To: Mr Andrew Haire
Senior Director (Policy and Regulation)
Info-communications Development Authority of Singapore
8 Temasek Boulevard
#14-00 Suntec Tower Three
Singapore 038955

(Jospehine_Ng @ida.gov.sg)

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Dear Sir,

Response to Review of SingTel's Reference Interconnect Offer

We wish to submit our joint comments on the above in our private capacity as citizens of Singapore.

We welcome and thank IDA for this opportunity to provide feedback and views on SingTel's RIO. We have only a few succinct comments which we think obviates the need for an executive summary.

Regards

Bryan Tan and Siew Kum Hong

Name: Bryan Tan
Address: 53 Jalan Tambur Singapore 576819
Tel: 6458 7601
Email: bryansttan@yahoo.com

Name: Siew Kum Hong
Address: 39 Jalan Lanjut Singapore 577682
Tel: 6232 0779
Email: siewkumhong@yahoo.co.uk

RESPONSE

Overview

This response is written to respond to an invitation for comments on SingTel's Reference Interconnect Offer (the "RIO").

The genesis of the RIO came about because IDA recognized that a dominant licensee "lacks the economic and commercial incentive to enter voluntarily into Interconnection Agreements with competing Licensees"[1].

In addition, we wish to point out three other factors which justify the existence of (and the emphasis on) the RIO:

(a) the recognition that a dominant licensee has much greater and far greater negotiating power than a new entrant to the market;

(b) it is essential for the development of any semblance of real competition to provide for interconnection to the incumbent's network on fair and reasonable conditions; and

(c) a reference offer also achieves the aim of open and non-discriminatory access to interconnection facilities.

Responses to Specific Provisions

Clause 4: Commencement, Duration and Review

We have a specific concern over Clause 4.3, which seems to suggest that once IDA conducts a review of the Code, SingTel may also review the RIO and seek IDA's approval of such amendments. SingTel may then implement such amendments as these are binding on both parties once IDA's approval is obtained[3].

The issue is that because the perogative is on SingTel to apply for the change, there is arguably little chance it will do so if it is not to its advantage. In addition, the public consultation process in Article 5.3 of the Telecom Competition Code are not applicable to the changes presented to IDA by SingTel (as these only apply to proposed RIOs submitted within 30 days of the Telecom Competition Code). This is not desirable as the respective telecommunication companies may have their operational issues which will only be seen at the amendments to the RIO. So consequential changes to the Telecom Competition Code may be required to take into account in the consultation process for the resulting changes to the RIO.

The next point following is - if you have a negotiated/customised Interconnection Agreement and following changes to the Telecom Competition Code, SingTel needs to make amendments, then the amendments require the approval of both parties (since it is not a IDA-approved change). This throws into doubt whether the IDA conciliation and

[1] See Article 5.1 of the Telecom Competition Code
[2] Article 1.1 of the Telecom Competition Code
[3] See clause 36.1 of the RIO.

dispute resolution processes in the Telecom Competition Code are applicable since these only apply to the adoption of voluntary Interconnection Agreements and not adoption of amendments to voluntary Interconnection Agreements. This point is a bit out of the discussion but seeing that RIO has impact on these (RIO being the minimum requirements upon which such customizations were based), it should be addressed.

Clause 21: Insurance

We also find the requirement of broad form public liability insurance to be very wide. We believe that such insurance is not a necessary requirement in similar reference interconnect agreements in other jurisdictions.

The starting point is that the counter-parties in the RIO are telecommunication companies with sufficient credit-standing[, which would have been established during the licensing process by IDA]. The risk that the counterparties would not be able to bear damages caused to SingTel is present, but likely to be remote.

In addition, such requirement may prove to be excessive in relation to certain IRS offered under the RIO. We wish to point out that certain reference interconnect offer agreements in US states have requested for insurance up to US$5 million. Given the extensive level of litigation there, it is surprising that SingTel's requirement is so much higher. Objectively, we feel that it may be fairer to peg the insurance requirement to the range of services obtained and the intrusiveness of such services to SingTel's interconnect facilities.

Finally, we believe that from a historical perspective, it is clear that public liability claims in Singapore against telcos have not been significant.

Schedule 5A – Clause 5 : Delivery

We think that Requesting Licensees should be given the option to undertake construction of their own ducts to SingTel's lead-in Manhole, provided that no damage is caused to SingTel's underground plant. This should be the case in Singapore which is heavily developed. It would be an unjustifiable waste of resources not to allow this, especially where the Licensee is capable of and/or more suitable for undertaking such construction work.

Schedule 8D – Co-Location at Submarine Cable Landing Stations

Clause 1.3 - We request for clarification whether the term "access the respective submarine cable system landed in the station" refers to the carrying of only the Requesting Licensee's own traffic, or to both the Requesting Licensee's own and third parties' traffic. Our view is that the term ought to refer to the latter, as that would be more conducive to a vibrant and competitive market in telecommunications services.