

Overview of Key Proposed Changes to the Telecom Competition Code

**IDA Regulatory Workshop
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Presentation Outline

- ✓ **Overview of Existing Telecom Competition Code**
- ✓ **Review of Code**
- ✓ **Transitional Provisions**
- ✓ **Consultation Process**

Overview of Existing Code

- Singapore's telecom market was fully liberalised on 1 Apr 2000
- Telecom Competition Code was developed during initial market transition
 - sets out IDA's regulatory principles & approach toward competition regulation
 - seeks to establish a clear, robust framework to foster fair, effective & sustainable competition
- **Integrated Code**
 - Regulatory principles and framework
 - Consumer protection rules
 - Interconnection regime
 - Sector-specific competition rules
 - Enforcement mechanism

Overview of Existing Code

➤ **Goals of the Code**

- Promote competitiveness of our info-comms industry
- Ensure affordable access to wide range of quality telecom services
- Promote and maintain fair and efficient market conduct
- Encourage and facilitate industry self-regulation
- Encourage investment in telecom infrastructure to enhance Singapore's position as hub of choice

Overview of Existing Code

➤ Regulatory Principles

- Reliance on market forces and proportionate regulation
- Regulation for effective and sustainable competition
- Minimum rules for consumer protection
- Technological neutrality
- Open and reasoned decision-making

Review of the Code

- IDA has committed to review the Code at least once every 3 years
- We are embarking on the 1st triennial review
- Although our market has been fully liberalised for only 3 years, both consumers & businesses have benefited
- However, 3 years is a short time, competition has not developed evenly in all sectors
 - some sectors have higher level of competition while others have less
 - this trend is no different from experiences of more mature markets, e.g., in the EU & US

Review of the Code

- **Regulatory approach going forward** will remain guided by the five key regulatory principles:
 - Reliance on market forces & proportionate regulation
 - Where markets are effectively competitive – rely on market forces & industry self-regulation
 - Where markets are not effectively competitive (esp. where bottleneck essential facilities) – regulation will continue
 - Regulation for effective and sustainable competition
 - sustainable competition best achieved through facilities-based competition
 - balance between economic incentive to build/upgrade infrastructure by incumbent and new entrants, and permitting service-based competition
 - Minimum rules for consumer protection
 - Technology neutrality
 - Efficient, transparent and reasoned decision-making

Review of the Code

- The Code has been **useful in meeting IDA's policy objectives** by:
 - reducing anti-competitive and unfair practices when competing for customers
 - facilitating entry by new players, including ease of interconnection with other operators
 - ensuring that licensees comply with minimum rules put in place to protect consumers' interest
- Taking into account market developments 3 years after full liberalisation, **some changes are needed**:
 - areas where regulation will be removed/relaxed
 - areas that require modifications & refinements
 - areas where requirements are needed to enhance competition

Consumer Protection Rules

➤ Consumer Protection Rules Today:

- licensees must observe certain requirements to protect consumers' interest
- licensees not allowed to make false or misleading claims on price, quality and availability of their or competitors service or equipment

➤ With increased consumer awareness of telecom products and MTI's proposed Fair Trading Act, **IDA proposes to limit our role here to:**

- setting minimum requirements to ensure fair competition, e.g., provision of services on just and reasonable terms
- strive for industry self-regulation/co-regulation with industry bodies and facilitate reasonable access to info. for consumers to make informed choices

Dominance Definition

- Regulatory authorities around the world recognise benefits of distinguishing dominant and non-dominant licensees
- If licensees are subject to competitive market forces, significant regulation imposes unnecessary costs
- If licensees are not subject to competitive market forces, regulation is necessary to promote competition and prevent anti-competitive conduct
- The “dominant licensee” classification does not indicate a finding that a licensee has acted anti-competitively. Merely the need for separate regulatory obligation to compensate for lack of competitive market forces
- **As competition develops, “asymmetrical” regulation should be reduced/eliminated**

Dominance Definition

- **Definition of “Dominance” Today:**
 - Based on licensees that control facilities that provide direct connection to end users (“last mile”)
- **Propose to change definition to one where analysis is based on economic consequences** of such power and is in line with international practices
- **Proposed Revised Definition:**
 - exercises operational control over facilities used to provide telecom services that are sufficiently costly or difficult to replicate in a market; or
 - has the ability to restrict output or raise prices above competitive levels for telecom services provided to end users in that market

Tariff Filing – Publication

- **Tariff Filing - Publication Requirement Today:**
 - Dominant licensees must file prices, terms & conditions for all retail and wholesale services with IDA for prior approval
 - While they are required to disclose their retail prices, terms & conditions to end-users, there is no publication requirement for wholesale services
- Industry players have fed back:
 - the lack of access to information on approved tariffs increases the risk of abuse of market power

Tariff Filing – Publication

- **In other benchmark countries:**
 - US & UK - dominant operators must publish all prices, T & Cs before implementation
 - HK - dominant operators must publish key prices, T&Cs once approved by the regulator
- **Greater transparency** of pricing information will:
 - help players make more accurate business decisions and provide feedback to IDA in performing price and conduct regulation
- **But, onerous transparency** obligations will:
 - restrict our licensees' flexibility and incentive to price-compete

Tariff Filing – Publication

- Striking a balance between these needs, we **propose to adopt an approach where dominant licensees must:**
 - disclose, by publishing in a form available to the public, any tariff for any telecom service approved by IDA
 - the info must at minimum, include prices, standard discount structures, service availability and eligibility requirements and termination clauses

Tariff Filing – Evaluation

- **Tariff Filing – Evaluation Criteria Today:**
 - IDA evaluates retail tariffs to determine if the prices, terms and conditions are just and reasonable
 - But no review criteria specified for provision of wholesale services
- **To give certainty to licensees, we propose to require that:**
 - wholesale services be offered at “retail-minus avoidable cost” prices
 - should not restrict competing licensees’ ability to use these products as inputs to provide other telecom services

Interconnection/Access

- Interconnection framework largely unchanged
- Minimum duties for all licensees requiring interconnection with separate obligation on dominant licensees to allow interconnection
- **Reviewing if certain areas could be relaxed**
 - Dominant licensees allowing co-location at earth stations and radio towers
 - Sharing of infrastructure such as masts, poles and towers by licensees
- **Reviewing if certain areas could be enhanced to facilitate competition**
 - Performance standards for facilities such as local loops

Interconnection/Access

➤ **Dispute Resolution Role**

- Code proposes to make clear that IDA will place **primary reliance on commercial negotiations** for dispute resolution, where feasible, e.g.,
 - non-dominant licensees must resolve their disputes privately
 - IDA will only intervene if the dispute arose out of requirements imposed by IDA
- Issue advisory guidelines on uniform procedures for all interconnection disputes raised to IDA resolution


Reconsideration Process

- Today, the Code allows licensees to ask IDA to reconsider our decision before appealing to Minister
- For **clarity in process**, IDA has considered two options:
 - Option One – Sequential Process
 - Parties affected by IDA's decision may, within 14 days, seek reconsideration from IDA
 - Should either party not be satisfied with IDA's reconsideration decision, it can appeal the matter to Minister within 7 days

Reconsideration Process

- Option Two – Concurrent Process :
 - licensees will have 14 days to **either** ask IDA to reconsider our decision or appeal to Minister
 - where one licensee approaches IDA for reconsideration and the other appeals to Minister within the 14 days, Minister may decide to abstain from hearing or acting on the appeal
 - IDA will complete the reconsideration process within 30 days, after which aggrieved licensees can appeal to Minister within 7 days
- In either option, IDA proposes that parties must submit all relevant facts to IDA during our deliberation

Reconsideration Process

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- IDA would like to seek views & comments on:**
- the sequential option & concurrent option
 - whether the party requesting for reconsideration from IDA should notify all other parties directly involved in the proceeding
 - whether the timeframes are reasonable or would a shorter timeframe, e.g., 7 days for requesting reconsideration from IDA, be better

Other Revisions

- Prohibitions against unfair methods of competition through unilateral action of a licensee or concerted actions amongst competing licensees will remain largely unchanged
- Provisions governing mergers and acquisitions will not be opened for consultation because of previous consultations
- Changes made to better organise the code and clarify existing provisions

Transitional Provisions

➤ Exemptions granted will remain in effect

➤ Industry will be given grace period after revised Code takes effect to make changes to their agreements to conform to the Code requirements. E.g.,:

- Dominant licensees – **90 days** to comply with the new tariff filing and publication requirements
- Licensees – **90 days** to amend its end-user service agreements to conform to the Code
- Licensees – **180 days** to amend Interconnection Agreements to comply with the Minimum Interconnection Duties
- Dominant licensees – **30 days** to submit to IDA for approval, its proposed RIO modifications to conform to the Code requirements

Consultation Process

- The revised Code (including dispute resolution guidelines) has been posted on IDA's website at www.ida.gov.sg.
- Interested parties will have 8 weeks to review the Code and submit their written comments
- All submissions must reach IDA, no later than **12.00 noon, 5 December 2003**
- IDA will review the comments and aim to issue the revised Code by first half of 2004

Thank You