

REVIEW OF SECTION 10 (ACQUISITIONS AND CONSOLIDATIONS INVOLVING DESIGNATED TELECOMMUNICATION LICENSEES, DESIGNATED BUSINESS TRUSTS AND DESIGNATED TRUSTS) OF THE CODE OF PRACTICE FOR COMPETITION IN THE PROVISION OF TELECOMMUNICATION SERVICES AND ADVISORY GUIDELINES GOVERNING CONSOLIDATION REVIEW AND TENDER OFFER PROCESS



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ANNEX 1: M1 RESPONSE TO IDA’S CONSULTATION PAPER ON REVIEW OF SECTION 10 (ACQUISITIONS AND CONSOLIDATIONS INVOLVING DESIGNATED TELECOMMUNICATION LICENSEES, DESIGNATED BUSINESS TRUSTS AND DESIGNATED TRUSTS) OF THE CODE OF PRACTICE FOR COMPETITION IN THE PROVISION OF TELECOMMUNICATION SERVICES AND ADVISORY GUIDELINES GOVERNING CONSOLIDATION REVIEW AND TENDER OFFER PROCESS

| Description | IDA Proposed Changes | M1 Views and Comments |
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| <p>Proposed Revised Timeframe for M&A Transactions</p> | <p>Para 31 in Consultation Paper dated 10 Aug 11:</p> <p><i>“Under the proposed Section 10, IDA proposes to standardise the timeframes, by stipulating that IDA’s approval should be sought <u>not less than 60 days before the completion of an M&A transaction.</u> Where Acquiring Parties enter into an agreement (not amounting to an Open Market Transaction) for the M&A transaction, Applicants are <u>also required to seek IDA’s approval within 30 days from the time the agreement is entered into.</u>”</i></p> | <p>M1 recommends to retain the <u>existing</u> provisions in Section 10 of the Telecom Competition Code 2010 (the “Code”) in relation to the timeframe for submission of a Request for M&A transactions, as it takes into account investment dynamics.</p> <p>The proposed 60 days timeframe (as highlighted) is operationally impractical, restrictive and highly inefficient from an investment perspective.</p> <p>i. 60 Days Timeframe</p> <p>As market conditions constantly evolve, it would be in the interest of investors and the Licensees to complete M&A transactions as soon as possible. Hence, it is both impractical and restrictive to impose the requirement to seek IDA’s approval not less than 60 days before completion of an M&A transaction.</p> <p>The requirement is further complicated by IDA’s right to extend its review period to a maximum of 120 days. As such, the proposed timeframe would not bring about greater certainty to the industry.</p> <p>It also appears contradictory that IDA is imposing a blanket 60 days timeframe, while it clearly recognises the investment dynamics surrounding Open Market Transactions: “<i>IDA will seek to give expedited considerations to requests made in</i></p> |

connection with Consolidations to be achieved through Open Market Transactions.” - (S10.3.6.8 Consolidation Review Period, draft of Section 10)

ii. Duty to Seek IDA’s Prior Approval

The proposed revisions to Section 10 appears to only take into consideration M&A transactions whereby the Designated Telecommunication Licensee (“DTL”) is aware of intended M&A transactions at least 60 days prior to completion. However, it is also highly possible that the DTL only becomes aware of acquisitions after completion of the transactions:

a. Open Market Transactions

The purchase of shares traded on a securities exchange, whether located in Singapore or elsewhere, in principle, allows M&A transactions be completed within a market day. It is possible that the DTL may not be made aware of the transactions before completion.

b. Privately negotiated agreements between the Acquiring Party and an entity other than the DTL.

Where a DTL has no direct involvement in the agreement, the Acquiring Party may not provide the DTL with advance notice prior to M&A transactions.

We believe that the above scenarios are not adequately addressed in the revised Section 10.

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| | | <p>iii. M&A transactions (not amounting to an Open Market Transaction)</p> <p>The “within 30 days from the agreement is entered into” requirement would suffice in ensuring that IDA’s approval is sought early. The additional proposed 60 days timeframe is unnecessary and only complicates the M&A process.</p> <p>In light of the above, M1 recommends to maintain the current timeframe requirements on the duty to notify and seek approval of IDA (be it by means of Open Market Transactions or Private Negotiated Agreements) as stipulated in the <u>existing</u> Section 10.</p> |
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