

18 April 2006

Ms Barbara Weisel
Assistant US Trade Representative for Asia-Pacific
Office of the United States Trade Representative
1724 F Street, NW
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Fax: +1-202-395-9515

Dear Ms. Weisel,

**SECTION 1377 REVIEW OF TELECOMMUNICATIONS TRADE AGREEMENTS,
2006**

1. The Office of the United States Trade Representative (USTR) has just released its report on the results of its annual review of U.S. telecommunications trade agreements pursuant to Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (the 1377 report).
2. In the section of the 1377 report on Singapore, the USTR has made a number of inaccurate and misleading statements.

Stays of IDA's Regulatory Decisions

3. The 1377 report states that appeals on decisions of the Info-communications Development Authority of Singapore (IDA) "often result in an automatic stay of the regulatory decision pending ... appeal". This is incorrect.
4. Section 69(15) of the Telecommunication Act (Cap 323) states that a decision, direction or other matter which requires reconsideration by IDA or which is appealed against, must be complied with until the determination of the reconsideration request or the determination of the appeal. It is therefore the exception rather than the rule that IDA grants a stay of its decision, pending reconsideration or appeal.
5. When IDA does grant a stay of decision, it goes through a careful process of evaluation and assessment. IDA takes into account factors including whether the potential harm to any person outweighs the benefits of allowing the decision or direction to go into effect (Subsection 11.9.4 of the Code of Practice for Competition in the Provision of Telecommunication Services 2005).

6. Notably, in SingTel's appeal against IDA's latest decision to require it to provide the option of "grooming" for its tail Local Leased Circuits, no stay of decision was granted by IDA, despite SingTel's request for one.
7. In the past 5 years, IDA has granted 5 stays in the 24 decisions for which requests for reconsideration or appeal were made. It is therefore wholly incorrect to state that stays are granted "often" and are "automatic". While the 1377 report states that USTR will "encourage Singapore to consider developing an objective standard for deciding when to stay a regulatory decision", this objective standard already exists and is used judiciously. Due diligence by USTR before including statements this sweeping and inaccurate would have been helpful. We request that the statements be retracted.

Access to Ducts

8. The 1377 report states that "when competitors have sought to install their own lines, SingTel... has refused access to ducts it controls..".
9. No US company has made a request for access to SingTel's ducts, even when access to such ducts was mandated by IDA to be provided at cost-based rates from 2000-2002. No US company has informed IDA that it has a problem with access to SingTel's ducts, either.
10. We can find no written comments from US industry posted on USTR's website raising access to ducts as a problem for them in Singapore. IDA requests USTR to substantiate its statement on duct access, by detailing which American operator has requested this access and by informing us why those operators have never approached IDA directly on the matter. If USTR is unable to substantiate this claim, we request that this statement be retracted.

Greater Clarity and Transparency in the Section 1377 Comment Process

11. No comments on Singapore were publicly submitted or posted on the USTR website in the run-up to the publication of the 1377 report. Although we note that the 1377 report is also based on information developed in "on-going contacts with industry and private sector representatives in various countries", not always is this information published or made transparently available to the countries being written about. This lack of transparency makes it difficult for the countries being commented on to respond to the report. We request that comments on Singapore which were supplied to USTR to assist it in preparing the 1377 report be made publicly available.

12. Countries cited in the 1377 report should have the public right to respond to the report, particularly where inaccuracies and misleading statements are made. We would therefore like to have further clarity on the process for countries' right of reply, so that IDA can avail itself of this process and have our views publicly posted. Should inaccurate and misleading statements appear in the report, we would also like to know the process by which USTR rectifies or retracts them.
13. We look forward to receiving a written response from USTR soon on the issues we have raised.

Sincerely,

LEONG KENG THAI
DEPUTY CHIEF EXECUTIVE OFFICER AND DIRECTOR –GENERAL OF
TELECOMMUNICATIONS
INFOCOMM DEVELOPMENT AUTHORITY OF SINGAPORE

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