

25 January 2007

APPEAL BY SINGTEL AGAINST THE IDA'S DECISIONS AND DIRECTIONS DATED 12 APRIL 2006 IN RELATION TO CERTAIN AMENDMENTS TO THE SINGTEL REFERENCE INTERCONNECTION OFFER CONCERNING USE OF CERTAIN SERVICES FOR SELF PROVISIONING PURPOSES

1. On 24 April 2006, Singapore Telecommunications Limited ("SingTel") submitted an appeal to the Minister for Information, Communications and the Arts under Section 69(7) of the Telecommunications Act against the IDA's 12 April 2006 decisions and directions in so far as they relate to the self-provisioning of telecommunication product or service using Unbundled Network Elements ("UNE") or Mandated Wholesale Services ("MWS") as inputs by Requesting Licensees ("RL") under the SingTel Reference Interconnection Offer ("RIO").
2. SingTel has requested that the Minister reject IDA's Directed Amendments and to accept SingTel's proposed wording for inclusion in Schedules 3A, 3B, 3C, 4C, 7A and 7B of the RIO.
3. On 6 June 2006, the Minister was able to determine certain aspects of the appeal without calling for further representations as these issues relate to the implementation of the Minister's Decision on the Self-Provisioning Issue of 9 February 2006. For the other aspects of the appeal, the Minister then directed that the scope of representations for the appeal be limited to the following issues only:
 - (a) RLs acquiring UNE or MWS as inputs to the provision of any telecom product or service and supplying that telecom product or service to their affiliates so long as the intention of the RL concerned is to offer the telecom product or service to non-affiliated third party customers;
 - (b) The specific amendments to the Schedules as directed by IDA relating to the addition of "affiliates" and the definition of "Customer" to include affiliates of RLs;
 - (c) RLs acquiring Unbundled Network Services ("UNS") as inputs to the provision of any telecom product or service and supplying that telecom product or service to themselves or their affiliates so long as the intention of the RL concerned is to offer the telecom product or service to non-affiliated third party customers; and
 - (d) IDA's directed amendments to Schedule 4C relating to the matter set out in paragraph 3(c) above.

4. As part of the appeal process, the Minister carefully considered the submissions from both the IDA and SingTel. The Minister also took into consideration the policy objective of promoting efficiency and competitiveness of the telecommunications market through the adoption of just, reasonable and non-discriminatory Interconnection Agreements involving a Dominant Licensee.

5. Based on the issues brought up on appeal as set out in paragraph 3 above, the Minister's decision in this appeal is as follows:

(a) RLs may acquire UNE and MWS as inputs to the provision of any telecom product or service and supplying that telecom product or service to their affiliates so long as the intention of the RL concerned is to offer the same type of telecom product or service to non-affiliated third party customers;

(b) RLs may acquire UNS as inputs for the provision of a telecom product or service and supplying that telecom product or service to themselves and/or their affiliates so long as the intention of the RL concerned is to offer the same type of telecom product or service to non-affiliated third party customers.

(c) Clause 1.1 of the relevant Schedules shall be amended as set out below, to incorporate the above and to include affiliates of RLs within the definition of "Customer":

"This Schedule [relevant input] sets out the terms and conditions under which SingTel will provide the Requesting Licensee with [...]. Notwithstanding anything in this Schedule, the Requesting Licensee may:

- (a) use the [relevant input] as an input for the provision of any telecommunication product or service for its private internal use, and/or
- (b) acquire the [relevant input] as inputs to the provision of any telecommunication product or service to its affiliates,

where the Requesting Licensee offers or intends to offer that kind of telecommunication product or service (whether or not using the same [relevant input]) to non-affiliated third party [Customers/End Users]. For this purpose, any reference in this Schedule to the term [Customer/End User] shall, where appropriate, also refer to the Requesting Licensee or its affiliates.

For the avoidance of doubt, SingTel is not required to provide the Requesting Licensee with a licence to use [relevant input] for the provision of any telecommunication product or service to itself [the Requesting Licensee] if the Requesting Licensee does not intend to offer that kind of telecommunications product or service to non-affiliated third party customers."