



**CONSULTATION PAPER ISSUED BY THE
INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF SINGAPORE**

**PRELIMINARY DECISION ON THE REQUEST BY
SINGAPORE TELECOMMUNICATIONS LIMITED
FOR EXEMPTION FROM DOMINANT LICENSEE OBLIGATIONS
WITH RESPECT TO THE RETAIL INTERNATIONAL TELEPHONE SERVICES
MARKET PURSUANT TO SUB-SECTION 2.5.1 OF
THE CODE OF PRACTICE FOR COMPETITION
IN THE PROVISION OF TELECOMMUNICATION SERVICES 2005**

1 SEPTEMBER 2006

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PART I: INTRODUCTION

- 1 Singapore Telecommunications Limited ("**SingTel**") has requested the Info-Communications Development Authority of Singapore ("**IDA**"), pursuant to Sub-section 2.5.1 of the Code of Practice for Competition in the Provision of Telecommunication Services 2005 (the "**Code**"), for a grant of an exemption from the Dominant Licensee obligations contained in Sections 4 and 8 of the Code with respect to the Retail International Telephone Services ("**Retail ITS**") market (the "**Request**"). IDA released SingTel's Request, along with a Consultation Paper, on 19 April 2006 ("**First Public Consultation**"). A copy of SingTel's Request, together with IDA's First Public Consultation, is available on IDA's website (www.ida.gov.sg) under "Policy and Regulation - Consultation Papers".
- 2 Based on its review of evidence, IDA has arrived at a Preliminary Decision on SingTel's Request. Specifically, IDA concludes that SingTel's Request should be granted in part and denied in part. This Consultation Paper describes: SingTel's Request; the feedback received in response to IDA's First Public Consultation; the assessment framework that IDA uses to assess requests for exemption; IDA's analysis of SingTel's Request; IDA's Preliminary Decision; and the procedures for submitting comments on IDA's Preliminary Decision.

PART II: EXECUTIVE SUMMARY

- 3 Based on the evidence and its assessment, IDA has determined that it is appropriate to continue to define two distinct service markets: the Residential Retail ITS market and the Commercial Retail ITS market. IDA has also determined that the relevant geographical market should be the national market for both the Residential and Commercial Retail ITS markets, as there is no evidence to suggest that different competitive conditions exist in different

geographical locations within Singapore. In addition, IDA concludes that, based on the current evidence, it is not necessary to adopt a route-by-route approach to market definition.

- 4 IDA has also concluded that continued imposition of Dominant Licensee obligations is no longer necessary for services that SingTel provides in the Residential Retail ITS market. There is little evidence that SingTel has Significant Market Power ("**SMP**"), or the ability to impede competition, in the Residential Retail ITS market. IDA, therefore, proposes to grant in full SingTel's Request as applied to services that it offers in the Residential Retail ITS market.
- 5 IDA has also determined that, while competition has further developed and increased in the Commercial Retail ITS market since November 2003 (when IDA relieved SingTel of tariff filing requirements for its Retail ITS), SingTel may retain some ability to act anti-competitively in the Commercial Retail ITS market. Therefore, while the imposition of *ex ante* Dominant Licensee obligations is no longer necessary for services that SingTel provides in the Commercial Retail ITS market, retention of rules allowing IDA to take *ex post* enforcement action in the event that SingTel acts anti-competitively remains appropriate. Accordingly, IDA intends to grant SingTel's Request to be exempted from the application of the *ex ante* Dominant Licensee obligations contained in Sub-section 4.2 of the Code, but to deny SingTel's Request to be exempted from the application of the prohibitions against anti-competitive conduct (*ex post* Dominant Licensee obligations) contained in Sub-section 8.2 of the Code with respect to services that SingTel provides in the Commercial Retail ITS market.

PART III: BACKGROUND

- 6 In 2003, SingTel submitted a request for exemption from Dominant Licensee obligations for its provision of Wholesale and Retail ITS ("**SingTel's 2003 Request**"). IDA issued its decision on SingTel's 2003 Request on 12 November 2003 ("**IDA's 2003 ITS Decision**").
- 7 At that time, IDA determined that there were two Retail ITS markets – a Residential Retail ITS market and a Commercial Retail ITS market. IDA also determined that the Residential and Commercial Retail ITS markets were substantially (but not effectively) competitive. IDA therefore concluded that the continued application of tariff filing requirements was no longer necessary to protect End Users or to promote and preserve effective competition amongst Licensees in the Residential and Commercial Retail ITS markets. IDA therefore exempted SingTel from tariff filing requirements for services it provides in the two Retail ITS markets.
- 8 However, IDA determined that competition in the Residential and Commercial Retail ITS markets had not developed to the extent that SingTel's behaviour was fully constrained by market forces. In particular, IDA found that SingTel

has the ability to leverage its market power in the provision of other retail services, and its control of “upstream” inputs essential for providing Retail ITS, to compete unfairly in the Residential and Commercial Retail ITS markets. Therefore, IDA continued to require SingTel to comply with all other Dominant Licensee obligations for services it provides in the two Retail ITS markets.

- 9 At the same time, IDA determined that the Wholesale ITS market was fully competitive and, therefore, lifted SingTel's Dominant Licensee obligations for services it provides in the Wholesale ITS market. IDA's 2003 ITS Decision can be found on IDA's website (www.ida.gov.sg) under “Policy and Regulation - Consultation Papers”.

PART IV: SINGTEL'S REQUEST

- 10 On 28 March 2006, IDA received SingTel's Request pursuant to Sub-section 2.5.1 of the Code. SingTel requested an exemption from the following Dominant Licensee obligations for the Retail ITS it offers as listed in **Table 1**, based on its claim that the Retail ITS market is fully competitive.

Table 1

Sub-section of the Code	Description of Dominant Licensee Obligations	Retail ITS
4.2	Duties of Dominant Licensees	(i) IDD001 (including voice and data); (ii) STD020; (iii) BudgetCall 013; (iv) v019; (v) FaxPlus 012; (vi) FaxPlus Connect; (vii) International Calling Cards; (viii) World Conference; (ix) Corporate Switched Telecommunications Network (“CSTN”); (x) Voice VPN; (xi) WorldCard™; (xii) Hello!™Card; (xiii) Operator Assisted Services; (xiv) Overseas Paid 800; (xv) Overseas Collect Call; (xvi) International Toll Free Service; and (xvii) ISDN International Data Service.
4.2.1	Duties Applicable to the Provision of All Telecommunication Services	
4.2.1.1	Duty to Provide Service at Just and Reasonable Prices, Terms and Conditions	
4.2.1.2	Duty to Provide Service on a Non-discriminatory Basis	
4.2.1.3	Duty to Provide Unbundled Telecommunication Services	
4.2.2	Specific Duties Applicable to the Provision of End User Telecommunication Services	
4.2.2.1	Duty to Provide Service on Reasonable Request	
4.2.2.2	Duty to Allow Resale of End User Telecommunication Services	
4.2.2.3	Duty to Allow Sales Agency	
8.2	Abuse of Dominant Position in the Singapore Market	

Sub-section of the Code	Description of Dominant Licensee Obligations	Retail ITS
8.2.1	Pricing Abuses	
8.2.1.1	Predatory Pricing	
8.2.1.2	Price Squeezes	
8.2.1.3	Cross-subsidisation	
8.2.2	Other Abuses	
8.2.2.1	Discrimination	
8.2.2.2	Predatory Network Alteration	

- 11 In addition, SingTel requested an exemption from tariff filing requirements listed in **Table 2** for its ISDN International Data Service¹.

Table 2

Sub-section of the Code	Description of Dominant Licensee Obligations	Retail ITS
4.4	Tariffing	ISDN International Data Service.
4.4.1	Services for Which A Dominant Licensee Must File Tariffs	
4.4.2	Tariff Filing and Review	
4.4.2.1	Information to be Included	
4.4.3	IDA Tariff Review Process	
4.4.3.1	Review Criteria	
4.4.3.2	Review Procedures	
4.5	Duty to Publish Tariffs	
4.6	Duty to Provide Service Consistent With Effective Tariffs	
4.7	Review of Effective Tariffs	

- 12 In SingTel's Request, it contended that a single retail market exists for the provision of Retail ITS. In support of this assertion, SingTel stated that – with

¹ SingTel's ISDN International Data Service was not included in SingTel's 2003 Request.

the exception of CSTN and Voice VPN – all its Retail ITS are available to both Residential and Commercial End Users. SingTel further contended that all Retail ITS provided through the following access techniques constitute reasonable substitutes to its Retail ITS and, therefore, fall within the same Retail ITS market: (a) PSTN access; (b) mobile access; (c) ISDN access; (d) calling cards; (e) Voice over Internet Protocol (“**VoIP**”) services; (f) call-back/call origination services; and (g) any other means used to provide ITS. SingTel also stated that the geographical market in which it provides Retail ITS is between Singapore and locations outside Singapore, and that a route-by-route approach to market definition is inappropriate, given the ability to complete calls either by “hubbing” through third countries or by using VoIP services.

- 13 SingTel asserted that the Retail ITS market is fully competitive and that it does not have SMP in the Retail ITS market. SingTel further asserted that the Retail ITS market is characterised by extensive competition from numerous Facilities-Based Operators (“**FBOs**”) and Services-Based Operators (“**SBOs**”), low economic and regulatory barriers to entry, high levels of international traffic growth, and high levels of tariff diversity and product innovation. SingTel submitted that its share of outgoing Retail ITS call minutes has fallen below the 40 percent threshold for presumption of SMP, and that it is unable to leverage any market power it may have from its control of essential facilities into the Retail ITS market. Furthermore, SingTel submitted that there is evidence of actual market competition as shown by SingTel’s declining ITS operating revenues and falling average ITS call collection rates.

PART V: FIRST PUBLIC CONSULTATION ON SINGTEL’S REQUEST

- 14 IDA conducted the First Public Consultation on 19 April 2006. Two parties - BT Global Services (“**BT**”) and StarHub Ltd (“**StarHub**”) - filed comments in response to IDA’s First Public Consultation. The comments are posted on IDA’s website (www.ida.gov.sg) under “Policy and Regulation - Consultation Papers”.
- 15 Both BT and StarHub (collectively referred herein as the “**Commenters**”) opposed SingTel’s Request. The Commenters contended that two concerns raised in IDA’s 2003 ITS Decision – that SingTel retains significant market control over several “upstream” inputs that are essential to provide Retail ITS and that SingTel has the ability to provide End Users with a bundle of products including Direct Exchange Line (“**DEL**”), leased lines, broadband access and ITS – remain valid today. Both Commenters disagreed with SingTel’s claim that all Retail ITS provided through various access techniques constitute reasonable substitutes to SingTel’s Retail ITS. The Commenters also questioned SingTel’s claims that its market share in the Retail ITS market had fallen below 40 percent.

- 16 IDA thanks all parties, including those who responded to IDA's information request during the proceeding, for their active participation. The information and comments that were provided greatly facilitated IDA's assessment of SingTel's Request to reach this Preliminary Decision.

PART VI: IDA'S ASSESSMENT FRAMEWORK

- 17 Under the Code, a Licensee that is classified as a Dominant Licensee must comply with certain provisions applicable to Dominant Licensees when it provides any telecommunication service pursuant to that Licence. The Code recognises, however, that over time a Dominant Licensee's services may become subject to competition in certain markets in which it participates, and some regulations imposed on its services in those markets may no longer be necessary to prevent the Dominant Licensee from acting anti-competitively.
- 18 Sub-section 2.5.1 of the Code therefore provides for a process by which a Dominant Licensee may request for exemption from complying with some or all of the Dominant Licensee obligations² for specific services or facilities. On 30 September 2005, IDA issued advisory guidelines governing requests for exemptions under Sub-section 2.5 of the Code³ (the "**Exemption Guidelines**"), which set out the procedures and standards that IDA will generally apply when implementing Sub-section 2.5 of the Code. The guidelines also describe the procedures that Licensees and other parties should follow in order to comply with the requirements contained in the Code.
- 19 In considering SingTel's Request, IDA has applied the analytical framework as set out in the Exemption Guidelines. The analytical framework seeks to apply economic analysis to determine whether, as a result of changing market conditions, continued application of the Dominant Licensee obligations to a Dominant Licensee's services is necessary. Consistent with the analytical framework set out in the Exemption Guidelines, IDA has determined the relevant service and geographical markets in which SingTel provides Retail ITS and has conducted a competitiveness assessment including: (i) determination of market participants and their market shares; (ii) consideration of factors that would affect SingTel's ability to act anti-competitively; and (iii) consideration of evidence of actual market performance.

² Under Sub-section 2.5.1 of the Code, the Dominant Licensee must, among others, submit an application to IDA identifying the specific provisions of the Code from which it seeks exemption and demonstrating that continued application of the provisions to a specific facility and/or service is not necessary to protect End-Users or promote and preserve effective competition amongst Licensees.

³ The Advisory Guidelines Governing Petitions for Reclassification and Requests for Exemption under Sub-Sections 2.3 and 2.5 of the Code of Practice for Competition in the Provision of Telecommunication Services 2005 can be found on IDA's website (www.ida.gov.sg) under "Policy & Regulation – Codes of Practice and Guidelines".

PART VII : IDA'S ASSESSMENT

Market Definition

Relevant Service Market

- 20 The evidence collected during the First Public Consultation does not support SingTel's contention that all Retail ITS for which it has sought an exemption should fall within a single Retail ITS market. While IDA acknowledges that some Retail ITS may be available to both Residential and Commercial End Users, however, as rightly pointed out by the Commenters, there are Retail ITS which are specifically for use by Commercial End Users and are unlikely to be used by Residential End Users. Commercial End Users are likely to have different needs compared to Residential End Users. Such needs include higher usage volume, expectations for service reliability and variety of services. This difference in the two groups of End Users is also recognised by operators, who use different sales and marketing approaches for each group of End Users. IDA also believes that it is unlikely that a Residential End User would consider, for example, using SingTel's World Conference service, as it does not meet the needs of a typical Residential End User and is not a reasonable substitute for Residential Retail ITS.
- 21 IDA therefore determines that it should continue to define **two service markets** corresponding to the Retail and Commercial End Users as previously determined in its 2003 ITS Decision, which are: (a) **the Residential Retail ITS market**; and (b) **the Commercial Retail ITS market**. The Residential Retail ITS market consists of services that enable Residential End Users in Singapore to make and receive telephone calls between Singapore and locations outside of Singapore; while the Commercial Retail ITS market consists of services that enable Commercial End Users in Singapore to make and receive telephone calls between Singapore and locations outside of Singapore⁴.
- 22 IDA has concluded that the Retail ITS for which SingTel has sought an exemption fall within two separate service markets as shown in **Table 3**.

⁴ In IDA's 2003 ITS Decision, market definitions for both the Residential and Commercial Retail ITS markets mentioned "voice" in the description of telephone calls made and received by Singapore End Users between Singapore and locations outside of Singapore, even though the list of SingTel's Retail ITS included fax services such as SingTel's FaxPlus 012 service. To better reflect the list of SingTel's Retail ITS which includes dedicated fax services such as FaxPlus, IDA determines it is more appropriate to define Retail ITS as telephone calls made and received between Singapore and locations outside of Singapore. While such dedicated fax services provided by SingTel and other Licensees may provide a different functionality than voice services, IDA determines that it is still appropriate to consider these services in the Retail ITS markets based on the current evidence. For instance, while IDD is typically used for voice calls, the service can also be used to send an international fax. The dedicated fax services are thus demand substitutes for End Users.

Table 3

Residential Retail ITS Market	Commercial Retail ITS Market
IDD001	IDD001
STD020	STD020
BudgetCall 013	BudgetCall 013
v019	v019
FaxPlus 012 ⁵	FaxPlus 012 ⁵
FaxPlus Connect ⁵	FaxPlus Connect ⁵
International Calling Cards	International Calling Cards
WorldCard™ ⁶	WorldCard™ ⁶
Hello!™Card ⁶	Hello!™Card ⁶
Operator Assisted Services	Operator Assisted Services
Overseas Paid 800 ⁷	Overseas Paid 800
Overseas Collect Call	Overseas Collect Call
Prepaid Callback Service ⁸	Prepaid Callback Service ⁸
	World Conference ⁹
	Corporate Switched Telecommunications Network
	Voice VPN
	International Toll Free Service ⁹
	ISDN International Data Service ^{9 10}
	WorldConference Multi-Media Conference Service ¹¹

⁵ In IDA's 2003 ITS Decision, FaxPlus 012 was identified under the Commercial Retail ITS market only. Based on evidence collected during the First Public Consultation and SingTel's confirmation, IDA has concluded that SingTel's FaxPlus (comprising of FaxPlus 012 and FaxPlus Connect) can be included in both the Residential Retail ITS market and the Commercial Retail ITS market.

⁶ WorldCard™ and Hello!™Card are prepaid international calling cards offered by SingTel. In IDA's 2003 ITS Decision, "Prepaid Calling Cards" were included in both the Residential Retail ITS market and the Commercial Retail ITS market.

⁷ In IDA's 2003 ITS Decision, Overseas Paid 800 was identified under the Commercial Retail ITS market only. Based on evidence collected during the First Public Consultation, IDA has concluded that SingTel's Overseas Paid 800 can be included in both the Residential Retail ITS market and the Commercial Retail ITS market.

⁸ On 28 March 2006, SingTel sought IDA's confirmation that its Prepaid Callback Service is within the Retail ITS market and that IDA's 2003 ITS Decision would apply accordingly. IDA confirmed that SingTel's new Prepaid Callback service is a Retail ITS available to all retail customers. Please refer to the Gazette published on IDA's website on 26 April 2006 [Ref: Telecommunications (Exemption from Dominant Licensee Provisions in Telecom Competition Code 2005 – Prepaid Callback Service) Notification 2006].

⁹ In SingTel's Request, SingTel claimed that WorldConference, International Toll Free Service and ISDN International Data Service can be included in both the Residential Retail ITS market and the Commercial Retail ITS market. Based on evidence collected during the First Public Consultation, IDA has concluded that it is more appropriate to identify these Retail ITS under the Commercial Retail ITS market only.

¹⁰ ISDN International Data Service was not included in SingTel's 2003 Request. Based on the evidence reviewed and market definitions as determined in this Preliminary Decision, ISDN International Data Service is a Retail ITS and would clearly be under the Commercial Retail ITS market, given that ISDN services are predominantly subscribed by Commercial End Users.

- 23 The Commenters suggested that mobile-accessed Retail ITS should not be considered in the same market as fixed-accessed Retail ITS. In support of this, the Commenters argued that the cost to make an international call varies based on the access mode, and that End Users tend to use the Retail ITS of their access line providers. IDA does not agree. Based on information submitted by the industry, there is little basis for IDA to segment the Retail ITS market according to access platforms. IDA's open access or "pre-registration" approach allows End Users to make Retail ITS calls on a call-by-call basis regardless of access platforms, i.e. End Users are not locked-in to their access service providers. Although access service providers may offer promotions or discounts on their Retail ITS to their End Users, current evidence shows that the End Users choose Retail ITS providers on a call-by-call basis. Furthermore, Retail ITS are billed separately from the access services. Given that End Users view mobile-accessed and fixed-accessed Retail ITS as reasonable substitutes, IDA does not consider it necessary to further segment the Retail ITS markets according to access platforms.
- 24 One Commenter also argued that ISDN IDD service should not be considered a substitute for fixed-accessed and mobile-accessed Retail ITS. IDA notes that under its market definition in paragraph 21, Retail ITS offered through ISDN is only one of several Retail ITS offered in the Commercial Retail ITS market. As explained above, IDA does not consider it necessary to segment the Retail ITS markets according to access platforms, as Retail ITS offered over other access platforms constrain the prices of ISDN-accessed Retail ITS. Hence, IDA can find no basis for treating SingTel's ISDN International Data Service as being in a separate market.
- 25 IDA notes the differing views by SingTel and the Commenters on whether Internet Telephony services (or VoIP services) should be included in the same market as Retail ITS. Internet Telephony services generally allow End Users to make and receive calls in any domestic and overseas location where broadband Internet access is available¹². IDA is of the view that, while Internet Telephony services (such as Skype and other web-based VoIP services) may provide a viable alternative to some End Users for international telephony, such services are still nascent and the take-up in Singapore remains insignificant compared to Retail ITS. More importantly, there is little evidence that the ability of End Users to use Internet Telephony services to make international calls has constrained the prices of Retail ITS. IDA also notes that, in spite of the availability of Internet Telephony services, usage of

¹¹ On 10 July 2006, SingTel sought IDA's confirmation that its WorldConference Multi-Media Conference Service is within the Retail ITS market and that IDA's 2003 ITS Decision would apply accordingly. IDA confirmed that SingTel's new WorldConference Multi-Media Conference Service is a Retail ITS available to all retail customers. Please refer to the Gazette published on IDA's website on 18 August 2006 [Ref: Telecommunications (Exemption from Dominant Licensee Provisions In Telecom Competition Code 2005 – International Telephone Services) Notification 2006].

¹² Internet Telephony services and VoIP services are different from "IP-in-the-middle" services such as SingTel's v019 service that enable customers to originate calls on the PSTN, but may use IP as the transmission protocol in the core of the network.

Retail ITS has not decreased as evidenced by the increasing number of total Retail ITS outgoing minutes. Therefore, for the purpose of this proceeding, IDA will not include Internet Telephony services in the same market as Retail ITS.

Relevant Geographical Market

- 26 The evidence collected does not indicate any difference in competitive conditions involving the provision of Retail ITS in different locations within Singapore. IDA therefore concludes that the relevant geographical market for both the Residential Retail ITS market and Commercial Retail ITS market is the **national market**.
- 27 IDA has considered the suggestion by one Commenter that IDA should distinguish between Retail ITS that: (a) “offer international call origination only within Singapore to destinations outside Singapore” and; (b) Retail ITS that also “allow customers to make international calls from any country outside Singapore”. IDA concludes that it is not necessary to define the market for Retail ITS based on geographical location of call origination in this fashion. While the latter type of Retail ITS, such as calling card services, do offer an additional feature in that Residential and Commercial End Users are able to originate calls from overseas, such Retail ITS do constrain prices of the former type of Retail ITS in Singapore, such as IDD services. Indeed, some End Users purchase calling card services only for use in Singapore. IDA therefore determines that these two types of Retail ITS are both used to originate calls in Singapore and should be considered in the same geographical market.
- 28 IDA has also considered whether it should treat each Retail ITS route as a separate market and assess the competitiveness of each route, and concluded that it is not necessary to do so. No Licensee offers Retail ITS on only one or a very limited number of routes. Instead, Licensees generally provide services to many or all overseas destinations. There is so far no evidence to indicate that there are any competitive bottlenecks preventing Licensees from providing Retail ITS on any route. Rather, Licensees use various means of sending Retail ITS traffic to a particular overseas destination, such as transit, International Simple Resale (“**ISR**”) and other delivery methods, or purchase Wholesale ITS minutes if they do not have the capacity on a particular route. Therefore, there is little basis for IDA to adopt a route-by-route market definition and to attempt to assess the competitiveness of each route.
- 29 To summarise, IDA determines that there are only **two service markets**, which are: (a) the **Residential Retail ITS market**; and (b) the **Commercial Retail ITS market**, and that the relevant **geographical market** for each market is **national**.

Assessing Competitiveness of the Residential and Commercial Retail ITS Markets

- 30 Where the evidence shows that market conditions are similar, IDA will present its assessment of the Residential and Commercial Retail ITS markets together. Where the evidence indicates differences in market conditions, IDA will present its assessment of both markets separately.

Market Shares

- 31 In deciding the relevant unit of measurement for Retail ITS market share, IDA has considered using Retail ITS outgoing minutes and Retail ITS revenue. IDA has determined that the best measure of market share for the Residential and Commercial Retail ITS markets continues to be **Retail ITS outgoing minutes**. Given the varied differences in unit pricing of Retail ITS offered by providers, Retail ITS revenue would not be an appropriate measure of Retail ITS market share. For example, the market share of a provider who offers Retail ITS with low unit pricing may be understated if Retail ITS revenue were used as the unit of measurement for Retail ITS market share, even though the number of Retail ITS outgoing minutes generated by the operator is high.
- 32 One Commenter claimed that IDA's decision to grant confidential treatment to SingTel regarding its market share data prevented other parties from conducting a "true market analysis". IDA does not believe this concern is well-founded. Under the Code¹³, a party submitting information to IDA may request for confidential treatment. The Code sets out the standards governing the grant of confidential treatment. In granting SingTel the confidential treatment, IDA has applied the relevant standards. IDA believes that the data publicly disclosed by SingTel was sufficient for interested parties to conduct their analysis and submit their comments. In addition, based on the information received by IDA during this proceeding, IDA has disclosed appropriate market data in this Preliminary Decision, and is providing an opportunity for further public comment.
- 33 To facilitate IDA in its assessment, IDA sought to obtain data on traffic profile of Residential and Commercial Retail ITS minutes offered by industry players. The operators that responded to IDA's information request have an aggregated market share of more than 80 percent of the combined Retail ITS markets, which is sufficiently robust for IDA to proceed to evaluate and assess SingTel's Request. In generating market share data for the Residential and Commercial Retail ITS markets, IDA initially encountered difficulties in separating mobile-accessed Retail ITS minutes provided by the industry into Residential and Commercial minutes. The mobile operators indicated to IDA that they were generally unable to separate their mobile-accessed Retail ITS minutes into Residential and Commercial Retail ITS minutes. Nevertheless, IDA has applied reasonable assumptions to allocate the mobile-accessed Retail ITS minutes to the Residential and Commercial Retail ITS markets, and

¹³ Sub-section 11.7 of the Code.

conducted sensitivity tests in arriving at our assessment of SingTel's estimated market shares in each of the Retail ITS markets¹⁴.

- 34 Based on the data on retail outgoing minutes provided by the industry and IDA's application of the sensitivity tests, IDA's computation of SingTel's market shares for the Residential and Commercial Retail ITS markets yielded consistent results. IDA estimates that SingTel's share in the Residential Retail ITS market is now less than 40 percent, and that SingTel's share in the Commercial Retail ITS market is approximately 60 percent.
- 35 IDA will generally make an initial presumption that a Dominant Licensee that has a market share in excess of 40 percent has SMP. However, while market share provides a useful starting point for the assessment of market power, IDA will not impose an absolute maximum market share above which it will conclusively presume that a Dominant Licensee has SMP. Rather, this presumption may be overcome by evidence that demonstrates that the Licensee, in fact, is subject to effective competition. Therefore, based on SingTel's estimated market shares in the Residential and Commercial Retail ITS markets, IDA will make an initial presumption that SingTel does not have SMP in the Residential Retail ITS market, but has SMP in the Commercial Retail ITS market.

Ability to Act Anti-Competitively

- 36 In this section, IDA will consider the factors that affect SingTel's ability to act anti-competitively in the Residential and Commercial Retail ITS markets.

Market Concentration

- 37 In general, the more concentrated a market is, the more likely that SingTel can act anti-competitively. IDA recognises that there are many participants in the Retail ITS markets. As of August 2006, there were close to 300 FBOs and SBOs licensed by IDA to offer Retail and/or Wholesale ITS. In its 2003 ITS Decision, IDA concluded that SingTel's share of the combined Retail ITS markets was over 60 percent. As discussed below, three years after IDA's 2003 ITS Decision, SingTel has lost market share in both the Residential and Commercial Retail ITS markets, while the market shares of SingTel's competitors have grown.
- 38 IDA notes that the Residential Retail ITS market is now less concentrated with several strong participants including M1, Phoenix Communications ("**Phoenix**"), ST SunPage and StarHub. Since IDA's 2003 ITS Decision, the FBOs and SBOs competing with SingTel in the Residential Retail ITS market have gained a larger portion of the market. Collectively, their market share

¹⁴ IDA adopted the following assumptions for apportioning the mobile-accessed Retail ITS outgoing minutes into Residential Retail ITS minutes and Commercial Retail ITS minutes, and compared the market share results for sensitivity: (a) 50:50; (b) 75:25; (c) 80:20; and (d) 20:80.

has increased from approximately 30 percent in 2003 to more than 60 percent today.

- 39 On the other hand, the Commercial Retail ITS market is more concentrated than the Residential Retail ITS market. SingTel's market share of the Commercial Retail ITS market remains relatively high, with SingTel retaining an estimated 60 percent of the Commercial Retail ITS market today. Notwithstanding, IDA recognises that since IDA's 2003 ITS Decision there has been increasing competition in the Commercial Retail ITS market. SingTel's market share has decreased by approximately 10 percent since 2003, and its competitors are gaining ground. StarHub and M1 have, for example, become significant market participants during the three years since IDA's 2003 ITS Decision.

Entry Barriers

- 40 The greater the entry barriers to a market, the greater the likelihood that SingTel can act anti-competitively. IDA has considered the impediments to other Licensees entering, or expanding their participation in the Residential and Commercial Retail ITS markets, including technical, access, financial, commercial and regulatory barriers. Based on the available evidence and assessment as further described below, IDA observes that entry barriers are generally very low.

(a) Technical Barriers

There are no technical barriers in the Residential and Commercial Retail ITS markets. New entrants and existing operators are not required to use technology that is costly or difficult to develop or obtain from third parties. There are various ways in which operators can provide Retail ITS such as via (i) simple reselling of other operators' Retail ITS; (ii) buying Wholesale ITS minutes; or (iii) leasing raw international capacity. None of these present any significant technical barriers.

(b) Access Barriers

In assessing the existence of access barriers, IDA has considered the extent to which existing regulation ensures that new entrants have access to infrastructure that is required to provide a competitive Retail ITS on just, reasonable and non-discriminatory prices, terms and conditions. In IDA's 2003 ITS Decision, IDA concluded that SingTel retained significant market control for several "upstream" inputs essential for providing Retail ITS, such as direct access to End Users and access to Cable Landing Stations ("**CLS**"). However, the evidence gathered in this proceeding showed that direct access to End Users does not seem to provide SingTel with a significant competitive advantage in the Retail ITS markets today. This is evidenced by the fact that even though SingTel retains significant market share in the residential fixed-line market, SingTel's estimated market share in the Residential Retail ITS market has fallen to less than 40 percent today. Given the competitive

Wholesale ITS market, IDA notes that SBOs such as Phoenix and Macquarie Telecommunications (“**Macquarie**”) have successfully entered the Residential and Commercial Retail ITS markets respectively without any significant investments in access infrastructure. Furthermore, downstream competitors that want to deploy their own access infrastructure have regulated and non-discriminatory access to the “upstream” inputs controlled by SingTel at IDA determined and approved cost-based prices, terms and conditions (under SingTel’s Reference Interconnection Offer, “**RIO**”), such as co-location, connection services and access to international capacity at any of SingTel’s CLS. Indeed, in the three years since IDA’s 2003 ITS Decision, IDA has significantly improved the RIO terms under which SingTel is required to offer such access to competing Licensees. These include requiring SingTel to modify its RIO to: (i) allow greater access to submarine cable capacity at SingTel’s CLS; (ii) reduce timeframes for ordering, provisioning and fault restoration of Interconnection Related Services (“**IRS**”); (iii) reduce activation time for connection to a cable system from 20 business days to 10 business days; and (iv) introduce Service Level Guarantees for most IRS. IDA therefore determines that access barriers in the Residential and Commercial Retail ITS markets are very low.

One Commenter argued that the ability of SingTel’s DEL customers to be “automatically pre-registered” for SingTel’s Retail ITS creates a significant entry barrier because it gives SingTel the ability to leverage its position in the market for the provision of DEL services to obtain a competitive advantage in the Residential and Commercial Retail ITS markets. IDA does not find this argument persuasive. Based on the evidence available, End Users are required to apply for SingTel’s Retail ITS even though they are SingTel’s DEL customers, i.e. they are not “automatically pre-registered” for SingTel’s Retail ITS¹⁵. Furthermore, as mentioned in paragraph 23, IDA’s open access policy allows an End User to register with multiple Retail ITS providers to use any Retail ITS on a call-by-call basis. Indeed, the evidence demonstrates that many SingTel DEL customers have done so, and frequently use SingTel’s DEL service to access Retail ITS provided by other Licensees. The significant drop in SingTel’s market share, especially in the Residential Retail ITS, is further evidence of the lack of access barriers and of SingTel’s inability to leverage its position in the market for the provision of DEL services to distort competition in the Retail ITS markets.

(c) Financial Barriers

In determining the extent to which financial barriers exist, IDA will consider the costs that a new entrant must incur, as well as the extent to which such costs constitute sunk costs. IDA recognises that a new entrant will inevitably incur costs in order to enter a market. However, the evidence does not suggest that such costs are so significant that they would impede a new entrant from entering, or an existing Licensee from expanding their participation in, the

¹⁵ IDA notes that End Users are, however, “automatically pre-registered” for SingTel’s Retail ITS when subscribing to SingTel Mobile’s subscription plans. IDA notes that this “automatic pre-registration” is generally being practised by other mobile operators as well.

Residential and Commercial Retail ITS markets. Indeed, since 2000, many operators (both FBOs and SBOs) have successfully entered the Residential and Commercial Retail ITS markets, and have continued to provide and expand their Retail ITS offerings. Moreover, as mentioned in paragraph 28, operators have several means to provide Retail ITS, depending on their preferred level of financial commitments. For example, operators who prefer a lower financial commitment can choose to resell Wholesale ITS minutes instead of buying or building international capacity.

(d) Commercial Barriers

IDA recognises that some commercial barriers may exist in both the Residential and Commercial Retail ITS markets. New entrants to the markets and existing Licensees are likely to incur costs to acquire and retain Residential and Commercial End Users. Such costs may include advertising costs in order to build brand recognition and convince End Users to register and use their Retail ITS, and retention costs to maintain End Users' "brand loyalty". Notwithstanding the existence of commercial barriers, the evidence does not suggest these commercial barriers to be insurmountable. FBOs such as M1 and StarHub have successfully leveraged on their advertising for mobile and other services to build brand recognition in the Retail ITS markets, while SBOs such as Phoenix, ST SunPage, Zone1511 and Macquarie have also successfully entered the Retail ITS markets.

(e) Regulatory Barriers

There are no regulatory barriers in the Residential and Commercial Retail ITS markets. IDA does not impose any limitation on the number of licences, the types of technology to be used, or the entities eligible to provide Retail ITS. Interested parties can apply for an FBO, SBO(Individual) or SBO(Class) licence to provide Retail ITS, and can choose which Retail ITS market to serve.

Close Substitutes

- 41 The lesser the availability of close substitutes, the greater the likelihood that SingTel can act anti-competitively. There are many close substitutes to SingTel's Retail ITS. Besides SingTel, Residential and Commercial End Users in Singapore today have access to a diverse range of Retail ITS offered by competing providers including Macquarie, M1, Phoenix, ST SunPage, StarHub and Zone1511. While there may be differences in terms of price, quality and functionality, evidence indicates that End Users do consider the Retail ITS provided by these competitors to be close substitutes for SingTel's Retail ITS in the Residential and Commercial Retail ITS markets. Internet Telephony services may also become a viable alternative to mainstream Retail ITS in the near future.

Vertical Integration

- 42 IDA also examined SingTel's ability to leverage its control of essential "upstream" inputs to compete unfairly in the Residential and Commercial Retail ITS markets. In IDA's 2003 ITS decision, IDA concluded that SingTel retained significant market control for several "upstream" inputs essential for providing Retail ITS, such as access to CLS.
- 43 As explained in paragraph 40(b), IDA believes that SingTel's ability to leverage its control of "upstream" inputs, such as access to CLS, is significantly lower than at the time of IDA's 2003 ITS Decision. The actions taken by IDA since 2003 to increase access to "upstream" inputs have facilitated access to the "upstream" inputs controlled by SingTel. As a result, SingTel's ability to leverage its control of "upstream" inputs to distort competition in the Residential and Commercial Retail ITS markets has been significantly reduced.
- 44 The Commenters maintained that SingTel retains the potential to leverage its SMP in other retail markets, for example, by bundling its Retail ITS with its DEL service. It is true that SingTel may offer End Users the option of purchasing a package that contains multiple telecommunication and non-telecommunication services or equipment¹⁶. However, the Code requires SingTel, as a Dominant Licensee, to provide telecommunication services on an unbundled basis. Specifically, SingTel must not require an End User that wants to purchase a specific telecommunication service, to also purchase any other telecommunication service. Given this constraint, SingTel's ability to leverage its SMP in the DEL market to compete in the Retail ITS markets appears to be minimal, as evidenced by its declining market shares in the Retail ITS markets since IDA's 2003 ITS Decision, particularly in the Residential Retail ITS market.

Supply Substitutability

- 45 The greater the existence of supply substitutes, the lesser the likelihood that SingTel can act anti-competitively. This is because, if a Dominant Licensee acts anti-competitively, other providers could rapidly divert resources to provide a competing service. To assess the extent to which supply substitutability exists, IDA has considered the ability of Licensees that currently provide other telecommunication services to shift resources, relatively quickly and costlessly, in order to provide a service that is a substitute for SingTel's Retail ITS. IDA has identified at least two strong sources of suppliers who are able to constrain SingTel's ability to act anti-competitively. The first group are suppliers of international capacity services, such as suppliers of submarine cable capacity, wholesale transit minutes and ISR, who do not currently compete in the Retail ITS markets. The second group are suppliers of Wholesale ITS who do not compete, or are competing in a limited capacity, in Retail ITS markets. Examples of these suppliers include large international carriers in Singapore such as Asia Netcom,

¹⁶ Sub-section 4.2.1.3 of the Code.

Telekom Malaysia, T-Systems, Telecom Italia Sparkle and Verizon Communications. The existence of these potential market entrants acts as a significant constraint on SingTel's ability to act anti-competitively in the Retail ITS markets.

Countervailing Buying Power

- 46 The higher the countervailing buying power of End Users, the lesser the likelihood that SingTel can act anti-competitively. The large number of multi-national corporations and local enterprises in Singapore is likely to exert countervailing buying power in the Commercial Retail ITS market. Companies with significant call volumes are generally able to attract competing bids for the provision of Retail ITS. In some cases, these companies also contract with both SingTel and another Retail ITS operator simultaneously, exerting further competitive pressure on SingTel.

Ability to Switch Services

- 47 The greater the ease of switching service providers by End Users, the lesser the likelihood that SingTel can act anti-competitively. As explained earlier, due to the call-by-call Retail ITS selection system, End Users have the ability to choose among multiple Retail ITS providers for each international call. Effectively, this allows SingTel's Residential and Commercial End Users to easily switch Retail ITS providers for any given call, thereby imposing a significant constraint on SingTel's ability to increase prices – either for all international calls or for calls to specific locations.
- 48 The practice of entering into contracts for the provision of Retail ITS is fairly common in the Commercial Retail ITS market because of cost savings to Commercial End Users. Although Commercial End Users are not required to enter into such contracts to make international calls, however, once the parties enter into such contracts, their ability to switch – at least for the duration of the contract – is constrained. This is quite unlike the Residential Retail ITS market where Residential End Users do not commit to term contracts with the Retail ITS operators. Nonetheless, Commercial End Users retain the ability to easily switch Retail ITS operators at the end of the contract period, which, based on evidence gathered, can often be as short as one year.

Market Performance

- 49 Finally, IDA considered evidence of actual market performance.

Prior Anti-Competitive Conduct

- 50 As an initial matter, IDA notes that there is no evidence of prior anti-competitive conduct by SingTel in the Retail ITS markets, both prior to and since IDA's 2003 ITS Decision.

Actual Successful New Entry

- 51 Since the full liberalisation of the Singapore telecommunication market in April 2000, numerous operators have successfully entered the Residential and Commercial Retail ITS markets. As mentioned in paragraph 37, this is evidenced by more than 300 FBOs and SBOs licensed by IDA, as of August 2006, to offer Retail and/or Wholesale ITS. In fact, in the first six months of 2006, IDA has licensed close to 50 SBOs for the provision of Retail and/or Wholesale ITS. This suggests that competition in the Retail ITS markets is likely to be even more vigorous in the future.

Changes in Market Share

- 52 As mentioned earlier, SingTel's market shares of the Residential and Commercial Retail ITS markets have decreased since IDA's 2003 ITS Decision. In particular, while the industry's total Retail ITS minutes have grown, SingTel's share of the combined Residential and Commercial Retail ITS outgoing minutes has decreased from more than 60 percent in 2003 to less than 40 percent today. Specifically, the drop is more significant in the Residential Retail ITS market (where SingTel's market share has dropped by about 30 percent to less than 40 percent); as compared to the Commercial Retail ITS market (where SingTel's market share has dropped by about 10 percent to its current estimated market share of about 60 percent).

Customer Switching

- 53 It is not possible to gather evidence of customer "switching" from SingTel's Retail ITS to competing providers. This is because, as a result of the "call-by-call" system in Singapore, End Users do not need to "terminate" their registration with one Retail ITS provider before using another. However, the significant drop observed in SingTel's market share of the Residential Retail ITS market clearly provides an indication that Residential End Users who may have pre-registered with SingTel are making a significant amount of their international calls through other Residential Retail ITS Licensees. There is also evidence that Commercial End Users are using Commercial Retail ITS provided by other Licensees.

Price Changes

- 54 SingTel's average ITS call collection rate¹⁷ has fallen from S\$0.54 per minute in 2003 to S\$0.42 per minute in 2005. Coupled with SingTel's declining Retail ITS revenue and profits, IDA believes that actual prices have decreased over the years. IDA further notes that the Residential and Commercial Retail ITS markets are marked by regular promotions and discounts off published rates. In fact, Licensees usually conduct marketing campaigns or promotions targeted at either the Residential or the Commercial End Users. The discount quantum also varies under each promotion, and possibly for different Commercial End Users depending on the tender.

¹⁷ See Non-Confidential Annex 5 of SingTel's Request.

New Service Introduction

- 55 Since market liberalisation in 2000, SingTel has introduced several new Retail ITS to meet the different needs of both Residential and Commercial End Users. For instance, SingTel has introduced various differentiated Retail ITS such as its v019 service, to complement its other Retail ITS such as IDD001 and STD020 services. Moreover, some operators have recently launched Internet Telephony services which may become a viable alternative to mainstream Retail ITS in the near future and are expected to enhance competition in the Retail ITS markets going forward.

Non-Price Competition

- 56 SingTel is subject to significant non-price competition in the Residential and Commercial Retail ITS markets, as evidenced by a wide range of Retail ITS offered by Licensees to meet different user needs. The introduction of various Retail ITS provides an indication of Retail ITS operators competing on non-price factors, such as service quality, preferred modes of payment, and marketing and promotional strategies.
- 57 In summary, based on the above assessment, IDA determines that **SingTel is subject to increased competitive constraints in both the Residential and Commercial Retail ITS markets since IDA's 2003 ITS Decision**. In addition, SingTel's combined market share for the Residential and Commercial ITS markets has fallen below 40 percent since IDA's 2003 ITS Decision. However, IDA also determines that **SingTel is subject to more significant competitive constraints in the Residential Retail ITS market than in the Commercial Retail ITS market**. This is evidenced by SingTel's smaller decline in market share of the Commercial Retail ITS market since IDA's 2003 ITS Decision.

Other Comments Raised by Commenters in First Public Consultation

- 58 One Commenter alleged that IDA's regulatory regime – particularly its enforcement powers – is inadequate. The Commenter also submitted that IDA's competition regime should be made subordinate to Singapore's Competition Act 2004. IDA would like to clarify that the purpose of the First Public Consultation was to allow the industry and the public an opportunity to provide comments on SingTel's Request. The proceeding was not the appropriate forum to discuss the legislative and regulatory regimes. In any case, during the Code review in 2005, IDA had considered and rejected identical arguments. As IDA explained at that time, IDA has wide-ranging powers under the Telecommunications Act (Cap 323), the Code and the Licences issued to operators, to investigate and address any anti-competitive conduct. Over time, IDA intends to more closely align the competition regime for the telecommunications sector with Singapore's Competition Act. IDA will consult the industry on the alignment approach at the appropriate juncture.

Conclusion to IDA's Assessment

- 59 Based on the above findings, IDA recognises that competition has increased significantly in the Residential Retail ITS market since IDA's 2003 ITS Decision. The evidence suggests that the market is now effectively competitive with falling market concentration, low entry barriers, a large number of service providers and a diverse range of close substitutes available. SingTel does not have SMP in the Residential Retail ITS market, with a market share of less than 40 percent. **IDA determines that the continued application of Dominant Licensee obligations contained in Sections 4 and 8 of the Code, on services provided by SingTel in the Residential Retail ITS market is no longer necessary.**
- 60 IDA also finds that competition in the Commercial Retail ITS market has increased since IDA's 2003 ITS Decision. Although SingTel continues to have a relatively high market share, the market is characterised by low entry barriers, diverse range of close substitutes and high countervailing buying power. IDA also notes that, three years after IDA's 2003 ITS Decision where IDA exempted SingTel from the most significant *ex ante* Dominant Licensee obligation – tariff filing requirements (viz. the duty to file, and obtain IDA's approval on tariffs applicable to SingTel's Retail ITS) – there is no evidence that SingTel has engaged in anti-competitive conduct in the Commercial Retail ITS market. Taken together, these developments provide a reasonable basis for IDA to conclude that **the continued application of *ex ante* Dominant Licensee obligations contained in Section 4 of the Code, on services provided by SingTel in the Commercial Retail ITS market is no longer necessary to protect End Users or to promote and preserve effective competition amongst Licensees.**
- 61 Nonetheless, there remains a likelihood that SingTel may be able to use any residual market power that it may have, to act anti-competitively in the Commercial Retail ITS market given its current market share in this market. **IDA therefore believes it is prudent to continue to retain the prohibitions on abuse of dominant position contained in Section 8 of the Code, on services provided by SingTel in the Commercial Retail ITS market.** In the event that SingTel acts anti-competitively, this will provide an effective means for IDA to take *ex post* enforcement measures.
- 62 Finally, given that SingTel's ISDN International Data Service falls within the Commercial Retail ITS market, the exemption from **the tariff filing requirements granted to SingTel in IDA's 2003 ITS Decision will similarly apply to SingTel's ISDN International Data Service.**

PART VIII: IDA'S PRELIMINARY DECISION

- 63 The following paragraphs set out IDA's Preliminary Decision regarding SingTel's Request.

- 64 IDA will grant SingTel's Request from the application of Sub-sections 4.2, 4.2.1, 4.2.1.1, 4.2.1.2, 4.2.1.3, 4.2.2, 4.2.2.1, 4.2.2.2 and 4.2.2.3 of the Code, to its provision of services in the Residential Retail ITS market and the Commercial Retail ITS market.
- 65 IDA will grant SingTel's Request from the application of Sub-sections 8.2, 8.2.1, 8.2.1.1, 8.2.1.2, 8.2.1.3, 8.2.2, 8.2.2.1 and 8.2.2.2 of the Code, to its provision of services in the Residential Retail ITS market.
- 66 IDA will deny SingTel's Request from the application of Sub-sections 8.2, 8.2.1, 8.2.1.1, 8.2.1.2, 8.2.1.3, 8.2.2, 8.2.2.1 and 8.2.2.2 of the Code, to its provision of services in the Commercial Retail ITS market.
- 67 Taken together, IDA's Preliminary Decision in paragraphs 64 to 66 is summarised in **Table 4**.

Table 4

Code Provisions	Residential Retail ITS Market	Commercial Retail ITS Market
<i>Ex Ante</i>		
4.2.1 - Duty to provide service at just and reasonable prices, terms and conditions; Duty to provide service on a non-discriminatory basis; and Duty to provide unbundled telecommunication services.	Grant	Grant
4.2.2 - Duty to Provide Service on Reasonable Request; Duty to Allow Resale of End User Telecommunication Services; and Duty to Allow Sales Agency.	Grant	Grant
<i>Ex Post</i>		
8.2.1 - Prohibition against pricing abuses including predatory pricing, price squeezes and cross-subsidisation.	Grant	Deny
8.2.2 - Prohibition against taking any other action that abuses its dominant position including discrimination and predatory network alteration.	Grant	Deny

- 68 IDA will also grant SingTel an exemption from the application of Sub-sections 4.4, 4.4.1, 4.4.2, 4.4.2.1, 4.4.3, 4.4.3.1, 4.4.3.2, 4.5, 4.6 and 4.7 of the Code, with respect to the tariff filing requirements for its ISDN International Data Service, as summarised in **Table 5**. For the avoidance of doubt, the exemptions granted to SingTel for its provision of services in the Commercial Retail ITS market in Table 4 will similarly apply to SingTel's ISDN International Data Service.

Table 5

Code Provisions	SingTel's ISDN International Data Service (under Commercial Retail ITS Market)
4.4 – Tariffing including services for which a Dominant Licensee must file tariffs; tariff filing and review; and IDA tariff review process.	Grant
4.5 - Duty to publish tariffs	Grant
4.6 - Duty to provide service consistent with effective tariffs	Grant
4.7 - Review of effective tariffs	Grant

Implementation Procedures of IDA's Final Decision

- 69 IDA will adopt the following procedures regarding the implementation of its Final Decision.
- (a) The Final Decision will become effective upon publication in the Gazette. IDA intends to publish the Gazette within 14 days from the date of its Final Decision.
 - (b) The Final Decision will remain in effect permanently, unless IDA determines that re-imposition of any requirements is necessary to protect End Users or preserve and protect competition amongst Licensees.
 - (c) The Final Decision will apply to any new product offering that SingTel may, in future, offer that is in the same Residential Retail ITS market and/or Commercial Retail ITS market as a Retail ITS for which IDA has granted an exemption. However, SingTel must obtain prior confirmation from IDA that the new product offering is within the same Residential Retail ITS market and/or Commercial Retail ITS market for which IDA has granted an exemption. To do so, SingTel must submit a detailed description of the product offerings – including pricing, functionality and expected customer base. IDA will find that a new product offering is in the same Residential Retail ITS market and/or Commercial Retail ITS market as one of SingTel's existing Retail ITS if the evidence demonstrates that the new product offering is a reasonable substitute for the existing Retail ITS.
 - (d) In the event IDA imposes any additional provisions applicable to Dominant Licensees, IDA will determine, at that time, whether SingTel should be exempted from the application of that provision to Retail ITS in the Residential Retail ITS market and Commercial Retail ITS market in which IDA has granted SingTel an exemption.

PART IX: PUBLIC CONSULTATION ON IDA'S PRELIMINARY DECISION

- 70 After our review and careful consideration of the inputs from the Commenters and data from the industry, IDA has made a Preliminary Decision regarding SingTel's Request. However, given the importance of the issues involved, IDA believes that it would be beneficial to provide interested parties with the opportunity to submit comments regarding IDA's analysis in the Preliminary Decision ("**Second Public Consultation**"), before IDA issues its Final Decision. IDA reserves the right to modify any aspect of this Preliminary Decision based on the comments received during the Second Public Consultation.
- 71 Parties who submit comments should organise their submissions as follows: (a) cover page (including information specified in paragraph 73); (b) table of contents; (c) summary of major points; (d) statement of interest; (e) comments; and (f) conclusion. Supporting materials may be placed in an annex. All submissions should be clearly and concisely written, and should provide a reasoned explanation for any proposed revisions to the Preliminary Decision. To the extent feasible, parties should make clear the specific markets and requirements that they are addressing. The parties should not repeat the comments submitted during the First Public Consultation. If a party believes that IDA should alter any aspect of its Preliminary Decision, the party should explain with specificity why it believes IDA's proposed decision is not correct and should indicate how it believes IDA should alter its decision. Alternatives may include imposition of conditions.
- 72 All submissions should be in writing, in both hard and soft copies, and should reach IDA **before 12 noon on 2 October 2006**. The softcopy should be readable in either Microsoft Word or Adobe Reader PDF format.
- 73 Parties submitting comments should include their personal/company particulars as well as the correspondence address, contact number and email address on the cover page of their submissions. All comments should be addressed to:

**Mr Andrew Haire
Assistant Director-General (Telecoms)
Infocomm Development Authority of Singapore
8 Temasek Boulevard
#14-00 Suntec Tower Three
Singapore 038988**

Please submit the softcopy via e-mail to: Karen_Wong@ida.gov.sg; and fax the hardcopy to: **(65) 6211-2116**.

- 74 IDA reserves the right to make public all or parts of any written submissions and to disclose the identity of the source. Commenting parties may request confidential treatment for any part of the submission that the commenting party believes to be proprietary, confidential or commercially sensitive. Any

such information should be clearly marked and placed in a separate annex. If IDA grants confidential treatment it will consider, but will not publicly disclose, the information. If IDA rejects the request for confidential treatment, it will return the information to the party that submitted it and will not consider this information as part of its review. As far as possible, parties should limit any request for confidential treatment of information submitted. IDA will not accept any submission that requests confidential treatment of all, or a substantial part, of the submission.