



**EXPLANATORY MEMORANDUM ISSUED BY
THE INFOCOMM DEVELOPMENT AUTHORITY OF SINGAPORE**

**ON THE REVISIONS TO THE GUIDELINES ON
INTERNATIONAL SETTLEMENT ARRANGEMENTS
RELATING TO THE PROVISION OF INTERNATIONAL TELEPHONE
SERVICES**

28 DECEMBER 2006

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PROVISION OF INTERNATIONAL TELEPHONE SERVICES**

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PART I: INTRODUCTION

1. On 20 September 2006, IDA issued a public consultation on the “Proposed Revisions to the Guidelines on International Settlement Arrangements Relating to the Provision of International Telecommunication Services” (“Consultation”). The Consultation closed on 20 Oct 2006.

PART II: OVERVIEW OF COMMENTS RECEIVED ON THE PROPOSED REVISIONS TO THE GUIDELINES

2. At the close of the Consultation, IDA received comments from 3 respondents:
 - a. MobileOne Ltd;
 - b. Singapore Telecommunications Ltd; and
 - c. StarHub Ltd.
3. IDA would like to thank the respondents for their comments. IDA notes that, in general, all the respondents recognised the increasing difficulty in applying the parallel accounting¹ (“PA”) and proportionate returns² (“PR”) requirements. Nonetheless, they were of the view that it would be useful to impose a mix of ex-post and ex-ante measures on a case-by-case or route-by-route basis. Some suggested some modifications to the proposed framework for IDA’s consideration. IDA has given careful and extensive consideration of the views received. The sections below set out IDA’s assessments and decisions on the revision to the Guidelines on International Settlement Arrangements Relating to the Provision of International Telecommunication Services (“Guidelines”).

¹ Parallel accounting is an arrangement for operators in a liberalised market to agree, amongst themselves, to apply the same price terms for terminating traffic sent by a monopoly provider in a non-liberalised market and the same price terms for sending traffic to the monopoly provider.

² Proportionate returns is an arrangement where operators in a liberalised market could require a monopoly operator in a non-liberalised market to return traffic to each operator, in the liberalised market, in the same proportion as the traffic sent by these operators.

PART III: IDA'S DECISIONS ON THE PROPOSED REVISIONS TO THE GUIDELINES

IDA's Policy Objective

4. As highlighted in the Consultation, IDA's policy objectives when reviewing the Guidelines are to: (a) ensure fair and effective competition in the international telecommunication services markets so as to enhance Singapore's position as a telecommunications hub; and (b) guard against any unfair leveraging of significant market power in overseas markets by IDA's licensees which may distort competition in the Singapore telecommunication services markets.

Trends and Technological Developments in the International Telephone Services Market

5. IDA invited views on market and technology trends and development in the International Telephone Services Market³ ("ITS Market"), particularly those that may be relevant to the review of the Guidelines. Some respondents noted that the uneven pace of market liberalisation in other countries meant that whipsawing and one-way bypass would continue to be an issue. One respondent highlighted the challenges faced by Singapore operators in dealing with operators in markets that had not been fully liberalised, such as unilateral increases in termination rates by foreign operators; difficulty in obtaining reasonable international private leased circuit ("IPLC") prices for the half-circuit at the overseas end from foreign operators with significant market power; and discriminatory on-net/off-net termination rates. Another respondent highlighted the development of the Voice-over-Internet-Protocol ("VoIP"), which would compete with traditional international direct dial ("IDD") services and would need to be taken into consideration when reviewing the Guidelines.
6. IDA recognises that these are valid concerns and have taken them into consideration when revising the Guidelines, in particular, the retention of

³ This will be used as a general reference to markets in Singapore that comprise services that enable Singapore users to make and receive voice telephone calls between Singapore and locations outside of Singapore. It does not include the provision of indefeasible rights of use in international submarine cable, international private leased circuits or other international capacity services.

PA/PR for case-by-case application and the classification of the international routes (see further discussion in the sections below).

Relevance of Parallel Accounting and Proportionate Returns

7. In the consultation, IDA proposed to remove the requirement to apply PA/PR by default on an identified set of countries but to impose PA/PR on a case-by-case or route-by-route basis, as part of IDA's ex-ante assessments or ex-post investigations. All three respondents supported IDA's proposal. However, one respondent further commented that PA/PR were ineffective or inapplicable tools in view of the myriad of routing arrangements available to operators today. Instead, it proposed for IDA to analyse bilateral agreements between operators to arrive at cost-per-minute figures that could be benchmarked.
8. IDA is of the view that a cost-per-minute benchmark rate is a variation of PA. While this variation could be adopted as an alternative to PA, it should not be applied as a default for all bilateral agreements and for all routes. IDA will therefore maintain its proposed revised framework, which retains PA (including any variation such as cost-per-minute rates) and PR but only imposes these conditions on a case-by-case or route-by-route basis as a possible remedy against anti-competitive behaviours by foreign operators. As a principle, where the market is working well, IDA will not intervene in operators' commercial negotiations of settlement rates.

Relevance of the 2-tier route classification system

9. In the consultation, IDA proposed to retain the classification of Category I and II routes. Category I routes are routes that are considered to be fully liberalised whereas Category II routes are those where there exist a monopoly carrier, or where there is limited liberalisation at the overseas market. Full liberalisation in the overseas market, according to the Guidelines, is characterised by (a) free market entry and exit for the provision of international telecommunication facilities and services; (b) no restriction on the level of foreign ownership in operators licensed to provide international telecommunication facilities or services; and (c) fully liberalised provision of International Simple Resale services and other alternative calling substitutes (e.g., callback and Internet Protocol-based telephony services). See Table 1 below for the list of countries in each category.

Table 1: Classification of Category I and Category II Routes

Category I	Category II
Australia Austria Belgium Canada Denmark Finland France Germany Hong Kong Iceland Ireland Israel Italy Japan Luxembourg Netherlands Netherlands Antilles New Zealand Norway South Korea Spain Sweden Switzerland UK USA	All routes not listed under Category I

10. In general, the respondents supported this approach, although one was of the view that anti-competitive behaviour could occur on both Category I and II routes. IDA agrees with this observation, but is of the view that anti-competitive abuses are more likely to occur in Category II routes, as opposed to Category I routes given their fully liberalised market environment. The 2-tier classification thus provides a simple framework to assess the risk of anti-competitive abuses.
11. IDA will therefore retain the Category I and II route classifications and take the route classification into consideration when assessing whether regulatory conditions need to be imposed on a case-by-case and route-by-route basis. In particular, IDA is more likely to impose these conditions on a Category II route than a Category I route.
12. The respondents were generally also of the view that IDA should closely scrutinise operators in Singapore who had business affiliations to operators with significant market power in foreign markets. IDA has

been monitoring conduct of operators in the telecommunication sector and will continue to maintain vigilance in this area.

Other Regulatory Requirements

13. In the Consultation, IDA also invited comments on the kinds of regulatory conditions that could be imposed should there be competition concerns.
14. One respondent commented that the proposed requirement to provide information on circuit capacity and to seek approval for activation of additional capacity on particular routes could be imposed should there be a risk of anti-competitive behaviour. They would be useful in detecting and/or preventing possible anti-competitive behaviours. IDA noted the comments and will reserve the right to impose these requirements where appropriate.
15. One respondent proposed that IDA should determine the rates to be offered by all operators in Singapore to/from destinations where there would be serious competitive concerns and that IDA should review the effectiveness of its measures at least 6 months after the controls were imposed. In a similar vein, another respondent recommended that IDA should publish the lowest cost of termination to targeted Category II countries, in order to increase transparency and help level the cost of obtaining termination rates for all operators. A suggestion was also given to standardise the reporting requirements under the Guidelines and the Provision of Information (“POI”) submission in terms of number of destinations and submission frequencies to reduce administrative burden on operators.
16. IDA is of the view that ordering our operators to pay at a certain settlement rate is again a variation of requiring PA, which IDA will reserve the right to impose on a case-by-case or route-by-route basis. IDA also can take similar remedial action under the Telecom Competition Code if IDA detects that there is anti-competitive behaviour. As for publishing the lowest cost of termination for targeted Category II routes, although this may help increase transparency, it will not be straightforward as it will be difficult to establish the lowest cost given the multiple permutations of the settlement rate structures, set up to suit the different traffic profile of different operators. Also, without the PA/PR requirement, publication alone is unlikely to help our operators should there be problems of abuse of market power by their overseas

counterparts. Hence, IDA will not publish the lowest cost of termination, but instead, take the necessary enforcement and remedial actions should there be routes that raise serious competition concerns.

17. IDA notes the suggestion on standardising the reporting requirements under the Guidelines and the POI submission. Given that the reporting requirements are made for different purposes, IDA will standardise the requirements to the extent possible.

Technical Requirements

18. IDA had also invited comments on the relocation of technical requirements and safeguards in paragraph 8 of the current Guidelines to the Facilities-Based Operations (“FBO”) and Services-Based Operations (“SBO”) licences. One respondent recommended to keep the requirements in the Guidelines for transparency in application across the industry and to minimise variability of the licence, which could affect the licensee’s long term planning. Compliance with the Guidelines should also be separately enforced because restitutions and penalties for violations would be difficult to adjudicate and might result in costly disputes. IDA is of the view that the relocation of the requirements to the licences will not compromise transparency. This is because the requirements will continue to apply to all licensees and the licence conditions will continue to be published on IDA’s website. The impact on the licensee’s long term plans should also not depend on whether the requirements are in the Guidelines or in the licence, given that both are to be adhered to. When IDA determines the penalties and corrective actions to be taken, in cases of violations, IDA will take into consideration the impact on licensee’s operations and any inter-operator arrangements.
19. As the technical requirements and safeguards are required for interconnection, public safety and security reasons, such as accessing emergency services, in addition to international settlements, IDA believes that it is more appropriate to incorporate them into the FBO and SBO licences.

PART IV: CONCLUSION

20. After careful consideration, IDA's decisions are as follows:
- a. Classification of Category I and Category II routes will remain. The current classification of routes remains unchanged as in **Table 1**.
 - b. Existing requirements for PA and PR will not be imposed by default on all Category II routes. IDA will take into consideration the route classification when assessing whether regulatory conditions need to be imposed on a case-by-case and route-by-route basis. IDA is more likely to impose regulatory conditions on a Category II route than a Category I route.
 - c. Unless specifically required by IDA, licensees will no longer be required to file accounting rates or agreements for any route on a regular basis. Without prejudice to other regulatory requirements for filing information to IDA, licensees will not need to file international traffic statistics under the revised Guidelines.
 - d. IDA may, on its own initiative, conduct assessments of the ITS Market to assess potential competition concerns and pre-empt anti-competitive abuses. Assessments will focus on areas such as market and technological developments in Singapore and overseas. IDA will take into account the state of competition in the foreign destination markets and the presence of significant market power of foreign carriers.
 - e. IDA may issue directions or amend the licences of particular licensees to include any or all of the following conditions should there be any competition concerns arising from an *ex ante* assessment or *ex post* investigation:
 - i) filing of reports regularly, *e.g.*, quarterly, on international settlement rates on the particular route of concern;
 - ii) filing of statistics regularly, *e.g.*, monthly, on total wholesale and retail traffic minutes to and from the particular route of concern;
 - iii) filing of reports regularly, *e.g.*, quarterly, on total activated and idle circuit capacity on the particular route of concern;

- iv) filing of profit and loss statements for both wholesale and retail operations;
 - v) compliance with the requirements for PA (including any variation such as cost-per-minute rates) and/or PR for particular routes; and
 - vi) compliance with other regulatory conditions including those regarding the additions and discontinuances of circuits (e.g., requiring prior approval for activation of additional capacity on particular routes).
- f. Technical requirements and safeguards will be removed from the revised Guideline and incorporated into FBO and SBO licences.
21. The revised Guideline is attached in the **Annex** and will take effect on 28 December 2006. Pursuant to Section 7.2 of the Telecommunications Act, IDA will notify the Public Telecommunication Licensees of the proposed amendment to their licences to incorporate the technical requirements and safeguards. IDA will inform all FBO and SBO Licensees of the amendment subsequently.