



REPUBLIC OF SINGAPORE

INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF SINGAPORE

**PUBLIC CONSULTATION ON THE
DRAFT CODE OF PRACTICE
FOR PROVISION OF PREMIUM RATE SERVICES**

ISSUED ON 9 May 2007

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**PUBLIC CONSULTATION ON THE
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FOR PROVISION OF PREMIUM RATE SERVICES**

The Info-Communications Development Authority of Singapore (“**IDA**”) hereby invites comments on its draft Code of Practice for Provision of Premium Rate Services (“**PRS Code**”).

1. Introduction

- 1.1 Over the last 2 years, IDA has noticed a gradual but significant increase in the number of end user complaints against premium rate service providers, on issues such as being wrongfully charged for unsolicited services, and being misled by unclear advertisements, and service terms and conditions. Many of these complaints were found to be fully justified. The most prominent example was the incident in February 2006, where a licensee sent unsolicited Chinese New Year SMS greetings to about 300,000 mobile users and charged them for the messages¹. IDA has subsequently also taken action against several other errant licensees².
- 1.2 These incidents, and the subsequent negative publicity in the mass media, have greatly heightened public awareness of the premium rate service industry, and have led to calls from frustrated consumers for IDA to take a more active role in regulating this segment of the industry to safeguard public interest.
- 1.3 Based on IDA’s experience, end user complaints are generally of the following nature:
- (a) the advertisements by licensees who provide premium rate services over the public telecommunication networks (referred to as “**Licensees**” herein) are either misleading or fail to include all relevant material information, such as the prices, and key terms and conditions of the services;
 - (b) end users are being wrongfully charged for unsolicited SMS message/content/information received via their telecommunications equipment;

¹ IDA had investigated the incident and found the licensee, mTouche Pte Ltd, to have breached its SBO (Class) Licence and the Telecom Competition Code 2005. IDA suspended mTouche Pte Ltd’s SBO (Class) Licence for 6 months from 21 February 2006, and imposed a financial penalty of \$150,000.

² IDA’s enforcement decisions can be found at www.ida.gov.sg.

- (c) the apparent lack of checks and controls by these Licensees to ensure that the recipients have clearly consented to receiving those premium rate services; and
 - (d) the inability and/or difficulties in contacting these Licensees to address queries or resolve disputes as their hotlines are either engaged all the time or these Licensees do not respond to voice mails.
- 1.4 From IDA's experience, the above issues arise mainly due to the manner in which some of these Licensees advertise their premium rate services to end users (be it through the print media or via mobile messaging), and the measures adopted by these Licensees to register end users or terminate the subscription. IDA is concerned that a continuance of this present state will undermine consumers' confidence in the premium rate service industry and also Singapore's reputation as an info-communications hub.
- 1.5 While IDA encourages the development of a healthy, vibrant, innovative and self-regulating premium rate service industry, this must be underpinned by responsible business practices from all parties. The recent developments have indicated that there is a need for IDA to provide more guidance to the industry on what is considered acceptable business practices. The industry itself has also asked for more regulatory guidance from IDA in order not to run foul of IDA's regulatory frameworks.
- 1.6 IDA has therefore drafted a code of practice that lays out the duties to be observed by premium rate service providers when offering their services over the public telecommunications networks. The proposed PRS Code seeks to promote responsible service provisioning by Licensees, and safeguard consumer interests by addressing the specific issues brought up by end users. For the avoidance of doubt, the PRS Code does *not* seek to regulate the nature or the substance of the content being provided. The Code only seeks to govern the *manner* in which the premium rate service is being promoted, provided, and transacted over the telecommunications networks. Once introduced, all players in the premium rate service industry will have to comply with the requirements of the Code.
- 1.7 IDA is also mindful of the need to not impose unnecessary or onerous regulatory requirements that would increase business costs for the industry. IDA hopes that the proposed PRS Code will provide a balanced regulatory framework that can on the one hand, safeguard consumer interest by promoting responsible service provisioning; and on the other hand, lay the foundation for the continued growth of the premium rate services industry.

2. Proposed Code of Practice for Provision of Premium Rate Services

The proposed PRS Code consists of 4 sections and will be issued under Section 26 of the Telecommunications Act³.

- 2.1 Section 1 sets out the goals of the PRS Code and provides the definitions of the terms used within. Section 1 makes it clear that the PRS Code applies to all premium rate services provided over the public telecommunications networks by every Licensee and their partner network operators who bill the customers on their behalf. Section 1 further explains how exemptions may be granted from the PRS Code. Finally, Section 1 explains the legal basis and legal effect of the PRS Code and reserves IDA's authority to modify the PRS Code.
- 2.2 Section 2 specifies the duties of Licensees. These include:
- (a) rules governing the advertising materials of Licensees, such that they provide the material prices, terms and conditions of the services being offered, and they would not mislead or seek to take unfair advantage of consumers;
 - (b) duties relating to the provision of unsolicited free premium rate services;
 - (c) requirements on the subscription and un-subscription processes of premium rate services, such as:
 - (i) the provision of clear keywords (including guidelines on the format of the keywords) for subscription and un-subscription;
 - (ii) the provision of a confirmation message upon subscription and un-subscription;
 - (iii) the provision of reminder messages for subscription based premium rate services; and

³ Section 26 of the Telecommunications Act states that "*The Authority may, by notification in the Gazette or in any other manner it considers appropriate, issue or approve one or more codes of practice and standards of performance for or in connection with –*

...
(b) the provision of telecommunication services;

(c) the activities and conduct of telecommunication licensees in the provision of telecommunication services;

...
A code of practice may, in particular –

(a) specify the duties and obligations of any person in relation to his business operation in the telecommunication industry"

- (iv) allowing end users to unsubscribe from a premium rate service at any time during the subscription period.
 - (d) the duty to charge only for content received (with the charge being disclosed in each chargeable message) and not for any other messages which do not contain the requested content, such as solicitations or reminder messages;
 - (e) the duty to allow end users to predetermine the maximum number of chargeable messages they will receive for any chat services;
 - (f) requirements on billing and the extent of information to be included in the billing statement to end users;
 - (g) the duty not to charge for unsolicited services;
 - (h) obligations on Licensees during billing disputes, such as non collection of upfront payment for any disputed charges;
 - (i) the duty to maintain a customer service hotline and to keep records of all complaints; and
 - (j) duties relating to the use of end user service information.
- 2.3 Section 3 specifies the duties of billing network operators. These are:
- (a) the duty not to bill for premium rate service provided by parties which are not licensed by IDA to provide such premium rate services;
 - (b) the duty to reasonably provide assistance to any persons to resolve disputes with Licensees; and
 - (c) the duty not to collect payment for any charge which a person reasonably believes to be incorrect, pending the resolution of the dispute.
- 2.4 Finally, Section 4 sets forth the procedures as well as measures that IDA will use to enforce the PRS Code. This section also contains the standards IDA will use to impose sanctions on Licensees found to have contravened this PRS Code.
- 2.5 The draft PRS Code is attached in **Annex A**.
- 2.6 Upon finalisation of the PRS Code, IDA intends to provide a 30-day lead time to affected Licensees and/or billing network providers before the effective implementation date of the Code, to allow the affected Licensees and billing network operators sufficient time to ensure that their operations fully comply with all requirements set out in the Code. The 30-day lead-time will however not

preclude any enforcement action that IDA may take against Licensees and billing network operators for contravening any other existing requirements stipulated in the Telecommunications Act, other statutes, regulations, directions, licenses or codes of practice.

3. Invitation to Comment

- 3.1 IDA invites interested parties to submit comments on the draft PRS Code. Respondents should clearly identify the provisions of the draft PRS Code on which they are commenting. Where appropriate, respondents are encouraged to suggest changes to the draft PRS Code. The proposals should be accompanied by reasons for the changes. Respondents are also invited to comment on any other related issues not covered in the draft PRS Code, if they believe that such issues are relevant.
- 3.2 All submissions must reach IDA before **12 noon on 9 June 2007**. All comments must be submitted in writing and a softcopy must be provided to IDA. Respondents are required to include their personal / company particulars as well as their correspondence address, contact numbers and email addresses in their submissions. Submissions should be addressed to:

**Mr Andrew Haire
Deputy Director-General (Telecoms)
Infocomm Development Authority of Singapore
8 Temasek Boulevard
#14-00 Suntec Tower Three
Singapore 038955**

Please submit your softcopy via e-mail to: Erwin_Tan@ida.gov.sg. You may also submit a hardcopy to fax number: (65) 6211-2116

- 3.3 IDA will make public all or parts of any written submissions made in response to the consultation paper and to disclose the identity of the source. Any part of the submission which is considered commercially confidential should be clearly marked and placed as a separate annex. IDA will take this into consideration when disclosing the information submitted.