

**REQUEST OF SINGAPORE TELECOMMUNICATIONS LIMITED FOR
EXEMPTION FROM DOMINANT LICENSEE OBLIGATIONS WITH RESPECT
TO THE INTERNATIONAL TELEPHONE SERVICES MARKET PURSUANT
TO SECTION 2.6.1 OF THE CODE OF PRACTICE FOR COMPETITION IN
THE PROVISION OF TELECOMMUNICATIONS SERVICES**

1. INTRODUCTION

1.1 Singapore Telecommunications Limited (“SingTel”) hereby submits its request to the Info-communications Development Authority of Singapore (“IDA”) to grant an exemption to SingTel, pursuant to Section 2.6.1 of the Code of Practice For Competition in the Provision of Telecommunication Services (the “Code”) from the Dominant Licensee obligations set out in the Code with respect to the International Telephone Services (“ITS”) market.

1.2 The ITS services provided by SingTel to which this request for exemption relates include but are not limited to the following SingTel international telephony services:

- (i) IDD 001;
- (ii) STD 020;
- (iii) BC 013;
- (iv) v019;
- (v) FaxPlus;
- (vi) ICC;
- (vii) Voice VPN;
- (viii) World Conference;
- (ix) Corporate Switched Telecommunications Network (CSTN);
- (x) Prepaid Calling Cards;
- (xi) Operator Assisted Services;
- (xii) Evoiz;
- (xiii) Overseas Paid 800;
- (xiv) Overseas Collect Call;
- (xv) Wholesale Voice Basic Services;
- (xvi) Wholesale Voice Silver Services;
- (xvii) Wholesale Voice Gold Services; and
- (xviii) International Toll Free Service

1.3 With respect to ITS, SingTel requests the IDA grant an exemption from its current Dominant Licensee obligations, including the following provisions of the Code (without limitation):

- (i) Section 3.3.1 - Duty to provide service on demand
- (ii) Section 3.3.2 - Duty to provide service at just and reasonable prices, terms and conditions
- (iii) Section 3.3.3 - Duty to provide service on a non-discriminatory basis
- (iv) Section 3.3.4 - Duty to file and provide service pursuant to tariffs
- (v) Section 3.3.5 - Duty to provide unbundled telecommunications services

- (vi) Section 5.8.1 - Duty to Allow Resale of End User Telecommunication Services
 - (vii) Section 5.8.2 - Duty to Allow Sales Agency
 - (viii) Section 5.8.3 - Duty to Tariff and Make Wholesale Telecommunication Services Generally Available
 - (ix) Section 7.2.1 - Pricing Abuses, including subsections 7.2.1.1 to 7.2.1.3
 - (x) Section 7.2.2 – Other Abuses, including subsections 7.2.2.1 to 7.2.2.2.
- 1.4 SingTel submits that the criteria under section 2.6.1 of the Code for the IDA to grant an exemption from the Dominant Licensee obligations applicable to the ITS market are satisfied, namely:
- that the continued application of the Dominant Licensee obligations is not necessary to protect end users; and
 - the continued application is not necessary to preserve effective competition amongst Licensees,
- as supported by the verifiable data contained in this submission.
- 1.5 Full contestability in the ITS market means that end users enjoy, and will continue to benefit from significant and sustained price reductions. Furthermore, low entry barriers for new operators mean that end-users effectively have broad service provider choice for ITS.
- 1.6 Both the characteristics of the market structure and the market outcomes demonstrate that competition is operating effectively for ITS. There is also every indication that competition is well-entrenched.
- 1.7 Accordingly, these factors satisfy the threshold to be applied by the IDA in determining whether or not to grant this exemption in respect of SingTel's participation in the ITS market.
- 1.8 SingTel therefore submits that the ITS market in Singapore is vigorously competitive and, accordingly, SingTel should be granted an exemption from the Dominant Licensee obligations under the Code with respect to the ITS market.

2. EXECUTIVE SUMMARY

- 2.1 The highly competitive ITS market comprises international call services using the following (without limitation):
- PSTN access;
 - mobile access;
 - calling cards;
 - VOIP; and
 - call back/call origination services.

- 2.2 The Singapore ITS market is highly competitive and it is clear that the continued imposition of Dominant Licensee regulation is unnecessary and unwarranted. Some indicators of the high degree of competitiveness of the ITS market are:
- Large numbers of competitors providing ITS;
 - No or low entry barriers to entry to the ITS market;
 - Significant ITS traffic growth since the full liberalisation of the telecommunications market;
 - Substantial ITS price declines since the full liberalisation of the telecommunications market;
 - No barriers to switching ITS providers and/or services with call-by-call selection;
 - Tariff diversity and product innovation;
 - Availability of interconnection and access under the Code;
 - Availability of wholesale services from FBOs and SBOs for ITS providers to supply competing services.
- 2.3 The continuation of Dominant Licensee obligations on SingTel in relation to the ITS market is inconsistent with the objects of the Code. Further, continued imposition of Dominant Licensee obligations on SingTel in relation to the ITS market is inconsistent with market evidence of the level of competitiveness in the ITS market.
- 2.4 The ITS market in Singapore is highly competitive. The continued application of Dominant Licensee status to SingTel for ITS is not necessary to protect end users or to preserve competition among licensees.

3. REGULATORY FRAMEWORK FOR THE REVIEW

- 3.1 It is an established principle that regulation is only appropriate as a surrogate for competition in the absence of competition. That is, regulation purports to achieve the outcome that – in theory – would be achieved by market forces alone if the market were subject to competitive pressures. It necessarily follows, then, that if a market demonstrates effective competition, there is no need to regulate the market.
- 3.2 The Code specifically provides that regulation will be applied proportionally and only to the extent required to fulfil its objects. Specifically:
- *“Market forces are generally far more effective than regulation in promoting consumer welfare. Competitive markets are most likely to provide consumers with a wide choice of services at reasonable prices.”¹; and*
 - *that regulatory requirements will be, “...carefully crafted to achieve clearly articulated results” and will be “...no broader than necessary to achieve IDA’s stated goals”².*

¹ Section 1.5.1

² Section 1.5.3

- 3.3 Furthermore, in section 2.1.2 the IDA indicates that it will:
- “...impose minimum regulatory ‘rules of the road’ ” on Licensees subject to competitive market forces; and
 - under section 2.6, the IDA recognises that with respect to the special requirements imposed on Dominant Licensees, “*as competition develops it may no longer be necessary to apply each of these requirements to every facility operated and/or service provided by the Dominant Licensee.*”
- 3.4 Various sections of the Code provide for reviews by the IDA to ensure that regulation keeps pace with the state of the market. Under section 1.6 of the Code, the IDA reserves the right to grant exemptions from specific provisions of the Code. Under section 2.5.1 of the Code, a Licensee may be reclassified and under section 2.6, a Dominant Licensee may request exemptions from the special requirements applicable to such licensees.
- 3.5 The criteria required to be demonstrated by SingTel in requesting this exemption are set out in section 2.6.1 of the Code, namely that the exemption sought will not result in detriment to end users, nor will it negatively impact on the promotion and preservation of effective competition amongst Licensees. These factors are similarly reflected in the application of competition tests to dominance under the regulatory regimes of other jurisdictions.
- 3.6 In its recent assessment of the non-dominance position of PCCW-HKTC in the external call services market, OFTA applied its test for dominance³ in the relevant market by analysing a series of issues including:
- market concentration and the availability of alternative suppliers;
 - the barriers to enter into the market; and
 - the pricing of services over time.⁴
- 3.7 In granting the non-dominance application, OFTA concluded among other things that:
- there was no entry barrier to the relevant markets, given the availability of transit and refile;
 - PCCW-HKTC did not have superior power over its competitors in raising prices; and
 - the relatively mature stage of competition overall in the external services call market was noted.⁵

³ Established in its *Guidelines to Assist the Interpretation and Application of the Competition Provisions of the Fixed Telecommunications Network Services (FTNS) Licence*, June 1995.

⁴ *Application for a declaration of non-dominance in the retail external market for all the routes over which PCCW-HKT Telephone Limited is still regarded as dominant*, Statement of the Telecommunications Authority, Hong Kong, 8 October 2002 at para 19.

⁵ Note 4, pp 24-25

- 3.8 Similarly, the FCC in the United States applied a test for dominance in the international call services market to AT&T, based on the impact of the growth and variety of international services and the subsequent erosion of AT&T's ability to act in a monopolistic fashion:

"We conclude that the concerns raised in this proceeding regarding access to international facilities are not sufficient to warrant continued classification of AT&T as dominant..."

*...Supply is sufficiently elastic in the international context to mitigate any potential exercise of unilateral market power by AT&T."*⁶

- 3.9 SingTel submits that these tests, where in both cases the regulators found evidence of competitive factors that negated a dominance classification, are broadly consistent with the criteria set out in section 2.6.1 of the Code. That section requires an analysis of the characteristics of the ITS market and whether it has given rise to competitive outcomes.

- 3.10 Applying the above regulatory objects and criteria in the Code to the evidence detailed in this submission, the goals of liberalisation have been clearly achieved in respect of ITS. As such, the rationale for the Dominant Licensee obligations presently applicable to SingTel in respect of the ITS market has ceased to apply. Within this context, this submission:

- sets out the definition of the ITS market; and
- examines the level of competition within that market.

4. MARKET DEFINITION

- 4.1 Market definition is important for two reasons:

- it establishes the boundaries of the exemption; and
- it forms the basis of the examination of the current and likely state of competition for ITS.

- 4.2 As noted in the IDA's draft Consolidation Guidelines, market definition has two principal dimensions; product and geography:

"6.2.1.1.1 Product Markets

The relevant product market for a specific service provided by a Licensee consists of both the specific services provided by the Licensee and any additional services that buyers regard as interchangeable with, or substitutes for, the Licensee's service. To determine which services are in the same product market as the Licensee's service, IDA will consider all relevant evidence. This may include determining which other services have a similar function, characteristics or potential customer base as the Licensee's service. IDA also may consider which

⁶ FCC 96-209, *In the Matter of Motion of AT&T Corp. to be Declared Non-Dominant for International Service*, 9 May 1996 at para 62.

others services buyers would switch to if the price of the Licensees' service increased by a small but significant, non-transitory amount.

6.2.1.1.2 Geographic Markets

The relevant geographic market for a specific service provided by a Licensee consists of the geographic area in which the Licensee (and other entities that provide substitutable services) provides service and any additional geographic locations from which buyers would obtain those services if prices increased by a small but significant, non-transitory amount. To determine which locations are in the same geographic market as the Licensee's service, IDA will consider all relevant evidence. In general, the relevant market will consist of all locations with Singapore.”⁷

4.3 The ITS market is a market within Singapore for the supply of international call services. Such call services comprise the ITS product market, irrespective of whether they are supplied directly to end users, or made available to end users via resale arrangements.

4.4 When investigating market definition, it is important to recognise the central principle of technological neutrality as required by the Code:

“IDA’s regulatory requirements will reflect the phenomenon of convergence, which is eroding historic differences among platforms such as wireline, cable, wireless and satellite. Regulatory requirements will be based on sound economic principles and, to the extent feasible, will be technology-neutral.”

4.5 The ITS market is characterised by a proliferation of competing operators and access techniques, including (without limitation):

- PSTN access;
- mobile access;
- calling cards;
- VOIP; and
- call back/call origination services.

4.6 There are also a variety of substitutes within the ITS product market. International private leased circuits may be provided to large end users in substitution for on-demand ITS.

4.7 Similarly, IP telephony services available via dial-up access to the PSTN are also substitutable for ITS and are therefore included within the scope of the ITS market. The growing importance of VOIP in the ITS market in Singapore has been described as follows:

"Ms Renee Gamble, IDC Asia-Pacific's program manager for IP and broadband research, explained that VOIP is no longer considered as being of poor quality and is now more widely accepted as capable of

⁷ IDA, Proposed Consolidation Review Guidelines, October 2001

providing high-standard, budget call services. IDC figures estimate that Asia-Pacific (excluding Japan) will register almost US\$14.33 billion (S\$25.05 billion) in VOIP services revenue in 2006, up from US\$1.02 billion last year. This market is also forecast to grow at a compound annual growth rate of 70 per cent. Singapore accounted for 25 per cent of the region's VOIP revenues in 2001 and there has been a "massive growth" in uptake of VOIP services from residential users here, according to IDC.⁸

"There has also been a lot of migration to alternative services such as voice-over-Internet Protocol (VOIP) and mobile-based IDD calls, which are not included in overall IDD figures"⁹.

- 4.8 As the IDA has noted, access substitution is also prevalent in the form of prepaid international calling card services. There are currently 29 operators offering such services, with in excess of 100 different types of cards available.¹⁰ In addition, there are approximately 29 call back/call origination service licensees and 109 Internet-based Voice and/or Data Service licensees. The ITS market is therefore characterised by a wide range of substitutes.

- 4.9 Furthermore, there is increasing substitutability between fixed and mobile ITS:

"Ms Patricia Sharma-Inglin, StarHub's general manager for international telephony, revealed that the ratio of customers calling IDD from fixed versus mobile lines is close to 50:50. While most service providers offer similar rates for IDD calls made from fixed and mobile lines, charges do differ -- usually more expensive via mobile phones -- for calls made to some countries. Callers will also need to pay an additional charge for local airtime incurred while making an IDD call."¹¹

- 4.10 OFTA has also defined the scope of the ITS product market ("the external call services market") as including numerous substitutes:

"...the market for international call services which exclude those provided by operators of mobile services and through Self-Provided External Telecommunications Systems (SPETS) but include...International Simple Resale services for fax and data and International Virtual Private Network (IVPN) services."¹²

- 4.11 As noted above, in the IDA's draft Consolidation Guidelines market definition has two principal dimensions; product and geography. With respect to ITS, the product dimension may have two levels - a retail functional level and a wholesale functional level. At the retail functional level, competing ITS operators such as

⁸ "Soaring Net-based calls", Computer Times, 18 December 2002

⁹ Lain McNeill, International Data Corporation, "Calling the Shots", Computer Times, 18 December 2002

¹⁰ IDA, Consultation Paper, *Voluntary Code of Practice for Pre-Paid International Telephone Card Services*, 8 November 1992 at para 1.2.

¹¹ "Calling the Shots", Computer Times, 18 December 2002

¹² OFTA, *Non-Dominance Statement*, paras 19-20 (August 1999)

StarHub, MCI Worldcom, M1, Macquarie, Bludot, Sunpage, I2U, Teleportal and Phoenix Communications provide a wide variety of ITS services to end users. At the wholesale functional level, competing ITS operators such as StarHub, M1, MCI Worldcom, Ibasis, Reach and ITXC provide wholesale international termination services. Furthermore, SingTel competes on a region wide basis when providing wholesale international termination services because Singapore is competing as a hub or jump-off point to international telephony destinations around the world.

4.12 Therefore, the product dimension of the market could be considered in terms of the two functional levels. At both levels there are many different and competing service offerings, including in Singapore and internationally.

4.13 In terms of the geographic scope of the ITS market, the definition of a single and distinct ITS product market is well-established. In Australia, the regulator (then AUSTEL) defined that the same relevant market as “the international market”, being:

“...a market in Australia for the supply of international telecommunication services for communications from Australia to places outside Australia.”¹³

4.14 SingTel submits that a route-by-route geographic distinction has operated in some jurisdictions as an unnecessarily complex exercise of regulatory oversight, and that such a distinction would be inconsistent with the Code’s objects of avoiding such undue complexity and regulating only to the extent necessary to achieve clearly defined outcomes. The classification of the ITS market on a route-by-route basis would be an inefficient response to all current evidence on the state of competition in the Singapore market for international calls.

4.15 FBO’s are able to acquire IRU capacity on submarine cable systems which have landed in Singapore and under the IDA’s Interconnection and Access Framework, are able to obtain access to co-location space in submarine cable landing stations and obtain connection services as Interconnect Related Services (“IRS”) under a Reference Interconnection Offer (“RIO”). By way of example, StarHub has co-located at each and all of SingTel’s submarine cable landing stations, acquired IRU capacity on various cable systems and obtained connection to their IRU capacity. StarHub’s sales materials indicate that they have connectivity to more than two hundred and thirty (230) overseas destinations.

4.16 We also note that international transit has grown over the years and become a commodity hubbed through major financial centres such as Singapore, Hong Kong and Tokyo. ITS providers may send ITS traffic out of Singapore to, say, Hong Kong and have the ITS traffic terminated to a foreign destination from that hubbing point. We would also submit that at the time some other jurisdictions adopted a route-by-route geographic distinction, there were less submarine cables deployed, telecommunications markets were less open and the international transit market not as developed as it is today. Hence, we submit that in today’s

¹³ AUSTEL, *Review of Telstra’s Dominance in the International Telecommunications Services Market* (August 1995), quoted in *Telstra Corporation Limited v Australian Telecommunications Authority and Optus Networks Pty Limited* G731 of 1995.

telecommunications environment, and in a Singapore context, a route-by-route geographic distinction is inappropriate.

- 4.17 A route-based classification is also contrary to the true nature of the ITS market. The geographic ITS market is a global one in which calls can be made out of and into Singapore, to or from any destination. This interpretation has also been applied in the United States in relation to AT&T, where the FCC determined that:

“...we conclude we can analyze AT&T’s market power on a worldwide basis, and need not generally make specific route by route findings. Indeed, the parties to the proceeding largely discuss AT&T’s market position in global terms.”¹⁴

- 4.18 The complexity of a route-by-route categorisation is evidenced in the case of Hong Kong, where external call routes are categorised according to the level of competition on each route. As a result, an operator may be re-classified as non-dominant at a retail level for a particular class of routes (eg Category A routes), but that re-classification does not necessarily re-classify the operator as non-dominant for exactly the same Category A routes at a wholesale level.

- 4.19 SingTel submits that a market for ITS to and from Singapore is the better geographic interpretation, which should be applied in light of competition in the provision of transit and hubbing services. The impact of these factors means that SingTel operates as one of many participants in a market to provide international call services to and from Singapore, including its many substitutes.

- 4.20 The OECD notes that:

“...accounting rates are moving towards interconnection rates as carriers simply carry their own traffic internationally and compete to ‘hub’ international traffic. Most carriers are reporting increases in so called ‘transit traffic’; for example, KPN reports a 40% increase in hubbing volume in 1999.”¹⁵

- 4.21 The Asia-Pacific region in particular has been characterised by fierce competition to establish the leading hub. The establishment of Singapore as a leading hub has consistently featured as a goal of telecommunications liberalisation:

“...to encourage global infocomm players to participate actively in the Singapore market and locate their regional and global hubs here, thereby furthering Singapore’s development as a leading knowledge-based economy and infocomm hub in the Asia Pacific.”¹⁶

- 4.22 This focus on regional hubs now means that operators in any country in a region, such as the Asia Pacific, are able to provide ITS to foreign destinations that are substitutable for that of other operators in the same region. For example, it means

¹⁴ FCC 96-209, *In the Matter of Motion of AT&T Corp. to be Declared Non-Dominant for International Service*, 9 May 1996 at para 35.

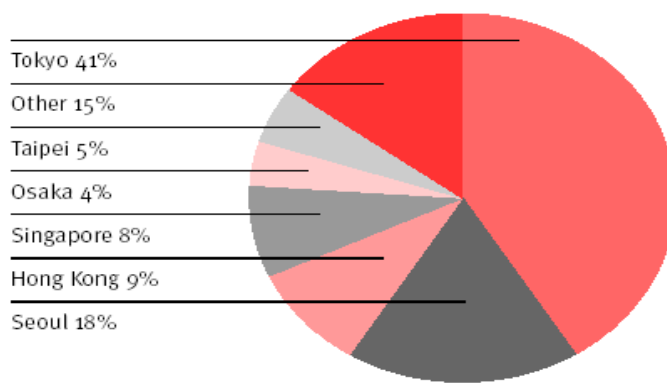
¹⁵ OECD, *Communications Outlook 2001*, p 53.

¹⁶ IDA, *Fact Sheet: Full Competition in the Telecommunications Sector*, 26 January 2000.

that an operator in Singapore can buy capacity from a carrier in Hong Kong. From Hong Kong, an operator can access a wide range of systems to, either directly or indirectly, every country in the world. Therefore, Singapore is competing with Hong Kong and other regional centres for the traffic destined to the countries of the world. Singapore is not, for example, simply competing with Hong Kong for direct Singapore-Hong Kong traffic – it is doing so as a hub via these regional centres to other locations and not on a route-by-route basis.

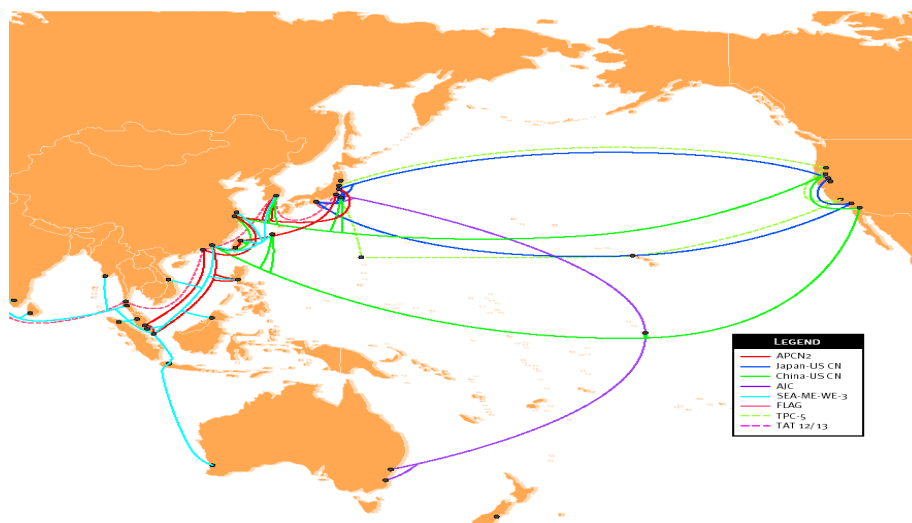
- 4.23 Competition in the regional hub in the Asia Pacific is also evidenced by the fact that 85% of available regional bandwidth is controlled by six centres as illustrated below.¹⁷ The ITS market is therefore characterised by fierce competition, particularly within the immediate Singapore region:

Figure 13 Six cities cover 85% of Asian international bandwidth demand



Source: Asia Global Crossing

- 4.24 Singapore's aim to be a hub for telecommunications services in the Asia Pacific is also evidenced by the number of cable systems landing in Singapore. Through these cable systems, operators are able to access large quantities of capacity to regional locations. SingTel then competes with operators in these regional centres throughout the world.¹⁸



¹⁷ Fleming, J, *Asia's Backbones*, p 35.

- 4.25 For these reasons, SingTel submits that the appropriate product market for which the exemption should be granted is in respect of all ITS available through the many access techniques. Retail and wholesale functional levels may also exist in the product dimension of the ITS market, where there are many product offerings from competing providers both in Singapore and outside Singapore. The geographic market with respect to retail is that of all international calls made to and from Singapore. However, SingTel submits that with respect to wholesale, the existence and use of hubbing and bandwidth exchanges has had the effect of widening the geographic market definition to a regional or global wholesale market.

5. COMPETITIVENESS OF THE INTERNATIONAL TELEPHONE SERVICES (“ITS”) MARKET

Introduction

- 5.1 SingTel submits that the ITS market is vigorously competitive, a fact which has been noted and acknowledged in various public speeches and public statements by the IDA and the Acting Minister for Information Communications & The Arts.
- 5.2 In its Annual Report 1999/2000 the IDA affirmed the highly competitive nature of the international direct dial (IDD) market stating:

“IDD rates have plunged more than 60% - compared to a benchmark group of 10 global cities. Singapore’s outgoing IDD call charges are now cheaper than similar calls made to Singapore from these same cities.”

The IDA also reaffirmed the view that the IDD market is highly competitive in its Annual IDA Report 2000/2001 stating:

“Price competition is fierce, especially in the IDD (International Direct Dial) market. International calling charges have dropped significantly – by an average of 60%. In fact, international direct dial rates in Singapore are now amongst the lowest in the world.”

- 5.3 It is also notable that Mr David T E Lim, Acting Minister for Information Communications & the Arts, recently stated:

*“Over the past two years, telecommunications bandwidth had exploded by 400 times, rising to 20 terabits of high speed submarine cable bandwidth to more than 30 countries today. Liberalisation has also brought telecommunication costs down sharply for consumers and business. **For example, a call to the US cost 95 cents per minute before liberalization fell to as low as 9 cents per minute after competition was introduced.*** [emphasis added]¹⁹

¹⁸ Fleming, J, *Asia’s Backbones*

¹⁹ Keynote address by Mr David T E Lim, Acting Minister for Information, Communications & the Arts, World Congress on IT 2002, 1 March 2002 (emphasis added).

- 5.4 SingTel supports the above statements and observations regarding the ITS market and submits that, applying the Code criteria of the necessity to protect end users or to promote and preserve competition amongst Licensees, the continued imposition of Dominant Licensee obligations on SingTel is no longer justified or warranted. Accordingly, the IDA should determine that the ITS market is competitive and exempt SingTel from the application of the Dominant Licensee obligations under the Code with respect to the ITS market. The following evidence is indicative of the vigorously competitive ITS market in Singapore.

A. Measures of effective competition: Market structure characteristics

Low Entry Barriers

- 5.5 Since April 2000, Singapore consumers have had full choice in their international call service provider. In the ITS market, entry to market, or barriers to entry can be assessed in terms of restrictions to establishing operations in the market. With respect to the ITS market in Singapore, there are low regulatory barriers to entry for the provision of ITS.

- 5.6 The ITS market is characterised by low barriers to entry. Features of the regulatory framework include:

(i) No Foreign Ownership Restrictions

In January 2000, direct and indirect foreign equity limits for all public telecommunications services licences were lifted.

(ii) Clear and Transparent Licensing Framework

The IDA has established a clear and transparent framework, releasing detailed licensing guidelines.

(iii) No Limits on the Number of ITS Licensees

There are no limits on the number of ITS licensees that can be licensed.

- 5.7 The large number of FBOs and SBOs who have appeared and continue to provide ITS following full liberalisation is a clear indicator that there are low regulatory barriers to entry to the ITS market.

- 5.8 In addition, the economic barriers to entry for the ITS market are minimal. New operators can choose from a variety of entry points, ranging from leasing international leased circuits or reselling ITS. As OFTA in Hong Kong has noted within the context of its own regulatory regime:

“...there are alternative wholesale services available at competitive prices in the outgoing direction...the TA is satisfied that there are no barriers to entry at the retail level arising from any lack of alternative wholesale service suppliers.”²⁰

- 5.9 Consistent with the concentration of hubbing at the regional level, low economic barriers to market entry are evident in the commercial supply and acquisition of capacity on a regional basis, where buyers purchase networks rather than specific routes.²¹
- 5.10 The commercial realities of the ITS market are that any previous incumbency advantages are negated by competing operators with the capability to target and establish a customer base. This is particularly prevalent in the case of large end users such as multi-national companies, where strategic operational measures can be employed to attract and maintain selective high-revenue customers. The commercial environment itself does not impose barriers to entry, but is instead indicative of the high degree of competition in the ITS market where established operators are open to challenge by new entrants on price and service criteria.

Availability of Interconnection and Access

- 5.11 Combined with the absence of entry barriers, operators wishing to enter the ITS market and provide ITS are able to obtain interconnection and access to the networks of FBOs and SBOs that use switching or routing equipment to provide telecommunications services to the public. These requirements will continue to apply despite the granting of the exemption sought by SingTel.
- 5.12 Section 4 of the Code sets out the minimum duties applicable to all FBOs and SBOs that use switching or routing equipment to provide telecommunications services to the public. These minimum duties include (without limitation):
- (i) duty to interconnect to other licensees;
 - (ii) duty to establish compensation arrangements for the origination, transit and termination of telecommunications traffic;
 - (iii) duty to provide non-discriminatory interconnection;
 - (iv) duty to prevent technical harm to the network; and
 - (v) duty to provide billing information.
- 5.13 Additional obligations are imposed on Dominant Licensees such as SingTel under Section 5 of the Code, including:
- (i) to offer interconnection pursuant to an IDA filed and approved RIO;
 - (ii) the RIO must contain a comprehensive and complete written statement of the prices, terms and conditions on which the Dominant Licensee is prepared to provide Interconnection Related Services (as defined in the Code) to FBOs and SBOs that use switching or routing equipment to provide telecommunications services to the public;
 - (iii) physical interconnection at any technically feasible point;

²⁰ OFTA, August 2001 Non-Dominance Statement

²¹ Telegeography, *International Bandwidth 2001*, p 14.

- (iv) provision of unbundled network elements and unbundled network services;
 - (v) provision of essential support facilities; and
 - (vi) co-location.
- 5.14 Given the above, operators wishing to provide ITS are able to obtain the relevant interconnection and access services from FBOs and SBOs that use switching or routing equipment to provide telecommunications services to the public.

Large Number of Competitors

- 5.15 The large number of FBOs and SBOs in the ITS market is a clear indicator of the intense competition in the ITS market which followed full liberalisation in April 2000. Operators who wish to provide ITS may do so in a number of ways including:
- (i) establishing their own international gateway facilities;
 - (ii) leasing international leased circuits;
 - (iii) acquiring wholesale international termination services; or
 - (iv) resale of ITS.
- 5.16 As a result of the ITS market being opened to an unlimited number of licensees, it has become a highly competitive multi-operator environment. There are currently 32 Facilities Based Operators (“FBOs”) and approximately 640 Service Based Operators (“SBOs”)²².
- 5.17 As noted above, the ITS market in Singapore is characterised by a variety of means by which ITS can be provided to end users. For example, FBOs such as SingTel, StarHub, M1 etc. have established their own international gateway facilities and established relationships directly with foreign correspondents to effect the termination of international traffic. FBOs also offer wholesale international termination services to other licensees providing ITS.
- 5.18 FBOs such as StarHub Pte Ltd (“StarHub”), MobileOne (Asia) Pte Ltd (“M1”), MCI WorldCom Asia Pte Ltd (“MCI WorldCom”), France Telecom Long Distance Pte Ltd (“FTLD”) provide ITS to end users. With respect to SBOs, there are some 70 International Simple Resale licensees, 29 Call-Back/Call Origination Service licensees, 109 Internet-Based Voice and/or Data Service licensees and 29 International Calling Card (ICC) Service licensees. In addition there are hundreds of resellers of ITS²³.
- 5.19 International Simple Resale (“ISR”) licensees typically install their own switching equipment and may provide ITS using a combination of International Leased Circuits and wholesale international termination services. In some cases, the ISR licensees may lease an international circuit to a foreign destination and enter a direct arrangement with a foreign correspondent to effect the termination and/or transit of international traffic. Further, with respect to other destinations, ISR

²² IDA, List of licensees as at 15 March 2003

²³ IDA, List of licensees as at 15 March 2003

licensees may acquire wholesale international termination services from FBOs such as SingTel, StarHub, MCI WorldCom etc. or from other ISR licensees.

- 5.20 The above three indicators of the characteristics of the ITS market are evidence that competition is facilitated (by liberalisation); supported (by regulation of interconnection and access); and has developed (by the proliferation of new entrants).

B. Measures of effective competition: Market outcomes

Significant ITS Traffic Growth

- 5.21 Monthly ITS traffic has increased substantially since the full liberalisation of the telecommunications market. In the month of April 2000, the IDA statistics of ITS traffic was 86.57 million international telephone call minutes. In the month of January 2003, ITS traffic was 235.70 million minutes. This is an increase of 172.3 per cent over the period.²⁴

- 5.22 With respect to these outcomes, the IDA website has noted that:

“Following full liberalisation of the telecommunications market, Singapore's international services market has grown considerably both in diversity of services available as well as in the number of operators offering international telephone services...”; characterised by,

*“...the vibrancy and growth of the **entire international telephone services market.**”* (emphasis added).²⁵

- 5.23 The substantial growth in ITS traffic over this period is a clear indicator of the impact of intense competition in the ITS market on the stimulation of demand which followed full liberalisation in April 2000.

Substantial ITS Price Declines

- 5.24 ITS price trends are indicative of the nature and extent of competition in the ITS market. Since the full liberalisation of the Singapore telecommunications market, ITS prices have dropped dramatically.

- 5.25 Whilst it is difficult to quantify in absolute terms the average price reduction since April 2000, we support the IDA's public statements above and the recent statement by Mr Lam Chuan Leong, Chairman:

*“Prices of services have dropped significantly as in the case of IDD rates (by up to 80%), international leased circuits rates (by up to 65%) and local leased circuits (by up to 35%).”*²⁶

²⁴ IDA, Statistics for Telecom Services for 2003.

²⁵ IDA, Statistics for Telecom Services for 2003.

²⁶ Speech by Mr Lam Chuan Leong, IDA Chairman, E-Symposium, 4 September 2002.

- 5.26 One of the most significant indicators that the exemption will not have an adverse impact on end users or effective competition amongst licensees is that SingTel is unable to charge monopoly prices for ITS in the liberalised market. This has resulted in ongoing declines in ITS as a proportion of SingTel's operating revenue. For example:
- Operating revenue for the 2000/2001 financial year indicated a decline of 26.8 per cent, due to competitive pressures on international calling rates;²⁷ and
 - Operating revenue for international telephone services continued to decline in 2001/2002 with a fall of 10.3 per cent.²⁸
 - Two (2) years before the advent of liberalisation, international telephone services contributed 41.6 per cent to SingTel's operating revenues. Two (2) years after, by March 2002, this proportion has declined to 22 per cent.²⁹
- 5.27 It is evident that in relation to ITS, SingTel is competing with the many SBO and FBO competitors in the ITS market. These competitive constraints mean that the granting of the exemption sought will not permit SingTel to price ITS above a market based price. On this basis, neither end users or other licensees will be adversely impacted by the granting of the exemption because these customers will only be offered the current or lower price for ITS. In addition, the benefits of well-targeted regulation will have flow-through benefits for consumers as operators will be subject to less administrative costs arising from the current Dominant Licensee status. This is consistent with some of the fundamental goals of the Code, being the promotion of efficiency at all levels of telecommunications, ranging from investments to end user choice.
- 5.28 The significant declines in ITS prices is a clear indicator of the intense competition in the ITS market and the fact that consumers will not be disadvantaged by the exemption being granted.
- 5.29 Intense price competition is the best indicator of established and sustainable competition in Singapore, irrespective of the market shares of the respective operators. Larger operators are constrained by the price competition established by the smaller operators (and vice versa) and, where barriers to entry are low, the threat of further competition from new entrants, include niche operators, is very real and inevitable.
- 5.30 The Singapore trend follows trends in other countries which have adopted full liberalisation. For example, liberalisation of the market for ITS in Australia has resulted in an average price decrease across the industry as a whole of 54.9 per cent in the period 1997-98 to 2000-01.³⁰ The Australian regulator has not imposed a distinction between particular routes or types of service offerings that comprise its ITS market, finding instead the existence of a distinct market for

²⁷ SingTel Annual Report, 2000/2001, p.2.

²⁸ SingTel Annual Report 2001/02, p 18.

²⁹ SingTel Annual Report, 1997/1998, p. 8; SingTel Annual Report, 2001/2002, p.18.

³⁰ ACCC Telecommunications Reports 2000-01, Report 2: *Changes in the prices paid for telecommunications services in Australia*, p 107.

international telecommunications services, encompassing all international services supplied to Australian consumers.³¹

- 5.31 Similarly, with respect to wholesale international termination rates offered by FBOs and SBOs, the ITS market has seen the development of a suite of wholesale services. By way of example, SingTel offers Basic, Silver and Gold wholesale international termination rates. Furthermore, intense competition in Singapore and from other regional hubs has meant that wholesale international termination rates have declined significantly. ITS operators providing wholesale international termination are required to closely monitor their rates to ensure they remain competitive not only with other Singapore FBOs and SBOs but also with telecommunications operators located overseas jurisdictions such as Hong Kong who offer international termination services.

No Barriers to Switching Suppliers and/or Products

- 5.32 As indicated above, there are low barriers to entry for the provision of ITS. The ITS market is a highly competitive multi-operator environment with a large number of FBOs and SBOs in the ITS market. Call-by-Call Selection provides true choice to end users in Singapore and has fostered intense competition in the ITS market.
- 5.33 End users have a choice of a wide variety of ITS offered by a range of FBOs and SBOs. Further, through the implementation of Call-by-Call Selection in Singapore, an end user may select an ITS provider on a call-by-call basis. End users may switch between FBOs and SBOs and from one ITS product to another.
- 5.34 Similarly, FBOs and SBOs have a choice of a wide variety of wholesale international termination services offered by a range of FBOs and SBOs in Singapore and overseas. FBOs and SBOs acquiring wholesale international termination services may select many different operators to deliver the ITS traffic for onward termination. Acquirers may switch wholesale international termination services between FBOs and SBOs and from one wholesale product to another.
- 5.35 With respect to the ITS market in Singapore, there are low barriers to switching ITS suppliers and/or ITS products. The absence of such barriers will not be affected by the granting of the exemption to SingTel.

Tariff Diversity and Product Innovation

- 5.36 The ITS market has been characterised by a high degree of demand side substitution, resulting in product innovation and diverse and competitive tariffs. The proliferation of ITS tariffs is further evidence of a vigorously competitive ITS market. The ITS market reflects a variety of ITS tariffs to address the needs of end users with different profiles and requirements.

³¹ AUSTEL, *Review of Telstra's Dominance in the International Telecommunications Services Market* (August 1995), quoted in *Telstra Corporation Limited v Australian Telecommunications Authority and Optus Networks Pty Limited* (no. G731 of 1995).

- 5.37 New and innovative ITS products and services are a feature of the ITS market. New and innovative ITS include prepaid, VOIP, ICC and call back services. Customers also enjoy significant non-price benefits, such as a choice of ITS quality, call duration monitoring and various payment options.
- 5.38 ITS tariffs are diverse and reflect a variety of pricing combinations addressing various end user requirements. New and innovative ITS have developed using prepaid, VOIP, ICC etc. Customers also enjoy significant non-price benefits, such as a choice of ITS quality, call duration monitoring and various payment options. Vigorous competition between the ITS operators has driven tariff diversity and product innovation.
- 5.39 The ITS market in Singapore is characterised by a range of different ITS tariffs and innovative products targeted at different customer segments. Aggressive competition has resulted in the development of innovative ITS offers and features. For example tariffs may be charged on the basis of per second, a per 30 second block or per minute block and may have one rate for the first x minutes and another rate for subsequent minutes etc. ITS tariffs may also differ depending on the quality of the ITS. These product offering also address specific consumer needs, such as giving mobile subscribers the opportunity to assess the value of incoming calls without the need to incur incoming call airtime charges. Some specific examples of ITS tariffs and product innovations include:

(i) SingTel

In addition to the SingTel premium ITS offered using the 3 digit 001 access code, SingTel also offers a Budget ITS using the 3 digit 013 access code and a VOIP ITS using the 3 digit 019 access code each with differential ITS pricing.

SingTel regularly offers various promotions for its ITS, for example, promotions offering low rates to Philippines, China and India from our prepaid international calling cards and/or our phonecards, discounts off V019 service, savings using BudgetCall service as well as promotions off STD020 service.³²

(ii) StarHub

StarHub similarly offers ITS using the 3 digit access codes 008 and 018.³³

StarHub also offers various tariff options and different schemes for its ITS services, e.g. it provides its customers 20 minutes of free talktime to 12 destinations, after the customers' first 10 minutes.³⁴ StarHub also offers other discount schemes and lifestyle reward programmes for its ITS services.

³² SingTel website, <http://www.singtel.com>

³³ StarHub website, <http://www.starhub.com.sg>

³⁴ StarHub website, <http://www.starhub.com.sg>

(iii) M1³⁵

Like SingTel, M1 offers its premium ITS using the 3 digit 002 access code and value call ITS using the 3 digit 021 access code.

(iv) Phoenix Communications³⁶

Phoenix Communications gave discounts of 40% or more for calls made during off-peak hours to 8 “favourite” destinations.

(v) SunPage³⁷

SunPage offers a “1 minute get 1 minute free” promotion to 12 destinations where a caller gets 1 full minute of free international call with each 2-minute call. Further, SunPage offers special discounted rates for calls to China and Jakarta.

5.40 The proliferation of diverse ITS tariffs and the development of innovative ITS products and services is a clear indicator of the intense competition in the ITS market. The nature of the competitive responses to unlimited customer choice means that such offerings will continue to be a feature of the ITS market on granting the exemption to SingTel.

5.41 A clear measure of effective competition in the ITS market is the fact that despite the range of SingTel offerings and its significant presence, this has been derived through:

- competitive pricing;
- the development of a wide range of innovative services; and
- the enhancement of the quality of ITS.

5.42 Similarly, with respect to wholesale, the ITS market in Singapore is characterised by a range of different wholesale international termination services and innovative products. By way of example, SingTel offers Basic, Silver and Gold wholesale international termination to FBOs and SBOs. The various services differ with respect to service quality and price to meet the particular requirements of the various ITS operators who acquire such services.

5.43 This level of competitiveness is now such that neither end users nor other licensees will be adversely affected by granting the exemption sought by SingTel. This is because it has become impossible for SingTel to increase or even maintain its prices without losing market share. This will mean direct benefits for end users not only in terms of maintaining competitive prices, but via the flow on effects of efficient and well-targeted regulation which will lead to lower administrative costs for competing operators, thereby making their offerings even more competitive and attractive.

³⁵ M1 website, <http://www.m1.com.sg>

³⁶ Computer Times, 18 December 2002.

³⁷ SunPage website, <http://www.sunpage.com.sg>

6. CONCLUSION

- 6.1 For the reasons outlined above, SingTel submits that the IDA should grant an exemption to SingTel pursuant to Section 2.6.1 of the Code from Dominant Licensee obligations as set out in the Code with respect to the ITS market. SingTel submits that the ITS market in Singapore is vigorously competitive and accordingly SingTel should be granted an exemption from the Dominant Licensee obligations under the Code with respect to the ITS market.
- 6.2 It is essential to note that despite the removal of the current Dominant Licensee obligations currently applicable to SingTel in the ITS market, SingTel will remain subject to regulatory oversight. The granting of the exemption sought will not affect the IDA's current powers to intervene in instances of anti-competitive conduct under the Code.³⁸ The exemption will not affect the continued provision of interconnection and access services by SingTel to Requesting Licensees under its RIO. Competing operator entry to the ITS market will therefore not be impeded by the granting of this exemption. The decision to grant the exemption does not require the IDA to make a choice in favour of no regulation of SingTel or the ITS market itself.
- 6.3 However, SingTel submits that there is now no need for the IDA to regulate SingTel in the ITS market through Dominant Licensee ex ante measures. It is clear that competition is operating well in the ITS market in Singapore and that lower administrative costs would be incurred by removing this additional layer of regulation.
- 6.4 SingTel also submits that continued regulation of SingTel as a Dominant Licensee will impact upon Singapore's global competitiveness, particularly in the Asia Pacific and trans-Pacific marketplace. Singapore is aiming to become a significant hub of telecommunications traffic. Regulatory barriers against SingTel being able to effectively compete on the international hubbing stage are unnecessary and, as such, add unnecessary costs and should be removed. Since 1996 in the United States, 1997 in Australia and October 2002 in Hong Kong, the ITS market has not been subjected to dominant carrier regulation. SingTel submits that Singapore should now adopt a similar approach.
- 6.5 The criteria prescribed in the Code demonstrate that continued application of the dominance obligations with respect to the ICS market is no longer necessary. At the retail level, the ITS market is a highly competitive one for international calls made to and from Singapore. At the wholesale level, the ITS market is also highly competitive both in Singapore and due to the existence of operators in other jurisdictions which operate hubs for international traffic. In this case, the market is a global market for the delivery of international calls. The development of hubbing means that the market has rapidly changed to a highly competitive one where capacity is commercially priced and available. For these reasons, SingTel submits that the IDA should grant the exemption sought.

³⁸

Section 7.4