



**COMMENTS OF BT GLOBAL SERVICES TO THE IDA'S PUBLIC  
CONSULTATION ON REQUEST BY SINGAPORE  
TELECOMMUNICATIONS LIMITED FOR EXEMPTION FROM  
DOMINANT LICENSEE OBLIGATIONS WITH RESPECT TO THE  
RETAIL INTERNATIONAL TELEPHONE SERVICES MARKET  
PURSUANT TO SUBSECTION 2.5.1 OF THE CODE OF PRACTICE FOR  
COMPETITION IN THE PROVISION OF TELECOMMUNICATION  
SERVICES 2005**

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## COMMENTS OF BT TO IDA'S PUBLIC CONSULTATION ON SINGTEL'S REQUEST FOR EXEMPTION FROM DOMINANT LICENSEE OBLIGATIONS IN RETAIL INTERNATIONAL TELEPHONE SERVICES

### Executive Summary

IDA's justification for rejecting a similar SingTel Exemption Request in 2003 remains valid.

Today,

- SingTel continues to retain significant market control for "upstream" inputs that are essential to provide Retail ITS; and
- SingTel continues to have the ability to bundle service (DELS, leased lines, broadband access, international telephony services etc).

Even now, SingTel's competitors in the Retail ITS market continue to depend on SingTel for "upstream" inputs to provide competing downstream Retail ITS. As long as SingTel remains a single licensed entity, it will have the ability and incentive to discriminate in favour of its affiliates. Any lifting of Dominant Licensee obligations from SingTel will leave the competition exposed to potential abuse of market power which can range from: foreclosure in the downstream market, refusal to supply services, provision of services at unreasonable prices, terms and conditions, refusal to allow resale, sales agency etc.

It will be particularly problematic for the industry should SingTel refuse to allow the resale of its Retail ITS. This is because the voluntary approach to wholesale services under the Telecoms Competition Code in itself gives SingTel a *carte blanche* to refuse to supply services on a wholesale basis and hence, the right to discriminate and engage in anti-competitive conduct. In this respect, the existing policy on wholesale services does not remedy market failure.

Moreover, the Telecoms Competition Code lacks a procedure that allows Dominant Licensee obligations to be subsequently reimposed. Even though an injured Licensee may request IDA to take enforcement action, there is no guarantee that the IDA will act. Should IDA decide to investigate, it lacks the necessary powers of investigation and enforcement presently found in the Competition Bill. Even if IDA finds that a Dominant Licensee has contravened the Telecoms Competition Code, available penalties are meagre by international competition law standards and insufficient to deter future anti-competitive behaviour. These shortcomings are a result of excluding telecommunications from the Competition Bill. On its own, the Telecoms Competition Code is inadequate for the purpose of restoring effective competition where there has been an abuse of dominant position. Therefore, until telecommunications is drawn within the ambit of the Competition Bill to complement and supplement the Telecoms Competition Code, SingTel should remain subject to *ex ante* regulation in the Retail ITS market.

Finally, the list of 17 SingTel services that have been identified in this Exemption Request are widely used by the general public, small, medium and large multinational businesses. Many of these SingTel services are also resold by other Licensees through various distribution channels (convenience stores, supermarket chains, hotels and other licensed service providers). In this respect, SingTel has a very captive retail and wholesale customer base in the Retail ITS market. In its assessment, IDA must therefore be cognisant that its decision on this Exemption Request has the scope to change the market structure and playing field of the industry.

For these reasons, there is no compelling case to grant SingTel this Exemption Request.



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### 1 Introduction

- 1.1 BT had responded to a previous IDA public consultation on a similar SingTel Exemption Request in 2003 ("SingTel Exemption Request 2003") and thanks IDA for the opportunity to provide comments in this SingTel Exemption Request 2006.
- 1.2 Despite objections from a majority of respondents to SingTel's Exemption Request 2003, IDA had granted SingTel exemption from Dominant Licensee obligations in the Wholesale ITS market and *ex ante* tariff filing requirements for Retail ITS but required SingTel to continue to comply with all other Dominant Licensee obligations for Retail ITS.
- 1.3 BT's comments to this SingTel Exemption Request 2006 are respectfully submitted in the following.

### 2 General Comments

#### 2.1 SingTel continues to retain significant market control for "upstream" inputs

2.1.1 SingTel has provided a lengthy submission justifying its claims that the Retail ITS market is now competitive and therefore no longer warrants Dominant Licensee obligations. Notwithstanding these claims, IDA's justification in its Initial 2003 ITS Decision to retain certain Dominant Licensee regulation on SingTel remains valid and highly relevant and SingTel has been unable to present argument to the contrary. Following SingTel's Exemption Request 2003 –

- SingTel continues to retain significant market control for "upstream" inputs that are essential to provide Retail ITS (such as direct access to end-users, cable landing stations)<sup>1</sup>; and
- SingTel continues to have the ability to bundle products (such as DELs, leased lines, broadband access, international telephony services)<sup>2</sup>.

2.1.2 Where competition is not effective in markets for the supply of wholesale "upstream" inputs (such as local leased circuits, backhaul, cable landing access for international capacity), an integrated provider such as SingTel with a presence in directly related downstream retail markets will have the ability and incentive to discriminate against its downstream competitors who may also be its wholesale customers<sup>3</sup>. It is a fact that all of SingTel's competitors in the downstream Retail ITS markets are also its wholesale customers for upstream inputs needed to offer competing downstream Retail ITS.

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<sup>1</sup> Initial 2003 ITS Decision, s26

<sup>2</sup> Initial 2003 ITS Decision, s26

<sup>3</sup> Undertakings which have been offered by British Telecommunications plc (BT): A Notice under Section 155(1) of the Enterprise Act, found on <http://www.ofcom.org.uk/consult/condocs/sec155/#1>



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2.1.3 Under the Telecoms Competition Code, a licensee will be classified as dominant if it has the ability to exercise Significant Market Power (SMP) in any market in which it provides telecommunication services pursuant to its licence<sup>4</sup>, where SMP means the ability of a Licensee to unilaterally restrict output, raise prices, reduce quality or otherwise act, to a significant extent, independently of competitive market forces<sup>5</sup>. On this basis, SingTel continues to have SMP in respect of the Retail ITS market.

### 2.2 Retail regulation may be relaxed provided that competition in the “upstream” wholesale markets is effective

2.2.1 Consistent application of competition principles would deem that a Dominant Licensee should be mandated to provide wholesale services for those services where it has SMP. However, the Telecoms Competition Code does not impose an obligation on Dominant Licensees to offer any telecommunication services on a wholesale basis, unless directed by IDA<sup>6</sup>. As this gives Dominant Licensees a first-right-of-refusal to supply services and discretion to discriminate, the existing voluntary wholesale service regime fails to swiftly address market power. Coupled with SingTel's SMP in the provision of “upstream” inputs, this creates a less than competitive market for “upstream” wholesale services. Consequently, Licensees dependent on SingTel for such inputs, struggle to compete with SingTel downstream.

2.2.2 BT's Undertakings to Ofcom which came into force on 22 September 2005 considered that in order to allow real and effective downstream competition to emerge, all anti-competitive obstacles must be removed. This required the implementation of Equality of Inputs through BT Openreach, an operationally and functionally separate organisation that controls and operates the duct, fibre, copper and other non-electronic assets in BT's access and backhaul networks (the ‘access bottleneck’). This means –

- Providing equality of access to bottleneck services; same services available to all and equally used by incumbent in downstream markets
- Forceful and transparent, non-discrimination obligations
- Equality of access to information and product development
- High ‘Chinese walls’ between upstream and downstream divisions
- Effective, transparent and public accounting separation obligation
- Effective regulation/control to ensure compliance

2.2.3 As required under the EU Framework Directive<sup>7</sup> and *Commission Recommendation*<sup>8</sup>, where a National Regulatory Authority (NRA) has assessed an undertaking to have SMP in that market, it shall impose appropriate *ex ante* remedies on such undertakings. As

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<sup>4</sup> Telecoms Competition Code, s2.2.1

<sup>5</sup> Exemption Advisory Guidelines, s2.4 (b)

<sup>6</sup> Telecoms Competition Code, s4.3

<sup>7</sup> Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services

<sup>8</sup> Commission Recommendation of 11 February 2003 on relevant product and service markets within the electronic communications sector susceptible to *ex ante* regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services, OJ [2003] L114/45



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such, an undertaking that is assessed to have SMP in for example, local leased circuits, DSL, Ethernet access, would be subject to one or more of a number of pre-stated regulatory remedies for those services (obligation to supply, cost orientation, non discrimination, accounting separation, for example). In total contrast to the UK regime, the voluntary approach to the regulation of wholesale services under the Telecoms Competition Code is extremely weak and inadequate for regulating the SMP of Dominant Licensees. At this point, BT wishes to highlight that the Ofcom quotes in SingTel's Exemption Request must be considered in its context as the UK policy and approach to competition regulation is vastly different.

2.2.4 As a case in point, BT would submit that the policy debate and exercise to include SingTel's local leased circuits as a mandated wholesale service under its Reference Interconnection Offer (RIO) could have been avoided if there was consistency in the application of competition principles under the Telecoms Competition Code for wholesale services. The 2 years taken to implement the remedy on local leased circuits is an opportunity cost to Licensees by being in a competitively disadvantaged position. Accordingly, IDA should withhold any relaxation of retail regulation on SingTel until it can be demonstrated that effective competition exists in the upstream wholesale markets or until the necessary safeguards are put in place to ensure a level playing field and fair competition.

### 2.3 **Ex-ante Competition Regulation under the Code must continue to apply as long as ex-post Competition Law does not apply to telecommunications**

2.3.1 In the event SingTel is granted a full exemption from Dominant Licensee obligations in Retail ITS markets, the exclusion of telecommunications from Singapore's Competition Bill will mean that there is no effective *ex-post* mechanism to police any abuse of dominant position by SingTel thereafter. Considering that the existing competition regime for telecommunications under the Telecoms Competition Code is inadequate, BT would submit that granting SingTel full exemption from Dominant Licensee obligations is premature at this stage. Granting SingTel full exemption of its Dominant Licensee obligations in Retail ITS will not uphold the Telecoms Competition Code principles of proportionate regulation<sup>9</sup> and will be an injustice to the industry.

2.3.2 In its assessment, IDA should also take into consideration the real likelihood of a negative impact on the industry and ultimately consumers of a premature lifting of Dominant Licensee obligations from SingTel as a result of this exposure. Under the *Commission Recommendation*<sup>10</sup>, the decision to identify a market as justifying possible *ex ante* regulation should also depend on an assessment of the sufficiency of competition law in restoring effective competition, and consequently deterring anti-competitive conduct. The Telecoms Competition Code provides a procedure for the reclassification of Licensees (from Dominant to non-Dominant and vice-versa)<sup>11</sup>. SingTel's market position will remain as that of a Dominant Licensee regardless of the

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<sup>9</sup> Telecoms Competition Code, s1.5.4

<sup>10</sup> Commission Recommendation of 11 February 2003 on relevant product and service markets within the electronic communications sector susceptible to ex ante regulation in accordance with Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communication networks and services, OJ [2003] L114/45, s15

<sup>11</sup> Telecoms Competition Code, s2.3



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outcome of this Exemption Request. Once SingTel is granted exemption from Dominant Licensee obligations, there does not appear to be a 'review' procedure whereby such Dominant Licensee obligations may be reimposed on SingTel should there be a subsequent abuse of dominant position. Should an injured Licensee submit a request to IDA to take enforcement action on an alleged contravention by SingTel, there is no guarantee that IDA will conduct any enforcement action<sup>12</sup>. Moreover, the IDA lacks the substantial powers of investigation afforded under the Competition Bill that are necessary to uncover anti-competitive and abusive conduct. Even if IDA takes enforcement action and is able to gather the necessary evidence to conclude that there has been a contravention, the enforcement measures available under the Telecoms Competition Code are substantially weaker compared to those provided under the Competition Bill<sup>13</sup>. As such, there is no deterrent effect under the Telecoms Competition Code. Telecommunications must be swiftly drawn within the ambit of the Competition Bill to complement and supplement the lacunae in the Telecoms Competition Code.

- 2.3.3 More generally, it has been submitted by the competitive carriers in Singapore that the exclusion of telecommunications from the ambit of the Competition Bill has resulted in a discrepancy between the efficacy of the Telecoms Competition Code and Competition Bill, where the Competition Bill is a much stronger piece of legislation. BT is supportive of a holistic approach to competition policy for telecommunications (which involves both competition law and competition regulation) rather than the consideration of competition issues on a piecemeal basis which has largely been the practice to date.
- 2.3.4 The present relationship between the Competition Bill and Telecoms Competition Code poses a real threat to the development of sustainable competition in the Singapore telecommunications industry if the SingTel Exemption Request 2006 is granted. BT is of the view that the continued application of Dominant Licensee obligations on SingTel for Residential and Commercial Retail ITS is necessary to preserve competition for the ongoing welfare of consumers and the industry. Accordingly, SingTel's Exemption Request must be denied and IDA should require SingTel to continue to comply with the Dominant Licensee obligations in Sections 4.2, 4.2.1, 4.2.1.1, 4.2.1.2, 4.2.1.3, 4.2.2, 4.2.2.1, 4.2.2.2 and 4.2.2.3 and 8.2, 8.2.1, 8.2.1.1, 8.2.1.2, 8.2.1.3, 8.2.2, 8.2.2.1, 8.2.2.2 of the Telecoms Competition Code.

### 2.4 There are flaws in SingTel's proposed market definition

- 2.4.1 In its Initial 2003 ITS Decision, IDA had determined that the Residential Retail ITS and Commercial Retail ITS markets constituted 2 distinct service markets although they were collectively referred to as the Retail ITS market<sup>14</sup>. BT agrees with IDA's assessment and maintains that the Residential Retail ITS and Commercial Retail ITS markets are separate markets. Under the *Commission Guidelines*<sup>15</sup>, segmentation at the retail level may take place between business and residential customers and in the UK (as is in the

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<sup>12</sup> Telecom Competition Code, s11.4

<sup>13</sup> For example, IDA may only impose financial penalties up to S\$1 million per contravention whereas under the Competition Bill, the Competition Commission can impose up to 10% of turnover per contravention (similar to the EU)

<sup>14</sup> Initial 2003 ITS Decision, s3, 19

<sup>15</sup> Commission Guidelines on market analysis and the assessment of significant market power under the Community regulatory framework for electronic communications networks and services, OJ [2002] C 165/03





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vast majority of EU Countries), the retail IDD market is split into residential and business. Needless to say, given that the ability and incentive to switch (between suppliers) differs fundamentally between residential and business customers, the level and factors of competition do traditionally necessitate a split between a residential and business retail market. We therefore strongly disagree with SingTel's proposed definition that the Retail ITS market is a single market comprising the list of 17 services between Singapore and locations outside Singapore<sup>16</sup>.

- 2.4.2 The *Commission Notice*<sup>17</sup> requires that a market must be defined in both its product and geographic dimension. Similarly, IDA's Exemption Advisory Guidelines on market definition require a determination of the relevant service, geographic and product markets in which the Licensee provides the service<sup>18</sup>. In grouping all 17 services in both Singapore and outside Singapore as constituting a single market, SingTel has disregarded the product and geographic dimensions. On this basis, IDA ought to reject SingTel's proposed market definition.
- 2.4.3 Working from its assessment in the Initial 2003 ITS Decision, IDA should separate the Retail ITS market into the Residential Retail ITS and Commercial Retail ITS markets for further analysis. A residential end-user will clearly not consider the Corporate Switched Telecommunications Network and Voice VPN services as substitutes to IDD 001, STD 020, BudgetCall 013, v019, for example.
- 2.4.4 In determining geographic market boundaries, IDA will in practice consider those areas that have similar competitive conditions to be in the same geographic market<sup>19</sup>. BT would submit that the 17 SingTel services are not subject to the same competitive conditions. For example, IDD 001, BudgetCall 013 and v019 offer international call origination only within Singapore to destinations outside Singapore. Beyond Singapore (e.g. Malaysia), customers may not use SingTel's IDD 001, BudgetCall 013 and v019 to make international outgoing calls from that country (i.e. Malaysia). This example implies that there is a category of services corresponding to a market for Singapore-originated international telephone calls.
- 2.4.5 Whereas other services such the International Calling Card, World Card™, Hello!™ Card allow customers to make international calls from any country outside Singapore – a capability not available in IDD 001, BudgetCall 013 and v019. In the foregoing, BT would urge IDA to conduct a detailed and systematic analysis to define the relevant markets for Residential and Commercial Retail ITS.

## 2.5 SingTel's market share claims are not verifiable

- 2.5.1 A Dominant Licensee seeking an exemption is required to submit verifiable data regarding the Licensee's ability to exercise SMP in accordance with Section 2.6.2 of the

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<sup>16</sup> SingTel Request, s2.1

<sup>17</sup> Commission Notice on the definition of relevant market for the purposes of Community Law, OJ [1997] C 372/5, [1998] 4 CMLR 177, s2

<sup>18</sup> IDA Exemption Advisory Guidelines, s2.4.1

<sup>19</sup> Exemption Advisory Guidelines, s2.4.1(b)



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Telecoms Competition Code. Dominant Licensees have a very special position in the market. That is because they have access to more industry and market information than any other player (and probably also even the Regulator). Fully integrated incumbents are in the favourable position of having an overall view of all markets, horizontal and vertical, whereas other players are likely only to have 'snapshots' of the particular markets or sub-markets in which they operate. This 'helicopter' perspective of the whole market gives the incumbent a very strong competitive advantage.

- 2.5.2 BT would submit that if a Dominant Licensee wishes to avail itself of an exemption to regulatory provisions that keep its behaviour in check, then it must allow the market information that substantiates its claim to be scrutinised by other market players who do not have access to such information. It is not sufficient for an incumbent to share the supporting data solely with the Regulator (as SingTel has done in the present submission) as this negates the whole premise of a public consultation. By denying other licensees the opportunity to review its verifiable data, SingTel is in fact attempting to embark on a private consultation with the IDA, paying only 'lip service' to the public consultation process. SingTel should share all market information with other licensees so that there may be proper public consideration and public debate. This is the only way that a true market analysis can be carried out and it will in no way diminish SingTel's position in the market or give its competitors a competitive advantage.
- 2.5.3 Section 2.2.2 of the Exemption Advisory Guidelines<sup>20</sup> prescribes the list of evidence that a Dominant Licensee must provide to facilitate its Request for Exemption. Whilst BT acknowledges that SingTel has made some effort to substantiate claims through objective analysis, for the reasons set out above, we would submit that the information provided is not entirely verifiable
- 2.5.4 Some of the data (e.g. revenues) are verifiable through public records (e.g. SingTel Annual Reports) but there is no means for the industry to verify other data due to the lack of access to certain information. For example, SingTel claims that its share of the outgoing retail international call minutes is less than the 40% threshold for presumption of dominance but has protected the evidence in confidence. In view that only SingTel and IDA would have privy to such evidence, SingTel's less than 40% market share claim is not verifiable by the industry. BT regards that it would be appropriate and necessary for the IDA to disclose the filed evidence for verification purposes, as was the practice during Oftel's market assessments on BT. Further, the sharing with other licensees of market share data will in no way compromise SingTel's position in the market but will allow these licensees to more accurately pinpoint their own market shares. In fact, SingTel had previously claimed in its Annual Report 2001 / 2002 that it *"had about 87% share of the ITS market as at Mar 2002"* and in addition, *"SingTel continued to maintain its market share across many of its businesses including international telephone and mobile services..."* In one of SingTel's current advertising statements, SingTel claimed that *"8 out of 10 choose us (SingTel) to carry their voices around the world."* Obviously, SingTel had considered that information about its market share is suitable for public consumption. SingTel should likewise allow its market share data to be scrutinised by the industry in this Exemption Request, otherwise its submission will be without merit.

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<sup>20</sup> Advisory Guidelines governing petitions for reclassification and requests for exemption under sub-sections 2.3 and 2.5 of the Code of Practice for Competition in the Provision of Telecommunication Services 2005





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### 2.6 Market share is only a starting point and is not conclusive

2.6.1 While market share data is a useful start point for market analysis, it is not the sole determinant of market power. EC case law generally presumes an undertaking to have a dominant position where its market share exceeds 50%<sup>21</sup>. In some cases, undertakings with sub-40%<sup>22</sup> market shares were held dominant while the possibility of dominance in the 20-40%<sup>23</sup> range has also not been ruled out. Under Section 2.4.2(a)(iv) of the Exemption Advisory Guidelines, IDA will presume a Dominant Licensee with a market share in excess of 40% to have SMP.

2.6.2 A holistic approach to market shares as an indicator of market power should be taken. Thus, IDA should also take into account the market shares of SingTel's main competitors (e.g. StarHub, M1, etc) and to other market factors such as vertical integration of the Dominant Licensee. This approach will allow IDA to ascertain SingTel's true market position, since it may be possible that an undertaking with a seemingly innocuous market share may have a dominant position due to the relatively weak positions of its main competitors and other market factors. The test is whether other operators in the market have a constraining effect on SingTel's behaviour in the market.

### 3 Specific Comments

Paragraph 2(g) – Section 8.2 of the Telecoms Competition Code specifies the types of conduct that a Dominant Licensee is prohibited from engaging in that would constitute an abuse of its dominant position. In the event IDA grants SingTel exemption from its remaining Dominant Licensee obligations, the statement that “SingTel will continue to be subject to stringent regulation ... including the prohibitions against anti-competitive conduct in the Telecoms Competition Code” would be incorrect.

Paragraph 4.5 – SingTel's control of bottleneck facilities and vertical market position in both upstream inputs and downstream retail markets places it in a unique position not comparable with any other operator licensed by the IDA. As such, SingTel's perception that it has an analogous position to other non-Dominant Licensees in the Retail ITS market is completely misaligned.

Paragraph 5.4 – Clearly, some of the services in SingTel's list of 17 products are specifically for use by businesses. For example, it is unlikely that a residential user would consider ISDN international data, Corporate Switched Telecommunications Network, Voice VPN services as potential substitutes to say, IDD 001, STD 020, BudgetCall 013 services. Some degree of overlap in buyer profile and needs between residential and small medium enterprise customers may exist though this is unlikely the case for larger and multinational business customers.

Paragraphs 5.13, 5.14 – SingTel has conveniently grouped various access techniques (PSTN, mobile, ISDN, calling cards, VOIP services, call back / call origination services) and claimed each to be reasonable substitutes to Retail ITS without providing any analysis to support its

<sup>21</sup> *Akzo v Commission*, Case 62/86 [1991] ECR I-3359, [1993] 5 CMLR 215

<sup>22</sup> *United Brands v Commission*, Case 27/76 [1978] ECR 207, [1978] 1 CMLR 429

<sup>23</sup> Commission's Xth Report on Competition Policy (1980), point 50



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recommendation. However, in the UK, Ofcom has found the various services referred to, to be separate relevant markets. Notwithstanding changes in consumer usage patterns that have closed the substitutability gap between mobile and PSTN, Ofcom has still defined the markets as separate and has then made independent dominance assessments. Ofcom has also held that VOIP calls are not substitutable for PSTN calls. Primarily, there is a difference in the level of functionality between a VOIP and PSTN call. For example, VOIP does not provide caller identification (geographic information) that would allow emergency services to identify the location from which the VOIP call originated. Moreover, during a power outage, VOIP services would not work, whereas the PSTN networks would continue to function (due to backup batteries in local exchanges).

Paragraphs 5.19, 5.20 – Different technology platforms enable the services to be delivered in various ways, increasing the range of consumer choices. The issue here would be the consumer's propensity to switch between these service choices taking into account the differences in price, service functionality, quality of service, rather than the technology platforms over which services are delivered.

Paragraph 5.24 – Notwithstanding that IP Telephony is increasingly used to make international calls, IP telephony providers will still have to connect their customers via a broadband connection where the calls originate and terminate on a PSTN. A vast majority of IDA-licensed IP Telephony providers will still have to rely on SingTel for broadband connectivity where traffic is essentially conveyed over its PSTN.

Paragraph 5.33 – Penetration rates are not the only indicators in assessing mobile substitutability. Trends in mobile roaming usage and traffic need to be considered as well.

Paragraph 5.43 – SingTel has proposed the geographic market for Retail ITS to be between Singapore and locations outside Singapore. Regard should be given to the state of competition at the far-end termination, as is reflected in IDA's policy on International Simple Resale. In the UK, for example, regulation of the retail market for international voice calls is assessed on a route-by-route (country pair) basis, with individual assessment of the wholesale and retail markets. Ofcom's approach was to analyse the ability for other licensed providers to compete with BT from the UK out to termination in the various (~250+) countries, where competitive and non-competitive far-end markets are classified separately.

Paragraph 5.48 – Hubbing is a wholesale concept and is not particularly relevant in the context of discussions for retail international services. While hubbing could clearly have a direct and positive impact on the level of competition for wholesale international services, its effect on the retail international service market could only be considered to be incidental to any increased competition it may generate on a wholesale level.

Paragraph 6.27 – The fact that a vast majority of SingTel's competitors in the downstream Retail ITS markets are also its customers for upstream inputs used to provide competing downstream Retail ITS places SingTel in a unique vertical market position giving it the ability and incentive to discriminate against its downstream competitors. Also, the existence of access regulation and alternative suppliers does not equate to an effectively competitive market, where even StarHub continues to rely on SingTel for access to essential facilities such as SingTel's cable landing stations.