



**EXPLANATORY MEMORANDUM ON THE DECISION OF
THE INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF SINGAPORE IN
RELATION TO THE PROPOSED CONSOLIDATION INVOLVING CABLE &
WIRELESS GLOBAL PTE LIMITED AND VODAFONE EUROPE B.V.**

11 July 2012

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PART I: INTRODUCTION¹

1. On 23 April 2012, both Vodafone Europe B.V. (“**VEBV**”) and Cable & Wireless Worldwide PLC (“**CWW**”) announced an agreement in which VEBV intends to make an offer to acquire all the issued and to be issued ordinary shares in CWW (the “**Transaction**”). As CWW holds indirectly owns Cable & Wireless Global Pte Limited (“**CWG**”) (a Facilities-based Operator (“**FBO**”) and Designated Telecommunication Licensee (“**DTL**”) in Singapore), the above Transaction would result, *inter alia*, in VEBV becoming a 30% Controller² of CWG, thereby constituting a Consolidation under the Code of Practice for Competition in the Provision of Telecommunication Services 2012 (the “**Code**”). In accordance with Sub-section 10.3.6 of the Code, CWG and VEBV were required to jointly file a Long Form Consolidation Application for the proposed Transaction for IDA’s approval.
2. On 25 May 2012³, CWG and VEBV (collectively referred to as the “**Applicants**”) jointly submitted a Long Form Consolidation Application to IDA. As Cable & Wireless Worldwide (Singapore) Pte Limited (“**CWWS**”) and Cable & Wireless Regional Businesses Singapore Pte Limited (“**CWRB**”) (both being Services-based (Individual) (“**SBO(I)**”) Licensees) are also indirect subsidiaries of CWW, CWWS and CWRB have also notified IDA of the proposed Transaction as provided for in their respective SBO(I) licence conditions. CWG, CWWS and CWRB are herein collectively referred to as **CWW-Singapore**.
3. On 4 June 2012, IDA issued a consultation paper to solicit comments regarding the Application. At the close of the public consultation on 18 June 2012, no comments were received from the industry and the public.
4. This paper provides a single document (“**Explanatory Memorandum**”) that describes: the Application; the comments received in response to IDA’s consultation paper; the legal standards, procedures and analytical framework that IDA used to assess the Application; IDA’s assessment of the Application; and IDA’s final decision.

¹ Unless otherwise defined, all capitalized terms in this consultation paper shall have the same meaning ascribed to them in the Code or the Telecom Consolidation and Tender Offer Guidelines.

² 30% Controller means, in relation to a Designated Telecommunication Licensee, a person who, alone or together with his Associates —
(A) holds 30% or more of the total number of Voting Shares in the Designated Telecommunication Licensee; or
(B) is in a position to control 30% or more of the Voting Power in the Designated Telecommunication Licensee.

³ The Applicants provided further clarifications on their Long Form Consolidation Application to IDA on 31 May 2012.

PART II: EXECUTIVE SUMMARY

5. Based on the evidence available, IDA has concluded that the proposed Transaction is not likely to substantially lessen competition in any telecommunication market in Singapore or harm the public interest. IDA therefore approves the Application in full.
6. As discussed further below, CWW-Singapore provides six distinct categories of telecommunication services in Singapore: International Managed Data services (“**IMDS**”); Terrestrial International Private Leased Circuits (“**Terrestrial IPLC**”); IP Transit; Internet Access services; Backhaul and Internet Protocol Telephony (“**IP Telephony**”). VEBV does not currently provide any telecommunication service in Singapore, and has not indicated any intention to do so in the future. Thus, from the perspective of the Singapore telecommunication market, the proposed Transaction constitutes a Non-horizontal Consolidation. IDA recognises that such Consolidations generally do not restrict competition. However, because Vodafone Group Plc (“**Vodafone**”), the parent of VEBV, may have market shares in excess of 25 percent in parts of Europe, Middle East, Africa and New Zealand telecommunication markets, IDA has carefully considered whether the proposed Transaction is likely to substantially lessen competition in any Singapore telecommunication market.
7. Based on its review, IDA has concluded that it is unlikely that the proposed Transaction will increase the ability of the merged entity to act anti-competitively and substantially lessen competition in any telecommunication market in Singapore. CWW-Singapore is a small participant in the Singapore market and is subject to strong competition for all the services that it provides in Singapore whereas VEBV is not currently providing any telecommunication service in Singapore (and has not indicated any intention to enter the market). Further, because the products and services provided by the Applicants in markets in which the Applicants have significant market power (“**SMP**”)⁴ (if any) are not essential inputs into the provision of any telecommunication service in Singapore, the Applicants are unlikely to be able to use their market power in any telecommunication market, wherever located, to foreclose the market and adversely affect competition in Singapore.

PART III: BACKGROUND OF THE APPLICANTS

Cable & Wireless Worldwide PLC (CWW)

8. CWW was demerged from Cable & Wireless in 2010 into a separate publicly listed company listed on the London Stock Exchange. It provides a wide range of voice, data, hosting and IP-based services and applications across the UK, Asia Pacific, India, Middle East & Africa, Continental Europe and

⁴ Under the Code, SMP is defined as “*the ability to unilaterally restrict output, raise prices, reduce quality or otherwise act, to a significant extent, independently of competitive market forces.*” However, different jurisdictions may define SMP differently.

North America, mainly to large users of telecommunications including multinational corporations (“**MNCs**”), governments, carrier customers and resellers. In the UK, CWW owns a large fibre network dedicated to serving business users. In parts of Europe, including UK and Ireland, CWW may have market shares in excess of 25 percent in the fixed network telecommunication market.

9. CWW holds three telecommunication licences in Singapore and, pursuant to those licences, provides the following services in Singapore: IMDS; Terrestrial IPLC; IP Transit; Internet access services; Backhaul and IP Telephony.

Vodafone Europe B.V. (VEBV)

10. VEBV is a Dutch holding company indirectly wholly owned by Vodafone. Vodafone is a UK-based publicly-listed company on the London Stock Exchange and NASDAQ. Vodafone has a group of companies, which is involved in the operation of mobile telecommunication networks and the provision of related telecommunication services including voice telephony, messaging, data and content services, radio paging and value-added network services, as well as partner networks which are mobile operators globally. Some Vodafone operating companies also provide fixed line voice and broadband services. Vodafone is also an Internet backbone provider. In parts of Europe, including UK and Ireland, Middle East, Africa and New Zealand, Vodafone may have market shares in excess of 25 percent in the mobile network telecommunication markets.
11. VEBV does not hold any licence issued by IDA and does not offer any telecommunication services in Singapore. Its presence in Singapore is limited to the following:
 - (i) Vodafone Global Enterprise (“**VGE**”)⁵ has an office in Singapore which acts as a Regional Office providing support to its customers in the Asia Pacific region (Australia, Fiji, India and New Zealand); and
 - (ii) A strategic partnership formed with the Conexus Mobile Alliance (“**Conexus**”)⁶, including Conexus member StarHub, which expands Vodafone’s market presence in Asia.
12. Please refer to the Long Form Consolidation Application by CWG and VEBV for the existing shareholding structure of CWG and VEBV and the proposed shareholding structure post-Consolidation.

⁵ VGE is a division established by Vodafone in 2007 to service MNCs and has presence in over 65 countries.

⁶ Established in April 2006, Conexus Mobile Alliance is one of Asia’s largest mobile alliances. The alliance was formed to develop and enhance international roaming and corporate mobile services for greater convenience and ease of use for its members’ customers.

PART IV: THE APPLICATION

13. Sub-section 10.3.6 of the Code provides that “[e]very Acquiring Party and the Designated Telecommunication Licensee must seek IDA’s approval in connection with such Acquiring Party acquiring Voting Shares or Voting Power that results in such Acquiring Party becoming a 30% Controller of the Designated Telecommunication Licensee or entering into any other transaction that constitutes a Consolidation with the Designated Telecommunication Licensee.” In order to obtain IDA’s approval, the Applicants must jointly file a Long Form Consolidation Application pursuant to Sub-section 10.3.6.3(b) of the Code.
14. As the proposed Transaction would result in, *inter alia*, VEBV becoming a 30% Controller of CWG, and since Vodafone, VEBV’s parent company, has more than 25 percent market share in certain telecommunication markets overseas, the Applicants have jointly submitted a Long Form Consolidation Application for IDA’s approval.
15. In its submission, the Applicants noted that the Transaction raises the same issues as IDA’s previously approved Consolidation Applications in 2005, i.e., (i) SBC Communications Inc’s acquisition of AT&T Corp in the United States which resulted in a change in ownership in AT&T Worldwide Telecommunications Services Singapore Pte Ltd, and (ii) Verizon Communications Inc’s acquisition of MCI Inc which resulted in a change in ownership in MCI Worldcom Asia Pte Ltd. The Applicants further informed that in both cases, a non-Singapore based telecommunication service provider (which has SMP in certain markets), but participates in few, if any, Singapore telecommunication market, is seeking to acquire a major non-Singapore based service provider who has a very small market share in some Singapore telecommunication markets. The Applicants also submitted that CWG currently is not a significant player in the telecommunication markets that it is participating in, including the relevant Singapore telecommunication markets, and hence the Applicants submitted that there is no valid basis on which to conclude that the proposed Transaction would enable the post-Consolidation entity the ability to leverage its position in the European markets to impede competition in any Singapore telecommunication market.
16. The Applicants stated that they participate in the following relevant markets in Singapore: IMDS; Terrestrial IPLC; IP Transit; Internet Access services; Backhaul and IP Telephony.
17. *IMDS*. The Applicants made reference to IDA’s ICS Exemption Decision⁷ where IDA concluded that the market for IMDS was competitive. They submitted that CWW-Singapore is one of the several participants in this market with an estimated market share of less than 5 percent; as Vodafone does not have any licensable telecommunication activities in Singapore, there

⁷ IDA, 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.

is no horizontal effect from the Transaction. According to the Applicants, it is unlikely for CWW-Singapore to be able to leverage on Vodafone's SMP in any telecommunication market outside of Singapore to restrict competition in the Singapore IMDS market, given that IMDS is typically purchased on a "network basis". That is, IMDS customers purchase a service that provides both network management and connectivity between Singapore and multiple customer sites out of Singapore. Typically, for IMDS sales made to end users in Singapore, Singapore-EEA (Europe Economic Area) connectivity is only a portion of the IMDS service offering – and only a portion of these connections are to locations where the Applicants have SMP. Therefore, even if the merged entity were to discriminate in favour of CWW-Singapore post-Consolidation in the provision of connectivity services to locations outside of Singapore where it has SMP, this is unlikely to provide it with a material competitive advantage in the offering of IMDS to Singapore end users which would result in significant lessening of competition in the Singapore IMDS market.

18. *Terrestrial IPLC.* The Applicants adopted IDA's definition in IDA's ICS Decision which states that the "*Terrestrial IPLC market consists of services provided over submarine cables, that offer customers the exclusive use of a point-to-point, dedicated transparent transmission path for voice, data or video between a location in Singapore and a location outside of Singapore.*" The Applicants estimated the market share of CWW-Singapore in this market to be less than 5 percent, with a primarily carrier customer base, and the combined market share of CWW and Vodafone to be less than 25 percent in respect of the submarine transmission capacity. Notwithstanding that Vodafone or CWW may have SMP in certain markets, the Applicants pointed out that a number of Singapore-based operators today also have foreign affiliates that have SMP in their respective domestic markets and IDA has not detected evidence of anti-competitive conduct on these routes. The Applicants further stated that where Vodafone or CWW have SMP in certain overseas markets, they are subject to regulation (e.g., price caps) by the relevant authorities. The Applicants concluded that the merged entity would lack the ability or incentive to foreclose competing Singapore providers of Terrestrial IPLCs from providing service on the Singapore-EEA route or to make use of its position in markets where it has SMP to impede competition in the Singapore Terrestrial IPLC market.
19. *IP Transit.* The Applicants adopted IDA's definition of the IP Transit market in IDA's ICS Exemption Decision which states that "*market consists of the provision of a service for compensation, in which one operator terminates international Internet traffic on its network or transits the Internet traffic for termination on a third operator's network.*" In that Decision, IDA concluded that the International IP Transit market is "*effectively competitive*". The Applicants claimed that CWW-Singapore's share in the Singapore International IP Transit market is immaterial, given the numerous participants. Referring to IDA's conclusion in the ICS Exemption decision that International IP Transit consists of the delivery of Internet traffic from Singapore to a network location at the foreign end and does not necessarily include the provision of local connectivity to end user premises, the Applicants submitted

that CWW-Singapore is unlikely to benefit from markets where the merged entity has SMP to foreclose or distort competition in the Singapore IP Transit market. In addition, the Applicants noted that because Vodafone is not a significant Internet backbone provider, the proposed Transaction will not adversely affect any requirement for the Singapore-based Internet providers to purchase “full circuits” or prevent them from being able to enter into peering arrangements with Tier 1 Internet backbone providers. Therefore, the Applicants concluded that there is no valid basis to determine that CWW-Singapore would be able to use its affiliation with Vodafone post-Consolidation to gain significant competitive advantage in the Singapore International IP Transit market.

20. *Internet Access Services.* The Applicants submitted that they provide Internet access and related services to MNCS in Singapore who need Internet connectivity to their global offices. According to the Applicants, CWW-Singapore holds a very small market share in the Singapore market for Internet access. Given CWW-Singapore’s small market share and because Vodafone is not a significant Internet backbone provider, the Applicants submitted that the proposed Transaction will not enhance CWW’s ability to use its position as an Internet backbone provider to favour CWW-Singapore’s Internet access services and substantially lessen competition in the Singapore market for Internet access.
21. *Backhaul.* The Applicants made reference to IDA’s Business and Government Telecommunication Services (“**BGTS**”) Exemption Decision⁸ where IDA concluded that the Singapore market for Backhaul is competitive. The Applicants submitted that CWW-Singapore is a small participant in this market. As many carriers in Singapore have purchased their own dark fibre, there is effective competition from multiple parties in the provision of backhaul services. The Applicants added that as Backhaul services are acquired on a standalone basis (i.e., non-Singapore services are not required as an input to provide Backhaul services in Singapore), there is no means for a party with SMP at the non-Singapore end to influence the Singapore Backhaul market. Given too that Vodafone does not participate in this market, the Applicants submitted that the proposed Transaction cannot lessen competition in the Singapore Backhaul market.
22. *IP Telephony.* The Applicants stated that CWW-Singapore currently provides IP Telephony services to a very small number of corporate customers in Singapore for international calls and hence has a very small market share. Given that the markets in which the combined entity would have SMP in are not an input to the provision of IP Telephony services in Singapore, the Applicants submitted that the proposed Transaction is not likely to substantially lessen competition among the Singapore-based IP Telephony providers.

⁸ IDA, Final Decision on the Request by Singapore Telecommunications Limited for Exemption from Dominant Licensee Obligations with Respect to the Business Government Customer Segment and Individual Markets, 2 June 2009.

23. For most of the above markets, the Applicants submitted that Sub-section 8.3 of the Code against anti-competitive preferences provides a remedy in the event that CWW-Singapore seeks to benefit from any anti-competitive conduct by the merged entity post-Consolidation. Sub-section 8.3 prohibits a licensee that is affiliated with an entity that has SMP from using the market position of its affiliate to unreasonably restrict competition in any telecommunication market in Singapore.
24. In conclusion, the Applicants submitted that the merged entity will not have the ability to foreclose competitors given that:
- a. Neither CWW nor Vodafone nor will the merged entity have control of (i) significant inputs at the Singapore end; (ii) any inputs at any foreign end, or (iii) significant levels of capacity or other aspects likely to adversely affect competition in the Singapore telecommunication markets. Where Vodafone has SMP in markets outside of Singapore, these markets are heavily regulated and CWW is not a purchaser of the services;
 - b. The main customers of the merged entity are MNCs and governments, who have strong buying power to be able to discriminate between providers and choose different providers for their communications needs; and
 - c. Neither CWW nor Vodafone has SMP in any relevant market in Singapore. In Singapore, Vodafone does not currently hold a telecommunication license to provide any telecommunication services (including mobile services). The merged entity will face significant competition from a range of diverse providers of unified communications solutions post-Consolidation.

PART V: COMMENTS RECEIVED ON IDA'S CONSULTATION

25. No comments were received in response to IDA's public consultation on the proposed Transaction, which closed on 18 June 2012.

PART VI: IDA'S ANALYTICAL FRAMEWORK

26. Pursuant to section 32A(2) of the Telecommunications Act (the "**Act**"), IDA has declared every telecommunication licensee, which is granted a licence under section 5 of the Act to provide facilities-based operations ("**FBO**"), to be a DTL for the purposes of Part VA of the Act. DTLs and parties acquiring voting shares or voting power in DTLs are required to comply with various provisions relating to such acquisitions under the Act and Section 10 of the Code. Specifically, pursuant to Sub-section 10.3.6 of the Code, every Acquiring Party and the DTL must seek IDA's approval in connection with such Acquiring Party acquiring Voting Shares or Voting Power that results in

such Acquiring Party becoming a 30% Controller of the DTL or entering into any other transaction that constitutes a Consolidation with the DTL.

27. Under Sub-section 10.3.6.3(b) of the Code, the DTL and the Acquiring Party must submit a Long Form Consolidation Application, unless Sub-section 10.3.6.5 regarding the submission of a Short Form Consolidation Application applies.

IDA's Assessment Framework

28. Paragraph 7 of the Telecom Consolidation and Tender Offer Guidelines provides that IDA will only prevent the consummation of a proposed Consolidation if the Consolidation is likely to substantially lessen competition in any Singapore telecommunication market or harm public interest. IDA recognises that Horizontal Consolidations raise the most serious competitive concerns. By definition, Horizontal Consolidations result in the elimination of direct competitors. This may result in the creation of a market participant with SMP. Such Consolidations may also result in a concentrated market in which the remaining participants are able to undertake anti-competitive concerted actions such as price fixing, more easily.
29. By contrast, Non-horizontal Consolidations generally do not raise significant competitive concerns. Indeed, they may often facilitate competition by creating a more efficient market participant. However, Non-horizontal Consolidations can raise competitive concerns where they eliminate the possibility that a party that currently does not participate in a specific telecommunication market will enter the market. Non-horizontal Consolidations also raise competitive concerns when they involve two firms in a "vertical relationship" (i.e., an "upstream" supplier of an essential input and a "downstream" service provider) and the "upstream" supplier has SMP in the market for the input. In such cases, a Consolidation may substantially lessen competition in a Singapore telecommunication market by enabling the input provider to limit the ability of downstream competitors to access the input or provide the input to the downstream competitor on discriminatory terms. The problem may be especially acute if the input provider is a foreign operator that is not subject to IDA's jurisdiction and is not subject to effective regulation in its home market.

PART VII: IDA'S ASSESSMENT

Scope of IDA's Review

30. IDA's authority to review the proposed Transaction is based on its right to approve changes in the Voting Shares or Voting Power of the operators it has licensed. IDA's concern when reviewing a proposed Consolidation is whether the proposed change in Voting Shares or Voting Power in a Licensee is likely to substantially lessen competition in any telecommunication market in Singapore or harm public interest.

31. In the Singapore telecommunication markets, the proposed Transaction is non-horizontal in nature since Vodafone, including VEBV and its affiliates, does not provide any telecommunication service in Singapore. Thus, in considering the Application, the relevant issue is whether the proposed Transaction is likely to enable CWW-Singapore to use its affiliation with Vodafone to substantially lessen competition in any Singapore telecommunication market. In particular, IDA must determine whether, following the proposed Transaction, CWW-Singapore will obtain an anti-competitive advantage because:
- a. Other Singapore operators will be foreclosed from accessing inputs controlled by the combined Vodafone-CWW entity that are necessary to provide competing telecommunication service in Singapore; or
 - b. The combined Vodafone-CWW entity will be able to use its SMP in parts of Europe, Middle East, Africa and New Zealand markets to favour CWW-Singapore, thereby distorting competition in the Singapore telecommunication market.

Likely Competitive Effect of the Proposed Transaction on Telecommunication Markets in Singapore

32. In conducting its assessment, IDA focused on the likely competitive effect of the proposed Transaction on the telecommunication markets that CWW-Singapore participates in.
33. In so doing, IDA considered the fact that no comments were received in response to IDA's public consultation on the proposed Transaction. In other words, no member of the industry/public had expressed any concerns regarding the proposed Transaction, nor disputed the Applicants' submission that they are not a significant market player and that the proposed Transaction is unlikely to substantially lessen competition in any telecommunication in Singapore.

IMDS

34. CWW-Singapore participates in the IMDS market. The market subject to IDA's jurisdiction is the sale of IMDS to customers in Singapore ("A-end" sales) and not sales to MNCs overseas, for which Singapore is a "spoke" in their regional or global network ("B-end" sales). In the ICS Exemption Decision, IDA concluded that this market consisted of packet-based services – such as ATM, Frame Relay, and IP-VPN – that provided managed connectivity among multiple customer sites, at least one of which would be located outside Singapore. As with the Terrestrial IPLC services, in order to provide IMDS to customers in Singapore, a Singapore-based operator must acquire the necessary access/termination facilities at the foreign end. However, based on the evidence available, there is little risk that, following the Consolidation, CWW-Singapore would be able to use Vodafone's dominant position in the various mobile telecommunication markets overseas to substantially lessen competition in the Singapore IMDS market.

- a. In the ICS Exemption decision, IDA concluded that the IMDS market was competitive. In the subsequent BGTS Exemption Decision, IDA noted that there were numerous market participants in the IMDS market which also included AT&T Worldwide Telecommunication Service Singapore Pte Ltd (“**AT&T**”), BT Singapore Pte Ltd (“**BT**”), Verizon Communications Singapore Pte Ltd (“**Verizon**”), NTT Singapore Pte Ltd (“**NTT**”), Tata Communications International Pte Ltd (“**Tata**”), T-Systems Singapore Pte Ltd (“**T-Systems**”), PCCW Global (Singapore) Pte Ltd (“**PCCW**”), Pacnet Global (Singapore) Pte Ltd (“**Pacnet Global**”), Telstra Singapore Pte Ltd (“**Telstra**”), Sprint International Communications Singapore Pte Ltd, (“**Sprint**”), KDDI Singapore Pte Ltd (“**KDDI**”), Reach International Telecom (Singapore) Pte Ltd (“**Reach**”) and Singapore Telecommunications Limited (“**SingTel**”). These players are still active competitors in the market. There is no evidence to suggest that the competitive landscape has since changed.
- b. IDA notes that the proposed Transaction will not eliminate existing competition in the IMDS market given that Vodafone does not participate in this market. Further, CWW-Singapore is unlikely to be able to use Vodafone’s SMP (primarily in the mobile telecommunication markets outside of Singapore) to significantly restrict competition in the Singapore IMDS market. As IDA explained in the ICS Exemption Decision and as the Applicants have noted, customers in Singapore purchase IMDS on a “network basis”. That is, IMDS customers purchase a service that provides both network management and connectivity between Singapore and multiple customer sites outside of Singapore. Given that IMDS sales between Singapore and any given customer site is only a portion of the IMDS service offering, even if the merged entity were to discriminate in favour of CWW-Singapore post-Consolidation in the provision of connectivity services to locations outside of Singapore where it has SMP, this is unlikely to provide it with a material competitive advantage in the offering of IMDS to Singapore end users. IDA has no evidence to-date that CWW-Singapore has leveraged on CWW’s SMP position outside of Singapore to adversely affect competition in the Singapore IMDS market. As such, there is little reason to also believe that the proposed Transaction will enable CWW-Singapore to use its affiliation with the combined CWW-Vodafone entity to substantially lessen competition in the Singapore IMDS market.
- c. In any case, Sub-section 8.3 of the Code provides a remedy in event that following the Transaction, CWW-Singapore seeks to benefit from any anti-competitive conduct by the combined Vodafone-CWW entity. Under Sub-section 8.3 of the Code, a Licensee that is affiliated with an entity that has SMP is prohibited from using the market position of its Affiliate in a manner that enables it, or is likely to enable it, to unreasonably restrict competition in any telecommunication market in Singapore. In particular, the provision prohibits a Licensee from benefiting from a price squeeze, cross-subsidisation, discrimination or

refusal to deal by an Affiliate that possesses SMP. These prohibitions apply to Licensees with Affiliates outside of Singapore.

35. Therefore, IDA believes that there is little risk that the proposed Transaction will result in significant lessening of competition in the IMDS market.

Terrestrial IPLC

36. CWW-Singapore participates in the Terrestrial IPLC market. In its ICS Exemption Decision, IDA determined that the Terrestrial IPLC market consisted of services, provided over submarine cables, which offered customers the exclusive use of a point-to-point, dedicated transparent transmission path for voice, data or video between a location in Singapore and a location outside of Singapore. In order to provide Terrestrial IPLC services to customers in Singapore, Singapore-based operators would need to acquire the necessary access/termination facilities at the foreign end. For this case, the proposed Transaction might enable CWW-Singapore to leverage on the dominant position of the merged entity in overseas markets (such as the UK) to impede competition on the Singapore-UK route, for example, in several ways:
- a. First, the merged entity might refuse to provide services to CWW-Singapore competitors, thereby foreclosing them from providing Terrestrial IPLC service between Singapore and end user locations where the merged entity has SMP in;
 - b. Second, CWW-Singapore might obtain services from the merged entity on prices, terms or conditions that are more favourable than those that Vodafone provides to other competing Singapore operators that seek to provide Terrestrial IPLCs on the Singapore-UK route, for example; and
 - c. Third, even absent discrimination, CWW-Singapore might pay the merged entity above cost prices for the services in the regions which the merged entity has SMP in, thereby subjecting non-affiliated Singapore operator that must use these services to provide Terrestrial IPLC service to a price squeeze. This also would distort the Singapore Terrestrial IPLC market.
37. However, based on the evidence available, IDA has concluded that there is little risk that the proposed Transaction would enable CWW-Singapore to use the merged entity's SMP position in markets outside of Singapore to substantially lessen competition in the Singapore Terrestrial IPLC market.
- a. First, there are today Singapore-based operators operating in this market, such as Telstra and NTT, which similarly have foreign Affiliates that have SMP in their domestic markets. So far, IDA has not detected evidence of anti-competitive conduct on these routes.
 - b. Second, CWW-Singapore is not a significant participant in the Singapore Terrestrial IPLC market. In the BGTS Exemption Decision,

IDA noted that the market is competitive and participants in the market include SingTel, StarHub Ltd (“**StarHub**”), Pacnet Global, Telecom Italia Sparkle Singapore Pte Ltd (“**Italia**”), Verizon, T-Systems Singapore Pte Ltd (“**T-Systems**”) and Tata. There is no evidence to suggest that the competitive landscape has since changed. Similar to the IMDS market, IDA has not found any evidence to-date that CWW-Singapore has leveraged on CWW’s SMP position outside of Singapore to adversely affect competition in the Singapore Terrestrial IPLC market. As such, there is little reason to believe that the proposed Transaction will enable CWW-Singapore to use its affiliation with the combined CWW-Vodafone entity to substantially lessen competition in the Singapore Terrestrial IPLC market.

- c. In any case, Sub-section 8.3 of the Code provides a remedy in the event that following the Consolidation, CWW-Singapore seeks to benefit from any anti-competitive conduct by the combined Vodafone-CWW entity.
38. There is therefore little reason to believe that post-Consolidation, CWW-Singapore will be able to use its affiliation with Vodafone to substantially lessen competition in the Singapore Terrestrial IPLC market.

IP Transit

39. CWW-Singapore provides IP Transit Services in Singapore. In the ICS Exemption Decision, IDA concluded that this market consists of the provision of a service, for compensation, in which one operator terminates international Internet traffic on its network or transits the Internet traffic for termination on a third operator’s network. Based on the evidence available, IDA has concluded that there is little risk that, following the Transaction, CWW-Singapore would be able to substantially lessen competition in this market.
- a. First, in the ICS Exemption Decision, IDA concluded that the Singapore International IP Transit market was effectively competitive, with numerous participants. There is no evidence to suggest that the competitive landscape has since changed.
 - b. Second, as IDA recognised in the ICS Exemption Decision, International IP Transit consisted of the delivery of Internet traffic from Singapore to a network location at the foreign end. It would not include the provision of local connectivity to end user premises. Thus, CWW-Singapore is not likely to benefit from any dominant position in any market where the combined entity will have SMP to foreclose or distort competition in the Singapore IP Transit market. Similarly, IDA has not found any evidence to-date that CWW-Singapore has leveraged CWW’s SMP position outside of Singapore to adversely affect competition in the Singapore International IP Transit market. As such, there is little reason to believe that the proposed Transaction will enable CWW-Singapore to use its affiliation with the combined CWW-

Vodafone entity to substantially lessen competition in the Singapore IP Transit market.

- c. Third, because Vodafone is not a significant Internet backbone provider, the proposed Transaction will not adversely affect any requirement for Singapore-based Internet providers to purchase “full circuits” or prevent them from being able to enter into peering arrangements with Tier 1 Internet backbone providers. Even if the combined Vodafone-CWW were to do so, Singapore operators could discuss peering arrangements with other backbone providers.
 - d. In any case, Sub-section 8.3 of the Code provides a remedy in the event that following the Consolidation, CWW-Singapore seeks to benefit from any anti-competitive conduct by the combined Vodafone-CWW entity.
40. There is therefore little reason to believe that post-Consolidation, CWW-Singapore will be able to use its affiliation with Vodafone to gain significant competitive advantage in the Singapore International IP Transit market.

Internet Access (and Related) Services

41. CWW-Singapore provides Internet access and related services to MNCs to Singapore who need Internet connectivity to their global offices. Based on the evidence available, IDA has concluded that there is little risk that, following the Transaction, CWW-Singapore would be able to substantially lessen competition in the provision of Internet access services.
- a. CWW-Singapore is a small provider of Internet access services to corporate customers in Singapore, and is facing intense competition from numerous operators in this market. Other major providers include SingNet Pte Ltd (“**SingNet**”), StarHub, M1 Net Ltd (“**M1 Net**”) and Pacnet Internet (S) Pte Ltd (“**Pacnet Internet**”). With the rollout of Singapore’s Next Generation Nationwide Broadband Network (“**Next Gen NBN**”), many service providers have come on board to offer fibre-based Internet access services to businesses today. Moreover, the corporate customers purchasing Internet access services, especially the MNCs, are likely to enjoy strong buyer power and will be able to assert counter-veiling bargaining power against any effort by the combined Vodafone-CWW entity to raise prices or restrict supply post-transaction.
 - b. Again, there is no evidence to-date that CWW-Singapore has leveraged on CWW’s SMP position outside of Singapore to adversely affect competition in the market for the provision of Internet services to corporate customers in Singapore. Hence, there is little reason to believe that the proposed Transaction will enable CWW-Singapore to use its affiliation with the combined CWW-Vodafone entity to substantially lessen competition in the provision of Internet access services to corporate customers in Singapore. In any case, as

Vodafone is not a significant Internet backbone provider, the proposed Transaction will not enhance CWW's ability to use its position as an Internet backbone provider to favour CWW-Singapore's Internet access services.

42. Therefore, IDA finds that the proposed Transaction is not likely to substantially lessen competition among Singapore-based Internet access providers.

Backhaul

43. CWW-Singapore provides Backhaul services in Singapore. In the ICS Exemption Decision (and maintained in the subsequent BGTS Exemption Decision), IDA concluded that the Backhaul market consisted of services that use fibre optic links to enable a Licensee that has capacity on an international submarine cable system to transport that capacity from a cable landing station in Singapore to the Licensee's international gateway or point-of-presence in Singapore. Based on the evidence available, IDA has concluded that there is little risk that, following the Transaction, CWW-Singapore would be able to substantially lessen competition in this market.
- a. First, in the BGTS Exemption Decision, IDA concluded that the Singapore Backhaul market is effectively competitive, with numerous participants including SingTel, StarHub, France Telecom Group Orange ("FT"), Verizon, Pacnet Cable (S) Pte Ltd ("**Pacnet Cable**"), Pacnet Global, Reach and Telecom Italia. There is no evidence to suggest that the market is less competitive today. As the Applicants have noted, with many carriers in Singapore now purchasing their own dark fibre, there is effective competition from multiple parties in relation to the provision of Backhaul services today.
 - b. Second, as the Applicants have pointed out, no non-Singapore services are required as an input to the provision of Backhaul services in Singapore. As Backhaul services are acquired on a stand-alone basis, there is no realistic ability for a party with SMP at the non-Singapore end to influence this market in Singapore. Again, there is no evidence to-date that CWW-Singapore has leveraged on CWW's SMP position outside of Singapore to adversely affect competition in the Singapore Backhaul market. As such, there is little reason to believe that the proposed Transaction will enable CWW-Singapore to use its affiliation with the combined CWW-Vodafone entity to substantially lessen competition in the Singapore Backhaul market.
44. There is therefore little reason to believe that post-Consolidation, CWW-Singapore will be able to use its affiliation with Vodafone to substantially lessen competition in the Singapore Backhaul market.

IP Telephony

45. CWW-Singapore currently provides IP Telephony service to a small number of corporate customers in Singapore to allow them to make international calls.

Based on the evidence available, IDA has concluded that there is little risk that, following the Transaction, CWW-Singapore would be able to substantially lessen competition in the provision of Business Local Telephony Services.

- a. IDA estimates CWW-Singapore's share of IP Telephony customers to be very small, given that there are other providers of IP Telephony to corporate customers, such as M1 Net and StarHub. In the BGTS Exemption Decision, IDA concluded that IP Telephony was part of the Business Local Telephony Services market, which consisted of nationwide local fixed-line telephony services to business and government end users. There are therefore close substitutes, including business Direct Exchange Line services that customers can switch to, should the combined Vodafone-CWW entity attempt to raise prices post-Consolidation.
- b. Moreover, Singapore-based providers of IP Telephony services do not need to directly purchase input services from overseas in order to provide the service in Singapore. Therefore, notwithstanding Vodafone's SMP in any market overseas, the proposed Transaction is not likely to substantially lessen competition among Singapore-based IP Telephony providers or the wider Business Local Telephony Services market. There is no evidence to-date that CWW-Singapore has leveraged CWW's SMP position outside of Singapore to adversely affect competition in the Business Local Telephony Services market. As such, there is little reason to believe that the proposed Transaction will enable CWW-Singapore to use its affiliation with the combined CWW-Vodafone entity to substantially lessen competition in the Business Local Telephony Services market.

PART VIII: IDA'S DECISION

46. Based on the evidence and assessment above, IDA concludes that the proposed Transaction is not likely to substantially lessen competition in any Singapore telecommunication market, and hence approves the proposed Transaction without conditions on 11 July 2012.
47. As Sub-section 8.3 of the Code adopts safeguards against a Licensee accepting an "anti-competitive preference" from an Affiliate with SMP, there is no need to impose any further conditions on the Applicants in relation to the Transaction or otherwise in relation to CWW-Singapore's future provision of services in Singapore. IDA expects that the merged entity will comply with these provisions, and IDA is prepared to take strong enforcement actions in the event of any contravention.