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Ms. Ng Cher Keng
Director (Policy)
Infocomm Development Authority of Singapore
8 Temasek Boulevard
#14-00 Suntec Tower Three
Singapore 038988

RE: Comments on the Review of International Settlement Arrangements Relating to the Provision of International Telecommunication Services

Dear Ms. Ng:

On behalf of AT&T Worldwide Telecommunications Services Singapore Pte. Ltd. ("AT&T Singapore") and AT&T Corp. ("AT&T"), I am pleased to submit the following comments on the Info-communications Development Authority of Singapore Consultation Paper, *Review of International Settlement Arrangements Relating to the Provision of International Telecommunication Services*, issued on 7 January 2002 (the "*Consultation Paper*"). AT&T Singapore holds a Service-Based Operator ("SBO") license and provides Managed Data Network Services and other value-added network services. Through the AT&T and British Telecommunications plc. joint-venture, Concert, AT&T also shares a 50/50 controlling interest in Concert Global Networks (Singapore) Pte. Ltd. ("Concert Singapore"). Concert Singapore holds a Facilities-Based Operator ("FBO") license and provides various managed services and facilities-based connectivity services. Upon the upcoming dissolution of Concert, AT&T will own 100% of Concert Singapore, including its FBO license and its international facilities-based operations. Our interest in this proceeding is to promote international settlement rules that encourage and protect competition. We strongly support the IDA's commitment in reviewing its current rules to ensure their continued relevance and effectiveness.

In the *Consultation Paper*, IDA seeks comment on a variety of issues, including whether the competitive distortions of one-way bypass and whipsawing remain serious concerns, and if so, whether current protective measures such as parallel accounting, proportionate return, accounting agreement filings, and statistical traffic filings are appropriate and effective to curb any distortions. *Consultation Paper* at ¶¶ 6,7. The IDA also seeks comment on how alternative technology platforms or alternative least cost routing arrangements affect the current accounting regime. *Id.* at ¶ 3.

In this review, we urge the IDA to recognize that any rule that is not necessary to protect competition may actually inhibit competition by limiting the extent to which Singapore carriers compete among themselves in the provision of international telecommunications services. With this principle in mind, we recommend the following positions with respect to international settlement guideline reform: (1) apply the less restrictive Category I measures to all correspondent arrangements with non-dominant carriers in Category II countries, because such carriers lack the market power to distort competition; further, to implement this bright line distinction between dominant and non-dominant foreign carriers, publish a list of the carriers IDA presumes to be dominant and subject to full Category II protective measures in the Category II countries; (2) relax the Category I measures by removing the requirement to file accounting agreements and accounting rates, because disclosure of such arrangements with carriers subject to effective competition is more likely to stifle competition than to protect competition; and (3) refuse to apply the international settlement guidelines to new technologies or alternative access methods, because they continue to serve as pro-competitive commercial alternatives that undermine the market power of dominant operators, and in so doing, exert downward pressure on above-cost accounting rates.

AT&T Singapore does not have first-hand data with which to ascertain whether one-way bypass and whipsawing are indeed serious concerns to Singapore carriers, and in turn, to Singapore consumers. Our informal understanding is that Singapore carriers have minimal concerns with whipsawing and one-way bypass, primarily because of indirect routing opportunities from Singapore into Category II countries. However, we will not base our comments on anecdotal information, and other Singapore carriers who have negotiated multiple correspondent agreements will be better positioned to provide a factual assessment on the risks of one-way bypass and whipsawing. But even if we were to assume that such concerns exist, which we do not, AT&T Singapore would still propose the positions discussed below for IDA's international settlement guidelines.

Our most significant recommendation is that IDA should expand the application of the Category I rules to include arrangements with non-dominant foreign carriers in Category II countries. Like carriers in the competitive Category I countries, carriers that lack market power in the Category II countries also lack the ability to whipsaw Singapore carriers. If a Singapore carrier faced an attempt at whipsawing by a non-dominant foreign carrier in a Category II country, the Singapore carrier could respond by entering an agreement with a different foreign carrier in that country. Because a non-dominant carrier should be presumed to lack the ability to unilaterally set terms and conditions in accounting arrangements, the protective Category II requirements such as parallel accounting and proportionate return are not necessary to safeguard fair competition. In fact, where there is no meaningful danger of whipsaw behavior at the foreign end, maintenance of unnecessary rules may have the unintended effect of stifling competition between Singapore carriers by reducing incentives to aggressively negotiate lower settlement rates (i.e., because parallel accounting spreads the benefits of the negotiation efforts to competitors). Strong incentives to negotiate lower rates would generate stronger competition and lower rates, both of which inure to the benefit of Singapore consumers.

IDA should presume that arrangements with foreign carriers that lack market power in Category II countries raise no potential harm, and accordingly, should relax the international settlement guidelines associated with these arrangements. As stated above, AT&T Singapore

does not posses sufficient facts to assess whether IDA should presume potential harm to Singapore carriers and consumers from arrangements with the dominant foreign carriers in Category II countries. However, if IDA were to relax the protective measures on arrangements with non-dominant carriers, but continue to apply the full Category II protective measures on accounting arrangements with dominant carriers (i.e., because IDA presumes that a danger to competition does exist), then IDA will need a bright-line method for distinguishing which carriers are subject to the more restrictive measures currently associated with Category II routes. To accomplish this, we recommend that IDA make an affirmative finding of which carrier(s) posses market power in specific Category II markets, and for IDA to publish this list.[1] For arrangements with any foreign carrier on the list, the Singapore carrier should comply with the full Category II measures. For arrangements with any other foreign carrier not on the list, the Singapore carrier should comply with the more relaxed measures associated with Category I routes. Interested parties should be allowed to challenge the inclusion or exclusion of any carrier on the list.

The second reform IDA should make is to relax the Category I measures by removing the requirement to publicly file accounting rates and accounting agreements between a Singapore carrier and any carrier in a Category I country or any non-dominant carrier in a Category II country.[2] Public filing of accounting rates and accounting agreements only has a role in protecting competition when the filing is the method by which carriers ensure compliance with parallel accounting requirements. If there is no requirement to engage in parallel accounting -- as is currently the rule for carriers in Category I countries and as we propose herein should be the rule for non-dominant carriers in Category II countries -- then there is no compliance benefit from the disclosure of agreements. Absent a compelling public interest, accounting agreements and accounting rates should be protected as highly confidential and proprietary information between the parties to the agreement. The forced disclosure is likely to have a detrimental impact on conclusion of arrangements that would otherwise result in reduced accounting rates, particularly if the foreign carrier does not want that arrangement known by other Singapore carriers, or if the Singapore carrier to the agreement does not want to disclose the fruits of its negotiating labors. And indeed, for those arrangements where IDA already presumes the absence of competitive concerns, IDA will best promote competition in the international services market if it allows unrestricted and undisclosed commercial arrangements.

Finally, IDA should not apply the international settlement guidelines to new technologies or alternative access methods used to deliver telecommunications traffic outside the traditional bilateral accounting settlement regime. As stated above, any rule that is not necessary to protect competition may have the effect of harming competition. In this instance the non-traditional services or commercial arrangements are pro-competitive alternatives for delivering traffic. They advance IDA's important policy goals of exerting downward pressure on above-cost accounting rates, and of ensuring fair and effective competition among a wider group of new and established carriers. Such competition, in turn, will reduce

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[1] The FCC has published a list of foreign carriers presumed to possess market power for use in conjunction with its International Settlements Policy. This list would be a useful reference for IDA analysis. *See List of Foreign Telecommunications Carriers that are Presumed to Possess Market Power in Foreign Telecommunications Markets*, DA 99-809 (released June 18, 1999) <http://www.fcc.gov/Bureaus/International/Public_Notices/1999/da990809.txt>.

[2] OFTEL has discontinued its conditions requiring publication of accounting rates, on the basis that such disclosure can distort competition, particularly so when the disclosure is no longer necessary to protect competition. *See Statement on International Controls in PTO Licenses*, ¶ 2.28 (November 2000) http://www.oftel.gov.uk/publications/pricing/inco1100.htm.

costs, increase investment in new facilities, and increase the availability of affordable high-quality services to consumers. By contrast, any unnecessary regulation of these non-traditional arrangements (i.e., application of the international settlements guidelines) would have a stifling effect on their use and benefits. Regulation would be entirely improper in the absence of prior proof of market failure, and AT&T posits that there will be no proof of market failure stemming from arrangements that undermine a foreign dominant operator's unilateral control of traffic settlement arrangements.

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For the reasons state above, we applaud the IDA for undertaking this review of its international settlement guidelines, and encourage the IDA to reform the guidelines by eliminating all unnecessary regulatory burdens. I would be pleased to respond to any questions concerning these comments and to provide any further information that would be helpful to the IDA. Please do not hesitate to contact me in that regard.

Respectfully submitted,

C. A. Barton