

IDA's reference: IDA.JNTC.05.0011
(Please quote this in all correspondence on this matter)

5 August 2011

OpenNet Pte Ltd
152 Beach Road
#31-02/04 Gateway East
Singapore 189721

Attention: Mr Khoo Chin Hean
Chief Executive Officer

Dear Sirs

FURTHER DIRECTION OF THE INFOCOMM DEVELOPMENT AUTHORITY OF SINGAPORE MADE PURSUANT TO SECTION 27 OF THE TELECOMMUNICATIONS ACT IN RESPECT OF OPENNET PTE LTD'S MANDATED SERVICES INFORMATION

1. Please refer to the following documents:-
 - a. Further Direction of the Infocomm Development Authority of Singapore ("IDA") made pursuant to Section 27 of the Telecommunications Act ("Act") in respect of OpenNet Pte Ltd's ("OpenNet") Mandated Services Information ("MSI") dated 13 June 2011 ("Further Direction"); and
 - b. OpenNet's letter submitting its proposed modifications to Schedule 1 (Residential End-User Connection) and Schedule 2 (Non-Residential End-User Connection) ("Proposed ICO Modifications") to OpenNet's Interconnection Offer ("ICO") and request to IDA for reconsideration pursuant to Section 69 of the Act dated 27 June 2011 ("Reconsideration Request").

For the avoidance of doubt, capitalised terms not specifically defined herein shall have the meanings ascribed to them in the Further Direction and the Explanatory Memorandum to the Further Direction.

2. This document comprises two (2) sections. The first section relates to the direction to OpenNet to incorporate specific drafting language to its Proposed ICO Modifications. The second section relates to IDA's decision on OpenNet's Reconsideration Request and the variations to the Further Direction arising from IDA's decision on OpenNet's Reconsideration Request.

Direction on Directed Amendments to Proposed ICO Modifications

3. Having carefully reviewed OpenNet's Proposed ICO Modifications, IDA has found the majority of OpenNet's Proposed ICO Modifications to be in

conformity with IDA's requirements as expressed in the Further Direction. However, IDA views that certain portions of OpenNet's Proposed ICO Modifications have failed to give full effect to IDA's required modifications.

4. Accordingly, pursuant to Sections 27(1)(c) and 27(1)(d) of the Act, IDA hereby directs OpenNet to modify its Proposed ICO Modifications to incorporate the specific drafting language set out in the enclosed appendices comprising:

- a. Appendix 1 - Directed amendments to Schedule 1(Residential End-User Connection); and
 - b. Appendix 2 - Directed amendments to Schedule 2 (Non-Residential End-User Connection).
- (together, the "**Directed Amendments**")
- (the "**Direction on Directed Amendments**").

The grounds for IDA's determination of the Directed Amendments are annotated in the respective appendices.

5. IDA hereby approves OpenNet's revised Schedule 1 (Residential End-User Connection) and Schedule 2 (Non-Residential End-User Connection) to its ICO incorporating the Directed Amendments (the "**Approved Revised ICO Amendments**") with effect from the date of this Direction on Directed Amendments.

6. In connection with the above, IDA further directs OpenNet to submit to IDA, for posting on IDA's website, one (1) clean softcopy of Schedule 1 (Residential End-User Connection) and Schedule 2 (Non-Residential End-User Connection) to its ICO incorporating the Approved Revised ICO Amendments within three (3) working days from the date of this Direction on Directed Amendments. The softcopy submission must be in Microsoft Word format and emailed to IDA_ILLO@ida.gov.sg.

7. In submitting its Approved Revised ICO Amendments to IDA for public posting, OpenNet must make all necessary editorial corrections for possible typographical, cross referencing and pagination errors.

Decision on Reconsideration Request and Variations to the Further Direction

8. Pursuant to Section 69(6) of the Act, IDA hereby issues its decision on OpenNet's Reconsideration Request ("**Reconsideration Decision**").

9. In arriving at the Reconsideration Decision, IDA has carefully considered the issues that OpenNet has raised in the Reconsideration Request. IDA's Reconsideration Decision and the grounds for the decision are set out in the attached Explanatory Memorandum. The specific variations to the Further

Direction arising from IDA's Reconsideration Decision are set out in the following paragraph.

10. Pursuant to Sections 27(1)(c) and 27(1)(d) of the Act and in exercise of its powers under Section 69(6) of the Act, IDA hereby varies the Further Direction and directs OpenNet to comply with the following:-

- a. where OpenNet discovers any error or inaccuracy in its MSI, OpenNet is required to:
 - (i) notify all the Qualifying Persons ("**QPs**"), who have executed the ICO and/or Customised Agreements with OpenNet, of such errors or inaccuracies in its MSI and inform them of the correct MSI within one (1) business day of discovering the error or inaccuracy in its MSI; and
 - (ii) correct/rectify such errors and inaccuracies in its MSI database as soon as reasonably practicable.
- b. where OpenNet is informed of any error or inaccuracy in its MSI, OpenNet is required to:
 - (i) notify all the QPs, who have executed the ICO and/or Customised Agreements with OpenNet, of such errors or inaccuracies in its MSI and inform them of the correct MSI within three (3) business days of being informed of the error or inaccuracy in its MSI; and
 - (ii) correct/rectify such errors and inaccuracies as soon as reasonably practicable.

For the avoidance of doubt:-

- I. nothing in the foregoing permits OpenNet to unreasonably delay the correction/rectification of MSI errors or inaccuracies, or impose cumbersome or unnecessary procedural or other requirements on QPs who wish to place orders for the relevant services in the meantime. In this regard, in the event that there is any question or doubt relating to the conduct of OpenNet, the onus is on OpenNet to demonstrate to IDA's satisfaction that it has acted reasonably and in good faith;
- II. the timeframe for OpenNet to notify the QPs of the MSI errors or inaccuracies as well as to inform the QPs of the correct MSI indicated in paragraph 10b.(i) shall exclude any delay caused by third parties and not attributable to any default on OpenNet's part, such as building owners and/or management or the end-user, who do not co-operate with OpenNet's conduct of the site survey or related checks;
- III. the timeframe taken by OpenNet to correct/rectify the MSI errors or inaccuracies in the MSI database shall not prejudice OpenNet's obligation

to notify the QPs of the MSI error or inaccuracy and to inform them of the correct MSI within the timeframes set out above.

(the “**Revised Direction**”).

11. OpenNet is reminded of its obligation to comply with the Direction on Directed Amendments and the Revised Direction under Section 27(5) of the Act.
12. If you should require any clarification, please direct your written queries to our Ms Aileen Chia (Deputy Director-General (Telecoms & Post)) via email at IDA_ILLO@ida.gov.sg. Please note that any request from OpenNet to IDA for clarification shall not affect OpenNet’s obligation to fully comply with the Direction on Directed Amendments and Revised Direction.

Yours faithfully



Leong Keng Thai
Deputy Chief Executive Officer and Director-General (Telecoms & Post)

EXPLANATORY MEMORANDUM

1. This Explanatory Memorandum is issued by IDA to set out its decision on the Reconsideration Request submitted by OpenNet on 27 June 2011 in respect of IDA's Further Direction of 13 June 2011 which applies to OpenNet's MSI.
2. In arriving at the Reconsideration Decision, IDA has carefully considered the issues raised by OpenNet in the Reconsideration Request. The following sections in the Explanatory Memorandum set out IDA's grounds for the Reconsideration Decision.
3. Unless specifically defined herein, all capitalised terms used in this Explanatory Memorandum shall have the meanings ascribed to them in the Further Direction and the Explanatory Memorandum to the Further Direction.

Background

4. During the public consultation of OpenNet's proposed remedy framework for erroneous or inaccurate MSI in the ICO, the industry provided feedback that OpenNet should be obliged to rectify MSI errors or inaccuracies within twenty four (24) hours of discovering or being informed of such errors or inaccuracies and to advise its QPs of such amendments. IDA agreed with the industry that prompt rectification of the MSI errors and notification of the amendments to the QPs was necessary and that it was appropriate for OpenNet to rectify such MSI errors or inaccuracies within one (1) business day of discovering or being informed of the errors or inaccuracies. IDA also agreed that it was necessary for OpenNet to inform all the QPs of such amendments once they were made. Accordingly, in the Further Direction, IDA directed that:-

"Within one (1) business day of discovering any errors or inaccuracies in its MSI or having the same brought to its attention, OpenNet is required to:

- (i) Correct/rectify such errors and inaccuracies; and
- (ii) Notify all the QPs, who have executed the ICO and/or Customised Agreements with OpenNet, of such errors or inaccuracies in its MSI and inform them of the corrected/rectified MSI."

OpenNet's Submission and IDA's Response

OpenNet's Submission

5. OpenNet is of the view that IDA's directed timeframe of one (1) business day is inappropriate and will not provide sufficient time for OpenNet to carry out the necessary activities to investigate, verify, and ascertain that the potential MSI "error" or "inaccuracy" is indeed erroneous or inaccurate, including conducting

site surveys and/or checks with third parties (including end-users), before OpenNet authorises and approves any change to its MSI. Without an operational process for OpenNet to verify and ascertain that an MSI error or inaccuracy has indeed occurred, OpenNet is concerned that MSI which is inherently correct might be rendered invalid erroneously. In this regard, OpenNet requested IDA to reconsider the Further Direction to allow four (4) business days for OpenNet to carry out the rectification and notification of MSI errors or inaccuracies including their amendments. OpenNet has also sought to exclude potential delays caused by third parties, such as building owners and/or management or the end-user, who do not co-operate with OpenNet's conduct of the site survey or related checks, from the proposed four (4) business day timeframe.

OpenNet Discovers MSI Errors or Inaccuracies on its Own

6. Under the scenario where OpenNet discovers MSI errors or inaccuracies on its own, IDA is of the view that OpenNet would already have performed the necessary verification and checks to establish that an error or inaccuracy has indeed occurred as part of the process of OpenNet's discovery of an MSI error or inaccuracy. To illustrate, where the error or inaccuracy is discovered by OpenNet during service provisioning, OpenNet would already be present at the site and would be able to immediately compare the MSI against the actual site deployment to establish that there is an error in the MSI. It is therefore unnecessary to provide OpenNet with more time to verify that the MSI error or inaccuracy has indeed occurred. Similarly, where OpenNet is not present at the site when a potential MSI error or inaccuracy first surfaces, for example, during OpenNet's own checks of its MSI database, OpenNet would also have already performed the necessary verification and checks as part of the process of discovering and confirming that the suspected error and inaccuracy indeed exists. Therefore, IDA believes that it is reasonable to require OpenNet to inform the QPs of the MSI errors or inaccuracies as well as to notify the QPs of the correct MSI within one (1) business day of discovering the MSI errors or inaccuracies under this scenario.

MSI Errors or Inaccuracies Are Brought to OpenNet's Attention

7. Under the scenario where MSI errors or inaccuracies are brought to OpenNet's attention by third parties, IDA agrees that where OpenNet needs to verify the information provided to OpenNet to ascertain that the purported MSI errors or inaccuracies indeed exist, OpenNet may need more than one (1) business day to inform the QPs of the MSI errors or inaccuracies as well as to notify the QPs of the correct MSI.
8. OpenNet has indicated in the Annex to the Reconsideration Request that OpenNet requires three (3) business days to carry out information verification, including conducting of site surveys where necessary. On day three (3), when the verification has been completed, OpenNet will also commence to load the revised data into its MSI database and OpenNet will complete updating the MSI database with the rectified MSI on day four (4).

9. IDA is of the view that OpenNet's justification for the proposed timeframe of four (4) business days for the verification of the information provided and updating of the MSI database does not appear unreasonable in the case where OpenNet is required to verify the information provided to OpenNet. Nonetheless, as OpenNet would already have completed the verification of the information provided to OpenNet by the third day, OpenNet should be able to inform all QPs, who have executed the ICO and/or Customised Agreements, of the MSI error or inaccuracy within the three (3) business day timeframe itself and should not have to wait for the MSI database to be updated first.
10. For the avoidance of doubt, the timeframes to inform the QPs of the MSI errors or inaccuracies as well as to notify the QPs of the correct MSI indicated above shall, where applicable, exclude any delays caused by third parties such as building owners and/or management or the end-user, who obstruct OpenNet during OpenNet's site survey or related checks, so long as such delays or obstruction are not attributable to any default on the part of OpenNet.

Rectification of MSI Errors or Inaccuracies

11. Further, where it is necessary for OpenNet to carry out network rectification as part of the rectification of MSI errors or inaccuracies, OpenNet may require more time to rectify the MSI error or inaccuracy in the MSI database as it is necessary for the actual site deployment to be rectified before the MSI database can be updated. In this regard, IDA will permit OpenNet to take more time to complete the rectification of the MSI error or inaccuracy, as long as any QP, who has been notified of the MSI errors or inaccuracies and the correct MSI, is able to place an order for the affected service(s) in the meantime, without the imposition of any cumbersome or unnecessary procedural or other requirements by OpenNet on the QP. For the avoidance of doubt, the timeframe taken by OpenNet to correct/rectify the MSI error or inaccuracy in the MSI database shall not prejudice OpenNet's obligation to inform the QPs of the MSI error or inaccuracy and to notify them of the correct MSI within the timeframes set out in the above paragraphs.

Variation to the Direction

12. Pursuant to this Reconsideration Decision and in exercise of its power under Section 69(6) of the Act, IDA hereby varies the Further Direction to the extent it is necessary to incorporate the requirements in the paragraphs above.