

**SUMMARY NOTES ON QUESTIONS & ANSWERS FROM  
IDA'S SECOND PUBLIC FORUM, 16 JULY 2000, ON  
CODE OF PRACTICE FOR COMPETITION  
IN THE PROVISION OF TELECOMMUNICATION SERVICES**

**1. Will Dominant Licensees be required to offer telecommunication services provided to end-users to other licensees at wholesale rates?**

IDA will require the Dominant Licensees to allow Requesting Licensees to purchase, at wholesale rates, any telecommunication services designated by IDA that the Dominant Licensees provide to end-users at retail rates. As a start, IDA is looking at requiring the dominant wireline licensee to offer international private leased circuits at wholesale rates for an interim period, until additional international bandwidth is readily available. This is to place competitive pressure on international bandwidth prices whilst encouraging facilities-deployment in the longer term. There will however be no general obligation for the Dominant Licensees to make available all their retail telecommunication services at wholesale rates to other licensees. Whilst IDA is cognisant that this would encourage the early development of service-based competition, this needs to be balanced against the policy goal of encouraging investment in infrastructure. At the same time, IDA is also looking at not allowing the Dominant Licensees to restrict other Licensees from reselling the services that the Dominant Licensee makes available to its customers.

**2. In the event that IDA calculates wholesale rates based on FLEC/LRIAC principles, and recognising that the retail prices of some services are priced lower than costs, would there be a case where the wholesale rates are higher than the retail rates?**

In principle, Dominant Licensees will not be permitted to price their wholesale rates higher than the retail rates of their telecommunication services.

**3. As the definition of "Dominance" is now tied to the licence of the operator, will IDA make the terms and conditions of the licence more transparent?**

The generic terms and conditions of the Facilities-Based Operator (FBO) licence are already listed in the sample FBO licence published on the IDA website. IDA agrees that greater transparency will help the development of the industry, including transparency of operators' licences. IDA is considering making all licences publicly available, subject to provisions that would allow IDA to maintain confidentiality of specific information, should that be appropriate.

**4. Why was the definition of “Dominance” changed in the second draft of the proposed Code?**

IDA took this action for two reasons. First, IDA sought to simplify the test for determining dominance. Second, IDA found persuasive comments from some industry participants indicating that our initial classification of selected services provided by certain operators was too narrow. IDA also concluded that the original approach would be difficult to apply in situations in which a specific facility (e.g. conduit or ducts) is used to provide multiple services. In light of these concerns, under the revised approach, IDA will apply the dominant classification on a licensed-entity-wide basis, rather than on a service-specific basis. (SingTel wireline licensee is a separate entity from SingTel Mobile or SingNet). Dominant Licensees can seek reclassification. [This is discussed in the next question.] A Dominant Licensee may not avoid application of these obligations by moving assets to an affiliated entity.

**5. What are the key issues that IDA would consider in reviewing a request by a Dominant Licensee to be reclassified as non-Dominant or to receive an exemption from any specific regulation applicable to the Dominant Licensee?**

A Dominant Licensee may request IDA to reclassify it. IDA will only continue to classify a Licensee as Dominant if the Licensee continues to satisfy the three-part test contained in the Code: the Licensee has control of “last mile” facilities and the Licensee has the ability to raise end-user prices and/or reduce output above competitive levels or the cost or difficulty of replicating the facilities of the Dominant Licensee would create a barrier to rapid competitive entry. IDA expects to solicit the view of competitors and customers of the Licensee. A Dominant Licensee may also request an exemption from any of the special requirements applicable to Dominant Licensees. IDA will grant such requests where the Dominant Licensee demonstrates that, as a result of the development of competition, continued application of the provision to a specific facility or service is no longer necessary to protect end-users or to promote effective competition. IDA will take into account information on the relevant product, service and geographic markets, which the Dominant Licensee operates in; the Licensee’s market share; and the practicality of new entry into the Licensee’s market.

**6. Is IDA expecting the cost of transit to be higher or lower than termination rates?**

IDA will require Dominant Licensees to offer certain rates in their Reference Interconnection Offers. IDA is still working on the rates but our expectation is that the cost of transit should be lower than the termination rates. IDA will release these rates in the final version of the Code, together with the rest of the rates.

- 7. Is IDA considering increasing the maximum penalty amount of S\$1 millions currently imposed on Licensees who contravene the provisions of the Code?**

This will be part of the review on the current provisions in the legislation to be more relevant as the market changes and develops.

- 8. In the event that a Licensee engages in anti-competitive conduct, will the aggrieved party be able to seek compensation under the Code?**

IDA does not have statutory authority to create (or eliminate) private rights of action. Therefore, IDA will not be award monetary damages to parties injured as a result of a Licensee's action. IDA notes, however, Section 10 of the Revised Proposed Code contains a procedure in which a party can ask IDA to take enforcement action against a Licensee that has contravened the Code. If IDA finds that a contravention has occurred, it has a number of options – including imposition of monetary fines (payable to IDA), issuance of cease and desist orders, and issuance of directions requiring the Licensee to take specific actions.

- 9. Will IDA impose a timeframe by which physical interconnection should be effected?**

Dominant Licensees must adopt, subject to IDA approval, a Reference Interconnect Offer (RIO). Dominant Licensees will be required to submit a draft RIO thirty days after the effective date of the Code. The final RIO should go into effect no more than sixty days later. The RIO will cover 18 broad categories, containing the minimum terms and conditions required for interconnection. (IDA will seek industry comments on the draft RIO of the Dominant Licensees.) The RIO must be sufficiently complete to allow a Licensee to “accept” the offer without further negotiation and to begin implementation of the agreement within thirty days of acceptance. A Licensee can also request to negotiate an individualised agreement. In this case, the Licensee can still obtain physical interconnection, subject to the terms of the RIO, on an interim basis, pending the adoption of an individualised agreement (either through voluntary negotiations or the IDA Dispute Resolution Procedure).

- 10. IDA had stated that the availability of Unbundled Network Elements would be for a limited time only and would be progressively withdrawn over time to encourage facilities deployment by the operators. What is the process and timing for effecting the withdrawal? Would IDA consider making available selected UNEs e.g. directory listing databases, for the long term as it would not be feasible for each operator to duplicated such elements?**

IDA will review periodically all provisions of the Code – including those applicable to the provision of UNEs – and will remove regulatory obligations as competition becomes more established. IDA does not anticipate that all the UNEs will be withdrawn over time; there will be some that will likely continue to be needed unless future technology advancements make it feasible to duplicate. IDA will review the relevant market and technological developments, and will also seek comments from industry, before making any decision on withdrawing the availability of an UNE.