



**EXECUTIVE SUMMARY**

**CONSULTATION PAPER ISSUED BY  
THE INFOCOMM MEDIA DEVELOPMENT AUTHORITY**

**SECOND PUBLIC CONSULTATION ON THE DRAFT CODE OF  
PRACTICE FOR COMPETITION IN THE PROVISION OF  
TELECOMMUNICATION AND MEDIA SERVICES**

**5 JANUARY 2021**

## EXECUTIVE SUMMARY

1. On 20 February 2019, the Infocomm Media Development Authority (“**IMDA**”) conducted a public consultation to seek views and comments on the proposed policy positions for a combined Code of Practice for Competition in the Provision of Telecommunication and Media Services (the “**Code**”) to promote competition, encourage market innovation, better protect consumers’ interest, improve regulatory clarity and keep pace with the fast-changing market and technology developments (“**First Public Consultation**”).
2. The Code will replace the existing Code of Practice for Competition in the Provision of Telecommunication Services 2012 (also known as the Telecom Competition Code 2012, or “**TCC**”) and the Code of Practice for Market Conduct in the Provision of Media Services (also known as the Media Market Conduct Code, or “**MMCC**”). While some differences will remain between telecommunication and media markets, the majority of the regulatory provisions will apply consistently across both markets. Broadly, the Code governs the following areas:
  - (a) Market Overview and Convergence;
  - (b) Regulatory Principles;
  - (c) Dominance Classification and Duties of Dominant Entities;
  - (d) Anti-Competitive Conduct;
  - (e) Consumer Protection;
  - (f) Mergers and Acquisitions;
  - (g) Resource Sharing;
  - (h) Public Interest Obligations;
  - (i) Telecommunication Interconnection; and
  - (j) Administrative and Enforcement Procedures.
3. IMDA received comments from 17 respondents at the close of the First Public Consultation on 15 May 2019. IMDA would like to thank all respondents for their feedback and views.
4. The sections below summarise IMDA’s key decisions on the consulted policy positions, after taking into consideration the views and comments received from the First Public Consultation. IMDA notes that some of the policy decisions will entail amendments to the Info-communications Media Development Authority Act 2016 (“**IMDA Act**”) and that some drafting format and/or terminology in the Code may change as a result. IMDA will highlight the changes (if any) when IMDA issues the final Code.

## **Key Policy Decisions**

### **Harmonisation of framework for telecommunication and media markets**

5. As the TCC and the MMCC are similar in various aspects, IMDA proposed to harmonise certain provisions that are substantively similar in effect. For example, standards for dominance classification, the review period for consolidation (complete review within 30 days or extend review period by up to 90 days for complex/novel consolidations) and the regulatory principles (including and not limited to promotion of effective and sustainable competition, and technology neutrality) for both the telecommunication and media markets. The industry was largely supportive of the proposals and hence, IMDA will proceed with most of its proposed positions in this regard.

### **Dominance classification and reduced regulatory burden on dominant licensees**

#### **Common threshold for the presumption of Significant Market Power**

6. IMDA sought views on the common threshold to be used for the initial presumption of Significant Market Power (“SMP”) for both telecommunication and media markets. Industry’s views were diverse. IMDA is of the view that, while there is no agreement on a market share threshold that would address all concerns raised by the respondents, retaining different SMP thresholds for the two markets will not create certainty in an increasingly converged telecommunication and media landscape. In consideration of market developments and practices adopted by international competition authorities, IMDA will adopt a common 50% market share threshold for the presumption of SMP for both media and telecommunication markets. The SMP presumption threshold can continue to be rebutted with evidence of effective competition.

#### **“Market-by-Market” approach to dominance classification**

7. In view of the level of competition that has emerged over the years in many telecommunication markets, and the emergence of new markets and services, IMDA proposed to adopt a “Market-by-Market” assessment approach for Dominant Telecommunication Licensees such that these Dominant Telecommunication Licensees will not be presumed to be dominant for new services offered in new markets, similar to the approach taken for the media markets. Given respondents’ support, IMDA will adopt the “Market-by-Market” approach for dominance classification in the telecommunication markets. This will incentivise Dominant Telecommunication Licensees to innovate and offer new services, potentially bringing about greater benefits to consumers.

### Removal of services from the schedule of Interconnection Related Services and Mandated Wholesale Services

8. Given the growth of service adoption on new platforms such as the nationwide fibre network, IMDA consulted on the removal of some of the network elements and services, and support facilities from the list of legacy services a Dominant Telecommunication Licensee is required to offer to competing licensees to facilitate the interconnection of networks. IMDA will proceed with the above proposal given that there was general consensus from the respondents that some of the copper-based interconnection services were no longer being used by telecommunication licensees due to the transition to fibre-based networks.

### **Enhanced consumer protection measures**

9. IMDA proposed a common set of consumer protection rules to better protect consumers' interest. Some of the key changes proposed include: (i) restricting detrimental mid-contract changes by all telecommunication licensees; (ii) enhancing transparency of billing information by requiring a list of minimum billing information in end users' bills; and (iii) strengthening consumers' understanding of contractual terms by requiring all telecommunication licensees to provide a Critical Information Summary which summarises the key terms and conditions to consumers at the point of subscription.
10. While some respondents noted that there was no evidence of market failure or consumers' complaints to necessitate such changes, IMDA is of the view that the proposed changes will better protect consumers' interest through increased transparency, facilitate resolution of disputes and ensure a level playing field among telecommunication licensees. As such, IMDA will proceed with the proposed changes.

### **Future Developments and Trends in Digital Economy**

11. IMDA did not propose any changes to the Code on developments in the Digital Economy but sought feedback on how these developments might affect the telecommunication and media markets and whether the existing regulatory frameworks could be dynamically applied within the context of the larger economic shifts and the broader regulatory environment going forward. IMDA observed that, with the increasing use of Artificial Intelligence ("AI") and data as means to compete, and the potential use of AI to facilitate collusion, the application of traditional competition rules may not be a true measure of competition in a digital economy. There may be a need to consider non-price indicators, and the difficulty in detecting AI-related collusive behaviour.

12. Respondents noted the increasingly prevalent digital platform business models and viewed that key factors that shape competition dynamics include the friction associated with switching platforms or multi-homing. There was consensus that pricing indicators may not be good benchmarks as such services are offered at a discounted rate or free. Data, as an input to innovation and a key resource that may afford market power, was deemed pertinent in digital platform markets. Respondents supported IMDA's efforts to assess the impact of digital economy trends on competition policy but cautioned that over-regulation may impact innovation.
13. IMDA notes that discussions on competition matters in the digital economy, though wide-ranging, are still developing and fairly nascent. IMDA will continue to monitor developments in the digital economy and we will consult the public should we make changes to our competition framework.

### **Next Steps**

14. IMDA would like to seek views and comments from the industry and members of the public on the draft Code in **Annex A** of the consultation paper. Provisions in the Code that are subject to legislative amendments to the IMDA Act are in **Annex B** of the consultation paper. All views and comments should be submitted in soft copy (Microsoft Word and PDF format), and should reach IMDA by **12 noon, 2 March 2021**.