

EXPLANATORY MEMORANDUM

1. This Explanatory Memorandum explains the Direction dated 13 June 2011, issued by the Info-communications Development Authority of Singapore (“**IDA**”) to OpenNet Pte Ltd (“**OpenNet**”), directing it to incorporate modifications to its proposed remedy framework to Qualifying Persons (“**QPs**”) for errors or inaccuracies in the Mandated Services Information (“**MSI**”) it provides.
2. Unless the context requires otherwise, all capitalised terms used in this Explanatory Memorandum shall have the same meanings as in OpenNet’s Interconnection Offer (“**ICO**”) for the provision of services over the Next Generation Nationwide Broadband Network (“**Next Gen NBN**”).

Background

3. Under Section 2.2 of the NetCo Interconnection Code, OpenNet is required to ensure that the MSI it provides, including network coverage information, enables OpenNet’s QPs to: (a) understand the process for the provisioning and use of Mandated Services available to that QP; and (b) make an informed decision as to the Mandated Services ordered and related options available to the QPs.
4. The provision of accurate and reliable MSI by OpenNet is essential to the smooth and effective provisioning of services over the Next Gen NBN. OpenNet’s QPs, and in turn the Retail Service Providers (“**RSPs**”) who procure services from the QPs to serve end-users, are reliant on the MSI provided by OpenNet to offer their respective services. Any errors or inaccuracies in OpenNet’s MSI may adversely affect the QPs’ abilities to make informed decisions regarding their applications for services for their customers.
5. In recognition of the importance of the accuracy and reliability of the MSI provided by OpenNet, IDA has required OpenNet to propose a remedy framework in OpenNet’s ICO to provide remedies to QPs who have relied on OpenNet’s erroneous or inaccurate MSI to submit requests for service to OpenNet. To ensure that the proposed remedy framework is appropriate for the industry, IDA sought feedback from the industry via a public consultation which commenced on 14 March 2011. At the close of the consultation on 28 March 2011, IDA received comments from three respondents (namely, M1 Limited, Nucleus Connect Pte Ltd and StarHub Ltd).

Issues

Insufficient incentive for OpenNet to remove inaccuracies or errors in MSI

6. In general, the industry is of the view that the current remedies and/or quanta proposed by OpenNet may not be sufficient to deter OpenNet

from providing erroneous or inaccurate MSI. One respondent suggested that IDA requires OpenNet to provide a higher rebate (equivalent to the Cancellation Charge of each respective service) while another suggested that financial penalties (including an obligation on OpenNet to have its MSI audited by a third party) be imposed on OpenNet.

7. IDA is of the view that the proposed rebate quanta must take some reference from the typical charges for the respective services being provided by OpenNet. In this regard, it would be more appropriate to peg the quanta to the monthly recurring charge of the service (as currently proposed by OpenNet). IDA is also of the view that it may be too premature to conclude that the rebates proposed by OpenNet are insufficient or that there is a need for IDA to impose a financial penalty or an additional audit obligation on OpenNet. While there have been instances of OpenNet providing erroneous or inaccurate MSI, IDA notes that OpenNet has put in place measures to minimise these occurrences and reduce the frequency of erroneous or inaccurate MSI. In this regard, there does not currently appear to be a need for IDA to take further measures. Nevertheless, IDA will closely monitor the situation and will consider and take further measures if necessary.

Comprehensiveness of MSI Remedy Framework

8. The industry has submitted that a number of errors or inaccuracies related to OpenNet's MSI are not covered. These include: (a) Non-Building Address Points ("**NBAPs**") being wrongly classified as Non-Residential Premises; (b) Premises which are "Covered" but are not listed (i.e., "Not Covered"); (c) Residential Premises which are "Home Passed" but have been wrongly listed as "Home Reached"; and (d) Residential Premises which are "Home Reached" but have been wrongly listed as "Home Passed". For (d), a respondent added that a remedy should be provided by OpenNet as the wrong classification would deter QPs from selling their services to such premises. In addition, one respondent submitted that where OpenNet is unable to provide service due to access related issues for Residential premises that are already "Home Passed" or Non-Residential premises that are already "Covered", these premises and buildings should be treated as "Not Covered". In this regard, the respondent has proposed that OpenNet's MSI should be considered as erroneous or inaccurate if it has reflected otherwise and that the MSI remedy framework should apply.
9. As NBAPs are identified typically by coordinates or with reference to certain buildings or addresses, their locations are not made available as part of OpenNet's MSI. Instead, their locations would only be confirmed after OpenNet's site survey/project study. This is very different from the process related to orders for connection to Non-Residential Premises. For Non-Residential Premises, they would be identified via address and postal code and be made available as part

of OpenNet's MSI. In view of the above, IDA is of the view that the remedy framework presently under consideration is not applicable to the accuracy in the classification of NBAPs as Non-Residential Premises in the MSI provided by OpenNet as suggested by the respondent.

10. On OpenNet's failure to list "Covered" locations in its MSI, IDA wishes to point out that residential locations should be considered "Covered" or connected by no later than a reasonable timeframe upon OpenNet's installation of a termination point in the Residential Premises. Considering the feedback that IDA has received from the industry, IDA's position is that the current delay of four (4) to six (6) weeks between the installation of a termination point and the ability to offer service over the termination point is unduly long and unacceptable. IDA is currently reviewing the above with a view to shorten the time delay. In the meantime, OpenNet should clearly inform the end users, about the period the end users have to wait before they can place orders for services from their respective RSPs, during OpenNet's installation of termination points in the premises.
11. With respect to the erroneous classification of "Home Passed" Residential Premises as "Home Reached", IDA agrees that it is reasonable for OpenNet to provide a remedy to QPs for such an error or inaccuracy in its MSI. IDA notes that QPs would have relied on the MSI and informed their RSPs or end users that the particular location has been "Home Reached" (i.e., terms and conditions related to the provision of service to the location would be based on "Home Reached" and certain installation charges would not be applicable). It would therefore be unreasonable for OpenNet to subsequently inform its QPs that the terms and conditions related to the provision of service to that location would now be based on "Home Passed" instead (e.g., the installation charges would now apply). In turn, this would also cause an adverse impact on the RSPs and end users who have relied on the information provided by the QPs. In this regard, an appropriate remedy would be for OpenNet to provision the service to such locations based on terms related to "Home Reached", including waiving the installation charge (if applicable). IDA notes that the above approach would be consistent with the remedy framework proposed by OpenNet for the wrongful classification of premises.
12. On the other hand, IDA is of the view that it may not be reasonable to require OpenNet to provide a remedy to QPs for the wrongful classification of "Home Reached" Residential Premises as "Home Passed". For the above scenario, IDA notes that QPs would not be incurring any installation charge in the first place since the Residential Premises are "Home Reached". In addition, IDA notes that both "Home Passed" and "Home Reached" Residential Premises are available for service ordering. In view of the above, it does not appear reasonable for IDA to require OpenNet to provide a remedy under such a situation. Nevertheless, such wrongful classification will be considered by IDA as

an error or inaccuracy in OpenNet's MSI which IDA will take into consideration in deciding whether further measures are required.

13. IDA disagrees that the accuracy of MSI should be determined based on the ability of OpenNet to gain access to the premise or building (where it intends to provide service to). As the industry is aware, such ability to gain access may change from time to time. OpenNet may not currently face obstruction but may encounter difficulty in the future. In view of the above, the ability to get access may not be an objective indicator to determine whether OpenNet's MSI is inaccurate or erroneous. On the delay in service provisioning or inability to provide service due to access related issues, IDA is monitoring the situation and will review whether further measures need to be put in place. Notwithstanding the above, IDA is of the view that there may be merit for OpenNet to provide additional information to its QPs on whether it is encountering any difficulties in accessing certain premises or buildings ("**Access Status**") for QP's planning purposes. Such Access Status could be incorporated into OpenNet's "Covered Sites" file that OpenNet currently shares with its QPs. For the avoidance of doubt, such Access Status should not be treated as MSI.

Other aspects of the remedy framework

14. The industry is of the view 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 agrees with the industry that prompt rectification of the errors and notification to the QPs is necessary. IDA is of the view that a timeframe of one (1) business day of discovering or being informed of such errors or inaccuracies is appropriate. In addition, IDA also agrees that it is necessary for OpenNet to inform all its QPs of such amendments and IDA is of the view that OpenNet should do so immediately after the rectification of the errors or inaccuracies (i.e., within one (1) business day of discovering or being informed of such errors or inaccuracies).
15. A respondent has also submitted that OpenNet's MSI remedy framework should be structured such that RSPs could highlight MSI errors and be compensated for such highlighted MSI errors, regardless of whether an order has been submitted. As OpenNet does not have any contractual relationship with the RSPs, IDA disagrees that OpenNet's MSI remedy framework should be extended to cover RSPs. On whether OpenNet should provide a remedy to QPs based on their discovery of an MSI error, IDA is of the view that it may not be fair for OpenNet to compensate QPs in the above situation. This is because such QPs may not have been impacted by the erroneous or inaccurate MSI in the first place as they may have no intent to serve the particular premises or buildings affected by the errors or inaccuracies or there are no service orders from end users from these premises/buildings. IDA therefore will not require OpenNet to compensate its QPs for

discovering any MSI errors. Notwithstanding this, RSPs or QPs who discover any errors or inaccuracies in OpenNet's MSI may report these errors or inaccuracies to OpenNet and keep IDA informed. IDA will take these into consideration in deciding whether further measures are required.

16. Another respondent sought clarification on how the MSI remedy framework would apply in a potential situation where OpenNet's erroneous MSI was corrected prior to a QP's submission of an order based on the formerly erroneous MSI. IDA is of the view that OpenNet's MSI remedy framework should not apply in the context highlighted as it may be difficult to assess whether such QPs have in fact been impacted by the erroneous or inaccurate MSI.

Format of MSI and other aspects of MSI

17. The industry has submitted that OpenNet's coverage related MSI be provided in the form of database which can be downloaded by its QPs. One respondent further suggested that IDA imposes certain timeframe in terms of how soon the coverage related MSI be updated. The respondent also commented that it is important that the MSI be provided to all QPs at the same time so as to ensure that no QP is given an unfair competitive advantage.
18. IDA is of view that it may be overly prescriptive to require OpenNet to provide its MSI in a certain format. IDA's expectation is that the MSI must be accurate but IDA will leave it to OpenNet to decide on the manner in which to present it. QPs who need the MSI to be in a certain format can work with OpenNet for OpenNet to provide them with the information in their required format. Separately, IDA is currently working with OpenNet to ensure that its MSI is up-to-date, and will review the need to impose timeframes for OpenNet to update its MSI.
19. IDA agrees with the respondent's comment that OpenNet's MSI should be made available to all its QPs at the same time. As far as IDA is aware, OpenNet's MSI has been made available to its QPs at the same time through OpenNet's service portal and there is currently no evidence that suggests otherwise.