

Our Ref: TR/05/01/ST/ICS

12 April 2005

Singapore Telecommunications Limited
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Fax: 6733 5597

Attention: Mr Sean Slattery
Director (Regulatory & Interconnect Strategy)

Dear Mr Slattery,

**DECISION OF THE INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY
OF SINGAPORE ON THE REQUEST BY SINGAPORE
TELECOMMUNICATIONS LIMITED FOR EXEMPTION FROM THE
APPLICATION OF DOMINANT LICENSEE OBLIGATIONS WITH RESPECT
TO THE PROVISION OF INTERNATIONAL CAPACITY SERVICES**

- 1 Please refer to the request filed by Singapore Telecommunications Limited ("SingTel") on 2 March 2004 for exemption from the application of the Dominant Licensee obligations specified in the Telecom Competition Code (G.N. No. S412/2000) ("Code 2000") with respect to a suite of 28 telecommunication product offerings which SingTel collectively termed as International Capacity Services ("Request").
- 2 On 4 March 2005, Code 2000 was cancelled and replaced with a revised Telecom Competition Code 2005 (G.N. No. S87/2005) ("Code"). In this respect, Sub-section 12.4.4(a) of the Code provides that *"[a]ny proceedings commenced before the Effective Date of this Code, but which remains uncompleted after the Effective Date of this Code, will be deemed to have been made under the corresponding provisions of this Code and governed by this Code, provided that IDA is able to determine the proceeding in a manner that is consistent with the provisions of this Code."*
- 3 In this respect, IDA has determined that the Dominant Licensee obligations under Code 2000 that SingTel is seeking exemption in its Request, correspond to the following provisions of the Code, which address the same categories of Dominant Licensee obligations:
 - (a) Sub-section 4.2.1.1 – Duty to Provide Service at Just and Reasonable Prices, Terms and Conditions;
 - (b) Sub-section 4.2.1.2 – Duty to Provide Service on a Non-discriminatory Basis;

- (c) Sub-section 4.2.1.3 – Duty to Provide Unbundled Telecommunication Services;
- (d) Sub-section 4.2.2.1 – Duty to Provide Service on Reasonable Request;
- (e) Sub-section 4.2.2.2 – Duty to Allow Resale of End User Telecommunication Services;
- (f) Sub-section 4.2.2.3 – Duty to Allow Sales Agency;
- (g) Sub-section 4.3 -- Wholesale Services;
- (h) Sub-section 4.4 – Tariffing;
- (i) Sub-section 4.5 – Duty to Publish Tariffs;
- (j) Sub-section 4.6 – Duty to Provide Service Consistent with Effective Tariffs; and
- (k) Sub-section 8.2 – Abuse of Dominant Position in the Singapore Market.

Therefore, pursuant to Sub-section 12.4.4(a) of the Code, IDA will assess SingTel’s Request for exemption in relation to the above provisions of the Code.

4 In relation to market definition, IDA has determined that the 28 telecommunication product offerings for which SingTel has requested an exemption do not constitute a single market because they are not reasonable substitutes for each other. Rather, IDA has determined that these telecommunication product offerings comprise 10 separate markets¹, namely: Backhaul, Terrestrial International Private Leased Circuit (“Terrestrial IPLC”), International Managed Data Services (“IMDS”), International IP Transit, Leased Satellite Bandwidth, Very Small Aperture Terminal (“VSAT”), Digital Video Broadcast-IP (“DVB-IP”), Satellite TV Uplink, Satellite TV Downlink and Satellite International Private Leased Circuit (“Satellite IPLC”) markets. As such, IDA’s assessment of the level of competition is based on SingTel’s provision of telecommunication services in these 10 markets. The table below sets out the 10 separate markets and lists SingTel’s 28 telecommunication product offerings that IDA has determined to correspond to these markets.

List of Relevant Markets Defined by IDA

<i>IDA Defined Markets</i>	<i>SingTel’s Telecommunication Product Offerings</i>
1. Backhaul (National)	<ul style="list-style-type: none"> • Backhaul (to GNCC) • Point-to-Point Backhaul • Standard Point-to-Point Backhaul • Backhaul with Interface Protection • Point-to-Point Backhaul with Interface Protection

¹ Please refer to paragraph 6.2.1 below. IDA has determined that SingTel’s Telecast Local Access and Occasional Telecast Video/Audio Switching (Teleswitch) Services, which SingTel introduced in mid-2004 under its satellite TV uplink/downlink suite of services, do not belong to any of the 10 markets defined by IDA.

2. Terrestrial International Private Leased Circuits (IPLC) (National)	<ul style="list-style-type: none"> • ConnectPlus Bilateral IPLC • ACASIA IPLC • ConnectPlus N2N (Node-to-Node) IPLC • Telecast Broadcast Fibre Network Service
3. International Managed Data Services (IMDS) (National)	<ul style="list-style-type: none"> • Bilateral Frame Relay ("FR") • ConnectPlus FR • ACASIA FR • Infonet FR • Bilateral Asynchronous Transfer Mode ("ATM") • ConnectPlus ATM • ACASIA ATM • Infonet ATM • ConnectPlus Internet Protocol-Virtual Private Network ("IP-VPN")
4. International IP Transit (National)	<ul style="list-style-type: none"> • Standard Universal Internet Access service • Prioritised Asia Direct Universal Internet Access service • SingTel EXPAN MyNetwork Service
5. Leased Satellite Bandwidth (LSB) (Regional)	<ul style="list-style-type: none"> • SingTel LSB Service
6. Very Small Aperture Terminal (VSAT) (Regional)	<ul style="list-style-type: none"> • SingTel Global VSAT
7. Digital Video Broadcast – IP (DVB-IP) (Regional)	<ul style="list-style-type: none"> • SingTel DVB-IP Service
8. Satellite TV Uplink (National) 9. Satellite TV Downlink (National)	<ul style="list-style-type: none"> • Permanent Telecast Uplink/Downlink Service • Occasional Telecast Uplink/Downlink Service
10. Satellite IPLC (Regional)	<ul style="list-style-type: none"> • IPLC service (via satellite).

5 Pursuant to Section 26(5) of the Telecommunications Act and Sub-sections 1.7(a) and 2.5.2 of the Code, IDA hereby exempts SingTel from specific provisions of the Code in the following manner:

5.1 International IP Transit, Leased Satellite Bandwidth, VSAT, DVB-IP, Satellite TV Uplink, Satellite TV Downlink and Satellite IPLC markets

5.1.1 IDA has concluded that the continued imposition of Dominant Licensee obligations are no longer necessary for telecommunication services that SingTel provides in the International IP Transit, Leased Satellite Bandwidth, VSAT, DVB-IP, Satellite TV Uplink, Satellite TV Downlink and Satellite IPLC markets. These markets are effectively competitive and there is little evidence that SingTel has significant market power or

the ability to impede competition in these markets. Therefore, subject to paragraph 5.3.2 below, IDA hereby grants in full SingTel's Request for exemption from the application of all Dominant Licensee obligations specified in Sub-sections 4.2.1.1 to 4.2.1.3, 4.2.2.1 to 4.2.2.3, 4.3 to 4.6, and 8.2 of the Code, to SingTel's provision of telecommunication services in these markets. The specific telecommunication product offerings of SingTel to which this exemption applies are:

- (a) Standard Universal Internet Access service;
- (b) Prioritised Asia Direct Universal Internet Access service;
- (c) SingTel EXPAN MyNetwork Service;
- (d) SingTel LSB Service;
- (e) SingTel Global VSAT;
- (f) SingTel DVB-IP Service;
- (g) Permanent Telecast Uplink/Downlink Service;
- (h) Occasional Telecast Uplink/Downlink Service; and
- (i) IPLC service (via satellite).

5.2 International Managed Data Services ("IMDS") market

5.2.1 The available evidence indicates that the IMDS market is competitive. Therefore, subject to paragraph 5.3.2 below, IDA hereby grants SingTel's Request for exemption from the application of all the Dominant Licensee obligations specified in Sub-sections 4.2.1.1 to 4.2.1.3, 4.2.2.1 to 4.2.2.3 and 4.3 to 4.6 of the Code, to SingTel's provision of telecommunication services in the IMDS market. The specific telecommunication product offerings of SingTel to which this exemption applies are:

- (a) Bilateral FR;
- (b) ConnectPlus FR;
- (c) ACASIA FR;
- (d) Infonet FR;
- (e) Bilateral ATM;
- (f) ConnectPlus ATM;
- (g) ACASIA ATM;
- (h) Infonet ATM; and
- (i) ConnectPlus IP-VPN.

5.2.2 Notwithstanding that competition has developed in the IMDS market, IDA's assessment is that SingTel retains the potential to leverage on its dominance in the Local Leased Circuit ("LLC") market to distort competition in the IMDS market. Therefore, while imposition of *ex ante* Dominant Licensee obligations is no longer necessary for telecommunication services that SingTel provides in the IMDS market, retention of *ex post* rules prohibiting abuse of SingTel's dominant position remains appropriate. Hence, IDA hereby denies SingTel's Request for exemption from the application of the Dominant Licensee obligations specified in Sub-section 8.2, to SingTel's provision of

telecommunication services in the IMDS market. However, IDA will consider reviewing this decision in two years.

5.3 Telecommunication services offered by SingTel during the proceeding and after the grant of exemption

5.3.1 For the purposes of paragraphs 5.3.1 to 5.3.4, the following terms shall mean:

- (a) "Conditions" refers to the conditions set out in paragraphs 5.3.2(i) and (ii) below in relation to the application of the Exemption to any telecommunication service or product offering referred to in paragraph 5.3.2(a) or (b) below;
- (b) "Exemptions" refers to the exemptions granted by IDA to SingTel from Dominant Licensee obligations as specified in paragraphs 5.1.1 and 5.2.1 above, and "Exemption" refers to any of such exemption;
- (c) "Exempted Markets" refers to the markets for which IDA has exempted SingTel from Dominant Licensee obligations as specified in paragraphs 5.1.1 and 5.2.1 above, and "Exempted Market" refers to any of such market; and
- (d) "Effective Date" means the date on which the Exemption takes effect, as specified in paragraph 8 below.

5.3.2 In relation to:

- (a) any telecommunication service or product offering that is currently offered by SingTel after 2 March 2004 that is within any of the Exempted Market; and
- (b) any new telecommunication service or product offering that SingTel offers after the Effective Date that is within any of the Exempted Market,

the Exemption granted by IDA in respect of that relevant Exempted Market shall apply to such telecommunication service or product offering **Provided** that both the following conditions are satisfied in relation to such telecommunication service or product offering:

- (i) SingTel must provide a written notification to IDA that it requests the Exemption to apply to such telecommunication service or product offering, including a clear and complete description of such telecommunication service or product offering and an explanation as to why SingTel believes that such telecommunication service or product offering is within the relevant Exempted Market; and

- (ii) Upon considering the written notice under sub-paragraph (i) above, IDA gives written confirmation to SingTel that such telecommunication service or product offering is within the relevant Exempted Market and therefore subject to the applicable Exemption.

5.3.3 For the avoidance of doubt, if the Conditions are not satisfied in relation to a telecommunication service or product offering falling within paragraph 5.3.2(a) or (b) above, the relevant Exemption will not apply to such telecommunication service or product offering and SingTel must continue to comply with the applicable Dominant Licensee obligations specified in the Code in relation to such telecommunication service or product offering.

5.3.4 IDA has issued a Direction to SingTel to secure its compliance with the requirements specified in paragraphs 5.3.1 to 5.3.3 above (please refer to IDA's Direction as attached).

6. SingTel's Request for exemption in relation to the following markets/services is denied:

6.1 Backhaul and Terrestrial IPLC markets

6.1.1 IDA has determined that while competition is developing in the Backhaul and Terrestrial IPLC markets, it has not developed to such an extent that IDA is able to grant any exemption to SingTel. IDA hereby denies in full SingTel's Request for exemption from the application of all the Dominant Licensee obligations specified in Sub-sections 4.2.1.1 to 4.2.1.3, 4.2.2.1 to 4.2.2.3, 4.3 to 4.6, and 8.2 of the Code, to SingTel's provision of telecommunication services in the Backhaul and Terrestrial IPLC markets.

6.1.2 However, IDA has taken significant measures – in particular, the adoption of the LLC and Cable Landing Station decisions² – that IDA expects will promote competition in downstream markets, including the Backhaul and Terrestrial IPLC markets. Therefore, IDA will consider reviewing the competitiveness of these markets in two years and in such a case, based on the level of competition at that time, IDA will then determine whether a grant of an exemption is appropriate.

6.2 Telecast Local Access and Occasional Telecast Video/Audio Switching (Teleswitch) Services

6.2.1 SingTel introduced the Telecast Local Access and Occasional Telecast Video/Audio Switching (Teleswitch) Services in mid-2004 under its satellite TV uplink/downlink suite of services. IDA's assessment is that these are local connectivity services not falling within any of the 10

² See IDA's Decisions on Mandating Wholesale of SingTel's Local Leased Circuits (16 Dec 2003) and Allowing Greater Access to Cable Landing Stations (10 Sep 2004) on the IDA website at www.ida.gov.sg.

markets defined by IDA in paragraph 4 above, and SingTel continues to remain dominant in local connectivity services. IDA hereby denies in full SingTel's Request for exemption from the application of all the Dominant Licensee obligations specified in Sub-sections 4.2.1.1 to 4.2.1.3, 4.2.2.1 to 4.2.2.3, 4.3 to 4.6, and 8.2 of the Code, to SingTel's provision of the Telecast Local Access and Occasional Telecast Video/Audio Switching (Teleswitch) Services.

7 The grounds for IDA's decision are set out in the Explanatory Memorandum which is attached for your information. Pursuant to Sub-section 2.5 of the Code, IDA will proceed to issue a notice in the *Government Gazette* specifying the exemptions granted to SingTel in this letter.

8 Please note that:

- (a) the exemptions granted to SingTel pursuant to paragraphs 5.1.1 and 5.2.1 above will come into effect on the date of publication of the notice in the *Government Gazette*;
- (b) any exemption granted to SingTel pursuant to paragraph 5.3.2 above will come into effect on the date of publication of the notice in the *Government Gazette* specifying the application of the relevant Exemption to such telecommunication service or product offering;

and will remain in effect until such time that IDA determines that re-imposition of the requirements is appropriate to protect end users or protect and preserve competition amongst telecommunication licensees in the exempted markets.

9 Should you require any clarification on the above matter, please send your written queries to the undersigned at fax no. (65) 6211 2116.

Yours faithfully,



Andrew Haire
Senior Director (Policy & Competition Development)
TY/CM

Encl.

cc: Mr Lee Hsien Yang, Chief Executive Officer, SingTel