

**Annex A: TPG’s Response to the Public Consultation on a Converged Competition Code for the Media and Telecommunications Markets**

No.	IMDA Questions	TPG’s Response
2.1	<p><b>IMDA invites views and comments on the observed trends and developments in the telecommunications and media industries, as set out in Part II of the consultation document.</b></p>	<p>1. TPG agrees with IMDA’s observations and has no further comments.</p>
3.1	<p><b>IMDA invites views and comments on the following proposals:</b></p> <p><b>(a) to merge the common regulatory principles of the TCC and MMCC, and</b></p> <p><b>(b) to retain the regulatory principle on Promotion of Facilities-based Competition for the telecommunications market only.</b></p>	<p>1. The element of “Good faith” is elevated as a principle for application in the Converged Code as follows: <i>“As a general principle, private negotiations undertaken by persons to whom the Converged Code applies should be taken in <b>good faith</b> (emphasis ours)”</i>. (Paragraph 1, Reliance on Market Forces, Private Negotiations and Industry Self-Regulation);</p> <p>TPG supports its application in the Converged Code. “Good faith” however is a protean term. While appearing as a “catch-all-phrase” for honesty and fair dealing, it lacks clarity in application.</p> <p>TPG welcomes IMDA’s clarification as follows:</p> <p>(a) Whether the requirement of good faith will be a term implied into all agreements arising out of or in connection with the Converged Code, breach of which results in damages for the breaching party, in both private and regulatory actions; and</p> <p>(b) If IMDA will make a finding of fact as to whether a party to an agreement had acted in bad faith if good faith becomes a subject matter for dispute.</p>

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		<p>2. The Converged Code injects "public interest" as a control criterion for Consolidations as follows: <i>"Prohibiting Consolidations that are likely to substantially lessen competition in the information, communications and media industry of Singapore and considering whether Consolidations are in the <b>public interest</b>. (emphasis ours)".</i> (Paragraph 2, Promotion of Effective and Sustainable Competition);</p> <p>The question of what exactly is "public interest" and to what extent "public interest" considerations ought determine a market consolidation approval deserves further debate. "Public interest" lends itself to possible subjective interpretation by policy makers. Further, inclusion of "public interest" doctrines into competition regulation blurs the important distinction between IMDA as a competition regulator and IMDA as a promotor for industry development.</p>
4.1	<p><b>IMDA invites views and comments on the proposed standards for dominance classification under the Converged Code</b></p>	<p>1. TPG agrees with IMDA's proposed standards for dominance classification for the telecommunications and media sectors as follows:</p> <p>Dominant Entities are entities that either:</p> <p>(a) Operate facilities used for provision of telecommunication and/or media services that are sufficiently costly or difficult to replicate such that requiring new entrants to do so would create a significant barrier to rapid and successful entry into the telecommunication and/or media market in Singapore by an efficient competitor; or</p>

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		(b) Have the ability to exercise Significant Market Power (“SMP”) in any market in which it provides services pursuant to its telecommunication or media licence.
4.2	<b>IMDA invites views and comments on the appropriate level for the SMP Presumption Threshold.</b>	<ol style="list-style-type: none"> <li>1. TPG agrees with IMDA’s proposal to consider a fifty (50) percent market share threshold as a rebuttable presumption that a licensee is dominant in any market; and that market share will not be the only factor considered when assessing licensee’s ability to exert SMP.</li> <li>2. TPG believes that a competition regulator should adopt a fact sensitive and rigorous approach to determine SMP.</li> <li>3. The fifty (50) percent threshold is a rebuttable presumption of SMP. The said licensee therefore bears the burden of persuasion. To absolve itself from dominant licensee regulations, the licensee must discharge that burden by proving otherwise.</li> <li>4. A key issue concerns the requisite standard of proof on the relevant parties. Opponents to an application by a dominant licensee to lift its dominant licensee regulations need only bear the burden of production, i.e., producing evidence indicative of a licensee’s SMP on a “more-probable- than-not” basis.</li> <li>5. If achieved, the burden of proof shifts to the dominant licensee. Here a competition regulator must consider whether that burden can be discharged on a mere “more-probable-than-not” basis.</li> <li>6. TPG believes that the “more-probable-than-not” basis is an inadequate threshold for the dominant licensee to cross, as SMP has significant</li> </ol>

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		<p>adverse consequences on market participants. Because of the great harm to the market participants if a competition regulator “gets-it-wrong”, TPG submits that a dominant licensee must discharge that burden to a reasonably high degree of certainty. This threshold is markedly higher than the “more-probable-than-not” standard but below the “beyond-reasonable-doubt” standard. Here the competition regulator must be satisfied that the dominant licensee is unable to exert SMP under all reasonable circumstances to a reasonably high degree of certainty.</p>
4.3	<p><b>IMDA invites views and comments on the proposed changes to the dominance regime for the telecommunications and media industries, specifically:</b></p> <p><b>(i) to adopt the Market-by-Market approach for the dominance classification of a telecommunications licensee in new markets; and</b></p> <p><b>(ii) to require Dominant Persons to demonstrate whether the new service(s) they introduce fall within the market(s) in which they are dominant.</b></p>	<ol style="list-style-type: none"> <li>1. TPG agrees with IMDA's proposal to adopt a “Market-by-Market” approach for new markets. This allows for a fact sensitive inquiry into a licensee's ability to exert SMP in the specific markets in which it operates, and if vertically-integrated, whether that licensee is able to further extend its SMP from one upstream market to another downstream market.</li> <li>2. TPG agrees that until proven otherwise, existing dominant licensees should continue to remain classified dominant, and subjected to <i>ex-ante</i> regulation, where applicable.</li> <li>3. TPG submits that that new licensees should be protected from unfair methods of competition particularly on the crucial matters such as network interconnection among “non-dominant licensees”. Such entities whilst appearing non-dominant, nevertheless has the ability to exercise SMP in the supply of interconnection services, particularly against a new entrant. The new entrant has little choice but to accept the interconnection services on strictly non-negotiable, and often unfair and egregious terms and conditions.</li> </ol>

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		<p>4. TPG submits that this matter is a glaring lacuna in the current Code. Further, interconnection between licensees is also a matter of great public interest.</p>
4.4	<p><b>IMDA invites view and comments on the application of the <i>ex-ante</i> Dominant Entity duties across both telecommunications and media industries.</b></p>	<p>1. TPG agrees with IMDA's proposals and has no further comments.</p>
4.5	<p><b>IMDA invites views and comments on the proposal to shift to a notification and publication regime for most retail tariffs (other than for withdrawal of such tariffs), while retaining the approval regime for wholesale, resale and certain retail tariffs.</b></p>	<p>1. TPG believes that the success of a "notification-and-publication" regime hinges on the twin pillars of transparency and relevancy, i.e., whether retail tariffs are transparent, made publicly available, and the extent to which they are indicative of true market pricing.</p> <p>2. A dominant licensee's exercise of price discrimination has wide ramifications at the market place. Dominant licensees are obligated under the Code for resale of services, i.e., to allow any license to purchase any service that a dominant licensee makes available to End Users. This allows a new entrant to compete with the dominant licensee in the provision of services, particularly for services that it does not have. A competitive licensee will always be "priced-out" of the market place if discriminated against, i.e., its retail rates are higher than the rates offered by a dominant licensee to its own End User.</p> <p>3. TPG submits that it is possible for a dominant licensee under a "notification-and-publication" regime to engage in some form of covert</p>

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		<p>price discrimination. Such acts can evade detection simply because of the lag in the Info-tariffs, i.e., today's published price was last quarter's transacted price, and not the lower winning bid submitted by the dominant licensee yesterday. It is also possible to masquerade price discrimination under the guise of a "limited-time-only" pricing promotion.</p> <p>4. Therefore, IMDA must impose strict conditions for compliance. In event of a breach, a dominant licensee must show cause as to why the concession ought not be withdrawn, failing which the prior "approval" regime is reinstated immediately.</p>
5.1	<p><b>IMDA invites views and comments on the proposal to adopt the effect-based test of the TCC for the ex post provision on discrimination of services under the Converged Code.</b></p>	<p>1. TPG agrees to the adoption of an effect-based test of the Code for the <i>ex post</i> provision on discrimination of services under the Converged Code.</p>
5.2	<p><b>IMDA invites views and comments in relation to the EEO test benchmark to be adopted for price squeezes and the proposal not to include a "pass-on" criterion.</b></p>	<p>1. TPG agrees to the adoption of the EEO test, as found in the Code, for assessing price squeezes under the Converged Code.</p>
5.3	<p><b>IMDA invites views and comments on the proposed cost standard/standards for the telecommunication and media markets and the application of the predatory pricing provision to Dominant Entities.</b></p>	<p>1. TPG agrees to the adoption of the Average Incremental Cost (AIC) standard for the Converged Code and also the application of the predatory pricing provision to dominant licensees.</p>

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5.4	<b>IMDA invites views and comments on the extension of the cross-subsidisation provision to the media industry.</b>	1. TPG agrees with IMDA's proposals. By way of an example, a licensee with exclusive content should not be allowed to set a high "wholesale" price of the content to its direct affiliates and have its direct affiliates in turn offer the same content at discounted prices to its direct retail customers. This would result in unreasonably high pricing of the exclusive content to the detriment of competitors who may wish to acquire the same content for its own retail customers. The direct affiliates in this example is effectively subsidizing the content in an anti-competitive manner.
5.5	<b>IMDA invites view and comments on the extension of the predatory network alteration provision to the media industry.</b>	1. TPG agrees with IMDA's proposals and has no further comments.
5.6	<b>IMDA invites views and comments on the inclusion of unreasonable bundling as an example of an abuse of a dominant position in the Converged Code.</b>	1. TPG agrees with IMDA's proposal to employ an objective approach, i.e., a "reasonable man's test", as to whether a bundling is reasonable or not.
5.7	<b>IMDA invites views and comments on the proposed standalone sub-section for the provision for anti-competitive leveraging, including specific practices on anti-competitive leveraging.</b>	1. TPG agrees with IMDA's proposals and has no further comments.
5.8	<b>IMDA invites views and comments on the proposal to adopt the "objective or effect" approach for the general prohibition of anti-competitive agreements.</b>	1. TPG agrees with IMDA's proposal to replace the phrase "unreasonably restrict competition" with "object or effect of preventing, restricting or distorting competition" for the following reasons:

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		<p>(a) It will align the relevant provisions of the Converged Code, a subsidiary legislation, with section 34(1) prohibitions of the Competition Act (Cap.50B), a primary legislation, which states as follows: <i>"subject to section 35, agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within Singapore are prohibited..."</i>;</p> <p>(b) The "objects <b>or</b> (emphasis ours) effect" is appropriate as it targets both the scienter of the wrongful acts (objects) and the consequences of the wrongful act (effect"), where satisfaction of either one is sufficient to constitute a regulatory offense.</p>
5.9	<p><b>IMDA invites views and comments on the proposed revisions to the anti-competitive agreements, namely:</b></p> <p>(a) rename the list of prohibited anti-competitive agreements as "by object" agreements; and</p> <p>(b) respective amendments to the specific anti-competitive agreements.</p>	1. TPG agrees with IMDA's proposals and has no further comments.
5.10	<p><b>IMDA invites views and comments on the proposed changes to the rules governing unfair methods of competition.</b></p>	1. TPG agrees with IMDA's proposals and has no further comments.
6.1	<p><b>IMDA seeks views and comments on the:</b></p>	1. TPG agrees with IMDA's proposals and has no further comments.

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	<p>(a) proposed exclusion of Resellers from being protected by the Consumer Protection Provisions in the Converged Code;</p> <p>(b) proposed application of all the Consumer Protection Provisions in the Converged Code to both residential and business End Users, except for the Pay TV market-specific provisions (i.e., Sub-sections 3.2B, 3.2 C, 3.2 E, 3.5A and 3.5B), and the CIS requirement, which will only be applied to residential End Users; and</p> <p>(c) proposal to continue to not apply the Consumer Protection Provisions in the Converged Code to OTT TV or content services.</p>	
6.2	<p>IMDA seeks views and comments on the proposal to:</p> <p>(a) merge the requirement on QoS Standard; and</p> <p>(b) extend the flexibility for Licensees to agree to a lower QoS with End Users to the media markets.</p>	<p>1. TPG agrees with IMDA's proposals and has no further comments.</p>
6.3	<p>IMDA seeks views and comments on the proposal to merge the requirements and adopt the procedures under the TCC for service terminations or suspensions for both markets.</p>	<p>1. TPG is supportive of IMDA's view to facilitates the Regulated Person by proposing additional clarity to the various restrictions and suspension scenarios.</p> <p>2. This will definitely help the Regulated Person and the End User in minimising any potential disputes.</p>

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6.4	<p><b>IMDA seeks views and comments on the proposals to:</b></p> <p><b>(a) merge and adopt the TCC's approach for data protection provisions for both telecommunication and media markets; and</b></p> <p><b>(b) extend the MMCC requirement to the telecommunication markets to require Licensees to develop and inform End Users of easy-to-use procedures by which they can subsequently grant or withdraw consent to the use of their EUSI.</b></p>	<ol style="list-style-type: none"> <li>1. TPG is supportive of IMDA merging and proposing a uniform standard for the PDPA provisions for both markets.</li> <li>2. The requirement for Licensee to provide Easy-to-Use procedures to manage user information, as noted by IMDA, is already implemented and therefore IMDA making it mandatory will further ensure that consumer interest is not compromised as there will be adequate safeguards.</li> <li>3. However, currently, the Licensee's adopts commercially adequate measures as the basis for the Easy- to- Use procedures.</li> <li>4. Towards this endeavor and to maintain consistency in the industry we would suggest to IMDA and if IMDA can consider setting some minimum standards framework to the easy-to-use procedures.</li> </ol>
6.5	<p><b>IMDA seeks views and comments on the proposal to:</b></p> <p><b>(a) merge the disclosure requirements and extend the CIS requirement to all Licensees; and</b></p> <p><b>(b) reduce the timeframe from 14 days to 5 working days for Regulated Persons to provide End Users with the CIS and contracts, and extend this requirement to the telecommunication markets.</b></p>	<ol style="list-style-type: none"> <li>1. TPG agrees with IMDA's view of extending the CIS requirement to all Licensee as the fundamental basis for good and uniform industry practices.</li> <li>2. Also, TPG's view is that IMDA should consider extending the <b>CIS</b> requirement for a better understanding and transparency of the terms to all subscriptions with or without a fixed term as <b>CIS</b> includes not only payment terms but all other information related to the specific plan that is subscribed by the End User.</li> </ol>

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6.6	<p>IMDA seeks views and comments on the proposal to extend the requirement for mandatory contract provisions to the media markets.</p>	<p>1. TPG agrees with IMDA's proposals and has no further comments.</p>
6.7	<p>IMDA seeks views and comments on the proposal to introduce the list of minimum billing information to be included in End Users' bills for both markets.</p>	<p>1. TPG is supportive of this as it will be consistent with the industry best practices.</p>
6.8	<p>IMDA seeks views and comments on the proposal to extend the requirement for mandatory contract provisions on procedures to contest charges and dispute resolution to the media markets, including circumstances in which End User may withhold payment, timeframe for contesting the disputed charges, and setting of the interest rates or methodology for establishing the interest rates.</p>	<p>1. TPG is supportive of IMDA extending the requirements for mandatory contracts provisions on procedures to contest charges and dispute resolution mechanism to the media market as it will be reassuring the End Users that their interests are protected and they have a grievance redressal procedure readily available to seek.</p>
6.9	<p>IMDA seeks views and comments on the proposal to:</p> <p>(a) retain the prohibition of detrimental mid-contract changes for the telecommunications markets and the requirement to provide at least one-</p>	<p>1. TPG agrees with IMDA's proposals and has no further comments.</p>

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	<p>month advance notice for detrimental changes in the media markets; and</p> <p>(b) introduce an advance notice requirement for any advantageous change that may have a long-term impact on the End User's services for both markets.</p>	
6.10	<p><b>IMDA seeks views and comments on the proposal to:</b></p> <p>(a) extend the requirement to provide advance notice to End Users for termination of operations or services, to the telecommunication markets; and</p> <p>(b) provide a three-month's advance notice in writing for the cessation of operations or provision of any telecommunications and media services, while allowing IMDA to right to require this period to be extended to better protect End User's interest under certain circumstances.</p>	<ol style="list-style-type: none"> <li>1. TPG agrees with the IMDA view of providing advance notice to End Users for any termination or cessation of services.</li> <li>2. However, a three months standard notice may not always be viable as there may be a business decision taken which make it necessary for it to be effective immediately or at best with a shorter notice period.</li> <li>3. Therefore, to facilitate the above if IMDA can also classify the services which require 3 months or more and the services which can be terminated with a month notice. This will facilitate both the End- Users and the Licensees.</li> </ol>
6.11	<p><b>IMDA seeks views and comments for the proposal to retain the prohibition on "slamming" for the telecommunications market in the Converged Code.</b></p>	<ol style="list-style-type: none"> <li>1. TPG agrees with IMDA's proposals and has no further comments.</li> </ol>

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6.12	<p><b>IMDA seeks views and comments on the proposal to include the existing prohibition of mid-contract detrimental changes in the Converged Code and extend its application to all Licensees beyond the Key Telecommunication Licensees.</b></p>	<p>1. TPG is supportive of IMDA view to apply the relevant detrimental or disadvantageous mid contract-changes clauses to the telecommunication market.</p> <p>2. This will put forth a fair and reasonable standard across the industry.</p>
6.13	<p><b>IMDA seeks views and comments on the proposal to retain the requirement for Pay TV service providers to allow End Users to exit their fixed term contracts without ETC for the specific instances, and the enabling provisions (sub- sections 3.2E, 3.5E and 3.8 of the MMCC) for this requirement.</b></p>	<p>1. TPG agrees with IMDA's proposals and has no further comments.</p>
6.14	<p><b>IMDA seeks views and comments on the proposal to retain the requirement to offer short term agreements for the Pay TV market only.</b></p>	<p>1. TPG agrees with IMDA's proposals and has no further comments.</p>
6.15	<p><b>IMDA seeks views and comments on the proposal to retain the prohibition against the leveraging of a Pay TV service to impose changes on the non-Pay TV service in a bundle by service providers.</b></p>	<p>1. TPG agrees with IMDA's proposals and has no further comments.</p>
6.16	<p><b>IMDA seeks views and comments on the proposal to remove the current TCC service quality information disclosure requirements.</b></p>	<p>1. TPG would request IMDA to retain the current Code service quality information disclosure and if possible, rather expand on the existing Code to capture emerging market trends.</p>

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		2. The Code was of great assistance especially to a new Licensee entering the market to navigate and streamline to mandated requirements applicable in the industry.
6.17	<b>IMDA seeks views and comments on the proposal to remove the anti-avoidance provision for the media markets.</b>	1. TPG agrees with IMDA's proposals and has no further comments.
7.1	<b>IMDA invites views and comments on the following proposals:</b>  <b>(a) subjecting transaction in which a non-RP or non AMSP acquires ownership interest in an RP to the requirements of the M&amp;A Provisions; and</b>  <b>(b) extending the pro forma change notification requirements to all RPS.</b>	1. TPG agrees with IMDA's proposals and has no further comments.
7.2	<b>IMDA invites views and comments on the proposed criteria for the Short Form and Long Form application.</b>	1. Licensees that control or own "hard-to-replicate" bottleneck infrastructure must not be granted exemption from a "Long-Form" application.  2. Their ability to exert SMP in relation to these assets are independent of their market-shares, and unless regulated, such SMP endures. Therefore, their application must be fully ventilated in a "Long-Form" application.

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7.3	<b>IMDA invites views and comments on the proposed consolidation review timeline.</b>	1. TPG agrees with IMDA's proposals and has no further comments.
8.1	<b>IMDA invites views and comments on the proposal to limit Media Resource to only infrastructure (akin to Section 7 of the TCC) for the purposes of sharing amongst media licensees.</b>	1. TPG agrees with IMDA's proposals and has no further comments.
8.2	<b>IMDA invites views and comments on the proposed licensees for which the Resource Sharing Provisions apply.</b>	1. TPG agrees with IMDA's proposals and has no further comments.
8.3	<b>IMDA invites views and comments on the proposed criteria in the determination of both Essential Resource and Critical Support Infrastructure.</b>	1. TPG is general agreement with IMDA's proposal to extend the Resource Sharing Provisions application to telecommunications licensees to include all FBO and SBO licensees under the Converged Code so long as the said infrastructure fulfils the criteria for the designation of Critical Support Infrastructure.
9.1	<b>IMDA invites views and comments on continuing to apply the CCM to content of all genres.</b>	1. TPG agrees with IMDA's proposals and has no further comments.
9.2	<b>IMDA invites views and comments on the proposal to require the SQL to offer the cross-carried subscribers access to the QC on its OTT platform, if part of the QC is on the Relevant Platform, on non-discriminatory basis, i.e., on</b>	1. TPG agrees with IMDA's proposals and has no further comments.

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	the same price and terms offered to the SQL's customers.	
9.3	IMDA invites views and comments on the proposal to introduce coverage obligations to complement the existing anti-hoarding provisions.	1. TPG agrees with IMDA's proposals and has no further comments.
9.4	IMDA invites views and comments on the removal of sub sections 2.5 and 10.4(b) of the MMCC in the Converged Code.	1. TPG agrees with IMDA's proposals and has no further comments.
10.1	IMDA invites views and comments on the proposal to remove the Services with No Take-up from the Schedule of IRS and MWS.	<ol style="list-style-type: none"> <li>1. TPG disagrees with the removal of (i) Unbundled Network Elements; (ii) tail local leased circuits; and (ii) Support facilities from the Schedule of Interconnection Related Services ("IRS") and Mandated Wholesale Services ("MWS").</li> <li>2. IMDA regulated these services and directed Singtel to offer them in their Reference Interconnection Offer to remedy a severe and entrenched market imperfection.</li> <li>3. A premature removal encourages any reasonable dominant licensee to revert back to pre-IRS and MWS implementation practices.</li> <li>4. The corner-stone of <i>ex-ante</i> regulations is that a dominant licensee has an inherent pre-disposition to exert its SMP and this fundamental position must not be disturbed.</li> </ol>

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10.2	<b>IMDA invites views and comments on whether IMDA should continue to require Dominant Licensees to offer the Regulated Services.</b>	1. As with our comments to 10.1 above, dominant licensees are obligated to continue with their regulated services.
10.3	<b>IMDA invites views and comments on the proposed extension of the validity period of the reference interconnection offer to five years, instead of the current three years.</b>	1. TPG believes that the review period should remain at three (3) years. This is crucial in light of the rapid developments in the digital economy. A five (5)-year review is inadequate.
10.4	<b>IMDA invites views and comments on the proposal to harmonise the voice termination regime and change the interconnection charging regime for fixed voice termination from "Calling-Party-Pays" to "Bill-and-Keep". IMDA would also invite views and comments on how IP-based interconnection should be implemented, following the transition from traditional copper-based networks to IP-based networks.</b>	<p>1. Interconnection between licensees should be direct and bilateral (technically and commercially), not through an intermediary unless mutually agreed.</p> <p>2. Interconnection should be IP-based. Interconnection at E1 level is not efficient nor does it support HD voice. IP interconnection will allow efficient exchange of voice traffic (VoLTE peering between mobile operators with no transcoding) and between 3G/4G (which are largely AMR-WB), Fixed line (G.711) and SIP (G.722 or G.722.2)</p> <p>3. Fixed interconnection charges should be 0. There is no reason for fixed operators to implement a termination charge when:</p> <ol style="list-style-type: none"> <li>a. They levy a monthly subscription fee</li> <li>b. The fixed networks are fully depreciated largely</li> <li>c. Should follow the same regime as mobile termination</li> <li>d. Level 6 numbers are moving to low cost SIP based networks.</li> <li>e. Reduces overall cost to industry by doing away with mediation and rating of CDRs and intercarrier reconciliation and settlements.</li> </ol>

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10.5	<p><b>IMDA invites views and comments on the proposed broad principles for governing the application of the appropriate pricing methodology for the purpose of price determination in the Converged Code.</b></p>	<ol style="list-style-type: none"> <li>1. TPG welcomes its application in both the Code and the Converged Code.</li> <li>2. The application of FLEC pricing methodologies to Active Network elements and Historical Cost Accounting pricing methodologies to Passive Network elements is crucial to Critical Support Infrastructure sharing including the sharing of road and rail tunnels in Singapore. under Section 7.2 of the Code.</li> </ol>
11.1	<p><b>IMDA invites views and comments on the introduction of the reconsideration process to media licensees on IMDA's decisions on matters pertaining to competition and consumer protection.</b></p>	<ol style="list-style-type: none"> <li>1. TPG agrees with IMDA's proposals and has no further comments.</li> </ol>
11.2	<p><b>IMDA invites views and comments on the broad changes to the dispute resolution process under the Converged Code and to set out the detailed dispute resolution procedures in a separate set of guidelines.</b></p>	<ol style="list-style-type: none"> <li>1. IMDA functions in an adjudicative role as an administrative tribunal in relation to telecom and media competition disputes between licensees.</li> <li>2. IMDA should publish decisions in relation to such disputes, including decisions where it denies to intervene in disputes between licensees.</li> <li>3. This satisfies the maxim that <i>"not only must justice be done; it must also be seen to be done"</i>.</li> </ol>
11.3	<p><b>IMDA invites views and comments on extending the Informal Guidance provisions to the telecommunications markets.</b></p>	<ol style="list-style-type: none"> <li>1. TPG supports IMDA's proposal and believes that extending informal guidance will provide an opportunity for market participants to seek preliminary advisory guidance to help address novel and difficult issues.</li> </ol>
11.4	<p><b>IMDA invites views and comments on the proposal to align the structural separation powers in the telecommunication and media industries and give Minister the authority to</b></p>	<ol style="list-style-type: none"> <li>1. Structural separation is a competition remedy and such powers typically vest with the competition regulator, and rightly so as the competitor is the subject-matter expert.</li> </ol>

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	<p><b>issue structural separation order for both industries.</b></p>	<p>2. In recognising that the separation of a Regulated Person may impose significant costs, and should only be exercised in very exceptional circumstances, TPG suggests that the Minister <u>shall, upon advice by IMDA</u>, order structural separation of a Regulated Person.</p> <p>3. This preserves IMDA's existing role as a competition regulator, whilst vesting the powers of structural separation to the Minister.</p>
<p><b>12.1</b></p>	<p><b>Do the above observations about business models and markets changes resonate with your experiences in the digital economy? Do you think that these business models are here to stay or are these developments likely to remain in the short to medium term?</b></p>	<p>1. The advent of the digital economy brings new challenges to competition regulators. In particular, competition regulators must discern transient competitive advantages from a true underlying structural market imperfection to avoid any unintended consequences of over-regulation.</p>
<p><b>12.2</b></p>	<p><b>What competition policy and philosophy should sectoral regulators adopt in the digital economy?</b></p>	<p>1. TPG believes that sectoral regulators must adopt an agile approach to regulating in a digital economy.</p> <p>2. Regulations are often imposed "after-the-fact" and this is inadequate in addressing unforeseeable competition issues in the digital economy.</p> <p>3. Continued engagement with market participants is therefore crucial to enable a "virtuous cycle" where licensees are also valued key stakeholders in maintaining a functional and competitive business ecosystem.</p>
<p><b>12.3</b></p>	<p><b>What are some of the key, traditional competition concepts that need to be reviewed and relooked in a digital economy? For example:</b></p>	<p>1. TPG believes that data analytics ought not result in competition concerns, unless there are concerns over data protection, breach of confidential information and commercial espionage.</p>

No.	IMDA Questions	TPG's Response
	<p>a) Taking account of non-price dimensions in competition assessments;</p> <p>b) Data as an input and qualifying as an essential resource or facility; and</p> <p>c) New bottlenecks that might be pivotal to affording a platform market power.</p>	<p>2. In a digital economy, data analytics provides a legitimate and sustainable competitive advantage as reward to a diligent licensee.</p>
12.4	<p><b>Should competition assessments be overlaid with broader policy considerations in a digital economy? Which policy considerations would be relevant to consider?</b></p>	<p>1. TPG believes that despite the considerable overlap between competition regulations and industry promotion, competition regulators must ensure that two differing functions are independent of each other.</p> <p>2. Competition regulations essentially safeguards market participants against “economic torts” perpetuated by a wrongdoer. Any licensee who suffers loss or damages can avail itself to the remedies under the Converged Code.</p> <p>3. Policy options, on the other hand, seeks the achievement of broader government objectives. Policy considerations focus on the “common good” and at times, the “common good” may be oppositional to, and achieved at the expense of private rights. As such TPG recommends the introduction of proportionality, to correlate such means to such ends.</p>
12.5	<p><b>Should there be early policy or regulatory intervention in data and AI centric business models that lend to significant scale advantages?</b></p>	<p>1. TPG believes that regulations, if any required, ought to “light-touched”, pragmatic, and balanced to promote Singapore as a hub for data and AI centric businesses.</p> <p>2. This approach is in congruence with Singapore’s business-friendly economic climate.</p>

No.	IMDA Questions	TPG's Response
		<p>3. Further any regulatory intervention in data and AI centre business ought not result in undue compliance costs for businesses.</p>
12.6	<p><b>What new capabilities and toolkits would be necessary to assess competition dynamics in markets where data and AI are central?</b></p>	<p>1. Any regulatory capabilities and toolkits must consider the role of big data and how such data could create competition concerns if any. As data is the new "Oil", organisations could create for themselves a competitive advantage in the market place by accurately reading current consumer behaviours and predicting future consumer trends.</p> <p>2. Such competitive advantages are legitimately obtained and ought not be construed as anti-competitive.</p> <p>3. Regulations should focus instead on cybersecurity, particularly in criminalising acts where data is obtained via unlawful means such as commercial espionage.</p>