

REPUBLIC OF SINGAPORE
TELECOMMUNICATIONS ACT (CHAPTER 323)
CODE OF PRACTICE FOR COMPETITION
IN THE PROVISION OF
TELECOMMUNICATION SERVICES

SECTION 9.5.3

EXPLANATORY MEMORANDUM
ISSUED BY
INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF SINGAPORE

21 June 2002

This memorandum explains the basis on which the Info-communications Development Authority of Singapore (“IDA”) has granted approval (subject to acceptance of conditions) to StarHub Pte Ltd (“StarHub”), StarHub Mobile Pte Ltd (“StarHub Mobile”) and Singapore Cable Vision Limited (“SCV”) (each an “Applicant”, and together, the “Applicants”), in connection with the Applicants’ application to IDA dated 17 May 2002 (the “Consolidation Application”), submitted pursuant to Section 9.2.2 of the Code of Practice for Competition in the Provision of Telecommunication Services (the “Code”), seeking IDA’s approval for the proposed changes to the Applicants’ respective ownership and shareholding arising from the proposed consolidation to be entered into between StarHub and SCV (the “proposed Consolidation”).

1. Introduction

- 1.1 As noted above, on 17 May 2002, StarHub, on behalf of the Applicants, submitted the Consolidation Application to IDA. Upon receipt of the Consolidation Application, IDA issued a consultation document, which invited the public to comment on a range of issues regarding the likely anti-competitive effect of the proposed Consolidation.
- 1.2 IDA carefully reviewed the Consolidation Application and supporting materials; required the Applicants to provide additional information and clarifications, where IDA determined that this was necessary to conduct its review; and carefully considered all issues raised in the public comments. In conducting its review, IDA applied economic analysis to available market data in order to determine whether the proposed Consolidation is likely to unreasonably restrict competition in any telecommunication market in which the Applicants compete (see Section 9.3 of the Code).
- 1.3 Based on IDA’s review of the information submitted by the Applicants and other publicly available information, IDA has concluded that the proposed Consolidation will

not unreasonably restrict competition in any telecommunication market. On the contrary, IDA believes that the proposed Consolidation is likely to result in increased competition, which will benefit consumers. However, because the proposed Consolidation also raises several anti-competitive concerns, IDA has approved the Consolidation Application subject to the Applicants' acceptance of certain conditions. These conditions, which are described below, are intended to address the anti-competitive concerns.

2. Factual Background

2.1 StarHub Pte Ltd

- 2.1.1 StarHub began operating on 1 April 2000 as the second provider of basic telecommunication services in Singapore. The current shareholders of StarHub are: BT (Netherlands) Holdings BV ("BT") (18 percent), NTT Investment Singapore Pte Ltd ("NTT") (22 percent) and STT Communications Ltd ("STT") (60 percent).
- 2.1.2 StarHub currently competes in the domestic and international telecommunication services markets. However, StarHub's market share in each of these markets remains small. Pursuant to the terms of its Licence to Provide Facilities-Based Operations, StarHub is required to deploy a local access network in the residential areas.
- 2.1.3 StarHub has two other wholly-owned subsidiaries that are separately licensed by IDA to provide telecommunication services. These are StarHub Mobile and StarHub Internet Pte Ltd ("StarHub Internet").
- 2.1.4 StarHub Mobile participates in the mobile telecommunication service market.
- 2.1.5 StarHub Internet participates in the Internet access service market. However, StarHub Internet has not yet entered the market for residential broadband Internet access service.

2.2 Singapore Cable Vision Limited

- 2.2.1 The current shareholders of SCV are: STT (32 percent), Media Corporation of Singapore Pte Ltd ("MCS") (41.33 percent) and Singapore Press Holdings Limited ("SPH") (26.67 percent).
- 2.2.2 SCV currently provides subscription nationwide television service and broadband cable modem and Internet services ("Cable Modem Service"). SCV's Cable Modem Service comprises of broadband transmission coupled with "basic" Internet access service (without value-added services). Currently, SCV is the largest provider of broadband Internet access service to residential end-users in Singapore.
- 2.2.3 IDA has issued to SCV a Licence to Provide Facilities-Based Operations for the establishment of a broadband network (based on a Hybrid Fibre Coaxial design) that is currently used to provide Cable Modem Service and subscription nationwide television

services. SCV has rolled out its broadband network to almost all of the residences in Singapore. Pursuant to Section 2.2.1 of the Code, IDA has classified SCV as a Dominant Licensee. However, IDA has granted SCV a temporary exemption from the provisions applicable to Dominant Licensees contained in the Code except for Subsections 3.3.2 to 3.3.5 and 7.2 to 7.2.2.2, pending IDA's resolution of technical and policy issues (see Notification 2535 dated 15 September 2000).

2.3 The Proposed Consolidation

- 2.3.1 The Applicants indicate that, if the proposed Consolidation is approved, SCV becomes a wholly-owned subsidiary of StarHub.
- 2.3.2 Post-consolidation, SCV's three current shareholders (MCS, SPH, and STT) and StarHub's two other current shareholders (BT and NTT) will be the shareholders of StarHub. StarHub's post-consolidation shareholding structure will be:
- STT: 50.47 percent
 - NTT: 14.51 percent
 - MCS: 14.07 percent
 - BT: 11.87 percent
 - SPH: 9.08 percent
- 2.3.3 Arising from their shareholding in StarHub, each of STT, NTT, MCS, BT and SPH will obtain a comparable ownership interest in StarHub's three separately licensed and wholly-owned subsidiaries: StarHub Mobile, StarHub Internet and SCV.

Competitive Assessment

3. Horizontal Aspects of the Proposed Consolidation

3.1 Anti-competitive Concerns Raised by Horizontal Consolidation

- 3.1.1 A horizontal consolidation is a consolidation that involves two or more entities that are current competing providers of the same service (or services that are reasonable substitutes). A horizontal consolidation can adversely affect competition in at least two different ways.

3.2 Creation, Preservation or Enhancement of Unilateral Market Power

- 3.2.1 A horizontal consolidation can adversely affect competition by creating, preserving or enhancing a single telecommunication service provider's ability to unilaterally restrict output and raise prices, or otherwise act independently of competitive market forces ("Market Power"). In some cases, this can adversely affect competition in "downstream" markets that rely on the telecommunication service as an essential input.

3.3 Facilitation of Concerted Anti-competitive Conduct

- 3.3.1 A horizontal consolidation can also result in the creation of a telecommunication market in which entities can reach and enforce agreements to collectively restrict output and raise prices. Such agreements can have the same adverse impact as a single entity's unilateral abuse of its Market Power.

3.4 Creation, Preservation or Enhancement of Unilateral Market Power Arising from the Proposed Consolidation

- 3.4.1 The proposed Consolidation will not significantly eliminate current competition between StarHub and its current subsidiaries, and SCV in any Singapore telecommunication market.
- 3.4.2 There is currently only one market in which there is direct competitive overlap between StarHub and SCV, that is the provision of broadband Internet access service to business end-users. However, given that SCV and StarHub account for such a limited share of this market, IDA has assessed that the proposed Consolidation will not likely result in the creation of an entity that has Market Power in this market.

3.5 Facilitation of Concerted Anti-competitive Conduct Arising from the Proposed Consolidation

- 3.5.1 The proposed Consolidation could facilitate co-ordination between participants in the mobile telecommunication service, Internet access service and broadband connection service to business end-users markets.

3.6 Co-ordinated Activities Between StarHub, StarHub Mobile and M1 as a Result of SPH's Ownership Interests

- 3.6.1 Post-consolidation, SPH will have a 9.08 percent ownership interest in StarHub Mobile. SPH also owns 35 percent of MobileOne (Asia) Pte Ltd ("M1"). The proposed Consolidation could restrict competition in the mobile telecommunication service market by allowing SPH to use its ownership interests in StarHub Mobile and M1 to facilitate co-ordination of activities by StarHub Mobile and M1. For example, SPH could act as a conduit for the exchange of information between StarHub Mobile and M1.
- 3.6.2 IDA does not believe this concern should preclude the proposed Consolidation. Given that SPH only has a relatively small ownership interest in StarHub Mobile, it is unlikely to cause StarHub Mobile to forgo competitive opportunities in order to benefit M1. Moreover, as discussed further below (see paragraph 5.2), IDA is granting approval of the Consolidation Application subject to the Applicants' acceptance of conditions intended to prevent SPH from using its ownership interests in StarHub Mobile and M1 to limit competition.

3.7 Co-ordinated Activities Between StarHub, StarHub Internet and Pacific Internet Limited as a Result of MCS' Ownership Interests

- 3.7.1 Post-consolidation, MCS will have a 14.07 percent ownership interest in StarHub Internet. MCS also owns 13.94 percent of Pacific Internet Limited ("PI"). The proposed Consolidation could restrict competition in the Internet access service market by allowing MCS to use its ownership interests in StarHub Internet and PI to facilitate co-ordination of activities by these two current competitors.
- 3.7.2 IDA does not believe this concern should preclude the proposed Consolidation. Given that MCS only has relatively small ownership interests in both StarHub Internet and PI, it is unlikely to cause StarHub Internet to forgo competitive opportunities in order to benefit PI. Moreover, as discussed further below (see paragraph 5.3), IDA is granting approval of the Consolidation Application subject to the Applicants' acceptance of conditions intended to prevent MCS from using its ownership interests in StarHub Internet and PI to limit competition.

3.8 Co-ordinated Activities Between StarHub and 1-Net Singapore Pte Ltd as a Result of MCS' Ownership Interests

- 3.8.1 Post-consolidation, MCS will have a 14.07 percent ownership interest in StarHub. MCS also owns 100 percent of 1-Net Singapore Pte Ltd ("1-Net"), which competes directly with StarHub in the provision of broadband connection service to business end-users. The proposed Consolidation could restrict competition in the broadband connection service to business end-users market by allowing MCS to use its ownership interests in StarHub and 1-Net to facilitate co-ordination of activities by these two current competitors.
- 3.8.2 IDA does not believe this concern should preclude the proposed Consolidation. Given that MCS only has a relatively small ownership interest in StarHub, it is unlikely to cause StarHub to forgo competitive opportunities in order to benefit 1-Net. Moreover, as discussed further below, IDA is granting approval of the Consolidation Application subject to the Applicants' acceptance of conditions intended to prevent MCS from using its ownership interests in StarHub and 1-Net to limit competition (see paragraph 5.4).

4. Non-horizontal Aspects of the Proposed Consolidation

4.1 Anti-competitive Concerns Raised by Non-horizontal Consolidation

- 4.1.1 A non-horizontal consolidation is a consolidation that involves two or more entities that are not current competitors. As a non-horizontal consolidation, by definition, does not involve current competitors, it generally does not restrict competition. To the contrary, in many cases, a non-horizontal consolidation can increase efficiency, thereby enabling a licensee to compete more effectively against its horizontal competitors. However, a

non-horizontal consolidation can have an adverse competitive effect where at least one of the entities has Market Power or participates in a concentrated telecommunication market with few other direct competitors. There are several ways in which this can occur.

4.2 Elimination of Potential Competition

- 4.2.1 A non-horizontal consolidation can eliminate the possibility that, in future, one of the parties will enter, as a competitor, in a telecommunication market in which the other party currently participates. This can raise significant concerns in recently liberalised markets that have few current competitors. The ability of current telecommunication market participants to restrict output and raise prices will be constrained by the existence of an entity that, although not currently in the telecommunication market, will actually respond (or which current telecommunication market participants believe will respond) to an anti-competitive restriction in output by entering the telecommunication market. A non-horizontal consolidation can eliminate that constraining factor, while reducing the chances of establishing actual competition in future.

4.3 Foreclosure or Discriminatory Access to “Upstream” Inputs or “Downstream” Facilities Necessary to Provide a Competitive Service

- 4.3.1 A non-horizontal consolidation can also restrict competition by limiting the ability of competitors to access a necessary “upstream” input or a “downstream” facility necessary to deliver telecommunication services to end-users. This can occur, for example, when an entity that controls an essential “upstream” input, acquires a “downstream” licensee that relies on that input, and then refuses to provide the input on reasonable and non-discriminatory terms to the “downstream” licensee’s competitors. At a minimum, this may increase such competitors’ costs, putting them at a significant competitive disadvantage. In extreme cases, a non-horizontal consolidation can result in such significant foreclosure that it becomes necessary for future entrants to enter both the “upstream” and “downstream” telecommunication markets at the same time. Given the extra costs and risk of “dual level” entry, a non-horizontal consolidation can reduce the likelihood of future competition in one or both telecommunication markets.

4.4 Market Distortion

- 4.4.1 Finally, a non-horizontal consolidation can restrict competition by enabling an entity with Market Power in one market to distort competition in the same or another telecommunication market. For example, after the non-horizontal consolidation, an “upstream” entity that has Market Power in one telecommunication market can charge above-cost prices in that telecommunication market and use the revenue to enable the “downstream” affiliate to sell telecommunication services at below-cost prices.

4.5 Elimination of Potential Competition Between StarHub and SCV

- 4.5.1 While the proposed Consolidation will not eliminate existing competition between StarHub and its current subsidiaries, and SCV, it will eliminate the possibility of StarHub, its current subsidiaries and SCV from becoming direct competitors in several markets in future. IDA has carefully considered the impact of the loss of this potential competition. Based on its analysis, IDA has concluded that the elimination of this potential competition will not unreasonably restrict competition in any market.

4.6 Residential Fixed-line Telephone Service Market

- 4.6.1 The residential fixed-line telephone service market consists of all providers of fixed-line telephone service, by whatever technology, that enables residential end-users within Singapore to place telephone calls to any location within Singapore.
- 4.6.2 Currently, SingTel has deployed the only nationwide fixed-line telephone network in Singapore. StarHub's and SCV's Licences to Provide Facilities-Based Operations require each of them to offer residential fixed-line telephone service. Therefore, if the proposed Consolidation occurs, it will eliminate the possibility of future competition between StarHub and SCV in the residential fixed-line telephone service market, resulting in only two competitors in the residential fixed-line telephone service market, rather than three (*i.e.*, SingTel, StarHub and SCV).
- 4.6.3 While a market with three effective competitors is generally preferable to a market with two, IDA has concluded that the proposed Consolidation will not unreasonably restrict competition in the residential fixed-line telephone service market. IDA expects that its approval of the proposed Consolidation will result in the deployment of an effective nationwide facilities-based network that can provide effective competition in the residential fixed-line telephone service market.
- 4.6.4 SCV, on its own, will not likely be an effective competitor in the residential fixed-line telephone service market. SCV has indicated that, absent the proposed Consolidation, it will only provide cable telephony service as an adjunct to its Cable Modem Service, rather than as one of its core business services.
- 4.6.5 In any case, approval of the proposed Consolidation does not preclude additional operators from entering the residential fixed-line telephone service market.

4.7 Residential Broadband Internet Access Service Market

- 4.7.1 The residential broadband Internet access service market consists of all providers of such service, by whatever technology, that enables residential users to access the Internet at speeds higher than those available using dial-up services.
- 4.7.2 SCV currently provides Cable Modem Service using its cable network. SCV's Cable Modem Service competes directly against residential broadband Internet access

services provided by other licensees using Digital Subscriber Line (“DSL”) technology. Prior to the submission of the Consolidation Application, StarHub Internet had announced that it would offer broadband Internet access service to residential customers.

- 4.7.3 The proposed Consolidation between StarHub and SCV will preclude the possibility of StarHub Internet competing directly against SCV in the residential broadband Internet access service market.
- 4.7.4 Despite the loss of potential competition between StarHub Internet and SCV, IDA does not believe that the proposed Consolidation will unreasonably restrict competition in the residential broadband Internet access service market. This market already has a number of competitors and there is no legal barrier, and comparatively low technical and commercial barriers, to further entry. Moreover, as discussed further below, IDA’s decision to require SCV to implement “Cable Open Access for IASPs” (see paragraph 4.9.3.7 below) is expected to promote additional entry into the residential broadband Internet access service market.

4.8 International Telephone Service Market

- 4.8.1 The international telephone service market consists of all providers of such service, by whatever technology, that enables a caller in Singapore to place a telephone call to any location outside of Singapore.
- 4.8.2 Currently, StarHub has entered the international telephone service market. SCV does not currently compete in this market. However, as noted above, even absent the Consolidation, SCV has expressed an intent to provide residential fixed-line telephone service. After doing so, SCV would have been likely to expand into the international telephone service market.
- 4.8.3 Approval of the proposed Consolidation will preclude the possibility of StarHub competing directly against SCV in the international telephone service market.
- 4.8.4 However, the loss of potential competition in this market is not significant. IDA has assessed that the international telephone service market in Singapore will remain competitive with more than forty participants.

4.9 Foreclosure of Access to SCV’s Cable Network; Internet Access Service Market Distortion

4.9.1 Overview

- 4.9.1.1 IDA is concerned about the effect that the proposed Consolidation can have on competition in the residential broadband Internet access service market, which is still in the early stages of development. The proposed Consolidation will bring together in one corporate “family” SCV’s nationwide cable network and StarHub’s Internet access

service. Without proper safeguards, post-consolidation, StarHub, its subsidiaries and SCV will have the ability and incentive to use their control over SCV's cable network to distort competition in the "downstream" market for broadband Internet access service.

4.9.2 SCV's Cable Modem Service

4.9.2.1 As noted above, SCV's Cable Modem Service consists of broadband transmission provided over SCV's cable network, coupled with "basic" Internet access service (without value-added services). End-users of SCV's Cable Modem Service can set their browsers to access any homepage as a default. End-users of SCV's Cable Modem Service who require value-added services can separately subscribe for these services from other Internet access service providers ("IASPs").

4.9.2.2 On 7 March 2002, IDA issued an information paper setting out SCV's obligation to implement "Cable Open Access for IASPs" (see paragraph 4.9.3.7 below) by 31 December 2002. A copy of the information paper is available on IDA's website. Currently, SCV has not implemented "Cable Open Access for IASPs" (see paragraph 4.9.3.7 below). Rather, SCV has implemented a scheme, the SCV Reseller Programme for Local Broadband Access Service, in which SCV allows IASPs to resell SCV's Cable Modem Service. To date no IASP has entered into such a scheme with SCV.

4.9.3 StarHub Internet's Internet Access Service

4.9.3.1 StarHub Internet currently provides residential end-users with narrowband dial-up Internet access service.

4.9.3.2 Post-consolidation, StarHub, StarHub Internet and SCV would have the ability and incentive to engage in at least three types of anti-competitive activities.

4.9.3.3 Firstly, SCV could provide StarHub Internet with access to its cable network on an exclusive basis or at preferential prices, terms and conditions.

4.9.3.4 Secondly, SCV could require end-users that want to purchase SCV's Cable Modem Service to also purchase StarHub Internet's Internet access service.

4.9.3.5 Thirdly, SCV could seek to "steer" end-users who subscribe to its Cable Modem Service to StarHub Internet. SCV could do so in several ways. For example, SCV could: (A) provide end-users who subscribe to its Cable Modem Service with the StarHub Internet homepage as a default; (B) "block" end-users who subscribe to its Cable Modem Service from access to IASPs other than StarHub Internet; and (C) misuse end-user subscriber information ("EUSI") that SCV obtains from the provision of its Cable Modem Service to market StarHub Internet's Internet access service.

- 4.9.3.6 While IDA is committed to preserving and promoting competition in the broadband Internet access service market, it does not believe that these concerns justify rejecting the Consolidation Application.
- 4.9.3.7 As noted above, IDA will require SCV to implement “Cable Open Access for IASPs”. This means that SCV, as a Dominant Licensee, will be required to provide non-affiliated IASPs with access to its cable network on just, reasonable and non-discriminatory prices, terms and conditions in order to enable the IASPs to provide competing broadband Internet access services. This will enable end-users to subscribe to broadband Internet access services over cable network provided by the IASPs of their choice without having to subscribe separately to SCV. The non-discrimination requirement prohibits SCV from imposing any restrictions on the purpose for which the IASP uses the services, other than technical restrictions that are equivalent to those that it imposes on itself or StarHub Internet.
- 4.9.3.8 In those cases in which SCV provides Cable Modem Service to end-users, SCV will continue to be subject to the other generally applicable competitive safeguards contained in Sections 3 and 7 of the Code, such as the duty to provide unbundled services, prohibitions on discrimination, cross-subsidisation and unauthorised use of EUSI. Post-consolidation, IDA expects StarHub, its subsidiaries and SCV to comply fully with these obligations contained in the Code. In addition, IDA has imposed accounting separation requirements on SCV and StarHub.
- 4.9.3.9 Finally, as discussed further below, IDA is approving the Consolidation Application subject to the Applicants’ acceptance of conditions designed to prevent SCV from “steering” end-users of its Cable Modem Service to StarHub Internet.

4.10 Creation of an Entrenched Duopoly

- 4.10.1 IDA expects the proposed Consolidation to result in operating efficiencies. Post-consolidation, StarHub, its subsidiaries and SCV can be expected to market a full range of telecommunication services. IDA is of the view that this ability to offer customers “one-stop-shopping” is likely to increase, rather than unreasonably restrict, competition in each of these markets.
- 4.10.2 That said, IDA recognises that there is some concern that, post-consolidation, StarHub, its subsidiaries and SCV, and SingTel can become a *de facto* duopoly in a number of markets. IDA has taken, and will continue to take, strong actions to promote new entry by facilities-based and services-based operators. In particular, IDA has imposed stringent interconnection and unbundling obligations on the Dominant Licensee, SingTel, and IDA expects to initiate a proceeding to determine the extent to which comparable obligations should be imposed on SCV (see paragraph 6.3 below).

4.11 Competitive Considerations Related to the Subscription Nationwide Television Service Market

- 4.11.1 IDA recognises that SCV has the ability to use its Market Power in the subscription nationwide television service market to impede competition within the telecommunications markets. As subscription nationwide television service is licensed and regulated by the SBA, IDA has referred the issue to SBA. IDA understands that SBA is developing a code of practice to regulate the market conduct of its licensees, including SCV in its provision of subscription nationwide television service.
- 4.11.2 IDA also notes that SCV's exclusive right to provide subscription nationwide television service will expire on 30 June 2002. The Ministry of Information, Communications and the Arts ("MITA") is currently undertaking a review of the subscription nationwide television service market. MITA expects to complete its review within the next few months, and will make a public announcement thereafter.

5. Approval of the Consolidation Application Subject to Conditions

- 5.1 Based on the analysis set forth above, IDA has decided to approve the Consolidation Application, subject to the Applicants' acceptance of the following conditions.
- 5.2. SPH Cannot Use Ownership Interests in StarHub, StarHub Mobile and M1 to Impede Competition in the Mobile Telecommunication Service Market**
 - 5.2.1 As discussed above, the proposed Consolidation could allow SPH to use its ownership interests in M1 and StarHub Mobile to impede competition in the mobile telecommunication service market.
 - 5.2.2 In order to deter this from occurring, as a condition of IDA's approval of the Consolidation Application, IDA will require StarHub and StarHub Mobile to accept the imposition of additional terms and conditions on their respective telecommunication licences. These terms and conditions prohibit StarHub and StarHub Mobile from approving the appointment of any individual, who holds a directorship and/or serves in an executive management position in M1, to StarHub's and StarHub Mobile's boards of directors and/or to serve in an executive management position in StarHub and StarHub Mobile, respectively.
 - 5.2.3 When SPH ceases to have ownership interest in M1 or StarHub Mobile, StarHub and StarHub Mobile may petition the IDA for the removal of these terms and conditions.

5.3 MCS Cannot Use Ownership Interests in StarHub Internet and PI to Impede Competition in the Internet Access Service Market

5.3.1 As discussed above, the proposed Consolidation could allow MCS to use its ownership interests in PI and StarHub Internet to impede competition in the Internet access service market.

5.3.2 In order to deter this from occurring, as a condition of IDA's approval of the Consolidation Application, IDA will require StarHub to accept and to procure StarHub Internet's acceptance of the imposition of additional terms and conditions on their respective telecommunication licences. These terms and conditions prohibit StarHub and StarHub Internet from approving the appointment of any individual, who holds a directorship and/or serves in an executive management position in PI, to StarHub's and StarHub Internet's boards of directors and/or to serve in an executive management position in StarHub and StarHub Internet, respectively

5.3.3 When MCS ceases to have ownership interest in PI or StarHub Internet, StarHub and StarHub Internet may petition the IDA for the removal of these terms and conditions.

5.4 MCS Cannot Use Ownership Interests in StarHub and 1-Net to Impede Competition in the Broadband Connection Service to Business End-users Market

5.4.1 As discussed above, the proposed Consolidation could allow MCS to use its ownership interests in StarHub and 1-Net to impede competition in the broadband connection service to business end-users market.

5.4.2 In order to deter this from occurring, as a condition of IDA's approval of the Consolidation Application, IDA will require StarHub to accept the imposition of additional terms and conditions on its telecommunication licence. These terms and conditions prohibit StarHub from approving the appointment of any individual, who holds a directorship and/or serves in an executive management position in 1-Net, to StarHub's board of directors and/or to serve in an executive management position in StarHub.

5.4.3 When MCS ceases to have ownership interest in 1-Net or StarHub, StarHub may petition the IDA for the removal of these terms and conditions.

5.5 No Discrimination by SCV in Favour of StarHub Internet

5.5.1 As noted above, IDA has determined that the proposed Consolidation would give SCV the incentive and ability to provide StarHub Internet with discriminatory access to its cable network.

5.5.2 In order to deter this from occurring, as a condition of IDA's approval of the Consolidation Application, IDA will require SCV to accept the imposition of additional terms and conditions on its telecommunication licence.

- 5.5.3 First, IDA will require SCV to implement “Cable Open Access for IASPs” by 31 December 2002. The additional licence terms and conditions seek to ensure SCV’s compliance with this requirement.
- 5.5.4 Second, IDA will require SCV to withdraw with immediate effect its existing tariff, filed with IDA, for the SCV Reseller Programme for Local Broadband Access Service. Instead, within 60 days from the date of the Applicants’ acceptance of IDA’s approval (subject to acceptance of conditions) of the Consolidation Application, SCV must file a revised wholesale tariff scheme with IDA for approval, pursuant to Section 5.8.3 of the Code, for the provision of broadband Internet access service. Prior to SCV’s implementation of “Cable Open Access for IASPs”, IDA expects SCV, in the interim, to put in place a more attractive wholesale scheme to enable IASPs to provide broadband Internet access service.
- 5.5.5 Third, SCV is expressly prohibited from taking any action that will induce end-users who subscribe to its Cable Modem Service to subscribe to StarHub Internet’s Internet access service. Without limitation, SCV will not make the homepage of StarHub Internet as the default homepage of an end-user of its Cable Modem Service. SCV will also not take any action to block or otherwise impair the ability of an end-user of its Cable Modem Service to: (A) select any webpage as the end-user’s homepage; and/or (B) access the value-added services of other IASPs.

6. Application of Dominant Licensee Classification

- 6.1 At the time IDA adopted the Code, it classified SCV as a Dominant Licensee. By contrast, StarHub and StarHub Internet are classified as Non-dominant Licensees. As part of its review of the Consolidation Application, IDA has considered whether any facilities-based licensee should be re-classified. IDA has concluded that the current classifications remain appropriate.

6.2 Application to StarHub and Its Subsidiaries Following the Consolidation

- 6.2.1 StarHub and SCV intend to preserve the current structure in which StarHub, StarHub Mobile, StarHub Internet and SCV each holds a separate telecommunication licence issued by IDA. Consistent with the “licensed entity” approach embodied in the Code, following the consolidation, SCV will continue to be classified as a Dominant Licensee, while StarHub, StarHub Internet and StarHub Mobile will continue to be classified as Non-dominant Licensees.
- 6.2.2 IDA notes, however, that pursuant to Section 2.4 of the Code, if SCV were to transfer “ownership or control” of the SCV cable modem platform to another licensee, that licensee would be eligible for classification as a Dominant Licensee.

6.3 Status of SCV's Temporary Exemption

- 6.3.1 In the decision that classified SCV as dominant, IDA temporarily exempted SCV from, principally, interconnection and other obligations contained in Section 5 of the Code because of uncertainty regarding the extent to which imposition of these requirements, which were developed to promote competition in the market for traditional wire-line telephone services, is technically feasible, and desirable as a policy matter.