



Submission to the IMDA on
A Converged Competition Code for the Media
and Telecommunications Markets

by the
Asia Pacific Carriers' Coalition
(Incorporated in the Republic of Singapore)

19 February 2021

Asia Pacific Carriers' Coalition
c/o Rajah & Tann Singapore LLP
9 Straits View #06-07
Marina One West Tower
Singapore 018937

D +65 6535 3600
F: +65 6428 3489
Email: secretary@asiapacificcarriers.org

Table of Contents

SUMMARY OF MAJOR POINTS	2
STATEMENT OF INTEREST	3
COMMENTS	4
Comments on Section 4: Consumer Protection	4
Exclusion of enterprise businesses from the purview of consumer centric requirements of Consumer Protection Provisions	4
Differences between Enterprise Services and Mass-Market Retail Services	4
Other Comments	5
Regulatory Simplification	5
CONCLUSION	6

SUMMARY OF MAJOR POINTS

The APCC appreciates IMDA's multi-stakeholder public consultation process and is grateful for the opportunity to provide comments, on the development of the Converged Competition Code for the telecommunications and media industries.

The APCC provided comments on IMDA's initial consultation held in April 2019. We are pleased that some of our concerns had been addressed, however, there are a couple of areas that remain of concern to us.

While we applaud the objective to ensure a consistent regulatory framework is applied the market, we respectfully offer our recommendations to ensure that the Converged Code effectively achieves these aims, particularly in the important provisions concerning differentiated offerings of enterprise vs consumer services and competition in the digital economy.

Our key recommendations are:

- (a) Exclusion of enterprise businesses from the purview of consumer centric requirements of Consumer Protection Provisions
- (b) Simplification of the regulatory and compliance reporting obligations for Facility Based Operators (FBOs)

STATEMENT OF INTEREST

The Asia Pacific Carriers' Coalition (**APCC**) is an industry association of global and regional telecommunications carriers operating in the Asia Pacific region, formed to work with governments, National Regulatory Authorities and users, to advocate open market policies and best practice regulatory frameworks to promote competition and efficient investment in telecommunications markets.

The APCC does not request confidential treatment of any part of this Submission.

COMMENTS

Comments on Section 4: Consumer Protection

Exclusion of enterprise businesses from the purview of consumer centric requirements of Consumer Protection Provisions

The APCC recommends that the proposed application of certain Consumer Protection Provisions not be applied to customers that are enterprise businesses, as our understanding is that the regulations are intended to safeguard retail consumers. Application of consumer centric requirements to large enterprise businesses may not necessarily serve the purpose of the proposed regulation. Large businesses have different product and service requirements which are tailor made to suit the specific requirements of enterprise users, and they are typically in a good position to ensure such provisions are already included in the service agreements. We provide further points for your consideration in support of our recommendation.

Differences between Enterprise Services and Mass-Market Retail Services

Products and services that cater to enterprise customer markets are categorically different from those offered to mass-market retail service customers, such as residential subscribers, in accordance with the different needs and preferences for each type of customer. Whereas mass-market retail subscribers typically seek basic voice and data services, enterprise customers often require a more complex and specialized suite of services involving telecommunications (such as IP voice telephony and high-speed Internet access) and non-telecommunications products, including PBX, cloud services, unified communications (e.g. conferencing services integrated with web tools and apps), among others. In addition to this many enterprise customers will require services in multiple jurisdictions, and not just in Singapore. In some of these cases, where such enterprise customers require regional or global services, the negotiations and contracting will be outside of Singapore.

Mass-market retail subscribers select from a range of standard service offers. While they can choose from a wide selection of plans that suit their needs, mass-market retail subscribers do not negotiate contracts and special conditions on a customer-by-customer basis. All mass-market retail subscribers are able to choose from the same standard plans. In contrast, enterprise customers often negotiate specific terms and packages with a provider under a service level agreement (SLA). In many cases, enterprise customers even issue a tender process to select a provider on a competitive basis. This enables greater flexibility for enterprise customers to tailor their contractual arrangements, and highlights how the mass-market retail and enterprise customer markets are separate and distinct. Given the customized and confidential nature of enterprise customer agreements, consumer-centric protection provisions, such as the requirement in sub-section 4.2.2(c) to publish the terms and conditions of customer service contracts, is inappropriate and a breach of confidentiality obligations under enterprise customer agreements.

Further, it is commonly understood that large enterprise customers possess the expertise and bargaining power to negotiate with providers on a relatively equal and sometimes dominant basis. Because the negotiating powers between large enterprise customers and providers are relatively balanced or tilted in favor of the large business customers, the regulatory protections necessary for mass-market retail subscribers are typically unwarranted in the enterprise customer scenario. In turn, the array of registration, reporting, and auditing requirements used to protect mass-market subscribers may be unnecessary—and even detrimental—to the enterprise market segment.

Other Comments

Regulatory Simplification

The APPC recommends that IMDA review the regulatory and compliance reporting obligations for Facility Based Operators (FBOs), to ensure the framework remains “light touch” and not stifle innovation & investment by imposing unnecessary compliance/reporting requirements on operators. This is especially relevant for service providers catering to enterprise customers, as opposed to consumer customers who have different product requirements and therefore warrant different reporting requirements. Excessive regulation poses a barrier to the growth of new and innovative services. The degree of regulation, including reporting requirements, applied to services, such as enterprise communication services, can be an important determinant of current and future economic growth. Regulatory simplification promotes a pro-investment and innovation climate. As the global Internet connects businesses around the world, traditional regulatory frameworks for telecommunications that may have previously made sense as applied to mass-market retail services can now hinder growth and opportunity, particularly as new technologies such as 5G come to market that do not fit neatly into outdated regulatory categories.

CONCLUSION

In the interests of accessibility, the APCC has endeavoured to keep this Submission brief. The APCC would be pleased to provide more detailed comments or to engage further with the IMDA on the issues raised in this Submission.

Respectfully submitted by:
ASIA PACIFIC CARRIERS' COALITION