# STARHUB SUBMISSION ON THE REVIEW OF INTERNATIONAL SETTLEMENT ARRANGEMENTS RELATING TO THE PROVISION OF INTERNATIONAL TELECOMMUNICATION SERVICES

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**STARHUB SUBMISSION**
**ON THE IDA'S CONSULTATION DOCUMENT ISSUED ON 7 JANUARY 2002**
**ON REVIEW OF INTERNATIONAL SETTLEMENT ARRANGEMENTS RELATING TO THE PROVISION OF INTERNATIONAL TELECOMMUNICATION SERVICES**

StarHub appreciates the opportunity to comment on IDA's Consultation Document on the review of international settlement arrangements relating to the provision of international telecommunication services. As competition in the international markets has increased significantly since Singapore's liberalisation in 2000, this review of the current approach and its relevance to progress and technological developments is warranted. However, StarHub remains concerned about any attempts to regulate this area too rigorously such that it restrains operations and the flexibility to respond to market developments.

## Comments on Bypass and Whipsawing

Under the competitive environment that exists today, carriers and operators outside Singapore are free to terminate traffic into Singapore through the Singapore-licensed Facilities-Based Operators ("FBOs") and Service-Based Operators ("SBOs").

In addition, these foreign carriers are also free to interconnect with other carriers outside Singapore, where the wholesale market is extremely active, and source for termination of traffic into Singapore without having direct interconnection with Singapore carriers. There are always "arbitrage" opportunities for fully liberalised destinations where the Parallel Accounting/Proportionate Return regime does not apply, i.e. Category I routes. The potential exists for carriers to bypass the accounting regime by establishing Points-of-Presence ("POPs") in countries such as US, UK, HK, France and etc, using the international facilities belonging to other operators in those countries.

It is also worth noting that imbalance in the status of liberalisation between countries creates an unfair playing field. For example, carriers from Category II countries may obtain telecom licenses in the liberalised Singapore market to collect and/or terminate Singapore traffic by themselves, therefore bypassing the accounting regime. Meanwhile, Singapore carriers are restricted by the monopoly regime in the foreign country and are not permitted to do the same. Instead, Singapore carriers have to send traffic via the traditional accounting rate system and are compelled to pay high settlement rates to terminate traffic in the non-liberalised country.

Also where the far end is competitive, whipsawing may not be possible but could still occur on some routes that have not been liberalised. Generally, where the far end routes are neither completely liberalised nor fully competitive, conditions may exist for potential whipsawing. For example, to this end a foreign monopoly carrier with market power in its own country can exploit its position by playing competing Singapore carriers against each other, such that accounting rates move in the direction advantageous to the monopoly carrier but unfavourable to Singapore.

As such, there are opportunities for bypass and whipsawing to exist to some extent.

In our opinion, one-way bypass and whipsawing are difficult to be fully or adequately tackled on both the Singapore and foreign ends. Such practices can also occur under different guises. For example, carriers may demand unilateral traffic commitments, or may demand unusually low termination rates citing "market rates", or an unequal share of the Total Accounting Rate. As such overseas carriers are not under Singapore jurisdiction, and

unless they operate under jurisdictions that so require, they are generally not obliged to adhere to IDA's regulations.

Also these unusually low "market rates" are indicative that there may be some SBOs or even unlicensed operators who undercut the market by offering absurdly low prices, not taking into account the costly investment into network buildup that FBOs have undertaken. Realistically, such operators especially if they are unlicensed may be very difficult to identify and enforcement against them may be an issue.

We submit that, until all foreign routes are liberalised, opportunities for arbitrage exist and it is highly unlikely that one-way bypass and whipsawing will cease altogether. Till then, foreign carriers outside Singapore remain free to trade, impervious to the regulations in Singapore.

## Comments on Parallel Accounting ("PA") and Proportionate Return ("PR")

We recognise that the IDA's requirements of PA and PR is intended to be a means of preventing certain types of anti-competitive behaviour (i.e. bypass and whipsawing) by foreign operators in certain circumstances, hence protecting operators in Singapore and ultimately end users.

However, we believe that the PA and PR regime will be effective if the following assumptions are true:

(1) There is visibility between operators on the accounting rate;
(2) The operators are aware of the return traffic being received by the other ;
(3) The carriers and operators outside Singapore exclusively send their traffic directly to Singapore via operators connected in Singapore only; and
(4) The carriers and operators outside Singapore are obliged to adhere to this regime.

Arguably, non-fulfillment of one or more of the above assumptions may render the regime ineffective. This is more so as, unfortunately, market forces and/or changes make it difficult for these suppositions to be held true and/or to be tracked.

Historically, the PA/PR regime was implemented back when there was not much competition in terms of number of alternative carriers or alternative ways to deliver traffic. In those days, the accounting rates were intentionally and politically set at high rates and international services operators, being incumbent (and often monopoly) carriers, were able to impose high collection rates on end users. Under those circumstances, it was easier to establish the PA and PR requirements and hold those assumptions mentioned above true.

In today's environment, however, the wholesale market is so active with various alternatives to deliver traffic. As a result, there is no visibility on the traffic sent by other carriers and no guarantee that the traffic from certain carriers is entirely originated from a particular country. They may even have sent some portion of traffic through other alternatives, thus sending less traffic than originated through direct routes. Therefore, it seems that PA/PR may be getting more vulnerable in the current dynamic and competitive environment, where there are asymmetrical market conditions and where there are many alternative ways of delivering traffic, as well as multiple carriers available to terminate traffic in a single country.

Singapore is a fully liberalized market with relatively low interconnection charge between the local operators and is arguably a nett outbound traffic sender to most of the Category II destinations, being typically monopoly or controlled environments where the incumbents

have little or no incentive to reduce settlement rates. Due to this imbalance and the asymmetrical market conditions between the two markets, it is always the Category II destination operators who will try to keep the settlement rate as high as possible to retain their nett settlement, while the Singapore-based carriers negotiate to reduce the settlement rates on those routes.

The effective way to pressure these carriers to approach cost-based settlements is when major overseas carriers work with alternative operators. In fact, it can be argued that bypass exists because settlement is not cost-based.

As mentioned above, while the risks of bypass and whipsawing are likely to exist on non-liberalised routes the global market is nonetheless changing rapidly and dynamically with more routes gradually liberalising. It is important to continuously keep an eye on these market developments and take necessary regulatory actions at the appropriate timing.

## Other types of Anti-Competitive Behaviour

Under the current commercially and market driven competitive environment, the relative negotiating power amongst the players tends to be determined by the player's share of traffic stream it controls regardless of whether it is gathered organically or through its network of POPs in the wholesale market.

There is always a risk that the dominant player can exploit its strength by entering into commercial deals with counterparts in other countries to the detriment of the other Singapore licensees. This could include, for example, locking counterparts in unreasonably extended periods, or locking in an unreasonably large volume of traffic thereby not allowing a chance for other players to get a slice of inbound traffic and thus increasing these parties net cost of terminating into these countries.

We note that IDA's Guidelines on International Settlement Arrangements Relating to Provision of International Telecommunication Services currently provides for its own reserve power to impose competitive safeguards (above its PA/PR requirements) in instances of anti-competitive abuse,

2.2.1 *"… IDA nonetheless reserves the right to impose competitive safeguards should there be occurrences of anti-competitive abuses."*

2.2.2 *"… IDA may also impose additional safeguards when deemed appropriate and necessary to ensure that effective and sustainable competition develops."*

In order to prevent the abovementioned anti-competitive practices however, no matter how IDA revises this policy after this consultation, it is also important that IDA continue to allow opportunities for carriers to raise instances of abuse and seek recourse.

## Conclusion

We submit the above comments for IDA's consideration. It is important for operators to secure a fair playing field, where they can pursue consumer interests by driving down the cost of making IDD calls and further the government efforts to position Singapore as a telecommunications hub in the region.