1. INTRODUCTION

MCI WorldCom Asia Pte Ltd ("MCI") offers comments in response to the Public Consultation initiated by the iDA at the request of Singapore Telecommunications Limited ("SingTel") for exemption from its dominant licensee obligations with respect to the International Capacity Services (ICS) market.

MCI's views expressed in this submission are informed by our experience as an operator in Singapore as well as our comparative experience operating in other key markets in Asia, Latin America, the United States, and Europe, where we are one of the largest Pan-European non-incumbent operators.

In many countries around the world we have participated in consultations much like the one initiated by SingTel's application in this matter. We are startled by the poor quality of SingTel's application; it lacks substance and we urge the IDA to proceed no further with this matter until such time as SingTel provides the requisite data required for industry to provide meaningful comment to the iDA. With this in mind, we focus our comments on the procedural failings of the SingTel application. In the event that SingTel decides to resubmit a more substantial application at a later date, MCI would look forward to commenting on the merits of the matter at that time.

II. SINGTEL'S APPLICATION IS LACKING IN SUBSTANCE AND SHOULD BE WITHDRAWN

MCI submits that SingTel's application of 2 March 2004 is premature and lacking in the substance required for an application for non-dominant treatment.

We note that National Regulatory Authorities (NRAs) typically require dominant carriers applying for non-dominant treatment to explain and comment in detail in several key areas including, inter alia: market share , vertical integration status, and the extent to which the control essential facilities.

Countries such as Australia, Hong Kong, and the European Union members require the applicant to provide detailed comment on these key issues. The IDA has a similar requirement in its Code of Practice.

SingTel's application, however, does not provide a substantive analysis for any of these factors.

We provide a chart illustrating this point below.

NRA	SINGTEL'S ICS NON-DOMINANCE APPLICATION	IDA SINGAPORE	ACCC AUSTRALIA	OFTA HONG KONG	EUROPEAN COMMISSION
Market Share Information	X	✓	✓	[1] ✓	✓
Vertical Integration Consideration	X	✓	✓	✓	[2] ✓
Essential Facilities Consideration	X	✓	✓	[3] ✓	✓

[1] In taking In considering whether a licensee is dominant, the Authority shall take into account relevant matters including, but not limited to—
(a) the market share of the licensee. The TA considers that a licensee with a market share persistently above 50% may be considered dominant in the absence of evidence to the contrary. Para 6.6 Draft Telecommunications Ordinance 2000.

[2] Where an undertaking has significant market power on a specific market, it may also be deemed to have significant market power on a closely related market, where the links between the two markets are such as to allow the market

Based on the lack of substance contained in SingTel's application, we urge the IDA to proceed no further with this matter until such time as SingTel provides the requisite data required for industry to provide meaningful comment to the iDA.

III. KEY FEATURES OF A DOMINANT LICENSEE's APPLICATION FOR NON-DOMINANT TREATMENT

In this section of our comments, we review the key features of a dominant licensee's application for non-dominant treatment based on our experience in other markets around the world.

Market Share Information

MCI submits that market share analysis is a primary test and requirement for any application for non-dominant treatment. This test is often used by NRAs as an initial presumption of SMP or market dominance. SingTel's application, we believe, clearly does not provide the requisite market share economic analysis on which we can comment.

We note that not only do NRAs typically require applications to include information on absolute market shares at a single point in time but they also ask for information regarding relative levels and also changes in market share over time and by product. SingTel's application does neither.

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power held in one market to be leveraged into another market, thereby strengthening the market power of the undertaking, Article 14(3) of the Framework Directive.

[3] ..entry to a market might require the use of an essential facility. This is an asset or infrastructure where (1) access to it is indispensable in order to compete on the market; and (2) duplication of the facility is impossible or extremely difficult…, Para 6.30, Draft Telecommunications Authority Guidelines, Feb 28, 2004

We note by way of comparison that the European Commission considers market share information of critical importance in its dominance determinations.[4]

OFTA in Hong Kong, for example, has clear requirements that licensees must provide market share information in any non-dominance application. This requirement is observed by the Hong Kong operators seeking non-dominant treatment.[5]

In Australia, the ACCC frequently looks to market share studies to find if Telstra retains a commanding market share across a broad range of telecommunications markets[6]. The iDA too requires a consideration of market share in ascertaining if a market is competitive.[7]

MCI submits that market share analysis is a primary requirement for any application for non-dominant treatment. SingTel's application does not provide the requisite market share economic information or analysis and on this basis we urge that it be withdrawn.

Essential Facilities and Bottlenecks

Control over essential and bottleneck facilities are also a one of the fundamental concerns of a NRA in considering an application for non-dominant treatment of a licensee.

[4] We note that for the European Commission, a licensee with market shares exceeding 40% gives rise to dominance concerns. The Communications Guidelines stress that a dominant position cannot be established based solely on large market shares and that a thorough economic analysis of the characteristics of the relevant market is required before conclusions regarding the existence of significant market power can be made. However, market shares have historically been given a large weight in determinations of whether significant market power or dominance exists.
[5] See, e.g., REACH Ltd's Request for a Declaration of Non-Dominance in respect of IP Services, 9 August 2002, pages 19 and 21. We note that OFTA considers a licensee with a market share persistently in excess of 50% to be dominant in the absence of evidence to the contrary.
[6] Regulating competition in converging markets: telecommunications and broadcasting, Professor Allan Fels, Chairman Australian Competition and Consumer Commission, dated 30 April 2003
[7] iDA's letter to a group of telecom operators dated 12 April 2004.

For example, European Competition Commissioner Mario Monti has highlighted the need to take this element into account when considering the scope of anti-competitive behaviour by a dominant operator: "Telecommunication networks are the foundations of the e-Economy. It is therefore crucially important to ensure that control over these networks does not lead to distortions of competitions. At all levels of the market local, national or global competition concerns are raised if the control over important communication infrastructure could be used to leverage the parties' positions into related markets"[8]

On this issue OFTA in Hong Kong requires that the control of essential facilities be a key consideration in the review of market dominance.[9]

In the U.S., the Federal Communications Commission presumes market power for a foreign carrier if it in its home market posses a significant market share in international transport facilities, including cable landing station access and backhaul facilities, intercity facilities and services; and local access facilities and services on the foreign end.

The IDA also requires information on the control of essential facilities as it is an element of its dominance definition.

SingTel's application provides sparse information on its control of essential facilities. In particular, it provides no information on its bottleneck control of local access leased circuits, the access input over which the majority of the downstream services in question are provisioned.

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[8] Competition in the e-Economy Excerpts: the New Economy in Europe: its potential impact on EU enterprises and policies", Brussels, 2 March 2001.

[9] For OFTA, an essential facilities have been defined as an asset or infrastructure where (i) access to it is indispensable in order to compete in the market, and (2) duplication of the facility is impossible or extremely difficult. See e.g., Draft Authority Guidelines, 28 Feb 2004

Based on the lack of substance contained in SingTel's application wit regard to its control over local access circuits in particular, we urge the IDA to proceed no further with this matter until such time as SingTel provides the requisite data required for industry to provide meaningful comment to the iDA.

Vertical Integration

Industry structure is another key consideration for NRAs. For example, the European Commission, in Article 13 of its Framework Directive, states that "where an [licensee] has significant market power on a specific market, it may also be deemed to have significant market power on a closely related market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the undertaking".[10]

Further, the Commission recognizes that an operator may often have a dominant position at the network level and a significant presence at the downstream services or retail level[11]. In such circumstances, market dominance is reviewed based on an examination of both markets considered together.

The issue of vertical integration is also considered in all non-dominant applications and assessment reviews by OFTA. OFTA very clearly recognizes that adequate consideration must be

[10] Tetra Pak v Commission 1996, where the Court decided that an undertaking that had a dominant position in one market, and enjoyed a leading position on a distinct but closely associated market, was placed as a result in a situation comparable to that of holding a dominant position on the markets in question taken as a whole.
[11] According to Article 14(3) of the framework Directive, 'where an undertaking has significant market power on a specific market, it may also be deemed to have significant market power on a closely related market, where the links between the two markets are such as to allow the market power held in one market to be leveraged into the other market, thereby strengthening the market power of the undertaking'.

given to entities that possess vertical relationships and their ability to leverage an unfair advantage in the upstream or downstream market.

The ACCC also considered vertical integration as critical element for review in assessing the state of competition in the telecommunication sector.[12]

SingTel's application contains little or no substantive information with regard to its vertical integration as it impacts on the provision of the downstream services for which it requests non-dominant treatment. We urge the IDA to proceed no further with this matter until such time as SingTel provides the requisite data required for industry to provide meaningful comment.

IV. CONCLUSION: THE IMPORTANCE OF CONSIDERING LOCAL LEASED LINES IN ANY REVIEW OF SINGTEL'S DOMINANCE OF DOWNSTREAM SERVICES

SingTel's application for non-dominant treatment contains insufficient information in key areas such as the three highlighted above: market share, vertical integration status, and the extent to which the control essential bottleneck facilities. Based on this lack of substance in SingTel's application, we urge the IDA to proceed no further with this matter until such time as SingTel provides the requisite data required for industry to provide meaningful comment.

In conclusion, however, we would like to comment briefly on the importance of adequate information and consideration by the iDA on the issue of SingTel's vertical integration and its control of essential local access facilities (we would of course be pleased to provide comment to

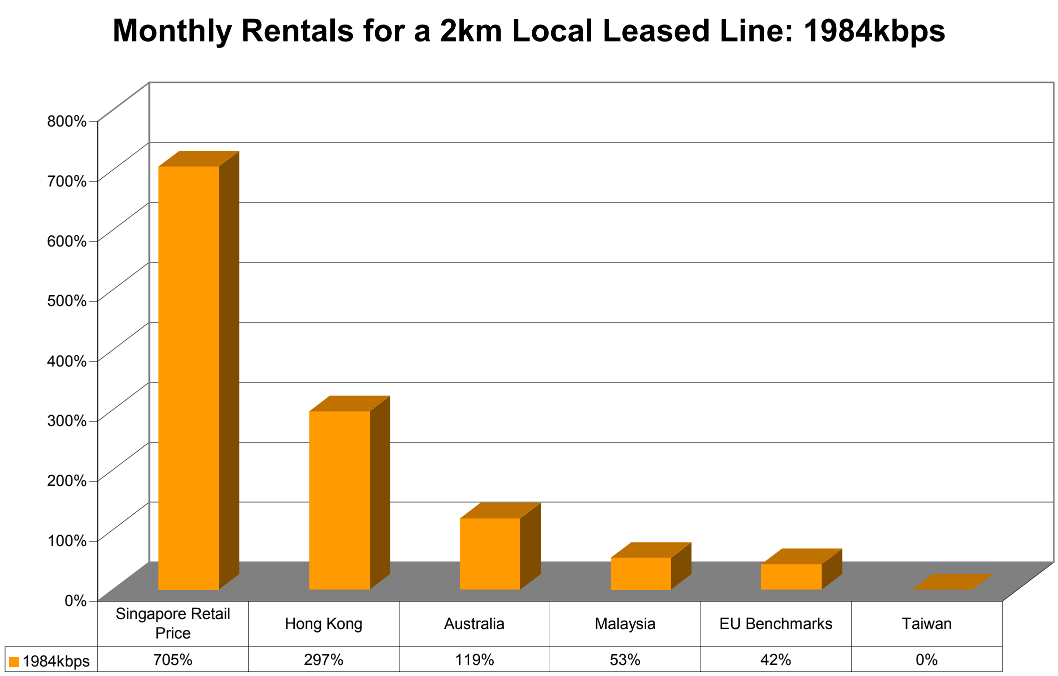
[12] Telecommunications competitive safeguards for the 2001–2002 financial year, Report 1. Telecommunications competitive safeguards 2001-02

the IDA in more detail on this issue should SingTel revise its application to include the requisite detail in this regard).

Briefly stated, SingTel is one the most vertically integrated telecommunication company in the world. Its bottleneck control of the Singapore local access lease circuit facilities in particular give it the ability to raise its rival's costs in competition for same end-user customers.

We provide two charts that illustrate the magnitude of this situation.

Chart 1 SingTel's dominance in the supply of Local Leased Circuits is confirmed by its ability to charge its rivals some of the highest rates in the region and developed world.

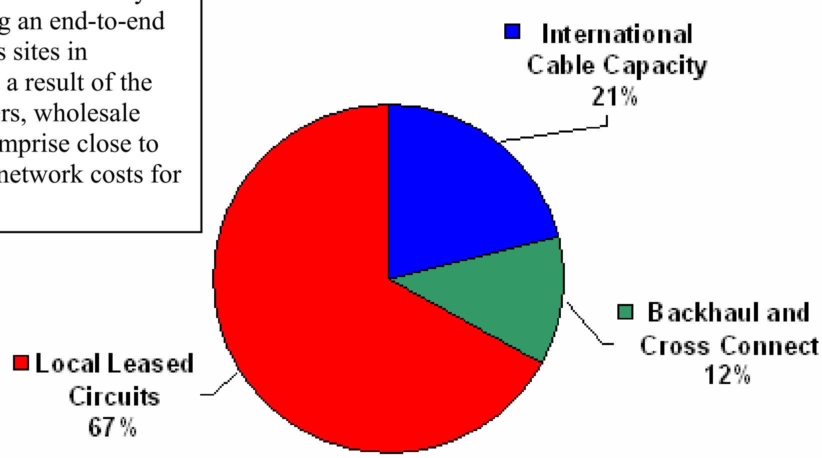


{Source: Teligen }.

Chart 2: SingTel's ability to leverage its vertical integration and dominance in the supply of Local Leased Circuits is depicted in the chart below. With some of the highest local leased circuit pricing in the region, SingTel is able to raise the cost of its rivals providing in their provision of the downstream services at issue in this non-dominance application: up to 70% of the rivals' costs in providing international downstream services is the last few kilometers SingTel dominates.

Example: A S'pore – HK Managed Data Transport Service

This chart demonstrates the costs incurred by a competing operator in providing an end-to-end service connecting a customer's sites in Singapore and Hong Kong. As a result of the charges of the incumbent carriers, wholesale local access leased lines can comprise close to 70% of a competitive carrier's network costs for serving such customers.



MCI includes reference to these issues local access issues to highlight the importance of the non-dominance issues that are now before the IDA. The ramifications of declaring SingTel non-dominant in downstream data and IP services are significant. Careful consideration based on a substantive submission by SingTel is warranted. MCI respectfully submits that SingTel's application is is premature and lacking in the requisite substance. We urge the IDA to proceed no further with this matter until such time as SingTel provides the requisite data required for industry to provide meaningful comment.