



FRANCE TELECOM GROUP ORANGE

Response to an IDA Public Consultation on Request by Singapore Telecommunications Limited for exemption from Dominant Licensee obligations with respect to the Business and Government Customer Segment and Individual Markets pursuant to Sub-Section 2.5.1 of the Code of Practice for Competition in the Provision of Telecommunication Services 2005 (“SingTel’s Request”)

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Setting the context:

- These comments are submitted by France Telecom Long Distance Singapore Pte Ltd (FTLDS) and Equant Pte Ltd¹. FTLDS operates a backhaul network in Singapore under a Facilities Based Operator (FBO) License and provides Backhaul and IPLC services. Equant Pte Ltd holds Service Based Operator (SBO) Licenses and provides IMDS and IPLC services.
- As the outcome of SingTel's Request will have repercussions on Orange France Telecom's interests in Singapore, we thank IDA for this opportunity to provide comments.

Orange France Telecom's overall view:

- The omission of relevant market data marked as "confidential" has not allowed respondents to fully assess and comment on SingTel's Request. It is also unfair that while SingTel could fully represent its case to IDA, respondents only had the opportunity to make comments on part of the case. Orange France Telecom submits that a follow up consultation where respondents are provided with further facts of the case and an opportunity to comment on IDA's preliminary decision would be necessary.
- The fact that the telecoms sector is presently excluded from general competition law must be taken into account by the IDA in its assessment of SingTel's Request.

On Customer Segment Request

- The basis on which SingTel had derived the S\$250,000 threshold is not clear, as the text is incomprehensible due to the omission of data marked "confidential"².
- Also, an S\$250,000 per annum spend is not considered a very high threshold. If an exemption were granted on this basis, it would carve out a substantial segment of the business and government customers and cannot constitute a "narrow request" as claimed by SingTel.

¹ Equant is a member of the France Telecom Group of companies and operates under the brand name Orange Business Services.

² SingTel's Request, s5.5

On Market Based Request

Market 4 – Terrestrial International Private Leased Circuits (IPLC)

- As set out in the IDA Decision 2005³, an end-to-end IPLC service consists of the international “wet segment” and domestic “dry segment” capacity, i.e. backhaul and local leased circuits⁴. The existence of multiple operators offering IPLC in direct competition with SingTel is not conclusive evidence of a reduction in SingTel’s market share or dominant position. Although there may be multiple market players in the international segment, this is not the case for the domestic segment where SingTel is still the dominant supplier of Backhaul and local leased circuit services in Singapore. The IDA should consider this fact in its assessment of the IPLC market.
- Regional and global carriers provide a wide range of enterprise services which use IPLC as inputs and building blocks for managed enterprise services. In the interest of maintaining Singapore’s position as a regional communications hub, it is imperative that in provisioning IPLC services, regional and global carriers can obtain competitive Backhaul to their Points-of-Presence (POP). Given the lack of choice of alternative Backhaul providers, any relief on SingTel from dominant licensee obligations would constrain competition in the IPLC market and this could result in regional and global carriers shifting to alternative hub locations such as Hong Kong.

Market 5 – International Managed Data Services (IMDS)

- As the geographic market for IMDS is national⁵, the extent of a regional or global carrier’s network reach cannot be used as evidence that the IMDS market is competitive or there has been a dilution of SingTel’s dominance. Even today, many regional and global carriers continue to rely on SingTel to provide the local leased circuit connecting their POP to end-user premises.

Market 6 – Backhaul Service

- There is no compelling reason for IDA to change its position that *‘both (self-supplied and third party Backhaul) services are in the same market because self-*

³ Explanatory Memorandum to the Decision of the Info-Communications Development Authority of Singapore on the Request by Singapore Telecommunications Limited for Exemption from Dominant Licensee obligations with respect to the “International Capacity Services” Market, 12 April 2005

⁴ *ibid*, s59, Figure 4

⁵ *ibid*, s62

*providing backhaul is a substitute for purchasing backhaul from another carrier*⁶. The French Regulator, ARCEP⁷, had also determined that self-supplied capacity was to be included in the market share calculations of France Telecom. More generally, the inclusion of self-supplied capacity in market share calculations is prevalent practice in the US and EU. As the Backhaul market shares submitted by SingTel had only included third party Backhaul services⁸, IDA should accordingly require SingTel to resubmit its market share data to include self-supplied Backhaul services.

- IDA cannot base the number of alternative Backhaul providers *prima facie*, as indicative of the market's competitiveness or a dilution of SingTel's dominance. For diversity reasons, most Backhaul customers will have more than one Backhaul provider and will continue to use SingTel's Backhaul service even if they were to source from alternative Backhaul providers. Backhaul services are provided exclusively on a wholesale basis to FBO licensees seeking to access capacity on international submarine cables; business and government customers do not purchase Backhaul services.
- In its assessment, IDA ought to consider how end-to-end Backhaul services are provisioned in Singapore, i.e. from the submarine cable landing station to the requesting party's intended destination, as defined by SingTel⁹. From the figure below –
 - SingTel is able to set a single price for Backhaul services¹⁰ regardless of the customer's POP location due to its extensive and superior Backhaul network coverage.
 - In comparison, FTLDS' Backhaul pricing is dependent on the customer's POP location and a two-part pricing structure (\$x + \$y) will have to be applied for non coverage locations. This two-part pricing includes the cost of a local leased circuit (\$y) which is not covered under the SingTel RIO¹¹.

⁶ *ibid*, s50

⁷ Autorite de Regulation des Communications electroniques et des Postes, www.art-telecom.fr

⁸ SingTel's Request, s6.230

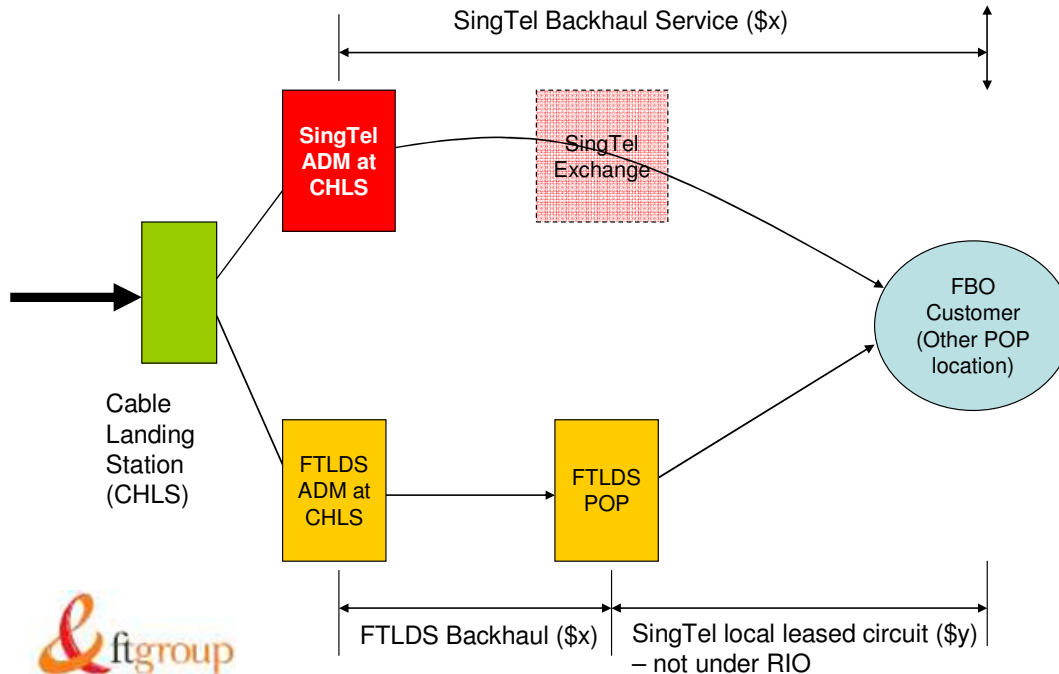
⁹ *ibid*, s5.88

¹⁰ *ibid*, s6.219

¹¹ The IRS Tail Circuit Service is a dedicated end-to-end digital transmission service connecting the End-User's site and the Requesting Licensee's co-location equipment at the SingTel Exchange Building nearest to and serving the End User's site, *SingTel RIO Schedule 4C*, 1.2; The IRS Tail Circuit Service will not be provided between (2) two FBO sites or (2) two End User sites, *SingTel RIO Schedule 4C*, 1.5

- It is clear that alternative Backhaul providers do not compete with SingTel on a level playing field.

Wholesale Backhaul Service



- Comparing this to the situation in France, France Telecom is obliged to separately identify and tariff the “terminal segment” (defined as the circuit between the customer’s site and first transmission equipment) and “complement terrestre” or backhaul (defined as the circuit between the submarine cable head landing station and the closest transmission equipment where other carriers can interconnect)¹². There are also controls on tariffs applied by France Telecom on the terminal segment, which must not lead to the eviction from the market of alternative carriers and subject to this eviction requirement, the tariffs applied by France Telecom must be cost-oriented. In addition, accounting constraints are imposed on France Telecom, such as the identification of all costs of the services offered on the

¹² ARCEP Decision n°06-0592 dated 26 September 2006 on the relevant market for wholesale capacities (in French) in accordance with the European Commission recommendations

relevant markets and isolation in the accounts of the regulated activities' financial details (transparency of the tariffs applied to external carriers as well as transfer pricing applied to the affiliates to ensure non discrimination).

- The SingTel RIO co-location and connection services at cable landing stations do not mean that all carriers are authorized to access the submarine cable landing stations. Only carriers who are members / co-owners in the submarine cable consortiums are authorized to access the Tuas and Katong cable landing stations (which are SingTel properties). Even though France Telecom co-owns the submarine cables landing in these cable landing stations, we remain obliged to request access from SingTel. Furthermore, to build and operate a Backhaul network is an infrastructure investment that requires financial commitment with long term impact on the business and strategy. These barriers to Backhaul market entry should not be lightly dismissed.
- The Telecoms Competition Code¹³ classifies a Licensee as dominant if it is licensed to operate facilities to provide telecommunication services in Singapore that are costly or difficult to replicate that would create a significant market barrier to rapid and successful entry, or it has the ability to exercise Significant Market Power (SMP) in any market which it provides telecommunication services¹⁴. If SingTel were to be exempted from dominant licensee obligations in the Backhaul market, it will have the ability to unilaterally restrict output, raise prices and reduce quality or otherwise act, to a significant extent, independently of competitive market forces. It is submitted that SingTel continues to have the ability to exercise SMP in the Backhaul market and IDA's decision can only be to fully deny SingTel's request for exemption from dominant licensee obligations in the Backhaul market.

Closure:

- Orange France Telecom would welcome further public consultation on SingTel's Request and the opportunity to provide comments on IDA's preliminary decision.

¹³ Code of Practice for Competition in the provision of Telecommunication Services 2005

¹⁴ *ibid*, s2.2.1