

**IDA'S RESPONSE TO INDUSTRY CONSULTATION IN RESPECT OF THE  
DRAFT AUCTION RULES FOR ALLOCATION OF THIRD GENERATION  
MOBILE  
COMMUNICATION SPECTRUM RIGHTS**

**INTRODUCTION**

On 22 January 2001, IDA posted on its website the draft Information Memorandum. The draft Information Memorandum contained an overview of the policy issues, the current regulatory regime and the procedures relating to the auction process for the allocation of four third generation mobile communication spectrum rights ("Auction"). The draft Information Memorandum included the draft rules relating to the Auction ("Auction Rules"). IDA requested comments on the draft Auction Rules to be submitted by 12 February 2001.

IDA wishes to thank the following five parties for submitting comments:

- (a) British Telecommunications Plc;
- (b) MobileOne (Asia) Pte Ltd;
- (c) Singapore Telecommunications Ltd and Singapore Telecom Mobile Pte Ltd – a joint response;
- (d) StarHub Pte Ltd; and
- (e) Sunday o/b Mandarin Communications Ltd.

The comments expressed by these five parties can be found on IDA's website at [www.ida.gov.sg](http://www.ida.gov.sg)

IDA carefully considered the views expressed by the five parties. Where appropriate, these proposals were adopted or modified by IDA and corresponding revisions were made to the draft Auction Rules to accommodate and address the concerns of the parties.

**IDA'S RESPONSE TO VIEWS AND COMMENTS SUBMITTED BY INTERESTED PARTIES IN RESPECT OF THE DRAFT 3G AUCTION RULES**

Set out below are IDA's responses to the more salient comments submitted.

**1. Commitment not to sell unsold 3G Spectrum Rights below the Reserve Price**

The draft Auction Rules circulated for consultation provide that IDA may allocate unsold 3G Spectrum Rights at a later date in another auction or by any other manner as IDA deems appropriate (see Sections 3.4.1, 3.5.1 and 13.4 of the draft Auction Rules).

In the consultation comments received, interested parties commented that it would be unfair for a 3G Spectrum Right which is not sold at the Auction to be allocated in the future for a price below the Reserve Price.

**IDA'S RESPONSE: IDA commits not to sell any of the 3G Spectrum Rights which are not granted in this Auction for less than the Reserve Price of S\$100 million (inclusive of goods and services tax) before 1 January 2006, and not to sell any of the 3G Spectrum Rights which are not granted in this Auction until at least one year after the grant of the last 3G Spectrum Right granted in this Auction.**

## **2. Auction with four or fewer Bidders**

The draft Auction Rules circulated for consultation provide that the Auction will proceed if more than one Initial Offer is made for any one 3G Spectrum Right. This means that the Auction would proceed even though there are four or fewer Bidders, provided that two or more of these Bidders submitted Initial Offers on the same 3G Spectrum Right. In the consultation comments received, the view was expressed that in this case the Auction should not proceed.

**IDA'S RESPONSE: If any two Bidders are interested in a particular 3G Spectrum Right, an auction is a fair means of determining the allocation of such 3G Spectrum Right and the price at which it should be sold. For this reason, if any two or more Bidders submit an Initial Offer for the same 3G Spectrum Right, the Auction should proceed in respect of all four 3G Spectrum Rights. 3G Spectrum Rights for which an Initial Offer was submitted will have a Minimum Bid in the first Round equal to the Reserve Price plus one Minimum Bid Increment. 3G Spectrum Rights for which no Initial Offer was received will have a Minimum Bid in the first Round equal to the Reserve Price. This will provide Bidders with a sufficient indication of the competition for the various 3G Spectrum Rights. Any differences in the final prices at which the various 3G Spectrum Rights are awarded in the Auction would reflect the differences in the perceived values of the 3G Spectrum Rights by the Bidders.**

## **3. Associated Bidders**

According to the draft Auction Rules, IDA determines whether two or more applicants are Associated Bidders in relation to each other on the basis of the information supplied in the Application Forms. The members of an Associated Bidder Group may either determine that any one member may participate in the Auction, or reorganise themselves so that the members of the Associated Bidder Group cease to be Associated Bidders.

In the consultation comments received, interested parties made comments in relation to the clarity of the criteria used by IDA to determine whether applicants are Associated Bidders.

**IDA'S RESPONSE: As mentioned in the Notes to the Application Form, IDA wishes to ensure that applicants are independent entities whose policy and operational decision-making processes are not influenced by common shareholders or other connections. IDA believes that the information requested in the Application Form is sufficient in the first instance for IDA to determine whether applicants are to be considered to be Associated Bidders in relation to each other.**

**If IDA determines that certain applicants are Associated Bidders in relation to each other, in notifying the relevant applicants, IDA will inform the applicants of the grounds on which they are so determined by IDA to be Associated Bidders.**

#### **4. Confidential Information**

In the consultation comments received, interested parties commented that the provisions relating to Confidential Information in the draft Auction Rules circulated for consultation are too restrictive, that they would not allow consortia to negotiate and that it should be permissible to disclose Confidential Information to shareholders.

**IDA'S RESPONSE: A balance must be reached between a Bidder's need to disclose Confidential Information to its advisers and other persons involved in the determination of the Bidder's strategy and approval process, and the danger of facilitating collusion in the Auction process. Collusion may be facilitated if Bidders can release information that would allow others to infer their valuation of the 3G Spectrum Rights.**

**The Auction Rules have been modified to provide that the applicant must submit to IDA a Disclosure List of all persons to whom the applicant has disclosed or may disclose Confidential Information. This Disclosure List may include such persons as the applicant's shareholders, advisers and members of the consortia on behalf of which the applicant intends to participate in the Auction. The Disclosure List must include each of a Bidder's Authorised Representatives.**

**The Bidder may only disclose Confidential Information to the persons named on the Disclosure List it has submitted to IDA. However, no Confidential Information may be disclosed by a Bidder to a person it has named in its Disclosure List if IDA has notified the Bidder that disclosure is not permitted to such person because, for example, that person is also named in the Disclosure List submitted by another Bidder.**

#### **5. Auction Schedule**

The draft Auction Rules circulated for consultation state in Section 6.2(d) that the Auction schedule for the first day will be announced on the Notification Date. Bidders will be informed of the time at which the Auction will start and finish on the first day, the time at which each Round will start and finish on the first day, as well as the minimum time for a Round and for the period between Rounds. The draft Auction Rules circulated for consultation specify in Section 6.5 that at the end of the last Round of the last Session of each day, Bidders will be notified of the time at which the Auction will start and finish on the next Business Day, as well as the time at which each Round will start and finish on the next Business Day.

In the consultation comments received, interested parties commented that IDA should pre-determine the time for each Round, the duration of each Round and the interval between Rounds and that these should not vary throughout the Auction.

**IDA'S RESPONSE:** The appropriate time between Rounds and the length of the Rounds when an electronic bidding procedure is used depends on the complexity of the decisions faced by Bidders. The complexity of these decisions in turn depends on the number of Bidders and how close the Auction is to ending. These factors are to be assessed as the Auction progresses.

Furthermore, if difficulties arise with the Electronic Bidding Procedure for one or more Bidders, and if such difficulties cannot be resolved in a timely manner, then for greater certainty, IDA may wish the Bidders to use the Manual Bidding Procedure. In such a case, the time of the Rounds and the length between Rounds will be adjusted to the manual bid submission process. These time periods may not correspond to what would be adopted when using the Electronic Bidding Procedure.

IDA therefore considers it appropriate to determine the schedule for the Auction on a day-to-day basis.

## **6. Authorised Representatives**

The draft Auction Rules circulated for consultation limit the number of Authorised Representatives to six per Bidder. These Authorised Representatives are the only personnel allowed to take part in the Auction on behalf of a Bidder. The Authorised Representatives are required to attend the Information Session and participate in the Trial Auction.

In the consultation comments received, two issues were raised, namely: 1) a Bidder may require more than six Authorised Representatives, particularly if the Auction is prolonged; and 2) in addition to Authorised Representatives, other personnel in the Bidder's bidding team would benefit from attending the Information Session and the Trial Auction.

**IDA'S RESPONSE:** There could be a genuine need for a Bidder to have more than six Authorised Representatives. Personnel from a Bidder's bidding team other than the Authorised Representatives may also benefit from certain aspects of the Information Session. However, IDA considers that it is not desirable to increase the number of persons present at the Auction Location unnecessarily, particularly as each Bidder is permitted to communicate with its Authorised Representatives who are at the Auction Location.

The Auction Rules have been modified to allow each Bidder to name up to twelve Authorised Representatives. A maximum of six Authorised Representatives per Bidder will be allowed at the Auction Location at any one time. No change in the Authorised Representatives present at the Auction Location will be permitted during a Session. As advised previously, a Bidder's Authorised Representatives will be permitted to communicate from the Auction Location with the Bidder which they represent. The movements of the Authorised Representatives at the Auction Location will need to be subject to certain restrictions in the interest of ensuring that no undue activities occur which may disrupt the proceedings of the Auction. Rules governing the movements of the Authorised Representatives at the Auction will be released at a later date.

**In order to represent a Bidder in the Auction, each Authorised Representative must attend the Information Session. The Information Session will consist of two parts. The first part of the Information Session will address more general issues relating to the Auction proceedings. In addition to the Authorised Representatives, other persons may attend the first part of the Information Session on behalf of a Bidder, provided that such persons are included in the list of personnel to attend the Information Session which has been submitted to IDA by the Bidder by the Initial Offer Date. Bidders should note that the aggregate number of attendees on behalf of a Bidder (including its Authorised Representatives) may not exceed twenty-five. The second part of the Information Session, which will deal with the more detailed procedural aspects of the bidding procedure, may only be attended by the Authorised Representatives.**

**In order to participate in the Auction, the Authorised Representatives must also attend the Trial Auction. No other persons are allowed to attend the Trial Auction on behalf of a Bidder.**

**Before leaving the Auction Location after the Trial Auction, each Authorised Representative must submit a written declaration to IDA that that Authorised Representative understands the Auction Rules and procedures, the Electronic Bidding Procedure and the Manual Bidding Procedure, and undertakes to observe the Auction Rules.**

## **7. Information Disclosure**

The draft Auction Rules circulated for consultation do not provide for the disclosure of the identities of the Bidders making Initial Offers on a given 3G Spectrum Right. At the end of each Round, Bidders are notified of the Current Highest Bids and each Current Highest Price Bidder for a 3G Spectrum Right is notified privately that it is the Current Highest Price Bidder in respect of that 3G Spectrum Right for the following Round. At the end of the last Session of each day, IDA announces the identities of the Bidders who remain active.

In the consultation comments received, interested parties commented that rational bidding would be encouraged if additional information were to be revealed. Interested parties were of the view that before the Auction, the particular 3G Spectrum Rights for which the respective Bidders submitted Initial Offers should be announced. Further, it was suggested that all bids submitted should be announced after every Round, and that the identities of the Bidders submitting the bids should be disclosed.

**IDA'S RESPONSE: Relevant information regarding the activities during the course of the Auction should be provided to Bidders. Accordingly, the Auction Rules have been modified to provide that after every Round, in addition to the Current Highest Bids, Bidders are notified of all Valid Bids submitted and the identity of the Bidders that were active, as well as the Bidders that were excluded or were deemed to have withdrawn from the Auction and the number of Waivers exercised in that Round. However, Bidders will not be notified of the particular 3G Spectrum Rights for which the respective Bidders submitted Initial Offers or the identity of the Bidders who submitted the respective bids. This encourages Bidders to respond to the information contained in the quantum of the bids rather than to respond to actions taken by a particular Bidder.**

## **8. Auction Logistics and the Auction Location**

In the consultation comments received, interested parties requested more specific information about the Electronic Bidding Procedure, the Information Session and the Trial Auction than what is contained in the draft Auction Rules circulated for consultation.

**IDA'S RESPONSE:** To help interested parties plan the logistics of their participation in the Auction, including the communication between a Bidder's Authorised Representatives at the Auction Location and the rest of that Bidder's bidding team, IDA has included an additional section in the Information Memorandum on Auction logistics, the equipment provided and allowed at the Auction Location, and on how Bidders' Authorised Representatives can communicate with the Bidder they represent. In addition, IDA will distribute an auction procedures manual to Eligible Bidders no later than at the Information Session that will contain a manual of bidding procedures and detailed site instructions.

## **9. Time Limit for any Suspension**

The draft Auction Rules circulated for consultation provide that IDA has the discretion to suspend the Auction at any time. There is no time limit imposed on any one suspension of the Auction. In the consultation comments received, interested parties expressed concern that the Bank Guarantees must remain valid while the Auction is suspended.

**IDA'S RESPONSE:** IDA will only exercise its discretion to suspend the Auction if IDA considers this to be necessary. To address interested parties' concerns, the Auction Rules have been modified to provide that the Bank Guarantee must be valid for a period of at least four months from the Initial Offer Date.

Furthermore, IDA will endeavour not to suspend the Auction for a period in excess of five Business Days, to the extent practicable. If however IDA considers it necessary to suspend the Auction for a significant period, IDA will return the Bank Guarantees to Bidders, subject to the relevant Bidders having paid IDA in respect of any Forfeitures imposed on or before the date from which the Auction is suspended. New Bank Guarantees will have to be submitted before the Auction is restarted.