that licence fees should be structured as royalties.
- Different royalties could create distortions in the market for 3G services. It would therefore be preferable that licensees should pay the same royalty percentage.
- Rapid auction processes are less vulnerable to collusion.

Working hypothesis: the auction should be designed as an ascending auction that allocates licences at a common royalty percentage. It should proceed very rapidly, concluding shortly after applications are received.

3. What is the procedure for dealing with bidders who are closely connected through ownership, or who share some form of common ownership (“Connected Bidders”)?

- The auction process should not produce a result that awards licences to parties that are too closely connected, lest this impair competition in the mobile market.
- Some bidders may share a substantial common owner who, notwithstanding the size of their ownership stakes, may not be able to control which bidder enters the auction, but whose presence as a shareholder may give rise to competition concerns in the future.

Working hypothesis: any two or more of the provisional winners with common ownership of 15% or more should be required to separate. If they fail to do so, they should be forced to compete against each other for the right to a licence. Bidding will be for cash up-front payments, which would leave the common royalty percentage from the main auction undisturbed.

4. How should commercial groupings with more than one 2G operator involved be dealt with?

- If two 2G operators, or their commercial groups, were to co-operate and invest in a single 3G bidder, competition in the future mobile market might be significantly decreased.

Working hypothesis: If two 2G operators (or their commercial groups) are co-investors in a 3G bidder, that bidder will only be permitted to enter the auction with the express permission of TA, which must be obtained in advance of the application date.

- If two 3G bidders, or their commercial groups, were linked to the same 2G operator, and both 3G bidders were to win licences, then a 2G operator and two 3G licensees could have very strong interests in co-operating. Competition in the future mobile market might be significantly decreased, particularly if two of the four 3G licensees had incentives to co-operate.

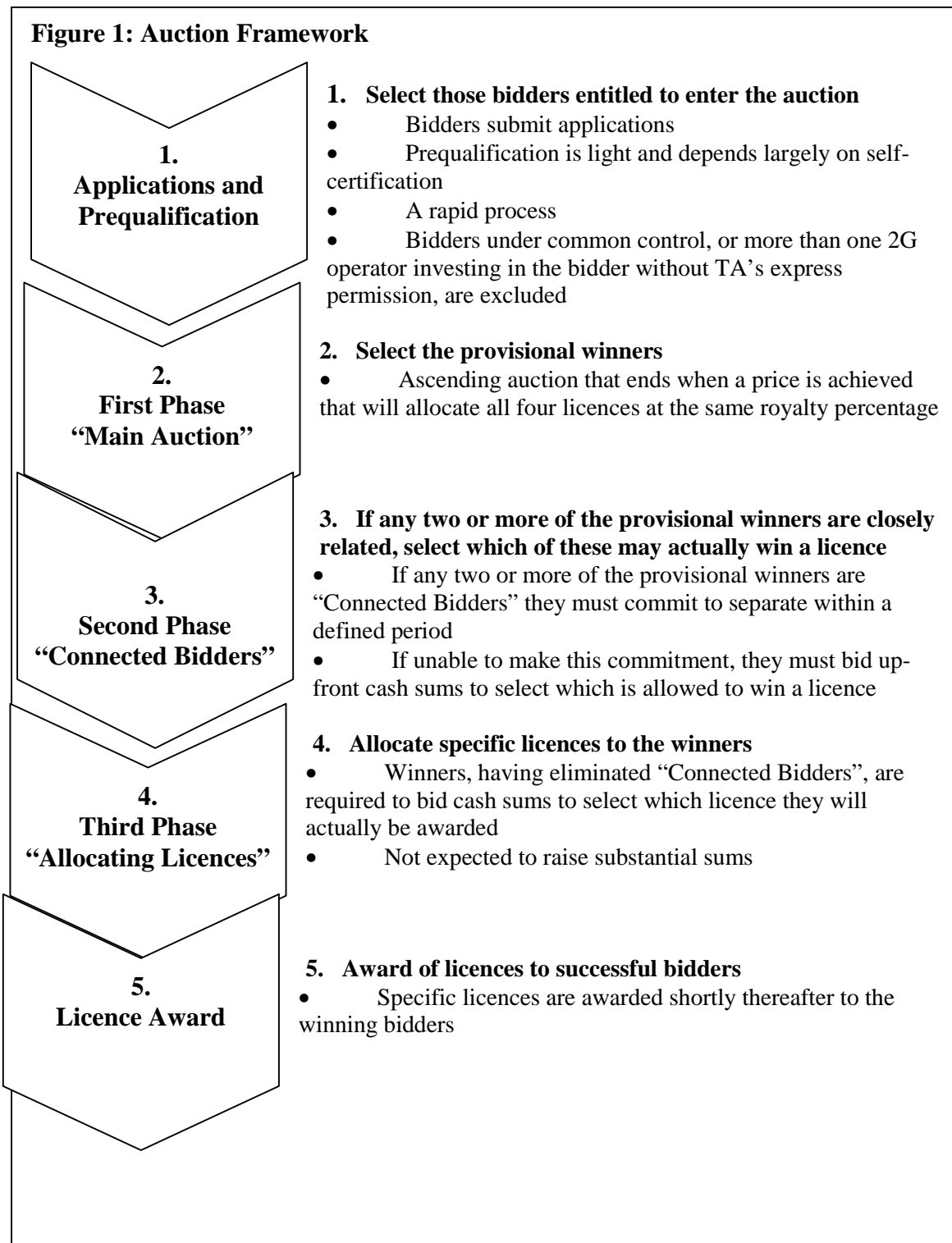
Working hypothesis: If two bidders are closely related to the same 2G operator, they will be treated as Connected Bidders.

5. How are specific licences awarded to the winners?

- The auction will have produced winners with a common royalty percentage (and disposed of any connected bidders). However, these winners will have a right to a licence, but will not have selected a specific licence.
- Licences are likely to have slightly differing technical capabilities, which may also be perceived differently by individual bidders.
- Given the above, allocating specific licences by lot may not be efficient or fair.

Working hypothesis: the winners of a right to be awarded a licence must bid for specific licences. Again, bidding would be by way of up-front cash sums. Bidders who did not enter a bid would be allocated a licence by lot. This final phase would not be expected to raise significant sums (if any).

The overall process based on the working hypotheses is summarised in Figure 1 below.



The process outlined in Figure 1 contains a specific element (the “Second Phase”) which is intended to govern how closely related bidders (“Connected Bidders”) are treated in the auction. The reasoning behind the inclusion of such a process is explained in the following sections, together with a summary of how “Connected Bidder” is defined.

6. How should Tie Bids be resolved?

- It is possible that the last two bidders to withdraw from the auction both pull out of the auction at the same time, resulting in a tie bid. This tie will need to be resolved before the provisional winners are selected. Work is still underway on the best mechanism to use, but options under consideration include:

Selection by drawing lots. The bidder who is allowed to enter into the next phase is simply chosen by lot.

Selection by time of withdrawal. The precise time of withdrawal could be used to determine which of two tied bidders was deemed to have won the opportunity to enter into the next phase.

Tied bidders must bid again. Those bidders which are tied would be offered the chance to bid again, but only up to a single extra bidding increment. If these two bidders were to tie again, selection would be made by drawing lots. The price that all successful licensees pay would be determined by this extra bid (the bidders which had not withdrawn when the tie occurred would in any event have implicitly accepted a bid on one extra increment).

All bidders continue to bid. The auction would restart at the increment where the tie occurred, with all bidders continuing in the auction. All bidders would be able to bid again at the increment at which the tie occurred. The auction would proceed, as if there had been no interruption, until one bidder dropped out. If the same two bidders both pulled out again at the price at which the auction restarted, then the bidder who would be allowed to enter into the next phase would be selected between them by drawings lots.

Rules on Connected Bidders and other ownership issues

The ownership rules are intended to govern the treatment of closely related bidders in the auction, so as to ensure that eventual licensees are independent. They are also intended to govern the manner in which 2G operators, or their commercial groups, may co-operate to enter bidders to the auction.

Ownership links

The TA is concerned to ensure that successful licensees should be independent from each other, so as to preserve competition in the market for mobile services. The basic principles are that:

- a) Bidders under common control will not be allowed to enter the auction.

If bidders are under common control, they will not be permitted to enter the auction. This will be decided at prequalification. Companies are therefore prevented from entering more than one bidder into the auction – if they were to do so, they would not be permitted to bid at all.

- b) If a bidder is closely related to more than one 2G operator, it must have received permission for such an arrangement in advance from the TA.

As for bidders under common control, this will be decided at prequalification. Any arrangement with more than one 2G operator involved in a bidding consortium must be expressly approved by the TA in advance.

- c) If bidders have a substantial element of common ownership, this should be removed, or only one of them should be permitted to win a licence.

This principle is intended to discourage bidders from putting themselves in a position where they are closely related to another bidder. If however such a situation does arise, it is necessary to decide which of two Connected Bidders will be able to obtain a licence. If bidders irrevocably commit to separate, it will be possible to award a licence to both bidders. If they are unable to

make such a commitment, they will be required to bid against each other: only the winner will be allowed to win a licence.

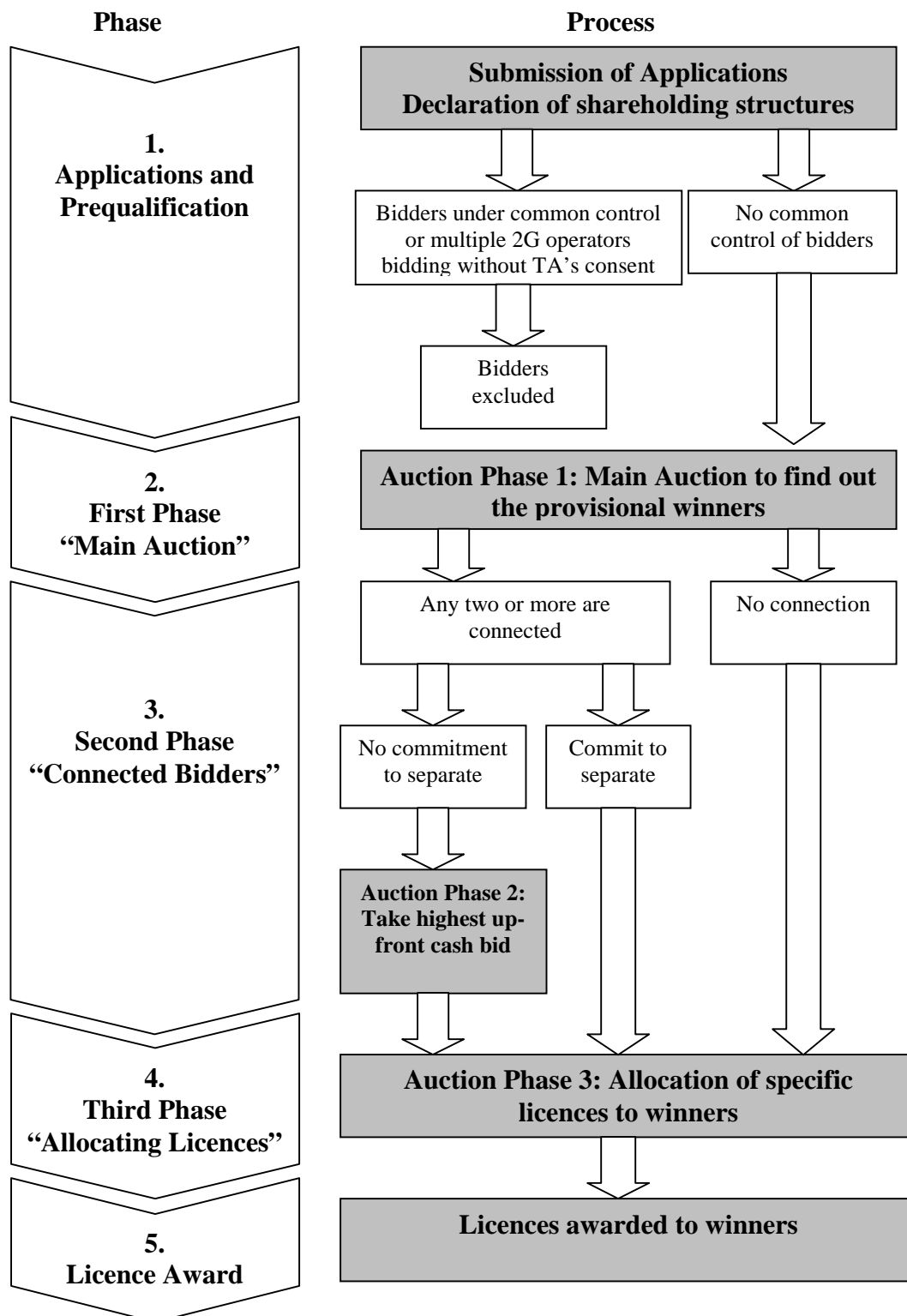
- d) Bidders with common interests in a 2G operator should not both be permitted to win licences.

This principle is intended to ensure that commercial groupings with substantial interests in a 2G operator are not both able to win a licence. If this was permitted, it would be possible for two 3G licensees and one 2G licensee to be closely linked by ownership, jeopardising their independence in the market.

The mechanisms to deal with Connected Bidders have been used in a number of other countries (e.g. Austria, Belgium and the UK). It would not be expected that such situations would arise, but the auction process must nevertheless accommodate them, and resolve these issues in a fair and objective manner if they were to occur.

Figure 2 sets out the interaction between the overall auction design and the ownership rules.

Figure 2: Auction Process and Ownership Rules



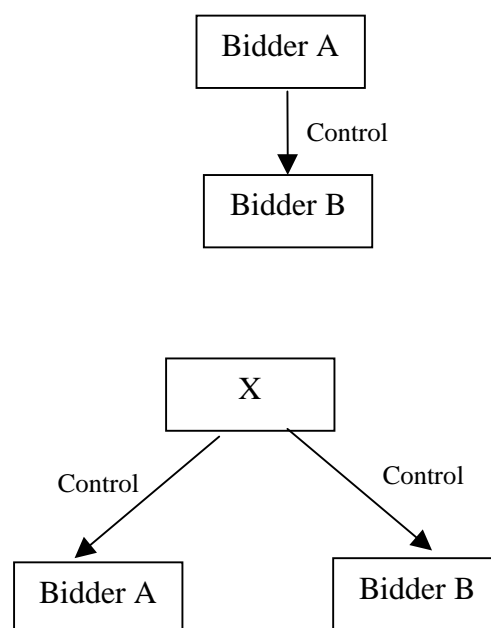
The result of this process should be that successful bidders are independent.

Some summary definitions are provided below explaining the meaning of control and Connected Bidder, and illustrating potential configurations of companies that might be affected by the rules governing ownership.

Controlled bidders

Bidders under common control will not be allowed to enter the auction.

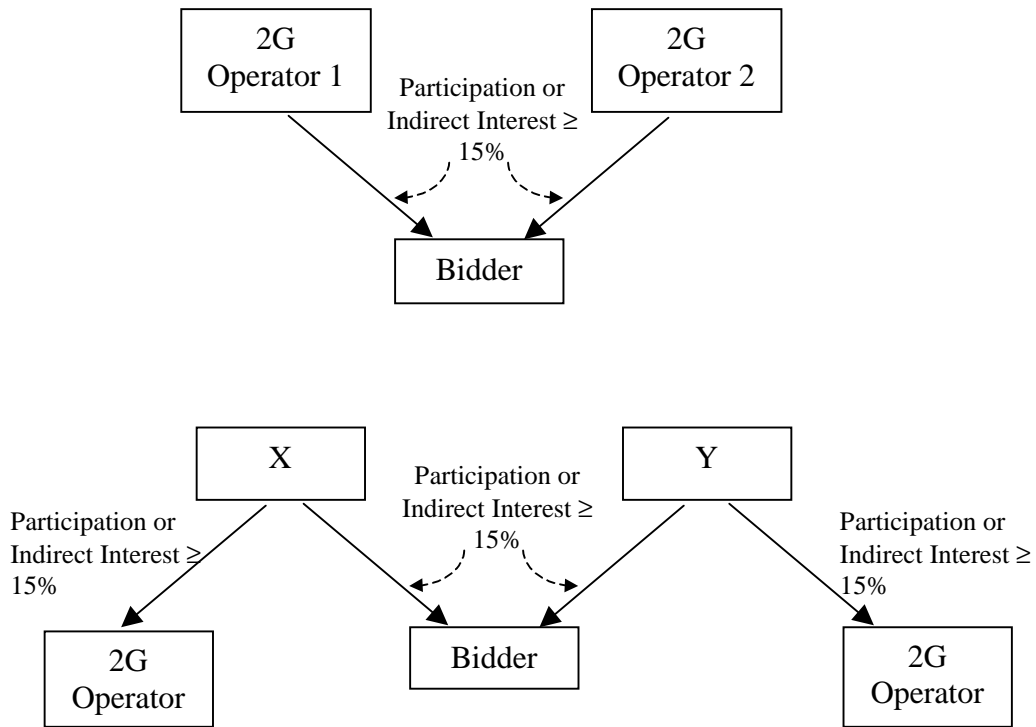
TA shall determine that a Bidder is a Qualified Bidder if in its opinion it does not control, is not controlled by or is not under common control with another Bidder.



Control is defined as possessing 50% or more of the shares or votes in a company, having the power to appoint a majority of a companies board or management or any other mechanism designed to give control to a party.

Bidders related to more than one 2G operator

The following relationships would be forbidden, without TA's prior consent, and would not be pre-qualified for the auction.

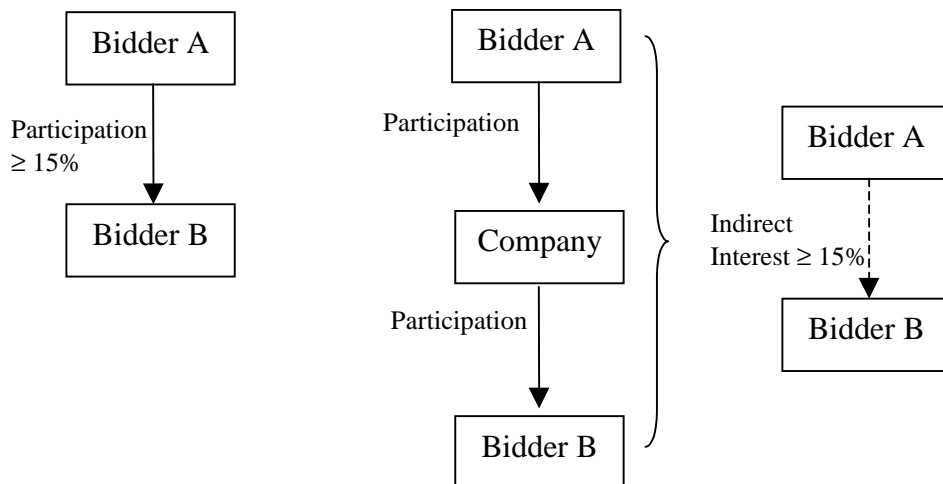


Definition of “Connected Bidder”

As explained above, because of their common ownership, only one of two Connected Bidders will be permitted to win a licence. Some simplified definitions of Connected Bidder are set out below.

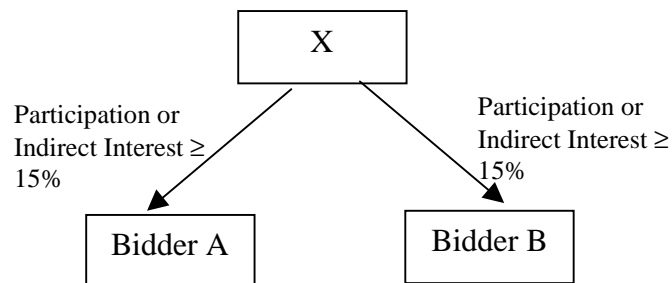
Connected Bidder means a bidder that is closely connected to another bidder, and for these purposes, a Bidder (Bidder A) is a Connected Bidder in relation to another Bidder (Bidder B), if:

- (a) it holds a Participation or an Indirect Interest of 15% or more in Bidder B; or

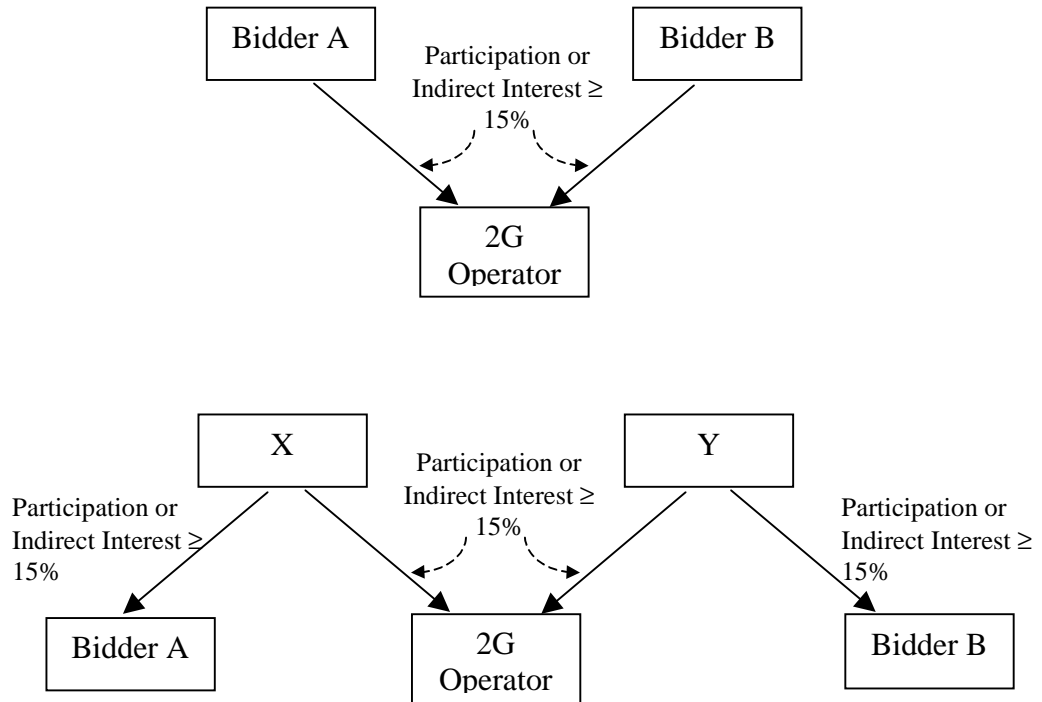


(b) a person:

- (i) holds a Participation or an Indirect Interest of 15% or more in Bidder A and Bidder B; or
- (ii) holds a Participation in Bidder A of 15% or more and an Indirect Interest of 15% or more in Bidder B; or
- (iii) holds an Indirect Interest in Bidder A of 15% or more and a Participation of 15% or more in Bidder B; or



- (c) Bidder A, or a person with a Participation or an Indirect Interest of 15% or more in Bidder A, and Bidder B, or a person with a Participation or Indirect Interest of 15% or more in Bidder B, both have a Participation or an Indirect Interest of 15% or more in the same 2G operator; or
- (d) Bidder A, or a person with a Participation or an Indirect Interest of 15% or more in Bidder A has a Participation of 15% or more in a 2G operator, and Bidder B, or a person with a Participation or Indirect Interest of 15% or more in Bidder B, has an Indirect Interest of 15% or more in the same 2G operator; or
- (e) Bidder A, or a person with a Participation or an Indirect Interest of 15% or more in Bidder A has an Indirect Interest of 15% or more in a 2G operator, and Bidder B, or a person with a Participation or Indirect Interest of 15% or more in Bidder B, has a Participation of 15% or more in the same 2G operator;



where: **Participation** means a direct holding of, or beneficial entitlement to, shares and/or voting rights in a body corporate.

Indirect Interest means an indirect holding of, or beneficial entitlement to, shares and/or voting rights in a body corporate, where the percentage indirect interest is obtained by multiplying together the respective interests in the chain of ownership between the holder and the body corporate, except that any controlling interest is treated as 100%.

**PROVISIONS RELATING TO AUCTION DESIGN
AND RULES ON CONNECTED BIDDERS**

The following definitions and provisions will be included in the notice to be issued by the Telecommunications Authority pursuant to section 32I(4)(b)(ii) of the Telecommunications Ordinance (the "Notice"). They are currently in draft only and are subject to review by the Authority.

1. Definitions

The following definitions will be included in the Notice:

"Application" means an application submitted by a Bidder in accordance with this Notice;

"Application Date" shall be determined in accordance with this Notice;

"Authority" means the Office of the Telecommunications Authority;

"Bidder" means a body corporate which has made an Application and has not been notified of its exclusion from the procedure specified in this Notice;

"2G Bidding Group" means a group where:

- (a) two 2G Operators each have a Bidding Interest in the same Bidder;
- (b) a person which is not a Bidder nor a 2G Operator (a "Third Party") has a Bidding Interest in a Bidder and a 2G Interest in a 2G Operator and another Third Party has a Bidding Interest in the same Bidder and a 2G Interest in a different 2G Operator;
- (c) a 2G Operator and a Third Party each have a Bidding Interest in the same Bidder and that Third Party has a 2G Interest in another 2G Operator;
- (d) a 2G Operator has a Bidding Interest in a Bidder which has a 2G Interest in another 2G Operator;
- (e) a Third Party has a Bidding Interest in a Bidder and a 2G Interest in a 2G Operator where that Bidder has a 2G Interest in another 2G Operator;
- (f) a 2G Operator has a Bidding Interest and a 2G Interest in a Bidder which is also a 2G Operator;
- (g) a Third Party has a Bidding Interest and a 2G Interest in a Bidder which is a 2G Operator and a 2G Interest in another 2G Operator;
- (h) a Bidder has a 2G Interest in two 2G Operators;

¹ Diagrams to illustrate scenarios (a) to (j) under the definition for "2G Bidding Group" are given in Annex 3.

- (i) a Third Party has a 2G Interest in two 2G Operators and a Bidding Interest in a Bidder;
- (j) a Bidder has a 2G Interest in a 2G Operator which has a 2G Interest in another 2G Operator; or
- (k) any other group comprising a Bidder and two 2G Operators which may include one or more Third Parties where there exists more than one Bidding Interest or 2G Interest.

"Bidding Interest" means a Participation or Indirect Interest in, or control of, a Bidder;

"Commission" means the Securities and Futures Commission;

"Confidential Information" has the meaning given in this Notice;

"Connected Bidder" means a Bidder that is closely connected to another Bidder and, for these purposes, a Bidder (Bidder A) is a Connected Bidder in relation to another Bidder (Bidder B) if:

- (a) it holds a Participation or an Indirect Interest in Bidder B;
- (b) a person who is not a Connected Bidder in relation to Bidder A or Bidder B:
 - (i) holds a Participation or an Indirect Interest in Bidder A and Bidder B; or
 - (ii) holds a Participation in Bidder A and an Indirect Interest in Bidder B; or
 - (iii) holds a Participation in Bidder B and an Indirect Interest in Bidder A;
- (c) Bidder A, or a person with a Participation or an Indirect Interest in Bidder A, and Bidder B, or a person with a Participation or an Indirect Interest in Bidder B, both have a Participation or an Indirect Interest in the same 2G Operator or in one or more bodies corporate which control the same 2G Operator;
- (d) Bidder A, or a person with a Participation or an Indirect Interest in Bidder A, has a Participation in a 2G Operator, or in one or more bodies corporate which control that 2G Operator, and Bidder B, or a person with a Participation or an Indirect Interest in Bidder B, has an Indirect Interest in the same 2G operator or in one or more bodies corporate which control the same 2G Operator; or
- (e) Bidder A, or a person with a Participation or an Indirect Interest in Bidder A, has an Indirect Interest in a 2G operator or in one or more bodies corporate which control that 2G Operator, and Bidder B, or a person with a Participation or an Indirect Interest in Bidder B, has a Participation in the same 2G Operator or in one or more bodies corporate which control the same 2G Operator;

"Connection" has the meaning given in paragraph 3;

"Exempt Security Interest" means an interest in shares held:

- (a) by a person who is:
 - (i) an authorised financial institution;
 - (ii) an insurer authorised within the meaning of the Insurance Companies Ordinance (Cap. 41);
 - (iii) an exchange participant of a recognised exchange company;
 - (iv) an intermediary licensed or exempt for Type 1 or Type 8 regulated activity; or
 - (v) a corporation authorised under the law of any place outside Hong Kong recognised for the purposes of this paragraph by the Commission to carry on business:
 - (A) as a bank;
 - (B) as an insurance company; or
 - (C) in an activity that is in the opinion of the Commission equivalent to any of the regulated activities carried out by a person referred to in subparagraph (iv); or
- (b) by way of security only for the purposes of a transaction entered into in the ordinary course of his business as such a person.

²**"Indirect Interest"** means an indirect interest held by a person (the "first person"), through one or more bodies corporate, in the share capital of another body corporate (the "second person"), such that the percentage interest attributable to the first person in the share capital of the second person is equal to 15% or more and, for this purpose the first person, and every body corporate controlled by the first person, shall be treated as one person;

"2G Interest" means a Participation or Indirect Interest in, or control of, a 2G Operator;

"2G Licence" means a licence to provide public radiocommunications services using personal cellular communications technology operating in the frequency bands of 800 MHz, 900 MHz and 1800 MHz under section 7 of the Ordinance;

"2G Operator" means a person who holds a 2G Licence at the Application Date;

"Ordinance" means the Telecommunications Ordinance (Cap. 106);

³**"Participation"** means, in relation to a body corporate, a holding or a beneficial entitlement to shares in that body corporate, a right to acquire or subscribe for shares

² OFTA is currently considering extending the definition of "Indirect Interest" to include situations where an interest of less than 15% is held but where, through contractual arrangements or otherwise, the effect is that in terms of influence in the relevant company 15% or more is held.

³ OFTA is currently considering extending the definition of "Participation" to include situations where an interest of less than

in that body corporate, or the possession of voting power in that body corporate, other than:

- (a) a holding or beneficial entitlement which is less than 15% of the issued share capital of that body corporate which are listed or traded on a Recognised Stock Exchange;
- (b) a right to acquire or subscribe for those shares which, together with any existing shareholding or beneficial entitlement, represent or would represent less than 15% of the issued share capital of that body corporate; and
- (c) the possession of voting power in respect of less than 15% of the issued share capital of that body corporate; and

"Recognised Stock Exchange" means The Stock Exchange of Hong Kong Limited or any other recognised investment exchange or securities market outside Hong Kong which the Authority considers, in its absolute discretion, to be a recognised exchange or securities market.

2. Interpretation

The following interpretation provisions will be included in the Notice:

- (a) any reference to a person having a Participation in a body corporate shall be construed as a reference to:
 - (i) a holding or a beneficial entitlement to the shares in that body;
 - (ii) a right to acquire or subscribe for shares together with any existing shareholding or beneficial entitlement held by that person; or
 - (iii) the possession of the voting power in that body,and, for this purpose, a person and every body corporate controlled by him shall be treated as one person;
- (b) any reference to shares shall be construed as a reference to issued share capital excluding any part of that capital which, neither as respects dividends nor capital, carries any right to participate beyond a specified amount in a distribution;
- (c) subject to paragraph (d), any reference to:
 - (i) a holding or beneficial entitlement to, or having the right to acquire or subscribe for, shares or any amount of the shares in a body corporate; or
 - (ii) the possession of voting power, or any amount of the voting power, in a body corporate,

15% is held but where, through contractual arrangements or otherwise, the effect is that in terms of influence in the relevant company 15% or more is held.

shall be construed as a reference to that holding, or entitlement being held, whether alone or jointly with one or more other persons and whether directly or through one or more nominees;

- (d) a reference to a person's holding of shares, or possession of voting power, in a body corporate shall be construed so as to disregard that holding or possession if or to the extent that:
 - (i) he holds the shares concerned:
 - (aa) as a nominee; or
 - (bb) as a custodian (whether under a trust or by a contract); or
 - (cc) under an arrangement pursuant to which he has issued, or is to issue, depository receipts in respect of the shares concerned; or
 - (ii) he is not entitled to exercise or control the exercise of voting rights in respect of the shares concerned;
- (e) for the purpose of sub-paragraph (d)(i)(cc), "depository receipt" means a certificate or other record (whether or not in the form of a document):
 - (i) which is issued by or on behalf of a person who holds shares or who holds evidence of the right to receive shares, or has an interest in shares, in a particular company; and
 - (ii) which evidences or acknowledges that another person is entitled to rights in relation to those shares or shares of the same kind, which shall include the right to receive those shares (or evidence of the right to receive those shares) from the person mentioned in sub-paragraph (i);
- (f) for the purposes of sub-paragraph (d)(ii):
 - (i) a person is not entitled to exercise or control the exercise of voting rights in respect of shares if he is bound (whether by contract or otherwise) not to exercise the voting rights, or not to exercise them otherwise than in accordance with the instructions of another; and
 - (ii) voting rights which a person is entitled to exercise or of which he is entitled to control the exercise only in certain circumstances shall be taken into account only when those circumstances have arisen and for so long as they continue;
- (g) a person shall be deemed to control a body corporate if:
 - (i) he has a controlling interest in it;
 - (ii) he has a controlling interest in a body corporate which has a controlling interest in the body corporate; or

- (iii) although he does not have such an interest in the body corporate, or in any body corporate with a controlling interest in the body corporate, it is reasonable, having regard to all the circumstances, to expect that he will be able, by whatever means and whether directly or indirectly, to achieve the result that the affairs of the body corporate are conducted in accordance with his wishes,

and, for this purpose, a person has a controlling interest in a body if he holds, or is beneficially entitled to, 50 per cent. or more of the share capital in the body corporate, or possesses 50 per cent. or more of the voting power in it and a person shall be deemed to control a body corporate where that person controls another person which controls that body corporate;

- (h) for the purpose of the definition of “Indirect Interest” in paragraph 1, the percentage interest attributable to the first person in the share capital of the second person shall be calculated by multiplying together the respective percentage interests of the first person, and of each body corporate in the chain of ownership which gives the first person an Indirect Interest in the share capital of the second person, in the shares of the second person or of another body corporate in that chain of ownership (as the case may be). Those percentage interests shall in each case be calculated in the same manner as is prescribed for calculating the percentage interest of a Participation in the shares of a body corporate, save that a percentage interest or other arrangement which gives a person control in a body corporate shall for this purpose be treated as a percentage interest of 100%;
- (i) for the purpose of the definitions of “Indirect Interest”, “Participation”, and “control” in this Notice:
 - (aa) a beneficial entitlement to shares, interest in shares or right to acquire or subscribe for shares or right to any voting power shall be taken into account whether or not it is a conditional entitlement, interest or right, except that:
 - (i) any such entitlement, interest or right resulting from a transaction constituting or forming part of merger or acquisition activity in the circumstances described in subparagraph (A) or (B) shall be deemed not to arise until:
 - (A) (where the transaction is conditional on a merger or acquisition proposal or transaction which is expressed to be subject to a condition that clearance, with or without conditions, is received from any relevant regulatory authority and (B) does not apply) that condition of the transaction has been satisfied or waived; or
 - (B) (where the transaction is, or forms part of, a merger or acquisition proposal or transaction which is opposed by the directors of any relevant party) the transaction becomes unconditional in all respects or (if earlier) takes place; and
 - (ii) any conditional entitlement, interest or right created on or before 20th March, 2000 shall be disregarded; and

- (bb) notwithstanding sub-paragraph (aa), no account shall be taken of an interest to the extent that (if it were an interest in shares) it would be an Exempt Security Interest; and
- (j) for the purposes of paragraph (i)(bb), an interest in shares shall cease to be an Exempt Security Interest and the person holding the interest in the shares by way of security (the "lender") shall be taken to have acquired that interest, when:
 - (aa) the lender:
 - (i) becomes entitled to exercise voting rights in respect of the interest in the shares held as security as a result of, or following, a default by the person giving the interest in the shares as security; and
 - (ii) has evidenced an intention to exercise the voting rights or control their exercise or taken any step to exercise the voting rights or control their exercise; or
 - (bb) the power of sale in respect of the interest in the shares held as security becomes exercisable, and the lender or its agent offers the interest in the shares held as security, or any part of that interest, for sale.

3. Connections

The following provisions relating to Connections will be included in the Notice:

- (a) Notwithstanding any other provision of this Notice, where the Authority determines that, in relation to circumstances which cause or would cause a Bidder to be a member of a Bidding Group in relation to another Bidder (the "Connection"), and all of the following conditions are satisfied:
 - (i) the Connection is, or would be, of a temporary nature;
 - (ii) the purpose or principal purpose of the transaction or series of transactions is not to bring about the Connection; and
 - (iii) arrangements satisfactory to the Authority have been made or will be made such that:
 - (aa) neither of the Bidders ("Bidder A" and "Bidder B" respectively) is or will in practice be able to achieve the result that the affairs of one such Bidder are conducted in accordance with the other's wishes;
 - (bb) no person is or will in practice be able to achieve the result that the affairs of both Bidder A and Bidder B are conducted in accordance with its wishes;

- (cc) there is no appreciable risk that Confidential Information relating to Bidder A has been obtained or will be obtained by Bidder B, or vice versa; and
- (dd) there is no appreciable risk that both Confidential Information relating to Bidder A and Confidential Information relating to Bidder B has been obtained or will be obtained by any person,

the Authority may at any time, if he thinks fit, determine that the Connection shall be disregarded for all purposes, or for the purposes as he may determine, under this Notice.

- (b) A determination by the Authority under paragraph (a) may be revoked by him at any time in the event of any change of circumstances which he considers to be material to that determination and any Bidder to which that determination relates shall inform the Authority immediately after it becomes aware of any change in the circumstances to which the determination relates.
- (c) Notice of any determination by the Authority under paragraph (a) and any revocation of a determination under paragraph (b) shall be given to all Bidders.

4. Qualified Bidders

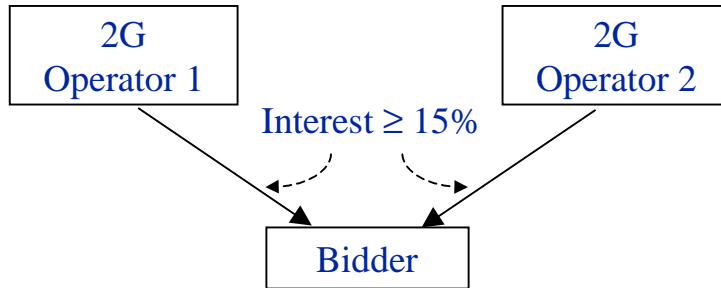
The following provisions relating to the determination of Qualified Bidders will be included in the Notice:

- (a) The Authority shall determine that a Bidder is a Qualified Bidder if in the Authority's opinion:
 - (i) it does not control, is not controlled by, or is not under common control with another Bidder;
 - (ii) it does not fall within paragraph (b).
- (b) ⁴Any Bidder which is in a 2G Bidding Group shall not be a Qualified Bidder for the purposes of paragraph (a) unless it has received the Authority's written consent prior to the Application Date.

⁴ In giving such consent, the Authority's main considerations will be whether the collaboration between the 2G operators in the 3G bidding exercise and the subsequent rollout and operation of the 3G network would adversely affect competition in the mobile services market. The giving of consent by the Authority for the purposes of the 3G bidding exercise will not prejudice in any manner any future decision of the Authority with regard to proposals on merger or acquisition involving the 2G operators.

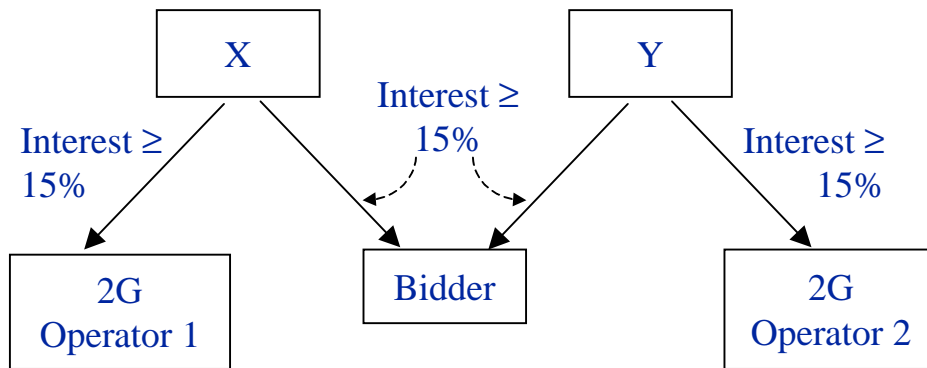
**Scenarios (a) to (j) under Definition for “2G Bidding Group”
in Annex 2**

a



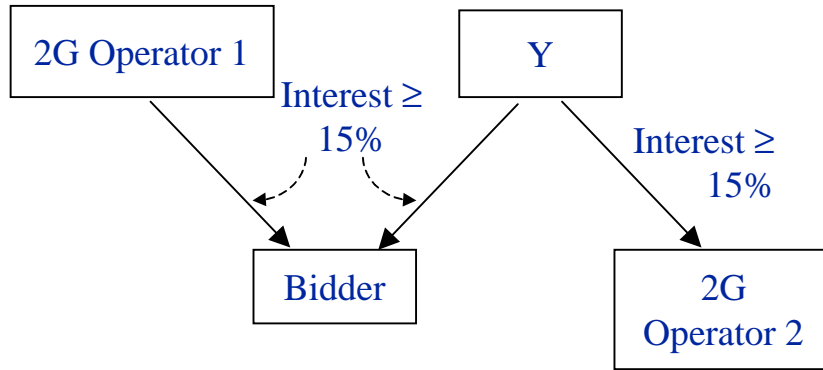
Two different 2G Operators each have an interest in the same Bidder

b



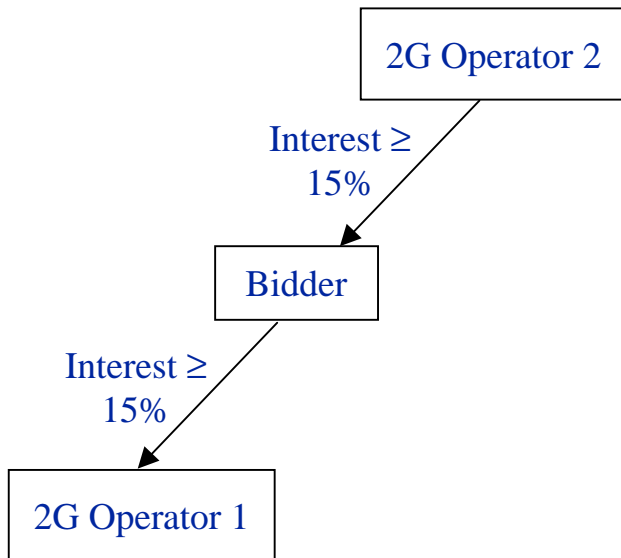
Substantial investors in two different 2G Operators each have an interest in the same Bidder

c



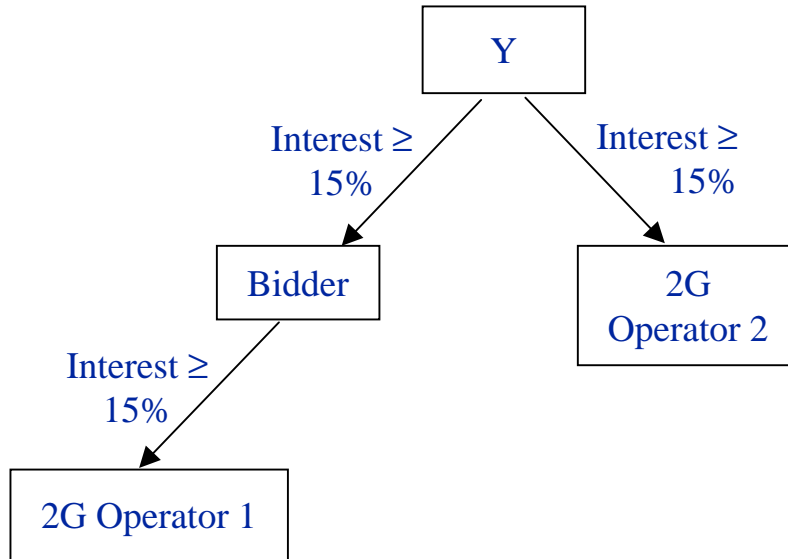
A 2G Operator and a substantial investor in a different 2G Operator each have an interest in the same Bidder

d



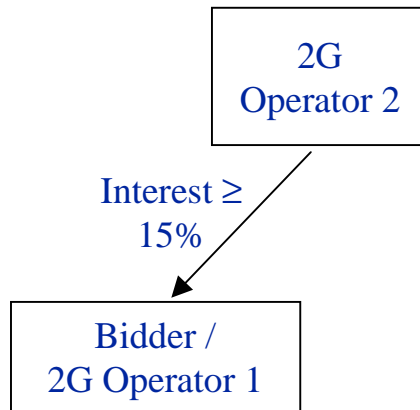
A 2G Operator has an interest in a Bidder and the same Bidder has an interest in a different 2G Operator

e



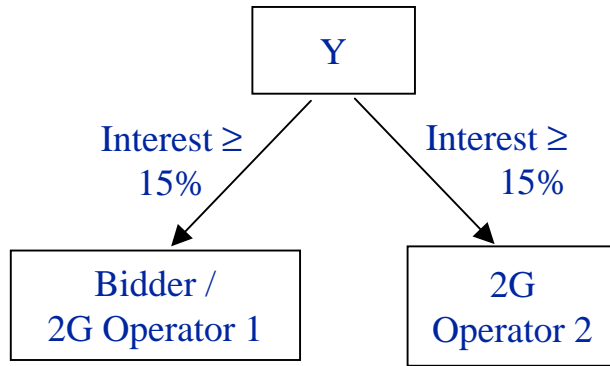
A Bidder has an interest in a 2G Operator, and shares a common shareholder with a different 2G Operator

f



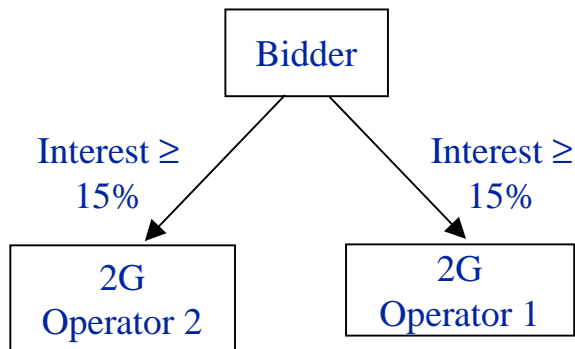
A 2G Operator has an interest in a different 2G Operator which is a Bidder

g



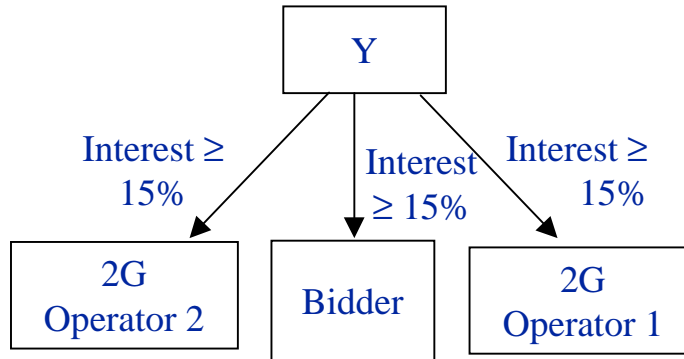
A Bidder is a 2G Operator, and shares a common shareholder with a different 2G Operator

h



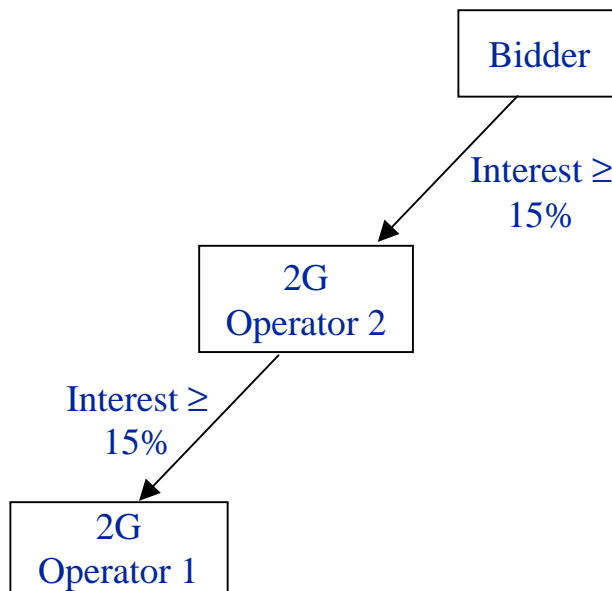
A Bidder has interests in two different 2G Operators

i



A party has interests in a Bidder and two different 2G Operators

j



Bidder has an interest in a 2G Operator which in turn has an interest in another 2G Operator