



INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF SINGAPORE

PUBLIC CONSULTATION ON:

- (A) REQUEST BY AT&T WORLDWIDE TELECOMMUNICATIONS SERVICES SINGAPORE PTE LTD, AT&T CORP AND SBC COMMUNICATIONS INC FOR EXEMPTION FROM LONG FORM CONSOLIDATION APPLICATION IN RELATION TO THE PROPOSED ACQUISITION OF AT&T CORP BY SBC COMMUNICATIONS INC**
- (B) THE PROPOSED CHANGE IN OWNERSHIP IN AT&T WORLDWIDE TELECOMMUNICATIONS SERVICES SINGAPORE PTE LTD ARISING FROM THE ABOVE CONSOLIDATION**

ISSUED ON 23 JUNE 2005

- 1. INTRODUCTION**
- 2. REQUEST BY AT&T SINGAPORE, AT&T AND SBC FOR EXEMPTION FROM LONG FORM CONSOLIDATION APPLICATION**
- 3. THE PROPOSED CHANGE IN OWNERSHIP IN AT&T SINGAPORE ARISING FROM THE ABOVE CONSOLIDATION**
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**REQUEST BY AT&T WORLDWIDE TELECOMMUNICATIONS SERVICES
SINGAPORE PTE LTD, AT&T CORP AND SBC COMMUNICATIONS INC FOR
EXEMPTION FROM LONG FORM CONSOLIDATION APPLICATION
AND CHANGE IN OWNERSHIP IN AT&T WORLDWIDE TELECOMMUNICATIONS
SERVICES SINGAPORE PTE LTD
ARISING FROM THE ABOVE CONSOLIDATION**

23 June 2005

In accordance with Subsection 1.7(a) and Subsection 10.6.1 of the Code of Practice for Competition in the Provision of Telecommunication Services 2005 (the "Code"), the Info-communications Development Authority of Singapore ("IDA") hereby invites comments from the industry and the public on (i) the request by AT&T Worldwide Telecommunications Services Singapore Private Limited ("AT&T Singapore"), AT&T Corp ("AT&T") and SBC Communications Inc ("SBC") for an exemption from filing the Long Form Consolidation Application in relation to a proposed acquisition of AT&T by SBC (the "Consolidation"); and (ii) the proposed change in ownership in AT&T Singapore arising from the proposed Consolidation as submitted via the Short Form Consolidation Application.

1. Introduction

- 1.1 Pursuant to Section 32A(1) of the Telecommunications Act (the "Act"), all Facilities-based Licensees have been declared to be Designated Telecommunication Licensees ("DTLs") by IDA. DTLs and parties acquiring ownership interests in DTLs are required to comply with various provisions relating to changes in ownership and consolidations under the Act and Section 10 of the Code. Specifically, pursuant to Subsection 10.4 of the Code, a DTL and an acquiring party must seek IDA's approval in connection with any transaction that results in a consolidation. Under the Code, a consolidation would result if an acquisition would result in, *inter alia*, the acquiring party gaining the ability to exercise effective control over the DTL. Where an acquisition would result in the acquiring party holding an ownership interest of at least 30% in the DTL, the acquiring party shall be presumed to gain effective control and the acquisition would accordingly be treated as a consolidation.
- 1.2 Under Subsection 10.5 of the Code, the DTL and the acquiring party must submit either a Long Form Consolidation Application or a Short Form Consolidation Application to IDA. Pursuant to Subsection 10.5.2.1 of the Code, they may use the Short Form Consolidation Application if:

- (a) the consolidation is a horizontal consolidation¹ that will not result in the post-consolidation entity having more than a 15 percent share in the telecommunication market in Singapore; or
- (b) the consolidation is a non-horizontal consolidation² in which none of the applicants has more than a 25 percent share of any telecommunication market, whether in Singapore or elsewhere, in which it participates.

In all other cases, the applicants must submit the Long Form Consolidation Application.

2. Request by AT&T Singapore, AT&T and SBC for Exemption from Long Form Consolidation Application

- 2.1 On 31 January 2005, both AT&T and SBC announced an agreement where SBC proposed to acquire the entire share capital of AT&T and, thereafter AT&T would become a wholly-owned subsidiary of SBC.
- 2.2 As AT&T indirectly owns 100 percent of AT&T Singapore (which holds a Facilities-based Operator Licence issued by IDA), the above transaction would result in a change in AT&T Singapore's ownership and constitutes a consolidation as defined under Section 10 of the Code. Under Subsection 10.4 of the Code, AT&T Singapore, AT&T and SBC (collectively referred as the "Applicants") must seek IDA's approval for the change in AT&T Singapore's ownership arising from the proposed Consolidation between AT&T and SBC.
- 2.3 On 10 June 2005, the Applicants submitted a request ("Request") to IDA for exemption under Section 26(5) of the Telecommunications Act, Subsection 1.7(a) of the Code³ and Subsection 3.5 of the Telecom Consolidation Guidelines⁴. Specifically, the Applicants have requested for the following:
 - (a) An exemption from filing the Long Form Consolidation Application; and
 - (b) IDA's consent to file the Short Form Consolidation Application.

¹ Under the Code, "Horizontal consolidation" is defined as "a consolidation involving 2 or more entities that are current competing providers of the same telecommunication services or telecommunication services that are reasonable substitutes."

² "Non-horizontal consolidation" means a consolidation that involves 2 or more entities that are not current competitors.

³ Subsection 1.7(a) of the Code states that "[w]here good cause is shown, IDA may grant exemptions from specific provisions of this Code ...".

⁴ Subsection 3.5 of the Telecom Consolidation Guidelines states that any applicant may request IDA to exempt it from any or all of the information requirements. IDA will grant such an exemption if "... the Applicant makes a specific and compelling submission that: (a) compliance with the specific requirement or requirements is not possible; (b) would be unreasonably burdensome; or (c) is not necessary to ensure that a Consolidation would not substantially lessen competition in the Singapore telecommunication market ..."

A copy of the Request is enclosed as **Annex 1**.

2.4 The Applicants have stated in the Request that they do not have greater than 25% market share in any telecommunication market in Singapore. The Applicants submitted that “[a]lthough SBC may have a 25% share or greater in certain US domestic wireline and wireless areas, there is no indication that post-merger it would have the ability or the incentive to use its market position in the US to advantage itself or AT&T unfairly in Singapore markets”. The Applicants have also stated that the markets served by AT&T and SBC are competitive. Based on the Applicants’ analysis in the Request, they submitted that compliance with the requirements of the Long Form Consolidation Application:

(a) will not be necessary to ensure that the Consolidation does not substantially lessen competition in any telecommunication market in Singapore; and

(b) will be unreasonably burdensome to the Applicants.

3. The Proposed Change in Ownership in AT&T Singapore Arising from the Above Consolidation

3.1 To facilitate IDA’s review process and reduce unnecessary regulatory burden, IDA will also seek comments regarding the proposed change in AT&T Singapore’s ownership (as stated in the Short Form Consolidation Application and the Abbreviated Statement) as provided for under Subsection 10.6.1 of the Code. IDA understands that the U.S. Federal Communications Commission continues to classify SBC as dominant in the provision of access services in its 13-state service region. This region includes significant business / financial / technology centres such as Los Angeles, San Francisco, Chicago, Houston and Detroit. Hence, the consultation will provide feedback to IDA whether the proposed Consolidation will give the post-consolidation entity the ability to leverage its position in the U.S. market to impede competition in the Singapore telecommunication market.

3.2 A copy of the Applicants’ Short Form Consolidation Application (including the Abbreviated Statement) is attached in **Annex 2**.

4. Invitation to Comment

4.1 Pursuant to Subsection 1.7(a) and Subsection 10.6.1 of the Code, IDA hereby invites comments from the industry and public on the Request and the proposed change in AT&T Singapore’s ownership arising from the Consolidation as stated in the Short Form Consolidation Application and the Abbreviated Statement. Respondents are also invited to comment on any other related issues (with factual support and reasoned analysis to the extent feasible) not covered in this

document, if they believe that such issues are relevant to the Request and the proposed change in AT&T Singapore's ownership.

- 4.2 IDA will consider all comments received before deciding whether to grant exemption for the Request. If no significant objection is received regarding the Request and IDA's assessment confirms that the Request is justified, IDA will grant exemption to the Request. In such a situation, IDA will then proceed to accept the submission of the Short Form Consolidation Application and the Abbreviated Statement by the Applicants and assess the proposed change in AT&T Singapore's ownership, taking into account any public comments submitted. IDA strongly believes that this approach of seeking public comments on both the Request and the proposed change in AT&T Singapore's ownership will benefit the industry as a whole due to efficient use of resources by all parties concerned, and yet allow for a transparent but meaningful assessment. This approach will also allow for a more speedy review process by IDA and reduce uncertainty for the industry and the Applicants.
- 4.3 All submissions must reach IDA **before 12 noon on 7 July 2005**. All comments must be submitted in writing (and a softcopy, preferably in Microsoft Word format, must be provided). Respondents must clearly identify whether their comments are in response to the Request or the proposed change in AT&T Singapore's ownership (as submitted in the Short Form Consolidation Application and the Abbreviated Statement). Respondents are also required to include their personal / company particulars as well as the correspondence address, contact numbers and email addresses in their submissions. IDA will make public all or parts of any written submissions made in response to the consultation paper and to disclose the identity of the source. Any part of the submission which is considered commercially confidential must be clearly marked and placed as an annex to the comments raised. IDA will take this into account in its assessment.
- 4.4 All comments must be addressed to:

**Mr Andrew Haire
Assistant Director-General (Telecoms)
Infocomm Development Authority of Singapore
8 Temasek Boulevard
#14-00 Suntec Tower Three
Singapore 038988**

Fax: (65) 6211 2116

Please submit your soft copies via e-mail to: [Yeo Tiong Yeow@ida.gov.sg](mailto:Yeo_Tiong_Yeow@ida.gov.sg).

- 4.5 IDA will consider all comments received and issue its decision on both the Request and, if the Request is granted, the proposed change in AT&T Singapore's ownership thereafter.