

**M1'S RESPONSE TO IDA'S CONSULTATION PAPER ON
REVIEW OF END USER SERVICE INFORMATION PROVISIONS IN
THE CODE OF PRACTICE FOR COMPETITION IN THE PROVISION
OF TELECOMMUNICATION SERVICES 2012**



28 February 2014

This paper is prepared in response to IDA's consultation document dated 23 January 2014 and represents M1's views on the subject matter. Unless otherwise noted, M1 makes no representation or warranty, expressed or implied, as to the accuracy of the information and data contained in this paper nor the suitability of the said information or data for any particular purpose otherwise than as stated above. M1 or any party associated with this paper or its content assumes no liability for any loss or damage resulting from the use or misuse of any information contained herein or any errors or omissions and shall not be held responsible for the validity of the information contained in any reference noted herein nor the misuse of information nor any adverse effects from use of any stated materials presented herein or the reliance thereon.

1. M1 welcomes the opportunity to submit our views and comments to IDA for its consideration in its review of end user service information provisions in the Telecom Competition Code (“the Code”).
2. We advocate the principle of maintaining an appropriate balance between business needs and individual’s fundamental right to privacy. In refining the legal frameworks for data protection, companies must still have flexibility to cater for specific business and operational requirements without being subject to rigid definitions and prescriptive rules.
3. M1 is of the view that it may not be necessary for IDA to amend the Code EUSI provisions concerning use of customers EUSI without consent. The PDPA (“Act”) retains our rights under other law. Section 4(6)(a) of the Act reads:

“nothing ... shall affect any authority, right, privilege or immunity conferred, or obligation or limitation imposed, by or under the law....”.

In the PDPA consultation of 5 Feb 2013, the PDPC acknowledged this and stated that this applies “whether such rights, obligations etc arise under written law, such as obligations within Codes of Practice, licenses, regulatory directives issued under written law...”
4. We would also point out that the PDPA exceptions for use of personal data without consent do not appear to be a match-for-match for some of the existing Code provisions in Para 3.2.6.2 of the Code.
5. M1’s specific comments on the consultation paper are set out below.

Existing Framework	Proposed Framework	Comments
Use of EUSI without end user’s consent:		
Planning, provisioning and billing for services provided	<ul style="list-style-type: none"> • To remove the “provisioning” and “billing” purposes. 	<p>An amendment to this part of the Code may affect licensees’ rights to rely on it as a ‘grandfather’ right to provide and bill for services, in the absence of consent.</p> <p>By removing the Code provision, technically, should we not be able to get consent after July 2014 from an existing customer (who does not come forward to re-contract), we may then be unable to continue to provide services to him and to bill him.</p>

Existing Framework	Proposed Framework	Remarks
	<ul style="list-style-type: none"> Limit scope of “planning” to network operations and maintenance only. 	<p>So long as there is clear statement of the principles for personal data protection that provide the guiding direction of the Act, there is no need for a prescriptive approach and rigid definitions, leaving little room for operational flexibility.</p>
<p>Providing assistance to law enforcement, judicial or other government agencies</p>	<p>Remove</p>	<p>It appears that under Schedule 4 of the Act, clause (n), this exception only applies to disclosure of personal data to an officer of a <u>prescribed law enforcement agency</u>, which is defined in the Act as an authority charged with the duty of investigating offences or charging offenders underwritten law.</p> <p>Arguably, a <u>judicial authority or other government agency</u> is not one that is charged with investigating offences or charging offenders.</p> <p>In the event that IDA proceeds with the revision, please clarify how licensees should respond to a request from the Court, or government agency (other than the police).</p>