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Mr. Andrew Haire  
Senior Director (Regulation & Operations)  
Info-comm Development Authority of Singapore  
8 Temasek Boulevard  
#14-00 Suntec Tower Three  
Singapore 038988

**RE: Comments on the Review of Accounting Separation for the  
Telecommunication Sector in Singapore**

Dear Mr. Haire:

On behalf of Concert Global Networks (Singapore) Pte Ltd (“Concert Singapore”), I welcome the opportunity to submit comments on the Info-comm Development Authority of Singapore (“IDA”) Consultation Paper, *Review of Accounting Separation for the Telecommunication Sector in Singapore* (“*Consultation Paper*”) published on 23 May 2001. Concert Singapore has been awarded a Facilities-Based Operator (“FBO”) license to operate and provide telecommunications service in Singapore, and therefore would be affected by the proposal to establish Accounting Separation Guidelines (“ASGs” or “AS”) for both dominant and non-dominant FBOs. We agree that with respect to dominant operators, ASGs are one of IDA’s critical regulatory tools to protect consumer interest. However, ASGs are entirely unnecessary for non-dominant operators, and indeed can harm competition by imposing unnecessary costs on entities that lack the market power to compete unfairly. Concert Singapore argues below that IDA will accomplish its regulatory objectives by implementing detailed ASGs for dominant operators and by completely discarding its proposal to apply even the simplified ASGs to non-dominant operators.

In response to regulatory challenges facing IDA since market liberalization in April 2000, the *Consultation Paper* proposes to establish AS requirements. IDA views ASGs as a complementary regulatory tool rather than a substitute to existing competitive safeguards in the Competition Code of Practice<sup>1</sup> and in individual license conditions. (*Consultation Paper*, at ¶ 4.3). IDA would use AS for many purposes, including to: compare internal transfer prices and external wholesale prices for vertically integrated dominant operators; monitor cross-subsidization for horizontally integrated dominant operators; analyze potential anti-competitive pricing behavior such as predatory pricing, price squeezes, price discrimination and other anti-competitive pricing conduct; determine and monitor cost-orientation of Interconnection Related Services; and monitor general telecommunications market performance and trends. (*Id.* at ¶¶ 4.1, 4.6). Notwithstanding that all but one of the identified objectives for AS apply solely to regulatory concerns about dominant FBOs,<sup>2</sup> the *Consultation Paper* proposes a two-level AS regime that applies to all FBOs: detailed reporting for dominant FBOs and their controlled entities, and simplified reporting for all non-dominant FBOs. (*Id.* at ¶5.2). IDA proposes that any new AS arrangements that are required pursuant to this public consultation proceeding should be implemented by late 2002. (*Id.* at ¶ 8).

### Comments

#### **I. Accounting Separation Requirements Are Necessary to Monitor Anti-Competitive Behavior by Dominant Operators**

The IDA has a strong basis to require detailed ASGs for dominant FBOs and their controlled affiliates. Absent effective regulation and monitoring tools, dominant FBOs would have the ability and incentive to misallocate costs from operations subject to effective competition to operations that are not yet subject to effective competition, to unreasonably discriminate against competitors who require Interconnection Related Services, and to engage in other forms of anti-competitive pricing behavior such as predatory pricing or price squeezes.

The AS requirements are necessary to monitor and prevent potential anti-competitive conduct until such time that robust competition supplants the need for the regulations. In a newly competitive market, entrants must have confidence that the incumbent is regulated effectively, and in particular cannot cross-subsidize competitive services with the profits from monopoly activities, or charge excessive prices for interconnection. Implementation and analysis of AS for dominant operators is a widely accepted practice in other countries, and the benefits to consumers outweigh the compliance costs to the dominant carriers and the administrative cost to IDA.

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<sup>1</sup> Code of Practice for Competition in the Provision of Telecommunications Services, S 412/2000 (published Sept. 15, 2000) (“Competition Code”).

<sup>2</sup> The single IDA objective relating to accounting information of non-dominant carrier is the desire to track general market performance and trends. As discussed *infra* at Section II.B, there are equally effective ways to track general market performance and trends without imposing unnecessary costs on smaller carriers.

## **II. Consumer Interests are Disserved by Imposing Unnecessary Accounting Separation Costs on Non-Dominant Operators**

There is no basis to require even simplified ASGs for non-dominant FBOs. The *Consultation Paper* correctly notes that AS information is critical to detect cross-subsidization, anti-competitive pricing, cost-orientation of Interconnection Related Services and unreasonable discrimination – each an important form of anti-competitive behavior or market power potentially abused by dominant operators and their controlled affiliates. IDA identifies only one reason for requiring AS requirements on non-dominant operators: the ability to monitor general market performance and trends. (*Consultation Paper* at ¶ 4.6). There are more narrowly tailored and less costly regulatory tools than accounting separation to satisfy this desire for general information. The high regulatory costs of AS on smaller carriers will actively harm competition by diverting funds and staffing from the fundamental business activity of providing service to customers, and potentially, by dissuading Service Based Operators from becoming Facilities Based Operators. The IDA should decline to adopt a proposal where the costs so clearly outweigh the benefits.

### **A. Accounting Separation is a Tool to Detect Violation of Dominant Carrier Regulations**

Unlike dominant operators, non-dominant operators are subject to effective market-based competition.<sup>3</sup> Consumer choice through unconstrained competitive alternatives ensure that pricing and provisioning remain just, reasonable, non-discriminatory and free from any sustainable anti-competitive practices. For licensees subject to competitive market forces, the IDA “will impose minimum regulatory ‘rules of the road,’ coupled with the *ex post* enforcement of general prohibitions on anticompetitive conduct.”<sup>4</sup> Because IDA has concluded that *ex ante* regulatory safeguards are unnecessary for non-dominant operators due to effective competition, it is axiomatic that detailed monitoring of the (eliminated) regulatory safeguards through ASGs is likewise unnecessary and therefore counter-productive.

By going forward with this proposal, Singapore might distinguish itself as the only country to establish a standard AS requirement for carriers classified as non-dominant. Concert Singapore has affiliates operating as new entrants in countries throughout the world, and the *Consultation Paper* represents the only proposed AS requirement on non-dominant operators of which we are aware.<sup>5</sup> For example, EU directives require accounting separation and financial reports from organizations

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<sup>3</sup> Competition Code, at ¶ 2.2.2.

<sup>4</sup> *Id.* at ¶ 2.1.2.

<sup>5</sup> In the UK, OFTEL imposes accounting separation obligations on Concert Singapore’s UK affiliate, Concert Communications Company (“CCC”) because of the historic dominant position in the UK international wholesale market of BT, Concert’s 50% shareholder. OFTEL continues to consider most international routes not yet competitive notwithstanding an overall CCC market share that has dropped below 20%. The accounting separation obligations cost CCC in excess of US\$3.2 million to implement in the initial year, and are estimated to cost over US\$1.4 million in subsequent years.

identified as having Significant Market Power (“SMP”) in a relevant market.<sup>6</sup> Operators without SMP are not required to follow accounting separation guidelines unless an EU member state decides to impose such obligations on the new entrants. Concert Singapore is not aware of any national legislation of this kind in the EU. In the US, the filing of cost allocation manuals (CAMs) and Automated Reporting Management Information System (ARMIS) reports are required from local exchange carriers with annual operating revenues exceeding a certain threshold – initially US\$100 million but adjusted annually for inflation. The FCC has explicitly clarified that the CAM and ARMIS filing requirements apply only to incumbent local exchange carriers who exceed the financial threshold, because proper allocation of costs is only germane to such carriers.<sup>7</sup> Hong Kong, New Zealand and Japan are additional examples of countries that apply ASG only to dominant operators.

IDA should adopt the sensible asymmetric approach used in other countries, as this approach is fully consistent with Singapore’s model for regulating dominant and non-dominant operators. Strict asymmetry is also practical and consistent to administer. Although not outlined in the *Consultation Paper*, Concert Singapore understands that as part of the proposed AS framework, IDA might grant AS exemptions if: (1) the amount of revenues or costs generated by the licensee are insignificant, or (2) the information about the licensee’s business is likely to be of limited value to IDA in meeting the objectives of accounting separation.<sup>8</sup> With regard to non-dominant operators, this is a very undesirable approach. An exemption process is susceptible to subjective evaluation of facts, which would lead to industry uncertainty over inconsistent addition and removal of high regulatory costs to industry participants. This will skew market pricing, and could dramatically harm a level playing field for competition. Instead, IDA should presume in the first instance that AS information about a non-dominant operator’s business will be of limited value to IDA in meeting AS objectives. IDA should apply ASGs only when an operator is classified as dominant.

## **B. IDA Can Effectively Monitor General Market Performance and Trends With Less Intrusive Tools than Accounting Separation**

The sole AS objective IDA identifies relating to non-dominant operators is the desire to monitor general market performance and trends. Compared to AS, there are less burdensome alternatives that are more narrowly tailored to meet this IDA objective. IDA currently requires operators to provide a variety of statistical reports, quality of service reports, and information about standard service terms, conditions and prices. Data gathering of this nature is an ideal way to track general market performance and trends at less cost to operators and the regulator. Although these valuable tracking tools of IDA do create a regulatory compliance cost on operators, the cost is comparatively low and does not tend to distort market entry decisions.

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<sup>6</sup> EC Directive 97/33/EC, *Interconnection in Telecommunications*, Art. 8(2) (June 1997).

<sup>7</sup> *Reform of Filing Requirements and Carrier Classifications*, CC Docket No. 96-123, Report and Order, 12 FCC Rcd. 8071, ¶¶ 53-54 (1997).

<sup>8</sup> See PricewaterhouseCoopers, *Enhancements to Accounting Separation in Singapore: Overview of Revisions to the Accounting Separation Guidelines*, May 25, 2001, at p. 13.

The ASG proposal, by contrast, will clearly impose a harmful cost burden on small operators by requiring development and use of new and possibly incompatible accounting practices, allocation of significant new staffing requirements, and considerable expense to external accounting firms for preparation and audit of statements and reports. These costs will disproportionately harm the smaller new carriers. Concert Singapore strongly urges the IDA to more precisely define the gaps in its information needs, and to identify ways to fill these gaps through inexpensive statistical reporting requirements as opposed to costly and intrusive AS reports and audits.

**C. The High Cost of Imposing Accounting Separation on Non-Dominant Operators Clearly Outweighs any Contribution to IDA Objectives**

A striking aspect of the *Consultation Paper* is that it neither contains nor proposes an economic impact assessment. This is an unfortunate omission. A proper assessment would have shown that the negative impact of AS on both non-dominant operators and the IDA is excessive and unjustifiable in light of the limited regulatory objective.<sup>9</sup>

High costs of compliance with the proposed ASGs would be borne both by carriers and the IDA. Presumably, if IDA will require audited AS reports from every non-dominant operator, IDA will need to significantly increase staff to review each of the filings. This staffing demand will only increase as the number of non-dominant FBOs increase. If IDA staffing will not increase sufficiently to undertake a thorough review of every AS report – reports that are produced at considerable expense and inconvenience to the operator – then there is a valid question whether the non-dominant operator AS reports would serve even a limited purpose. Clearly, IDA will achieve greater “regulatory safeguard” value per staff hour if it only requires and reviews AS reports from a predictably static number of industry participants presumed to have the incentive and ability to harm competition.

Regardless of IDA’s staffing decisions, non-dominant carriers would bear unreasonable costs to fulfill the AS requirements. Concert Singapore estimates that its initial cost to establish and implement its Procedure and Cost Allocation Manual (“PCAM”) could exceed US\$3.2 million, and its recurring annual costs both to maintain the manual and to conduct an AS audit could exceed US\$1.3 million.<sup>10</sup> This estimate includes all costs for software system development, new staff salary and accommodation

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<sup>9</sup> The primary beneficiary of the proposal to impose ASGs on non-dominant operators appears to be external accounting firms, who must audit (and/or help prepare, subject to conflict of interest considerations) every non-dominant carrier filing, and who could be asked by IDA at carrier expense to independently review already-audited material. By comparison to the benefits flowing to accounting firms, it is questionable whether IDA objectives are advanced, and it is clear that the interests of non-dominant carriers and consumers are harmed.

<sup>10</sup> Concert Singapore’s AS compliance cost estimates are comparable to the AS costs incurred by Concert Communications Company in the UK. *Compare* note 5 *supra*. Although CCC engages in more complex operations than Concert Singapore, CCC has minimized its AS implementation and maintenance costs by utilizing AS systems and knowledge inherited from BT. Because the CCC systems are not transferable to the proposed IDA ASGs, Concert Singapore would need to build mostly new localized AS systems and knowledge.


increases, and payments to external accountants, consultants and auditors. This high regulatory cost represents money that non-developing competitive networks, products and services desired by Singapore consumers. The extraordinary regulatory expense also could deter new and prospective entrants from -basis in Singapore. Because the regulatory costs will hinder dominant operators disserve consumer interests.

### **III. Conclusion**

For the reasons stated above, the Commission concludes that the proposed AS reporting requirements for non-issuer entities are not in the public interest. Accordingly, IDA should dismiss its proposed AS reporting requirements for non-

Concert Singapore would be pleased to respond to any questions concerning these

Respectfully submitted,



Barbara Evans

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