

ANNEX – FACTSHEET

Public Consultation On The Converged Code

Background

The Infocomm Media Development Authority (“**IMDA**”) published a Consultation Paper on a proposed converged competition code (“**Converged Code**”) for the telecommunication and media markets.

The Converged Code merges the existing competition and consumer protection frameworks for the telecommunication and media markets, namely the Code of Practice for Competition in the Provision of Telecommunication Services 2012 (“**Telecom Competition Code**”) and the Code of Practice for Market Conduct in the Provision of Media Services (“**Media Market Conduct Code**”).

Broadly, the Telecom Competition Code and the Media Market Conduct Code govern the following areas:

- (a) dominance classification and duties of dominant licensees;
- (b) anti-competitive conduct;
- (c) acquisitions and consolidations;
- (d) consumer protection;
- (e) infrastructure / resource sharing; and
- (f) administrative and enforcement procedures.

Objectives of Converged Code

The Converged Code seeks to bring together the regulatory provisions for the two markets so as to provide certainty to the industry and reduce regulatory burden for the licensees, ultimately benefitting end users. A comprehensive review of the competition and consumer protection frameworks was conducted to ensure that they stay relevant amid the fast changing digital landscape and can be consistently applied in a converged telecommunication and media industry.

While some differences will remain between the telecommunication and media markets, the majority of regulatory provisions in the Converged Code will apply consistently across both. A common set of rules will facilitate the introduction of innovative services and business models and offer better protection to consumers.

Consultation Approach

IMDA will conduct two public consultations on the proposed Converged Code.

The first consultation is to invite comments on the broad policy proposals for the proposed Converged Code. IMDA will also take this opportunity to invite comments on how the digital transformation of industries could affect competition policy in the long term.

Comments received from the first public consultation will be reviewed and incorporated into the policy proposals for the proposed Converged Code, where appropriate. The second public consultation will seek comments on the actual drafting of the proposed Converged Code. IMDA targets to launch the second public consultation in the second half of 2019.

Key Proposals in Converged Code

In developing the Converged Code, IMDA also took into consideration key business and technology trends, which include:

- **Transition to IP-based services on the Nationwide Broadband Network (“NBN”)**

The roll-out of NBN has enabled more broadband Internet service providers to enter the market, offering better end user experiences and at more competitive prices. This has led to rapid migration from the incumbent broadband Internet platforms such as Digital Subscriber Line (“DSL”) and co-axial cable to fibre-based ultra-high speed (e.g., 1 Gbps) broadband services.

- **Increasing prevalence of service bundling**

Consumers are increasingly subscribing to bundled service packages that offer Internet broadband access, Pay TV and telephony services. In particular, many broadband Internet providers have bundled Pay TV services or Over-the-Top (“OTT”) TV services with broadband Internet access.

- **Increasing competition from non-traditional digital services and platforms**

Consumers are choosing their service provider(s) based on a number of considerations, including *a la carte* content and services provided by players that lie outside of the traditional media and telecommunication space (e.g., OTT services, or a service provider’s own applications made available only to that service provider’s subscribers).

In view of these trends and the likely increase in market competition in a converged telecommunication and media industry, IMDA has proposed the following key policy changes:

Proposed Change	Current Provisions	What It Means
Reduce Regulatory Burden on Dominant Licensees		
<p>Adopt “market-by-market” approach to dominance classification</p> <p>Dominant licensees will not be presumed to be dominant for new services offered in <i>new</i> markets.</p> <p>Notwithstanding, existing dominant licensees will continue to be classified as dominant for <i>existing</i> services and facilities that they operate, until exempted by IMDA.</p>	<p>The current approach in the Telecom Competition Code presumes a dominant entity to be dominant in all markets that it participates in, while the Media Market Conduct Code adopts a market-by-market approach for dominance classification.</p>	<p>Dominant licensees may demonstrate to IMDA that the services they introduce are new and do not fall within any existing markets they currently operate in and in which they are classified as dominant. Upon obtaining IMDA’s approval, these new services will not be subject to the dominant licensee regulatory obligations such as seeking IMDA’s approval for tariffs.</p>
<p>Reduced tariff filing obligation for Dominant Licensees</p> <p>Dominant licensees will not need to seek IMDA’s approval of tariffs for retail services, including modifications made to tariffs of existing retail services, and the offering of promotions or customised schemes involving these services.</p>	<p>The Telecom Competition Code currently requires dominant licensees to seek IMDA’s approval of all tariffs offered – both retail and wholesale/resale.</p>	<p>Dominant licensees in the telecommunication industry will be relieved of their regulatory obligation to file tariff for retail services.</p>

<p>Relax interconnection requirements on dominant licensees</p> <p>Network elements and services, and support facilities will be removed from the list of legacy services a dominant licensee is required to offer.</p>	<p>The current interconnection regime requires dominant telecommunication licensees to offer services and facilities to competing licensees to facilitate interconnection on copper-based and other legacy networks.</p>	<p>Dominant licensees will be relieved of the regulatory obligation to offer such services and facilities, which have become less relevant with the growth of service adoption on new platforms such as the nationwide fibre network.</p>
<p>Enhance Consumer Protection</p>		
<p>Introduce the requirement for minimum billing information</p> <p>Standardise the level of detail provided to all consumers (e.g., to require service providers to include the breakdown of charges for services such as value-added services, ad-hoc services and third party services).</p>	<p>Currently, the information provided in bills vary across service providers.</p>	<p>Provide further clarity to all consumers on the charges they are billed for and facilitate the resolution of billing disputes – which will benefit both consumers and service providers.</p>
<p>Require all the telecommunication and Pay TV service providers to provide a Critical Information Summary (“CIS”) which summarises the key terms and conditions to consumers at the point of subscription</p> <p>Extend the requirement beyond the three major telecommunication</p>	<p>Currently, the Pay TV service providers and three major telecommunication service providers namely Singtel, M1, and StarHub, are required to provide a CIS to consumers at the point of subscription.</p>	<p>This will facilitate clarity and is aimed at helping consumers to easily understand their contract terms.</p>

service providers to all telecommunication licensees.		
<p>Prohibit detrimental mid-contract changes by all telecommunication licensees</p> <p>Extend the prohibition beyond the three major telecommunication service providers to all telecommunication licensees.</p>	Currently, the three major telecommunication service providers namely Singtel, M1, and StarHub are prohibited from making any disadvantageous mid-contract changes during the contract term.	Protect consumers against changes to contract terms and services that are detrimental to them, such as price increase or reduction of service features.
Harmonise Frameworks for Telecommunication and Media Markets		
<p>Harmonise and adopt an appropriate market share threshold for the presumption of Significant Market Power (“SMP”)</p>	The SMP Presumption Threshold for the media industry is currently set at 60%, while the SMP Presumption Threshold for the telecommunication industry is currently set at 40%.	The threshold is used as an initial presumption of SMP but may be overcome by evidence that demonstrates effective competition. A harmonised threshold for both markets increases regulatory certainty.
Streamline Requirements and Improve Clarity		
<p>More detailed provisions on abuse of dominant position and common rules on unfair methods of competition</p> <p>To align the following positions for both markets:</p>	Currently: a. IMDA can take enforcement action against any bundling that constitutes an abuse of a dominant position via the Telecom Competition Code and the Media Market Conduct Code, although the Telecom Competition Code has not specifically	Given the trend of service bundling, there is a need to address the potential impact on competition if the bundling practices of a dominant licensee restrict competition. This provision provides clarity that such practices constitute an abuse of a dominant position if found

<p>a. Unreasonable bundling¹ will be considered an abuse of a dominant position.</p> <p>b. Degradation of service availability or quality, the provision of false or misleading information to competitors and improper use of information regarding competing licensee’s customers will be classified as unfair methods of competition.</p>	<p>highlighted (certain types of) bundling as potentially an abuse of a dominant position.</p> <p>b. Practices specified as unfair methods of competition are different in the Media Market Conduct Code and the Telecom Competition Code.</p>	<p>to be unreasonably restricting competition.</p> <p>The proposed Converged Code will also provide greater transparency through common provisions on what constitutes unfair methods of competition.</p>
<p>Change Interconnection Charging Regime for Fixed Call Termination</p> <p>Switch interconnection charging regime for fixed call termination between service providers to Bill and Keep, where service providers do not pay each other for terminating calls.</p>	<p>The current interconnection charging regime requires the network of the calling party to pay an interconnection fee to the network of the recipient of the call.</p>	<p>With Bill and Keep, no termination charge will be paid for calls terminating in fixed telecommunication networks. This will likely lead to lower costs for calls to fixed networks.</p>

The public consultation will begin today, 20 February 2019, and will close on 17 April 2019.

¹ IMDA considers “unreasonable bundling” as the tying or bundling of two or more products and services for sale which results in, or which is likely to result in, the anti-competitive foreclosure of market(s) to competitors and which cannot be objectively justified.