

Singapore Telecommunications Code First Triennial Review

StarHub's Comments and Proposed Drafting

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
1 Introduction				
1	Reliance on Market Forces	1.5.1	1.5.1	StarHub submits that, in line with the concept of self-regulation propounded in section 1.5.1, the IDA should have an obligation to meet with industry-established groups (as well as IDA-established groups).
2	Promotion of Effective and Sustainable Competition	1.5.2	1.5.2	StarHub submits an amendment to section 1.5.2(b) is necessary in line with our comments on the appropriate competition test for sections 8 and 9 of the Code.
3	Promotion of Facilities-based Competition	1.5.3	None	StarHub submits that facilities-based competition is not appropriate where it is not economic for a market entrant to replicate existing facilities. Accordingly, StarHub proposes that the section 1.5.3 be amended as follows: "...ability to build facilities, <u>or where the building of alternative facilities is uneconomic</u> , IDA will..."
4	Transparent and Reasoned Decision Making	1.5.6	1.5.6	Please refer to StarHub's comments in Part D of this submission, paragraph 9.
5	Consultation with other regulatory authorities	1.5.9	None	StarHub submits that section 1.5.9 should also refer to " <i>effective and sustainable</i> " competition consistent with earlier provisions (e.g. section 1.5.2).
6	Modification and Elimination of provisions	1.6	1.5.5	StarHub submits that section 1.6 needs to reflect the fact that new provisions may be introduced, as well as provisions being modified or eliminated. Accordingly, StarHub proposes that sections 1.6, 1.6.1, 1.6.2 and 1.6.3 are each amended to encompass the introduction of new provisions as well as the elimination or modification of existing provisions. StarHub proposes " <i>or add to</i> " or " <i>or addition</i> " be inserted in each of these provisions as necessary. StarHub also proposes that section 1.6.1 is amended to "... <i>development of competition, require modification or are no longer necessary</i> ..." to ensure drafting consistency.

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				<p>Please refer to StarHub's comments in Part D of this submission, paragraph 9 as to regulatory transparency. StarHub submits that section 1.6.2 and 1.6.3 should both include the sentence:</p> <p style="text-align: center;"><u>"IDA will provide a reasonable opportunity for public comment before IDA modifies, adds to or eliminates any provisions of this Code"</u></p> <p>StarHub submits that the Code needs to reflect the fact that Singapore has certain international obligations. Accordingly, StarHub proposes that the words "<u>(consistent with Singapore's international obligations)</u>" be inserted after the words "<i>appropriate</i>" in section 1.6.</p>
7	Reservations of authority	1.7	1.6	<p>Please refer to StarHub's comments in Part D of this submission, paragraph 9 as to regulatory transparency. StarHub submits that section 1.7.1 should include the sentence:</p> <p style="text-align: center;"><u>"IDA will provide Licensees with an opportunity to make submissions before IDA makes any decision on an exemption (including an opportunity to make submissions on proposed market definitions) and IDA will publish all decisions to grant exemptions."</u></p> <p>Similarly, StarHub submits the exercise of waiver or suspension of Code provisions under section 1.7.2 should be subject to transparency requirements and made public.</p>
8	Rule of construction	1.8	1.7	<p>StarHub proposes that the following sentence should be added to section 1.8:</p> <p style="text-align: center;"><u>"Capitalised terms used in this Code that are not otherwise defined in this Code, but are defined in the Telecommunications Act, have the same meaning as in the Telecommunications Act".</u></p>
9	Definitions	1.9	None	<p>Definition of "Mandated Wholesale Services" - StarHub submits this should be amended by adding "<i>, or in accordance with,</i>" before "<i>Appendix 2</i>".</p> <p>StarHub submits that a definition of "retail minus" should be included within the 2004 Code to avoid disagreement as to the appropriate application of the "retail minus" pricing methodology. StarHub submits that an appropriate definition, for example, would be as follows - based on 252(d)(3) of the US Telecommunications Act 1996 [47 U.S.C. 251] and sections 51.601 and 51.609 of the FCC Rules:</p>

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				<p>""Retail minus" means that the wholesale charges for a telecommunications service provided by a Licensee for resale to another Licensee shall equal the retail rates charged by the Licensee to End Users for the telecommunications service requested, less any marketing, billing and collection costs, and less any other avoidable retail costs. Avoidable retail costs are those costs that reasonably can be avoided when the Licensee provides a telecommunications service for resale at wholesale rates to another Licensee. To avoid doubt, avoidable retail costs include:</p> <p>(a) as direct costs: product management and sales, and product advertising; and</p> <p>(b) as indirect costs: an appropriate proportion of general support expenses, corporate operations expenses, and uncollectible telecommunications revenue."</p> <p>StarHub recommends that at this stage of competition in the industry, the retail minus prices would be pegged around 40% below that of retail prices.</p> <p>Please refer to StarHub's comments in Part D of this submission, paragraph 1 in relation to the definition of "Significant Market Power".</p>
10	Effective date of this Code	1.10	1.8	StarHub submits that the definition of "Effective Date" should be deleted as it is already defined elsewhere.
2 Classification of Licensees				
11	Dominant Licensees	2.2.1	2.2.1	Please refer to StarHub's comments in Part D of this submission, paragraph 1 on the definition of "Significant Market Power".

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12	Reclassification of Licensees	2.3	2.5	<p>In relation to section 2.3(b)(i), StarHub proposes that the words "<u>Before reclassifying IDA will seek public comments</u>" be inserted.</p> <p>StarHub submits that section 2.3(b)(iii) needs to be expanded and redrafted to specify:</p> <p>(1) where the reclassification is from Dominance to non-Dominance, the party seeking the reclassification must demonstrate that the relevant Licensee meets <i>neither</i> of sections 2.2.1(a) AND (b); and</p> <p>(2) where the reclassification is from non-Dominance to Dominance, the party seeking the reclassification must only demonstrate that the relevant Licensee meets <i>either</i> of sections 2.2.1(a) OR (b).</p>
				<p>Accordingly, StarHub submits that section 2.3(b)(iii) be amended as follows:</p> <p>(iii) A Licensee or other interested party may petition IDA to have a Licensee reclassified. A party seeking to have:</p> <p>(A) a Dominant Licensee reclassified as a non-Dominant Licensee must provide information demonstrating that the Dominant Licensee satisfies neither the condition specified in section 2.2.1(a) nor the condition specified in section 2.2.1(b); and</p> <p>(B) a non-Dominant Licensee reclassified as a Dominant Licensee must provide information demonstrating that the non-Dominant Licensee satisfies either the whether or not the licensee meets the conditions specified in Subsection 2.2.1 (a) and or the condition specified in section 2.2.1(b) of this Code.</p> <p>Before acting on a petition for reclassification, IDA will seek public comments."</p>
13	Exemptions from Dominance obligations	2.5	2.6	<p>StarHub submits that the references in section 2.5 to "special" Dominant Licensee provisions should be clarified and that "special" be deleted and replaced with "<u>provisions applicable only to Dominant Licensees</u>". This comment applies to sections 2.5.1 and 2.5.2.</p> <p>StarHub also submits that section 2.5 should include a reference to "<u>effective and sustainable</u>" competition.</p>

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				In relation to section 2.5.2, StarHub proposes deleting the word "generally" so that IDA must always provide an opportunity for public comment before granting an exemption. This should extend not only to the exemption request, but also any IDA proposals (including proposed market definitions) as a result of the request.
14	Evidence to be considered	2.6	2.5.2	<p>As above, StarHub submits that references to "special" should be replaced with "<u>provisions applicable only to Dominant Licensees</u>". This comment applies to sections 2.6.1 and 2.6.2 as well.</p> <p>StarHub further submits that section 2.6.2(c) should include an express reference to the market share of Affiliates and that the word "should" is replaced with "<u>must</u>" in the third line of section 2.6, and in sections 2.6.1 and 2.6.2.</p>
3 Duty of Licensees to their End Users				
15	Application	3.1.1	3.1.1	<p>StarHub submits that a Licensee's obligations to End Users in section 3 need to be balanced with a Licensee's need for commercial certainty given the potential financial risks involved for a licensee (e.g. in relation to bad debts).</p> <p>StarHub submits that it is not necessary for IDA to prescribe End User obligations in such great detail. For example, section 3.2.4.3 provides that Licensees "must not terminate" (although they may immediately suspend) the End User Service Agreement where the End User has been declared a bankrupt, and must allow the End User to provide a security deposit within a reasonable period before any termination may be effected. StarHub submits that this requirement is particularly onerous on Licensees, and is inconsistent with widespread commercial practice involving customers who are declared bankrupt. StarHub submits that this exercise of balancing financial risks to the Licensee where the circumstances warrant termination/suspension should be left to Licensees to address in their End User agreements.</p>

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				<p>StarHub notes that the IDA has attempted to lay down specific situations in which Licensees may terminate and suspend End Users (with or without notice). StarHub submits that Licensees should not be restricted on the grounds on which termination and suspension (with or without notice) could take place. This includes, but is not limited to situations of:</p> <ul style="list-style-type: none"> • emergency; • planned maintenance; • disruption in third party's network which also affects StarHub's services to End Users; and • customer's right to terminate without giving cause, etc. <p>Please see our comments on particular provisions below.</p> <p>Please refer to StarHub's comments under section 4.2.2.2 in relation to the need to ensure these obligations apply to the resale of telecommunications services to other Licensees under section 4.2.2.2 given the need to ensure "back-to-back" arrangements.</p>
16	Restrictions on service suspension or termination	3.2.4	Part of 3.2.4(b)	<p>As noted above, StarHub submits that the requirements on operators need to be balanced with the operators' need for commercial certainty given the financial risks involved and that Licensees should not be restricted in relation to their ability to terminate an End User Service Agreement in situations where there are clear financial risks to the Licensee.</p> <p>In addition to StarHub's comments under section 4.2.2.2 regarding the need for "back to back" issues to be addressed in a resale context, StarHub submits that section 3.2.4 needs to be clarified so that suspension/termination of a retail service is permitted when an underlying wholesale service is suspended/terminated.</p>

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			<p>StarHub proposes that “, <u>where the breach is capable of being remedied,</u>” be inserted after “with advance notice and” in section 3.2.4.1(a).</p> <p>StarHub proposes that section 3.2.4.2 be amended so that it reads:</p> <p>“A Licensee may immediately suspend or terminate an End User Service Agreement in the following circumstances:</p> <ul style="list-style-type: none"> (a) the End User <u>has created or is likely to create</u> imminent harm (such as interruption, disruption or congestion) <u>to any party or</u> to the Licensee's network or defraud the Licensee; (b) in compliance with any requirement of any regulatory authority or law enforcement body<u>in the opinion of any relevant regulatory authority or law enforcement body, it is illegal or not in the public interest to continue providing the service to the End User for any reason whatsoever;</u> (c) where the End User is an individual, the End User dies or is declared a bankrupt; or (d) where the End User is a corporation, <u>any</u> proceedings are taken for the winding up of the End User <u>or a receiver, trustee or judicial manager is appointed over the assets of the End User;</u> <u>or</u> (e) where the continued operation of the End User Services Agreement or the provision of telecommunications services under the End User Services Agreement would be illegal.”
			<p>StarHub submits there should be an immediate right of termination for events described in sections 3.2.4.3(a) and (b). It a standard term in virtually all contracts that such events give the other contracting party an immediate right to terminate. In back to back contracts with third party suppliers, the third party suppliers invariably have the right to terminate these contracts if the events in (a) and/or (b) apply to the telcos. Even the RIO provides for immediate rights of termination in such events. StarHub submits that section 3.2.4.3 goes against standard terms applied internationally.</p> <p>If this is not accepted and sections 3.2.4.3(a) and (b) are retained, StarHub submits that the final paragraph of section 3.2.4.3 should be amended so that it reads:</p> <p>“If the End User fails to provide such reasonable security deposit or other adequate assurances within <u>by the end of the reasonable period specified by the Licensee,</u> the Licensee may <u>immediately</u> terminate the End User Service Agreement.”</p>

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				<p>StarHub submits that giving reasonable advance notice to discontinue operation of a specific telecommunication service may not be possible where a Licensee is reselling a third party suppliers' services. A third party supplier may not provide a Licensee with reasonable advance notice, meaning the Licensee is then not able to provide End Users with reasonable advance notice. These situations, where we are unable to provide the service to End Users due to a third party supplier, should be taken into account in section 3.2.4.4.</p> <p>StarHub submits that the provisions of section 3.2.4 should refer to suspension of "<u>services under an End User Service Agreement</u>" as opposed to suspension of the Agreement.</p> <p>StarHub submits that section 3.2.4 should also be amended to provide a right to suspend services under an End User Service Agreement or maintenance works, entitling Licensees to give reasonable advance notice of suspension to carry out any planned maintenance. In cases of emergency maintenance outages, Licensees should be entitled to suspend service immediately to carry out the necessary maintenance.</p> <p>StarHub submits that section 3.2.4.5 should also allow for right of termination without reason by giving notice to the End User, the duration of which will be agreed between the Licensee and End User, since mutual rights of termination by notice without reason are standard industry practice and adopted in many End User Service Agreements.</p>
17	Prohibition on slamming (replaces no charges by unauthorised providers)	3.2.5	3.2.2.6	StarHub submits that section 3.2.5 needs to be amended to clarify which Licensee is responsible for the costs of switching the End User back.
18	Billing period	3.3.1	3.2.2.2, 3.2.2.3 and 3.2.2.4	StarHub proposes that "in which" be replaced with " <u>for which</u> " in the first line.
19	Procedures to contest charges	3.3.4	3.2.3	StarHub proposes that in section 3.3.4(b)(ii), charge " <u>was incurred</u> " be amended to charge " <u>was deducted</u> ".

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20	Private dispute resolution	3.3.5	3.2.3.5	<p>StarHub submits that section 3.3.5(a) should be deleted. The definition of “court of competent jurisdiction” in section 3.3.5(c) includes the Small Claims Tribunal (see section 3(1)(e) of the Subordinate Courts Act, Cap. 321). Therefore, a specific reference to “Small Claims Tribunal” is confusing and seems to suggest that the Small Claims Tribunal is not a court of competent jurisdiction in Singapore (which is clearly not the case).</p> <p>StarHub submits that section 3.3.5(b) should be amended to clarify that the arbitration is to take place in Singapore under the arbitral rules of the Singapore International Arbitration Centre. Section 3.3.5(c) should be amended to clarify that End Users submit to the exclusive jurisdiction of Singapore courts. As most of the services are provided in Singapore, most End Users are situated in Singapore and the Licensee located in Singapore, a Licensee should have the right to use Singapore as the governing jurisdiction/place of arbitration.</p>
21	Suspension or termination of service by Licensee	3.3.6	3.2.4	Please refer to StarHub's comments and proposed drafting above in relation to section 3.2.4.
4 Duty of Dominant Licensees to Provide Telecommunication Services on Just, Reasonable and Non-Discriminatory Terms				
22	Duties applicable to the provision of all telecommunications services	4.2.1	None	StarHub submits that section 4.2.1 be amended to “... <i>provision of all</i> ...”.
23	Forcing	4.2.1.3	3.3.5	<p>StarHub submits that section 4.2.1.3 of the 2004 Code is actually another example of “abuse of dominant position”, namely forcing conduct. Accordingly, a new provision based on section 4.2.1.3 should be migrated into section 8.2 to address forcing conduct but should be expanded to apply to forcing of any telecommunications services, not just not just tariffed services, and non-telecommunications services.</p> <p>StarHub notes that paragraph 6.4.2.3 of the Media Market Conduct Code does have a “forcing” prohibition within the “abuse of dominance” prohibitions.</p>

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24	Duty to allow resale of End User telecommunications service	4.2.2.2	5.8.1	<p>StarHub submits that a Dominant Licensee should be required to provide End User services to another Licensee for resale at prices equivalent to or lower than it provides those services to End Users, and on identical non-price terms and conditions as those on which it provides those services to End Users. The Code also needs to be clear that the conduct of a Dominant Licensee in the resale of End User services is governed by the abuse of dominant position provisions in section 8 - particularly price squeezing.</p>
				<p>StarHub believes that, as presently drafted, section 4.2.2.2 appears to authorise the supply of these services with no discount to the retail price regardless of the circumstances. For example, there is no allowance for the fact that the dominant licensee will be avoiding retail billing and marketing costs, etc. Accordingly, StarHub submits that the following amendments be made to section 4.2.2.2:</p> <ul style="list-style-type: none"> deletion of the requirement to provide End User telecommunications services for resale at the "same" prices as provided by the Dominant Licensee to its End Users, and inclusion of a requirement to provide such services at a price "no greater than" the price those services are provided by the Dominant Licensee to End Users; inclusion of the requirement to provide such services in accordance with the End User requirements set out in section 3. StarHub submits there should be a specific requirement that any End User telecommunications services provided to any Licensee under section 4.2.2.2 are also subject to the obligations of the Dominant Licensees to their End Users set out in section 3.2 and 3.3 so that references to "End Users" in those sections are references to the Licensee requesting those services for resale. This is necessary not only to ensure that a Licensee requesting an End User service under section 4.2.2.2 is able to comply with its obligations to End Users set out in section 3, but also to ensure that Licensees acquiring such services are able to compete with the Dominant Licensee in terms of service quality and provision.

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				StarHub submits that these amendments are in line with international precedent and are consistent with Singapore's international obligations. In particular, they are consistent with Singapore's obligations under the Singapore-US Free Trade Agreement ¹ and the Singapore-Australia Free Trade Agreement ² which require resale of public telecommunications services to be provided by a "major supplier" to end users at reasonable rates; and on terms that do not impose unreasonable or discriminatory conditions or limitations on the resale of such public telecommunications services.
25	Duty to Allow Sales Agency	4.2.2.3	5.8.2	<p>StarHub submits that how a Licensee would identify the existence of the commission or fee being offered by the Dominant Licensee needs further clarification.</p> <p>StarHub proposes that "<i>that resells any</i>" should be replaced with "<i>in connection with the sale of</i>".</p>
26	Voluntary Wholesale Services	4.3	5.8.3	<p>StarHub submits that the voluntary wholesale services provision in section 4.3 needs to be amended as follows:</p> <ul style="list-style-type: none"> given that some wholesale telecommunications services may not have a retail equivalent, StarHub submits that the reference to "retail minus" being the default pricing methodology for the provision of all voluntary wholesale telecommunications services is not appropriate and should be replaced with "<i>where there is an equivalent retail service, "retail-minus" prices or, in all other cases, cost-oriented prices determined in accordance with the principles set out in Appendix 1</i>"; and StarHub submits that section 4.3 should be clarified to ensure the right of a dominant licensee not to offer such wholesale telecommunications services under section 4.3 does <i>not</i> derogate from potential liability under the abuse of dominant position provisions arising from a "refusal to supply". Otherwise, this provision could be interpreted as entitling the dominant licensee to refuse to supply wholesale services, notwithstanding that this may unreasonably restrict competition. StarHub proposes that the following wording be inserted into section 4.3: "Nothing in this section 4.3 derogates from any other obligations imposed on a Dominant Licensee by this Code, including in relation to abuses of dominance associated with refusals to supply."

¹ United States - Singapore Free Trade Agreement, Chapter 9, Article 9.4(5).

² Australia - Singapore Free Trade Agreement, Chapter 10, Article 9(5).

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27	Tariffing	4.4	3.3.4.1, 3.3.4.2, 3.3.4.3, 5.8.3	<p>As above, StarHub submits that section 4.4.3.1(b) needs to be subject to the price squeeze provisions in section 8.2.1.2. StarHub submits that the wording in square brackets of section 4.4.3.1(b) needs to be clarified.</p> <p>StarHub proposes that section 4.4.3.2(d), be amended to “seek public comments <u>or comments from other Licensees (particularly those Licensees acquiring the Service or offering competing Services)</u>”.</p> <p>In relation to section 4.4.3.2, StarHub proposes that the following proviso be inserted:</p> <p style="text-align: center;"><u>“IDA reserves the right to withdraw approval of any tariff should it become apparent at any stage (including at the petition of any Licensee) that a tariff does not meet the approval criteria or that supply of services pursuant to the tariff gives rise to a contravention of any provision of this Code”</u></p>
28	Duty to Publish Effective Tariffs	4.5	None	Please refer to StarHub's comments in Part D of this submission, paragraph 10.
29	Review of effective tariffs	4.7	3.3.4.4	<p>StarHub submits that if IDA has only given interim approval, then IDA should not presume that the tariff is just, reasonable and non-discriminatory. Accordingly, this provision should be amended to:</p> <p style="text-align: center;"><u>“...reasonable and non-discriminatory, unless the tariff has come into effect on an interim basis ...”</u></p>
5 Required Cooperation Amongst Licensees to Promote Competition				
30	Duty to provide non-discriminatory interconnection quality	5.4.2	4.2.3	Consistent with the obligations set out in the Australia/Singapore and US/Singapore free trade agreements, StarHub submits that section 5.4.2 should also include a reference to non-discriminatory timing as well as quality.

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31	Duty to provide billing information	5.4.4	4.2.5	<p>One of the issues raised by StarHub in its submission to the IDA study on competitiveness in the Singaporean telecommunications market was the lack of competition in the ITS market as a result of:</p> <ul style="list-style-type: none"> • SingTel's near monopoly of direct lines to end users; • end user preference for a single bill for all calls and access; and • the requirement for end users to "pre-register" to be able to use new entrant ITS through the open access regime and for the new entrant to be able to obtain the end user's billing name and address. <p>StarHub is concerned that there is no regulatory requirement on SingTel as the incumbent operator to provide the necessary billing information to new entrants, which would then remove the need for such "pre-registration". As StarHub has previously submitted to the IDA, billing information is commonly required to be provided by the direct line provider in other jurisdictions. For example, in Australia where a direct line operator receives a request for billing information from a long distance service provider, it is required to provide and update that information electronically.³</p> <p>Accordingly, StarHub submits that section 5.4.4 should be broadened to address this ITS billing issue. StarHub suggests that this may be remedied by amending "Licensee" to "Customer" in the last line of the section.</p>
				<p>StarHub submits that the duty to provide billing information should also be subject to a non-discrimination obligation ensuring that all operators are afforded the same treatment in relation to billing information, including as compared with entities related to a dominant licensee.</p>
32	Duty to amend	5.4.7	None	<p>StarHub submits that section 5.4.7 should contain an express reference to an IDA direction triggering the duty to amend.</p>

³ Australian Communications Industry Forum, *Code on Pre-selection*, clause 15.

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33	Enforcement of Interconnection Agreements	5.5	4.3	<p>StarHub submits that this provision should be amended to “...of the <i>Interconnection Agreement</i> if it <i>does not involve a Dominant Licensee</i>.” StarHub submits that IDA should have more involvement in Interconnection Agreements that involve Dominant Licensees.</p> <p>StarHub submits that section 5.5 should include a statement similar to the last sentence of section 3.3 - i.e. that the IDA will treat a Licensee's intentional, reckless, or repeated failure to fulfil Minimum Interconnection Duties as a contravention of the Code.</p>
34	Duty to assist in the provision of integrated printed directories and directory enquiry service	5.7.4	4.6.4	StarHub submits that the requirement for any listing or update charge to be cost-based should be restated.
6 Interconnection with Dominant Licensees				
35	Options for Entering into an Interconnection Agreement	6.2	5.2	StarHub submits that section 6.2 should be amended to clarify that a Requesting Licensee can purchase Interconnection Related Services/Mandated Wholesale Services under any combination of the options specified in sections 6.2.1- 6.2.3. As currently drafting, the options are mutually exclusive.
36	Option 2: Interconnection pursuant to an existing Interconnection Agreement	6.2.2	5.4	<p>StarHub submits that the existing concept of “similarly situated” is too ambiguous. StarHub submits that this concept of “similarly situated” Licensees should be replaced as follows to place the onus back on the Dominant Licensee:</p> <p>“A Licensee may obtain Interconnection Related Services and Mandated Wholesale Services from a Dominant Licensee on the same prices, terms and conditions that the Dominant Licensee has agreed to with another similarly situated Licensee in any Interconnection Agreement <u>unless the Dominant Licensee can establish to IDA's satisfaction that it would be materially and unfairly disadvantaged if the Requesting Licensee were allowed to acquire services on those prices, terms and conditions.</u> For the purposes of this Section, a Services based Licensee and a Facilities based Licensee will not be deemed not to be similarly situated. The Interconnection Agreement between the Requesting Licensee and the Dominant Licensee will terminate on the day the agreement that the Requesting Licensee "opted into" terminates.”</p>

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				StarHub also submits that Option 2 should be amended to clarify that a Requesting Licensee can purchase only those Interconnection Related Services and Mandated Wholesale Services that it wants to obtain - currently it is drafted as "all or nothing". The protection for a Dominant Licensee is in the words " <i>materially and unfairly disadvantaged</i> " in StarHub's proposed amendments to section 6.2.2.
37	Duty to develop a Reference Interconnection Offer	6.3.1	5.3.1	StarHub submits that this provision be extended to 90 days.
38	The services that must be offered under RIO	6.3.3	Part of 5.3.2 and App 2, 1.4	<p>Delay in the provision of Interconnection Related Services and Mandated Wholesale Services by a Dominant Licensee can impede competition in downstream markets - new entrants need timely provision of services in order to be able to effectively compete against an incumbent in the provision of End User services. StarHub submits that the ability of a Dominant Licensee to use its discretion in the provision of such services to its competitive advantage should be removed. Accordingly, StarHub submits that the reference to "<i>prices, terms and conditions</i>" should be a reference to "<i>prices, terms and conditions (including timeframes)</i>".</p> <p>StarHub also submits that this provision needs to include the ability for there to be other interconnection services. StarHub therefore proposes that a new paragraph be inserted:</p> <p style="padding-left: 40px;">“(vi) <u>any other Interconnection Related Services specified in Appendix 2 or specified by IDA from time to time</u>”</p>
39	Physical interconnection	6.3.3.1	5.2(a) and (b)	<p>StarHub submits that the reference to "<i>prices, terms and conditions</i>" should be a reference to "<i>prices, terms and conditions (including timeframes)</i>".</p> <p>StarHub also submits that the in section 6.3.3.1(b), "<i>chooses</i>" should become "<i>proposes</i>".</p>
40	Origination, transit and termination	6.3.3.2	None	Consistent with StarHub's comments above in relation to the need for timely provision of IRS and MWS, StarHub submits that the reference to " <i>prices, terms and conditions</i> " should be a reference to " <i>prices, terms and conditions (including timeframes)</i> ".

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
41	Essential support facilities	6.3.3.3	5.3.5.4	<p>Consistent with StarHub's comments above in relation to the need for timely provision of IRS and MWS, StarHub submits that the reference to "<i>prices, terms and conditions</i>" should be a reference to "<i>prices, terms and conditions (including timeframes)</i>".</p> <p>Please refer to StarHub's comments in relation to Appendix 2.</p>
42	Unbundled network elements and unbundled network services	6.3.3.4	5.3.5.3	<p>Consistent with StarHub's comments above in relation to the need for timely provision of IRS and MWS, StarHub submits that the reference to "<i>prices, terms and conditions</i>" should be a reference to "<i>prices, terms and conditions (including timeframes)</i>".</p> <p>StarHub submits that paragraphs (b) and (c) need to be clarified - it is not clear to StarHub what these provisions are aimed at achieving. In StarHub's experience, SingTel will not make any modifications or combine the individual elements unless required to do so, and any modifications would need to be agreed to. StarHub submits that this section should be amended to prescribe the process (including specific timeframes) by which the Dominant Licensee must submit to the IDA for approval any request from a Requesting Licensee to modify or combine UNE or UNS.</p>
43	Mandated wholesale services	6.3.3.5	None	<p>Consistent with StarHub's comments above in relation to the need for timely provision of IRS and MWS, StarHub submits that the reference to "<i>prices, terms and conditions</i>" should be a reference to "<i>prices, terms and conditions (including timeframes)</i>".</p> <p>StarHub submits that section 6.3.3.5 should be amended to clarify that where a service has been specified as a Mandated Wholesale Service by the IDA, a Dominant Licensee is required to submit the prices, terms and conditions (including timeframes) on which it proposes to supply that service to the IDA for approval within a 30 days' time frame and that, in line with the timeframes set out in section 4.4.3.2, the IDA will not take more than 7 days to approve the prices, terms and conditions or to require the Dominant Licensee to make any necessary amendments.</p>
44	Absolute prohibition on discrimination	6.3.4.1	5.3.5.1	<p>StarHub submits that "offer to" in the first line be deleted.</p> <p>StarHub further submits that in the last line, "<i>comparable</i>" should be amended to "<i>those or comparable</i>"</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
45	Additional required terms	6.3.4.2	5.3.2(c-g)	<p>StarHub submits that paragraphs (f), (g) and (h) should also refer to Mandated Wholesale Services.</p> <p>StarHub submits that section 6.3.4.2(j) should be amended as follows:</p> <p style="padding-left: 40px;">“(i) if the RIO is accepted, the Interconnection Agreement will constitute the entire agreement between the Licensees but only <u>in relation to the particular services actually requested and supplied under the Interconnection Agreement;</u>”</p>
46	Pricing of IRS and MWS	6.3.5	5.3.5.6, 5.3.5.7	<p>StarHub submits that the reference in section 6.3.5(b) needs to reflect the fact that a Mandated Wholesale Service will not always have a retail equivalent. Accordingly, StarHub submits that the following be inserted in section 6.3.5(b):</p> <p style="padding-left: 40px;"><u>“where there is an equivalent retail service, “retail-minus” prices or, in all other cases, cost-oriented prices</u> determined in accordance with the principles set out in Appendix 1”</p>
47	Modification and Duration of RIO Agreement	6.3.6	5.3.5.8	<p>StarHub submits that section 6.3.6 should be amended to provide that where any amendment to an Interconnection Agreement is required as a result of a direction from the IDA to a Dominant Licensee to amend its RIO, the Interconnection Agreement must be amended within a specified timeframe, with the amendment taking effect from the date on which the Requesting Licensee made the request. See also our comments in Part D of this submission, paragraph 6 on the need for backdating.</p>
48	IDA review of proposed RIO	6.3.7	5.3.4	<p>In relation to 6.3.7(c), StarHub submits that the words “<u>IDA will consult with all affected Licensees</u>” be inserted.</p>
49	Model Confidentiality Agreement	6.3.8	5.3.3	<p>StarHub submits that the sentence “<u>The Model Confidentiality Agreement should permit disclosure to legal, technical and financial advisers of each Licensee</u>” be inserted.</p> <p>In relation to 6.3.8(c), StarHub submits that the words “<u>IDA will consult with all affected Licensees</u>” be inserted.</p>
50	IDA Conciliation	6.4.1.7	5.5.4	<p>StarHub submits that the words “<u>IDA will consult with all affected Licensees</u>” be inserted.</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
51	Enforcement of agreements	6.6	5.7	StarHub submits that last sentence in section 6.6(b) should be deleted. The IDA should not have the right to decline to resolve such a dispute with a dominant licensee other than in limited, specified circumstances. For example, in circumstances in which it is clear that the two licensees have not made a genuine attempt to resolve the dispute commercially, which is an approach that has been used in other jurisdictions such as Australia and the UK.
7 Infrastructure Sharing				
52	Over-view	7.1.2	6.1.2	StarHub submits that section 7.1.2 be amended to " <i>...that it requires <u>where it is economic for it to do so.</u></i> " StarHub further submits that section 7.1.2 should be clarified so that it is clear that this section is subject to the requirements of a Dominant Licensee to provide access to ESF under Appendix 2/RIO.
53	Standards by which IDA will determine whether to require sharing	7.3	6.4	StarHub submits that section 7.3.1(e) should be amended in line with our comments in Part D of this submission, paragraph 3 in relation to the appropriate competition threshold test.
54	Procedures for requesting sharing	7.4	6.3	If the decision as to whether infrastructure is CSI infrastructure is to apply more broadly and not just to the requesting Licensee, StarHub submits that all Licensees should have the opportunity to make submissions before IDA makes any decision as to whether it is CSI - i.e. the ability to make submissions should not only apply to the requesting Licensee - similar to section 7.5(b) (IDA own initiatives). Please also refer to StarHub's comments in Part D of this submission, paragraph 9 in relation to regulatory transparency.
55	Designation by IDA of Infrastructure that must be shared	7.5	6.5	So that it is clear that the sharing of infrastructure must be on cost-based prices, StarHub suggests that the first line of section 7.5(a) be amended to " <i>IDA, on its own initiative, may designate infrastructure as infrastructure that must be shared <u>on cost based prices</u> if IDA determines that:</i> " Similar to StarHub's comment on section 7.4, if infrastructure is to be deemed as CSI under section 7.5, StarHub submits that affected persons should have the right to make submissions. Accordingly, StarHub proposes that in section 7.5(b), the words " <i>IDA will generally seek public comments</i> " be replaced with " <i>IDA will <u>provide a reasonable opportunity for public comments to be made.</u></i> "

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
56	Designation of specific infrastructure	7.5.1	6.5	<p>Again, to clarify that the sharing of CSI infrastructure must be on cost-based prices, StarHub suggests that the first line of section 7.5.1 should be amended to "<i>The following types of infrastructure must be shared <u>at cost based prices</u>:</i>"</p> <p>StarHub sees no reason why "leaky feeder" cable as CSI infrastructure should be limited to train or road tunnels and submits that the reference "in train or road tunnels" should be deleted. In addition, StarHub submits that section 7.5.1 should be amended to include as possible CSI:</p> <ul style="list-style-type: none"> (a) manholes and ducts or cable trays on bridges and causeways; (b) ducts and manholes within a building compound leading to the lead-in ducts and associated manholes; and (c) services trenches and trays on bridges, culverts and bored holes. <p>StarHub also submits that masts, poles and towers should be reinstated as infrastructure that must be shared particularly in light of the regulatory requirement that 3G networks be rolled out by 31 December 2004</p>
57	Implementation of decision of IDA	7.6	6.6	<p>StarHub submits that section 7.6 should be amended to include a right for the IDA to make interim decisions and to back date any final decision to the date a request for CSI was made. Please see our comments in Part D of this submission, paragraph 6.</p>
58	Compensation for sharing	7.6.3	6.6.3	<p>StarHub acknowledges it is generally accepted that the concept of "cost-based" pricing for CSI should include a reasonable return on investment or ROI. However, StarHub is concerned with the level of ROI that is currently being imposed on sharing Licensees. In particular, StarHub submits that the percentage levied by SingTel of 12-15% (depending on the particular arrangement) in relation to access to mobile telecommunications infrastructure in MRT property and the Kallang and Paya Lebar expressways is excessive given the very low risks for the infrastructure and the existing economic climate, and it allows SingTel to earn economic profits on the asset, contrary to the Code.</p>

Heading	2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
8 Unfair methods of competition			
59	Abuse of dominant position in the Singapore market	8.2	<p>7.2</p> <p>Please refer to StarHub's submission in Part D of this submission, paragraph 3, regarding an appropriate competition test and the application of the competition test. StarHub submits that the current drafting of section 8.2 needs to incorporate a "substantial lessening of competition" test as part of the currently used "unreasonable restriction on competition" (see our drafting on a new section 8.2.3 below).</p> <p>StarHub submits that the abuse of dominance provisions should be drafted to clearly address situations in which a dominant licensee may leverage its market power between telecommunications markets with anti-competitive effects.</p> <p>StarHub submits that the concept "abuse of dominant position" should be defined within section 8.2 for greater precision given that the wording is used throughout the section.</p> <p>StarHub submits that section 8.2 should be amended to clarify that the examples given are non-exhaustive.</p> <p>To address these issues, StarHub proposes that section 8.2 is drafted as follows:</p> <p style="padding-left: 40px;">"A Dominant Licensee must not use its position in the any telecommunication market in Singapore in a manner that unreasonably restricts, or is likely to unreasonably restrict, competition in <u>that or any other</u> telecommunication market in Singapore ("abuse of dominant position"). The following Sub-sections provide <u>non-exhaustive</u> examples of practices that would constitute an abuse of dominant position"</p>
60	Anti-competitive pricing	8.2.1	<p>7.2.1</p> <p>StarHub submits that the abuse of dominance provisions should be drafted to clearly address situations in which a dominant licensee may leverage its market power between telecommunications markets with anti-competitive effects.</p> <p>StarHub submits that the concept "abuse of dominant position" should be adopted from section 8.2 to ensure that section 8.2.1 properly relates back to clause 8.2 as setting out examples that would constitute an "abuse of dominant position".</p> <p>StarHub submits that section 8.2.1 should be amended to clarify that the examples given are non-exhaustive.</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
				<p>To address these issues, StarHub proposes that section 8.2.1 is redrafted as follows:</p> <p style="padding-left: 40px;">“A Dominant Licensee must not price <u>any services (including telecommunication services)</u> in a manner that is likely to unreasonably restrict competition in <u>any telecommunication markets in Singapore</u>. The following Sub-sections provide non-exhaustive examples of anti-competitive pricing of services by a Dominant Licensee that would constitute an abuse of dominant position: In particular, a Dominant Licensee must not engage in the following types of anti-competitive pricing:”</p>
61	Predatory pricing	8.2.1.1	7.2.1.1	<p>StarHub submits that the application of section 8.2.1.1 should be clarified by adopting two concepts from the similar predatory pricing provision currently set out in the Media Market Conduct Code. The adoption of these two concepts would also ensure greater consistency between the two Codes promoting more consistent regulation of both industries.</p> <p>In particular, StarHub submits that:</p> <ul style="list-style-type: none"> • Wording should be adopted from the proviso to paragraph 4.5.1 of the Media Market Conduct Code to provide an indication of how “marginal cost” will be assessed by IDA. A new proviso to sub-paragraph 8.2.1.1 should therefore be added as follows: <p style="padding-left: 40px;"><u>“For purposes of applying sub-paragraph 8.2.1.1(a), the IDA will assume that average variable cost is a reliable estimate of marginal cost”.</u></p> • Wording should be adopted from paragraph 4.5.2(b) of the Media Market Conduct Code such that a rebuttable presumption is created that if prices are set below marginal cost, element (b) of section 8.2.1.1 is satisfied. A new sub-paragraph 8.2.1.1A should therefore be added as follows: <p style="padding-left: 40px;"><u>“IDA will presume that if the Dominant Licensee prices its services at a level below marginal cost, it is likely that the Dominant Licensee’s pricing will drive efficient rivals from the market or deter future efficient rivals from entering the market. This presumption may be rebutted by persuasive evidence regarding the actual or likely effect on competition of the Dominant Licensee’s pricing.”</u></p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
62	Price squeezes	8.2.1.2	7.2.1.2	<p>StarHub submits that the drafting of section 8.2.1.2 is premised on wholesale services being priced at a level which is too high relative to the retail price. However, if the relevant wholesale services are tariffed services (so have been approved by IDA), it would seem to be inconsistent for IDA to then determine that such prices are "too high" for the purposes of section 8.2.1.2 even though a price squeeze may be occurring. This issue relates to the issue StarHub has identified in relation to section 4.2.2.2 of the 2004 Code, namely that the obligation on a dominant licensee to offer wholesale services for resale should remain subject to its obligation not to effect a price squeeze. Furthermore, IDA should be careful to ensure that tariff approvals are not given in circumstances where they result in a price squeeze (e.g., volume-based discounts must be sufficiently deep, or a "retail-minus" approach should be adopted).</p>
				<p>StarHub also submits that the drafting of section 8.2.1.2 should be amended to cover a price squeeze which may arise through a <i>lowering</i> of the retail price relative to a constant wholesale price.</p> <p>StarHub submits that it is important that the price squeeze provision recognise price squeezes that may occur in the context of bundled pricing.</p> <p>StarHub submits that it is also important that the concept of "Affiliates" be introduced into the drafting of section 8.2.1.2 given that it is not necessarily the Dominant Licensee itself that will be supplying the relevant retail service, rather it may be an affiliate of the Dominant Licensee.</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
				<p>StarHub therefore proposes that section 8.2.1.2 is redrafted as follows:</p> <p>"A Dominant Licensee must not engage in price squeezing. IDA will find that a Dominant Licensee has engaged in a price squeeze and, therefore, has abused its dominant position, if the Dominant Licensee <u>or its Affiliate:</u></p> <p>(a) _____ provides a telecommunication service or facility ("Upstream Service") that a "down-stream" Licensee requires in order to provide a telecommunication service, at a price that is so high that the Dominant Licensee's or Affiliate's down-stream business or Affiliate could not profitably sell its product if it were required to pass on to its customers the full price charged by the Dominant Licensee or Affiliate for the Upstream Service; <u>or</u></p> <p>(b) _____ allow its "down-stream" business or Affiliate to price services that use that Upstream Service at a price that is so low that non-affiliated Licensees could not profitably sell their own services that use the Upstream Service if they were required to provide that service at the same price.</p> <p><u>In determining the price of the retail end service of the Dominant Licensee or its Affiliate, any discounts associated with the bundling or packaging of that end service with any other product or service (whether or not that product or service is provided by the Dominant Licensee or an Affiliate) must be taken into account."</u></p>
63	Other abuses	8.2.2	7.2.2	<p>Please refer to StarHub's comments in Part D of this submission, paragraph 3, regarding an appropriate competition test and the application of the competition test.</p> <p>StarHub makes the same submission in relation to section 8.2.2 as it has made in relation to section 8.2.1 above. The same issues arise with the existing drafting.</p> <p>To address these issues, StarHub proposes that section 8.2.2 is redrafted as follows:</p> <p><u>"Neither may a Dominant Licensee abusing its position engage in conduct that constitutes an abuse of dominant position by means other than anti-competitive pricing. In particular, a Dominant Licensee must not engage in the following practices: The following Sub-sections provide non-exhaustive examples of conduct by a Dominant Licensee, other than anti-competitive pricing of services, that would constitute an abuse of dominant position."</u></p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
64	Discrimination	8.2.2.1	7.2.2.1	<p>StarHub submits that section 8.2.2.1 should be amended so that it is clear that non-discrimination applies not only to access provided to an Affiliate of the Dominant Licensee, but also access that the Dominant Licensee provides to its own operations (which may not necessarily be in a separate legal entity). In this manner, the drafting of section 8.2.2.1 would be consistent with other non-discrimination provisions in the Code, such as section 6.3.4.2.</p> <p>StarHub proposes that section 8.2.2.1 is redrafted as follows:</p> <p style="padding-left: 40px;">“A Dominant Licensee must not engage in discrimination. IDA will find that a Dominant Licensee has engaged in discrimination and, therefore, has abused its dominant position, if the Dominant Licensee provides <u>itself or</u> its Affiliate with access to infrastructure, systems, services, or information that, as a practical matter, are necessary to non-affiliated Licensees to provide telecommunication services, on prices, terms or conditions that are more favourable than the prices, terms and conditions on which the Dominant Licensee provides those infrastructure, systems, services or information to <u>other</u> Licensees that are not Affiliates.”</p>
65	Refusals to supply			<p>StarHub submits that a new section 8.2.2.3 should be inserted dealing with refusals to supply - that is, any refusal to supply by a Dominant Licensee will be treated per se as an abuse of a dominant position. StarHub proposes that the following be inserted:</p>
				<p>“8.2.2.3 Refusal to supply</p> <p>A Dominant Licensee must not engage in refusals to supply. IDA will find that a Dominant Licensee has engaged in a refusal to supply and, therefore, has abused its dominant position, if, without limitation, the Dominant Licensee refuses to supply a wholesale service to another Licensee, or refuses to supply a wholesale service to another Licensee at a reasonable price, in circumstances where:</p> <ul style="list-style-type: none"> (a) the Dominant Licensee was technically able to supply the service, or supply the service at a reasonable price; (b) it was profitable for the Dominant Licensee to supply the service, or supply the service at that reasonable price; and (c) there is no other legitimate justification for the Dominant Licensee not supplying the service, or not supplying the service at a reasonable price; and

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
				<p>either</p> <p>(d) the effect, or likely effect, of the refusal would be to substantially lessen competition in any market; or</p> <p>(e) the refusal was undertaken with the purpose hindering that Licensee's ability to compete."</p>
66	Substantially lessening competition	None	None	<p>Please refer to StarHub's comments in Part D of this submission, paragraph 3 in relation to an appropriate competition threshold test and the need to incorporate a "substantial lessening of competition" test within the current concept of an "unreasonable restriction on competition".</p> <p>Accordingly, StarHub submits that a new section 8.2.3 be inserted as follows:</p> <p>"8.2.3 Substantial Lessening of Competition</p> <p>A Dominant Licensee will be taken to have engaged in conduct that constitutes an abuse of dominant position in a telecommunications market where it engages in conduct which has the purpose, or has or is likely to have the effect, of substantially lessening competition in that or any other telecommunications market in Singapore.</p>
67	Anti-competitive preferences (replaces "Abuse of market dominance in a foreign market")	8.3	7.3	<p>StarHub submits that section 8.3 would need to be amended in a manner consistent with the amendments proposed by StarHub above in relation to section 8.2, given that section 8.3 mirrors the drafting of section 8.2.</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
68	Unfair methods of competition - general prohibition	8.4.1	7.4	<p>StarHub submits that section 8.4.1 should be amended to ensure greater consistency with section 4.3 of the Media Market Conduct Code, including by incorporation of the critical concept that the Dominant Licensee must not engage in an unfair method of competition to favour an Affiliate. StarHub also submits that section 8.4.1 should be amended to clarify that the examples given in section 8.4.2 are non-exhaustive.</p> <p>StarHub proposes that section 8.4.1 is redrafted as follows:</p> <p style="padding-left: 40px;">“A Licensee must not engage in unfair methods of competition. An unfair method of competition is an improper practice by which a Licensee seeks to obtain a competitive advantage in the telecommunication market in Singapore for itself or any Affiliate, by methods for reasons unrelated to the availability, price or quality of the service that a prospective or current Licensee or its Affiliate offers or seeks to offer. The following Sub-sections provide <u>non-exhaustive</u> examples of practices that would constitute unfair methods of competition”</p>
69	Specific prohibited practices	8.4.2	7.4.2 and 7.4.3	<p>StarHub submits that section 8.4.2 confuses the concept “unreasonable restrictions on competition” (as used in section 8.2) with the concept of “unfair methods of competition” (as used in section 8.4). This creates interpretation difficulties as the concept of “unreasonable restriction” in section 8.2 is then equated with the entirely different concept of “unfairness” in section 8.4.</p> <p>StarHub also submits that the practices specified in section 8.4.2 should be non-exhaustive examples of unfair methods of competition. It is currently ambiguous whether the examples are intended to be exhaustive or not.</p> <p>StarHub therefore proposes that section 8.4.2 is amended as follows, to ensure consistency with section 8.4.1:</p> <p style="padding-left: 40px;">“The following practices are considered to <u>constitute non-exhaustive examples of unfair methods of</u> be unreasonable restrictions on competition and are specifically prohibited.”</p>
70	False or misleading claims	None	7.4.1	<p>StarHub strongly opposes the deletion of this provision and submits that it should be re-instated.</p> <p>Please refer to StarHub's comments and proposed drafting in Part D of this submission, paragraph 4 relating to the Consumer Protection (Fair Trading) Act.</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
				<p>StarHub also submits that the scope of section 7.4.1 as previously drafted should be amended to better capture the types of unfair conduct that are likely to be engaged in by Licencees. For example, wording could be adopted similar to sections 52, 53 and 55A of Australia's Trade Practices Act 1974 (Cth) which would provide as follows:</p> <p><u>"A Licensee shall not engage in conduct that is misleading or deceptive or is likely to mislead or deceive</u></p> <p><u>A Licensee shall not engage in conduct that is liable to mislead Customers as to the nature, the characteristics, the suitability for their purpose or the quantity of any services.</u></p> <p><u>A Licensee shall not in connection with the supply or possible supply of telecommunications services or in connection with the promotion by any means of the supply or use of telecommunications services:</u></p> <p>(a) <u>falsely represent that the services are of a particular standard, quality, purpose or grade;</u></p> <p>(b) <u>falsely represent that a particular person has agreed to acquire those services;</u></p> <p>(c) <u>represent that services have sponsorship, approval, performance characteristics, accessories, use or benefits they do not have;</u></p> <p>(d) <u>represent that the corporation has a sponsorship, approval or affiliation that it does not have;</u></p> <p>(e) <u>make a false or misleading representation with respect to the price of those services;</u></p> <p>(f) <u>make a false or misleading representation concerning the need for any services; or</u></p> <p>(g) <u>make a false or misleading representation concerning the existence, exclusion or effect of any condition, warranty, guarantee, right or remedy."</u></p>
71	Interference with End User or Supplier Relationships	None	7.4.4	<p>StarHub strongly opposes the deletion of this provision and submits that it should be re-instated.</p> <p>Please refer to StarHub's comments and proposed drafting in Part D of this submission, paragraph 4 relating to the Consumer Protection (Fair Trading) Act.</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
72	Structural separation			<p>StarHub submits that the 2004 Code should be amended to ensure greater consistency with paragraph 4.7 of Media Market Conduct Code by expressly including a provision relating to structural separation of the Dominant Licensee.</p> <p>Structural separation requirements, and associated obligations imposed on Dominant Licensees to deal on an "arms length" basis, will continue to assist in ensuring that Dominant Licensees cannot engage in anti-competitive cross-subsidisation practices. Such a requirement would assist the effective operation of various provisions in the Telecoms Competition Code</p> <p>StarHub submits that a new provision is inserted into the 2004 Code as follows:</p> <p style="padding-left: 40px;"><u>"The IDA may require a Dominant Licensee to structurally separate its operations (including personnel, management, property, plant, equipment and finances) from those of any Affiliate and to deal with that Affiliate on commercial terms if the IDA is satisfied that this is necessary to prevent the Dominant Licensee or the Affiliate from using its market position to restrict competition in a market that is subject to the jurisdiction of the IDA."</u></p>
9 Agreements Involving Licensees that Unreasonably Restrict Competition				
73	Over-view	9.1.2	8.1.2	<p>Consistent with StarHub's submission in relation to section 8 of the Code, StarHub submits that the competition test under the Code as set out in section 9.1.2 should be expanded to address intended effect, actual effect and potential effect, rather than just actual effect. All three elements are culpable from a competition law and policy perspective. StarHub also submits that the drafting should be clarified to ensure the effect is assessed relative to markets, consistent with section 8 of the Code</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
74	Agreements between Licensees providing competing telecommunication services and equipment (Horizontal Agreements)	9.3	None	<p>StarHub submits that as currently drafted, the concept of “competing Licensees” is ambiguous as to whether it includes “potential competitors” as well as “actual competitors”. StarHub suggests that the section should be drafted broadly to catch potential competitors, consistent with international best practice.</p> <p>StarHub therefore proposes that either section 9.3 is amended as follows, or a definition of “Competing Licensees” is inserted into the Code. The term “competing Licensees” should then be capitalised where it is referred to in section 9:</p> <p style="padding-left: 40px;">“The following provisions are applicable to agreements between or amongst eCompeting Licensees. For the purposes of this section 9, “Competing Licensees” include Licensees that are actual or potential competitors, or that would be actual or potential competitors in the absence of the relevant agreement.”</p>
75	General Prohibition	9.3.1	None	<p>StarHub submits that amendments are required to ensure section 9.3.1 is consistent with the amendments proposed by StarHub above.</p> <p>StarHub further submits that section 9.3.1 should focus on anti-competitive <i>provisions</i> in agreements, rather than the agreements themselves. This enables IDA to undertake a more precise analysis. The drafting should then refer to the individual or aggregate effect of such provisions. Again, such an approach is consistent with international best practice.</p> <p>StarHub therefore submits that section 9.3.1 should be amended as follows:</p> <p style="padding-left: 40px;">“Licensees are prohibited from entering into agreements with other Licensees providing <u>or potentially providing</u> competing telecommunication services or equipment that <u>contain provisions (whether alone or in aggregate with any other provisions of that or any other agreement between those Licensees) that have the purpose, or have the effect or are likely to have the effect, of substantially lessening or restricting, or are likely to unreasonably restrict,</u> competition in any telecommunication market in Singapore.”</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
76	Specific prohibited agreements	9.3.2	8.3	<p>StarHub submits that amendments are required to ensure section 9.3.2 is consistent with the amendments proposed by StarHub above. In particular, clarification is required that the examples given in section 9.3.2 are non-exhaustive.</p> <p>In addition, in line with StarHub's comments in relation to section 8.2 above and StarHub's proposed section 8.2.3, StarHub submits that section 9.3 needs to incorporate a "substantial lessening of competition" test. Accordingly, StarHub submits that a new section 9.3.2.5 should be inserted as follows:</p> <p>"9.3.2.5 Substantial lessening of competition</p> <p style="padding-left: 40px;">Licensees must not enter into agreements that have the purpose or have the effect or likely effect of substantially lessening competition in any telecommunications market in Singapore."</p>
77	Price fixing/ Output restrictions	9.3.2.1	8.3.1	The term "Competing Licensees" should be defined and capitalised as proposed above in relation to section 9.3.
78	Bid rigging	9.3.2.2	8.3.2	The term "Competing Licensees" should be defined and capitalised as proposed above in relation to section 9.3.
79	Market and customer divisions	9.3.2.3	8.3.3	The term "Competing Licensees" should be defined and capitalised as proposed above in relation to section 9.3.
80	Group boycotts	9.3.2.4	8.3.4	The term "Competing Licensees" should be defined and capitalised as proposed above in relation to section 9.3.
81	Agreements necessary for legitimate collaborative ventures	9.3.3	8.3.5	StarHub submits that section 9.3.3 should include a clearance process for agreements necessary for legitimate collaborative ventures where the agreement involves a Dominant Licensee.

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
82	Agreements between Licensees providing competing telecommunication services or equipment that will be assessed based on competitive effects	9.4	8.4	<p>StarHub submits that amendments are required to ensure section 9.4 is consistent with the amendments proposed by StarHub above. Such amendments would also assist in simplifying section 9.4 and improving its consistency with the remainder of the Code. The existing drafting creates confusion in the manner in which it refers to the different concepts of "anti-competitive harm", "actual market affect" and "likely effect".</p> <p>StarHub also suggests that the factors listed in section 9.4.2 should be discretionary considerations for IDA rather than mandatory relevant considerations.</p>
83	Likelihood of competitive harm	9.4.2	8.4.2	Amendments may be required to ensure consistency with the amendments proposed by StarHub above.
84	Efficiencies	9.4.3	8.4.3	<p>Rather than referring to "potential", StarHub submits that this provision needs to refer to purpose, effect or likely effect.</p> <p>StarHub submits that section 9.4.3 should also contemplate authorisation based on concepts wider than efficiencies - such as a more general public benefits test.</p>
85	Agreements between Licensees and Entities that are not direct competitors (Non-horizontal Agreements)	9.5	None	<p>StarHub proposes that section 9.5 is amended to correlate with the amendments to section 9.3 proposed above, as follows:</p> <p>"The following provisions apply to agreements between a Licensee and other entities (whether or not licensed) that are not <u>Competing Licensees</u> or direct competitors of the Licensee:"</p>
86	General Prohibition	9.5.1	8.5	Amendments may be required to ensure consistency with the amendments proposed by StarHub above.
87	Agreements that will be assessed based on competitive effects	9.5.2	None	Amendments may be required to ensure consistency with the amendments proposed by StarHub above.
88	Resale price maintenance (replaces "Vertical price fixing")	9.5.2.1	8.5.1	Amendments may be required to ensure consistency with the amendments proposed by StarHub above.

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
89	Vertical market allocation	9.5.2.2	8.5.2	Amendments may be required to ensure consistency with the amendments proposed by StarHub above.
90	Exclusive dealing	9.5.2.3	8.5.3	Amendments may be required to ensure consistency with the amendments proposed by StarHub above.
11 Administrative Procedures				
91	Over-view	11.1.2	None	Please refer to StarHub's comments in Part D of this submission, paragraph 8.
92	Procedures for requesting conciliation	11.2.1	Includes elements of 4.3.2 and 6.3.1	StarHub submits that this section needs to deal with the situation where parties cannot agree on a joint statement. In such a situation, disputing operators should be allowed to submit separate statements.
93	Role of IDA in conciliation	11.2.2	Includes elements of 4.3.2 and 6.3.1	StarHub submits that the obligation to provide conciliation should not be at IDA's discretion. If it is requested to provide conciliation under section 11.2.1, the IDA should be required to provide it.
94	Dispute resolution procedure	11.3	(None)	StarHub submits that this provision needs to clarify that a request for IDA dispute resolution can be made by either party and that agreement is not required.
				<p>StarHub also submits that this provision should state that IDA has "<u>plenary power to resolve disputes in any manner consistent with the goals of the Code, including the power to issue interim and final decisions, and to backdate decisions</u>"</p> <p>StarHub proposes that paragraph (c) should be amended as follows:</p> <p>"Except as otherwise specified, IDA will not <u>usually</u> intervene in other disputes relating to matters provided for in this Code <u>that do not involve Dominant Licensees</u>. Instead, <u>non-Dominant Licensees</u> should seek are required to resolve their disputes in accordance with the dispute resolution provisions of their respective agreements, or in the absence of any agreement, through good-faith commercial negotiations <u>or if those fail, by legal proceedings.</u>"</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
				StarHub further submits that paragraph (d) should not provide IDA with a discretion to otherwise determine the procedures and standards to apply in the resolution of disputes. The terms of dispute resolution provisions need to be clear and certain and specified in advance.
95	Enforcement action for contravention of this Code	11.4	10.1.2	Please refer to StarHub's comments in Part D of this submission, paragraph 2.
96	Submission of a written request for enforcement action	11.4.1.1	10.4.1	Please refer to StarHub's comments in Part D of this submission, paragraph 8.
97	IDA response to enforcement request	11.4.1.2	None	<p>Please refer to StarHub's comments in Part D of this submission, paragraph 8. StarHub suggests that paragraph (c) should be amended as follows:</p> <p>(c) IDA will <u>only</u> decline the Request for Enforcement if:</p> <p>(i) the Party Requesting Enforcement fails to show that it has been injured, or is likely to be injured, as a direct result of the alleged contravention of the provisions of this Code as cited in the Request for Enforcement;</p> <p><i>N.b. To have to show that you have been or will be injured is inappropriate. The issue is whether a contravention has occurred.</i></p> <p>(ii) the factual allegations are vexatiousunsupported or clearly without merits;</p> <p>(iii) the factual allegations contained in the Request for Enforcement, even if establishedtrue, would not constitute a contravention of this Code;</p> <p>(iv) IDA determines that the Request for Enforcement does not satisfy the requirements specified in Sub-section 11.4.1.1 of this Code; or</p> <p>(v) IDA concludes that the exercise of its enforcement discretion would not be <u>consistent with the objectives of the Code</u>appropriate.</p> <p>(d) Where the IDA declines a Request for Enforcement in accordance with section 11.4.1.2(c), the IDA will provide the Party Requesting Enforcement with reasons for its decision.</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
98	Deferment of consideration for request for enforcement	11.4.1.3	None	Please refer to StarHub's comments in Part D of this submission, paragraph 8 - StarHub submits that this section should be deleted. If this is not accepted, StarHub submits that section 11.4.1.3 should be amended to require the IDA to act within a specified timeframe and to provide reasons why the Request for Enforcement is being deterred. StarHub submits that this is consistent with the need for transparency in regulatory decision-making. When exercising its rights to defer its consideration of a Request for Enforcement, the IDA should also be required to take into consideration the impact on both the requesting party and competition. Further, in considering such impact, IDA may also give retrospective effect to its decision or issue an interim direction.
99	Notification of enforcement action	11.4.1.4	None	StarHub submits that IDA needs to have a duty to accept enforcement requests. At present, it only has a right to decline. StarHub therefore suggests that the first line should be amended as follows: "Unless IDA declines in accordance with section 11.4.1.2(c), IDA will issue..."
100	Request for further information	11.4.1.8	None	StarHub submits that the last sentence should be amended as follows: "IDA <u>will</u> provide a copy..." StarHub also submits that IDA should also have a discretion to seek further information at any time to assist it to make its enforcement decision.
101	Issuance of IDA's decision	11.4.1.10	None	StarHub submits that section 11.4.1.10 should be amended as follows: "IDA will seek to issue its decision within 60 days of receiving all necessary information. Where appropriate, IDA may, notification under section 11.4.1.4, but may, by written notice to the parties before the expiry of the 60-day period, extend the time by which IDA will issue its decision by up to 60 days where it believes it has insufficient information "
102	Enforcement action initiated by IDA	11.4.2	10.3	StarHub submits that section 11.4.2.2 should take account of the fact that the Licensee may not dispute the allegation.
103	Request for additional information	11.4.2.3	10.3.1.3	StarHub submits that IDA should also have a discretion to seek further information from any Licensee at any time to assist it to make its enforcement decision.
104	Interim direction to cease and desist	11.4.3	10.3.1.4	Please refer to StarHub's comments in Part D of this submission, paragraph 6.

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
105	Remedial action	11.4.4.3	10.3.2.3	Please refer to StarHub's comments in Part D of this submission, paragraph 6.
106	Financial penalties	11.4.4.4	10.3.2.4	Please refer to StarHub's comments in Part D of this submission, paragraph 5.
107	Suspension or cancellation of the License under the Telecommunications Act	11.4.5	10.3.2.5	StarHub submits that the ability for IDA to suspend or cancel a licence instead of taking other enforcement action is draconian and should be amended. StarHub submits that such a right should only apply to conduct that is intentional or reckless; where the conduct is repeated or persistent; where there has been a material breach of the Code; and in circumstances where IDA considers enforcement measures will not be effective - that is, it should be used only as a last resort. In addition, such suspension or cancellation should only be actually enforced once all Ministerial appeals are exhausted.
108	Timeliness of enforcement action	11.4.6	10.2.1	StarHub submits that the limitation period should be expanded from 2 years to 4 years, particularly in light of the threshold requirements on a Licensee requesting enforcement to submit all the necessary evidence and the restrictions on introducing new evidence at a later stage .
109	Binding effect of initial submissions	11.5	None	Please refer to StarHub's comments in Part D of this submission, paragraph 8. StarHub also submits that paragraph (b) should be amended from "IDA will reject" to " <u>IDA is not required to consider</u> "
110	Request for information	11.6		StarHub submits that IDA should have a clear duty to investigate alleged breaches of the Code (even where the licensee is unable to furnish conclusive evidence of a specific allegation or if an informal request is made by industry players), including by utilising its information gathering powers. StarHub submits that section 11.6.1(a) should be amended to state that a failure to provide information is considered a contravention of the Code. StarHub also submits that "will" in section 11.6.1(b) should be amended to "may".
111	Confidential treatment of information	11.7	1.5.6	In section 11.7, StarHub submits that it should be clear that the parties are required to explain why the document is confidential. This is partially covered in section 11.7.1. StarHub submits that IDA should not be able to reject an enforcement request under section 11.4.1.2 (i.e. if not amended) where information is not provided because confidential treatment was not given.

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
112	Review of IDA's decisions	11.9	1.5.9	<p>StarHub do not see the point of having the IDA reconsider its decision as a further step in the appeal process. Therefore, StarHub submits that the concept of requesting IDA to reconsider its decision should be deleted.</p> <p>In addition, StarHub strongly submits that the Code should provide for a right of appeal to an independent specialist body, rather than to the Minister - particularly as the establishment of such a body is likely to be considered as part of the introduction of generic competition law in Singapore. Provision for an appeal to an independent regulatory body is consistent with approaches adopted in overseas jurisdictions and is consistent with the principles of good regulatory behaviour. StarHub submits that such an approach would also increase regulatory certainty in the Singaporean regime, which will in turn promote investment in the Singaporean telecommunications industry.</p>
113	Consultation with Other Interested Parties	11.8		StarHub submits that such Consultation and the parties consulted should be transparent and made public in all circumstances. Confidential treatment of any part of the Consultation submission could be granted by the IDA, consistent with current practice.
114	Suspension of a decision	11.9.6		Please refer to StarHub's comments in Part D of this submission, paragraph 9 as to the importance of regulatory transparency. StarHub submits that in circumstances where a party requests suspension of a decision, parties directly affected by any such suspension should also be given an opportunity to make a submission.
12 Transitional Provisions				
115	Specific transitional rules	12.4	None	StarHub submits that the references to "special" provisions applicable to Dominant Licensees should be replaced with " <i>provisions applicable only to Dominant Licensees</i> ".
				<p>In line with StarHub's earlier comments on transparency, StarHub would expect to be consulted on what the corresponding provisions relating to SCV's exemption would be.</p> <p>StarHub submits that the timeframe in section 12.4.2 should be extended to 180 days.</p>
116	RIO and RIO-based agreements	12.4.5	None	In order to promote regulatory transparency and to preserve the integrity of the RIO mechanism, StarHub submits that section 12.4.5 should include the ability for public comment on modifications to the RIO.

Heading	2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
Appendix 1 - Principles governing the pricing of IRS			
117	Charging standards	2.1	<p>2.1</p> <p>Please refer to StarHub's comments in Part D of this submission, paragraph 10. In addition, StarHub proposes that section 2.1.2 be amended as follows:</p> <ul style="list-style-type: none"> • StarHub submits that section 2.1.2 of the 2000 Code (setting out the reasons why the IDA chose FLEC as the appropriate pricing methodology) should be reinstated. StarHub is unclear why it has been deleted and believes it provides helpful guidance on the pricing methodology; and • In relation to section 2.1.3, StarHub submits that the IDA should be required to publicly identify, and be required to publicly consult on, any alternate pricing methodology that it requires a dominant licensee to adopt. The IDA must have good reason to depart from the pricing principles set out in Appendix 1. This is to ensure certainty for dominant licensees and new entrant licensees alike and to promote regulatory transparency.
118	Structure of charges	2.3	<p>2.3</p> <p>StarHub submits that the provisions of section 2.3.1 need to be clarified in pricing principles established by the IDA. Please see StarHub's comments in Part D of this submission, paragraph 10 in relation to the need for pricing principles.</p>
Appendix 2 - IRS and MWS			
119	Introduction	1	<p>1</p> <p>StarHub submits that section 1.6 of Appendix 2 should also be amended to include “, <u>add</u>” before “or <i>eliminate</i>” consistent with our comments on section 1.6 of the 2004 Code above.</p> <p>StarHub submits that section 1.6 should be amended to provide that where the IDA requires any modification of the interconnection requirements, a Dominant Licensee's RIO must be amended to give effect to that modification and submitted to the IDA for approval within a specified timeframe, with the amendments to have effect from the date of the IDA's direction.</p>

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
120	Physical interconnection	2	2	<p>In section 2.2, StarHub submits that the word "<i>linking</i>" should be replaced by "<i>interconnection</i>", so it substitutes for the deletion of words from section 2.3 and is consistent with section 2.6.</p> <p>StarHub does not understand why "add/drop multiplexers" has been deleted from section 2.6 and submits that it should be reinstated.</p> <p>StarHub submits that the reference to "Ducts/manholes" in section 2.7 should be to "<u>Ducts/manholes (including lead-in ducts and associated manholes)</u>".</p> <p>StarHub submits that Dominant Licensees should be required to provide "<i>timely</i>" access to ESF and UNE to Facilities-based Licensee. StarHub submits this is consistent with Singapore's obligations under its free trade agreements with Australia and the US and is necessary to ensure that non-Dominant Licensees are provided with access to ESF and UNE on non-discriminatory terms.</p>
121	O/T/T	3	3	<p>StarHub submits that section 3.3 should be amended to include a requirement for billing units to be computed in seconds.</p>
122	Essential support facilities	4		<p>As the IDA is aware from StarHub's previous submissions on this issue, StarHub has a number of concerns with the terms and conditions on which it is able to obtain co-location at SingTel satellite earth stations and access to StarHub's customers located at those satellite earth stations (see paragraph 19 of <i>Submission by StarHub Pte Ltd to IDA in relation to review of SingTel's Reference Interconnection Offer</i>, 15 July 2003). As a result, StarHub is concerned with the IDA's proposal to delete the requirement for SingTel to provide co-location at satellite earth stations from section 4.2.1.1 and submits that it should be reinstated.</p> <p>Similarly, the lack of regulated co-location at SingTel managed facilities including (but not limited to) its Global Network Command Centre, Pickering Centre, Telepark and Expan has significantly impeded competing FBOs in efficiently servicing their retail customers and other co-located operators. Accordingly StarHub submits that section 4.2.1.1 should be amended to specifically include co-location at a dominant licensee's managed facilities.</p>

Heading	2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
			<p>StarHub submits that the new section 4.2.1.3 is too vague and uncertain. StarHub submits that if the section is to be retained, it should be amended to make it clear that a Dominant Licensee must actually use the relevant space within the time frame specified, failing which the IDA must take action against the Dominant Licensee. StarHub further submits that 12 months would be a more appropriate timeframe during which to assess co-location space.</p> <p>StarHub submits that access to a Dominant Licensee's ducts (not just lead-in ducts) should be mandated as an Essential Support Facility. StarHub does not agree with the IDA's decision to remove the obligation to provide duct access from SingTel as a Dominant Licensee. In particular, StarHub understands the IDA removed the obligation on the basis that there was not sufficient demand for the access product being offered by SingTel, whereas StarHub's view was that SingTel was not offering duct access on reasonable terms and conditions (including price). Please also see StarHub's submission on the IDA's review of SingTel's RIO with respect to regulated duct access.⁴</p> <p>As StarHub has submitted to the IDA previously, the lack of a statutory right for new entrants to utilise any spare capacity in the existing SingTel duct network is a substantial restriction on competition in its early stages in Singapore. It is also inconsistent with Singapore's international obligations under its free trade agreements.⁵ StarHub also submits that the lack of regulated duct access at cost based prices is inconsistent with the approaches adopted in other jurisdictions. For example:</p> <ul style="list-style-type: none"> • in Australia, new entrants have access to the ducts of Telstra for the purpose of pulling through their own cable (unless in the opinion of the ACCC there is insufficient capacity in those ducts to make such pull through technically feasible) and must pay for that access at cost,⁶ and • similarly, in Hong Kong, duct access is effectively mandated under the Hong Kong Telecommunications Ordinance.⁷

⁴ Submission by StarHub Pte Ltd to IDA in relation to Review of SingTel's Reference Interconnection Offer, 15 July 2003, paragraph 13.

⁵ See, for example, Article 9.4 (6) of the US/Singapore Free Trade Agreement.

⁶ Schedule 1, Part 5 of the Australian Telecommunications Act 1997.

⁷ Sections (14 and 36AA) of the *Telecommunications Ordinance*, and see also *Telecommunications Authority of Hong Kong Interconnection and Related Competition Issues Statement No. 10: Guidelines on Availability of Ducts in Public Streets for Sharing* (21 June 1995).

Heading		2004 Code	2000 Code	StarHub's Comments and Proposed Drafting
				<p>StarHub submits that given the planning and environmental difficulties, which exist if each new entrant separately constructs their own duct network in the local loop (not to mention the prohibitive cost), Singapore should follow international precedent and allow new entrants to use existing ducts of a Dominant Licensee where there is spare capacity and to pay for that access on a cost basis. IDA should be required to conduct checks (with the involvement of licensees requesting duct access) to confirm any claim by the incumbent of unavailability of duct space for use by other licensees. StarHub further submits that the IDA must also ensure that such access be provided by a Dominant Licensee on reasonable and non-discriminatory terms and conditions.</p>
				<p>StarHub does not understand the reason for deleting a minimum power requirement from section 4.2.1.5. StarHub submits that section 4.2.1.5 should be amended to require a Dominant Licensee to provide power at a minimum of 13 fused amps alternating current or 20 fused amps direct current per co-location space.</p> <p>StarHub submits that the deletion of the requirement for cost-based and non-discriminatory prices for masts etc in section 4.2.4.1 should be restated, particularly given the roll out obligations for 3G networks.</p> <p>StarHub proposes that the word "<i>placing</i>" in section 4.2.2.2 should be replaced with "<i>locating</i>".</p> <p>In section 4.2.3.1, StarHub proposes that the last sentence should be deleted. StarHub also suggests that it should be made clear that this applies to all IRS</p>
123	Unbundled Network Elements	5	5	<p>StarHub does not understand the reason for the deletion of sections 5.3.1.1 and 5.3.3.2 of the 2000 Code. StarHub submits that these provisions should be restated. StarHub submits that line sharing is clearly a necessary alternative for new entrants to access the local loop network - particularly for broadband services in circumstances where there is no appropriate wholesale ADSL product.</p> <p>In section 5.3.1.2, "<i>equivalent</i>" should be replaced with "<i>equivalent in timing and quality</i>".</p> <p>In the last sentence of section 5.3.1.3, "<i>must</i>" should be replaced with "<i>may</i>".</p>
124	Mandated Wholesale Services	7	7	Please refer to StarHub's comments in Part D of this submission, paragraph 7.