

18 September 2015

CityNet Infrastructure Management Pte Ltd
(as Trustee-Manager of the NetLink Trust)
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By Email
No. of pages: 5
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Attention: Mr Lee Khoon Aik
Director (Regulatory & Interconnect)

Dear Sirs,

DIRECTION OF THE INFO-COMMUNICATIONS DEVELOPMENT AUTHORITY OF SINGAPORE MADE PURSUANT TO SECTION 27 OF THE TELECOMMUNICATIONS ACT (CHAPTER 323) IN RESPECT OF THE REVIEW OF CITYNET INFRASTRUCTURE MANAGEMENT PTE LTD'S (AS TRUSTEE-MANAGER OF THE NETLINK TRUST) REFERENCE ACCESS OFFER

1. The Info-communications Development Authority of Singapore ("**IDA**"), pursuant to Section 27(1) of the Telecommunications Act (Chapter 323) (the "**Act**") and Condition 32.1 of the Licence to Provide Facilities-Based Operations issued to CityNet Infrastructure Management Pte Ltd (as Trustee-Manager of the NetLink Trust) ("**NetLink Trust**") on 22 September 2011 and amended on 1 October 2014, hereby issues this direction to NetLink Trust.
2. Reference is made to the following:
 - (a) IDA's Direction issued to CityNet Infrastructure Management Pte Ltd ("**CityNet**") on 26 August 2014 for the extension of the validity of its Reference Access Offer ("**RAO**") ("**IDA's 26 August 2014 Direction**");
 - (b) NetLink Trust's letter to IDA dated 24 April 2015 whereby NetLink Trust proposed the removal of Schedule 3 (Licensing of Access to Mandated Services) ("**Schedule 3**") of the RAO ("**24 April 2015 Letter**");
 - (c) the public consultation on the review of NetLink Trust's RAO published on 29 May 2015 ("**Public Consultation**"); and
 - (d) email correspondence between IDA and NetLink Trust on 29 July 2015 with respect to the modifications to the RAO proposed by NetLink Trust ("**29 July 2015 Emails**").

For the avoidance of doubt, capitalised terms not specifically defined herein shall have the meanings ascribed to them in NetLink Trust's RAO and/or NetLink Trust's Interconnection Offer ("**ICO**").

3. Pursuant to IDA's 26 August 2014 Direction, the validity of the existing RAO and the Interconnection Agreements entered into pursuant to the RAO ("**RAO Agreements**") were extended to expire one (1) year from 26 September 2014. Pursuant to IDA's planned review of the RAO, NetLink Trust submitted its justifications for the removal of Schedule 3 to the RAO in the 24 April 2015 Letter. IDA issued the Public Consultation on 29 May 2015 to seek industry feedback on the proposed changes to the RAO.
4. Following the close of the Public Consultation on 26 June 2015, IDA has reviewed the responses to the Public Consultation. After careful consideration, IDA does not agree to NetLink Trust's proposal to remove Schedule 3 from the RAO. IDA's assessment is set out in the accompanying Explanatory Memorandum.
5. Pursuant to IDA's completion of the review of the RAO, IDA hereby directs NetLink Trust as follows:
 - (a) NetLink Trust shall modify its RAO to incorporate the specific drafting language set out in the enclosed Appendix ("**Directed Amendments**"); and
 - (b) NetLink Trust shall submit to IDA the clean copy of its RAO incorporating the Directed Amendments **by no later than 23 September 2015**. The softcopy submission shall be in Adobe PDF and Microsoft Word format and emailed to IDA_ILO@ida.gov.sg. In submitting the Directed Amendments to IDA, NetLink Trust shall make all necessary editorial corrections for typographical, cross referencing and pagination errors.
6. Unless otherwise notified by IDA, NetLink Trust's RAO incorporating the Directed Amendments and necessary editorial corrections (the "**Approved RAO**") is hereby approved with effect from 23 September 2015.
7. NetLink Trust is reminded of its obligation to comply with this Direction under Section 27(5) of the Act.
8. If you should require any clarification on this Direction, please direct your written queries to Ms Aileen Chia (Deputy Director-General) via email at IDA_ILO@ida.gov.sg. Please note that any query from NetLink Trust to IDA for clarification shall not affect NetLink Trust's obligation to comply fully with the Direction, including the timelines specified in the Direction.

Yours faithfully



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

EXPLANATORY MEMORANDUM

This Explanatory Memorandum sets out IDA's assessment with respect to the responses received during the Public Consultation for the review of NetLink Trust's RAO.

Background

1. NetLink Trust has proposed the removal of Schedule 3 to the RAO in its letter dated 24 April 2015 to IDA. Schedule 3 is available to Mandated Licensees listed under Annex 1 thereof, which comprise only what was formerly OpenNet Pte Ltd ("**OpenNet**") before its consolidation with CityNet Infrastructure Management Pte Ltd ("**CityNet**"), and Singapore Telecommunications Limited ("**Singtel**"). NetLink Trust has proposed to remove Schedule 3 based on the following reasons:
 - a. Termination of OpenNet's Facilities-Based Operator ("**FBO**") Licence; and
 - b. Lack of demand for the services under Schedule 3 to the RAO ("**RAO Schedule 3 Services**").
2. As this is the first review of the RAO since its inception on 26 September 2011, IDA has issued the Public Consultation on 29 May 2015 to seek industry feedback on the proposed changes to the RAO.
3. At the close of the Public Consultation on 26 June 2015, IDA received comments from one respondent, Singtel. IDA thanks the respondent for its comments.

Review of Public Consultation

Singtel's Submission

4. In its submission, the respondent was of the view that NetLink Trust's Central Office ("**CO**") lead-in facilities and in-building facilities were Essential Support Facilities ("**ESF**") for which there exist no practical or viable alternative passive support structures. Access to these facilities, as provided through the RAO Schedule 3 Services, was therefore required in order for Requesting Licensees ("**RLs**") acquiring Mandated Services under NetLink Trust's ICO to install their own fibre cable(s) to the NetLink Trust Co-Location Space.
5. At present, RLs who wish to install their own fibre to connect to their equipment in the NetLink Trust Co-Location Space are required to execute the Fibre Cross Connect Installation Service ("**FCCIS**") offered by NetLink Trust as a Customised Agreement to its ICO. NetLink Trust provides RLs with access to NetLink Trust's CO lead-in facilities and in-building facilities as part of the FCCIS.

6. The respondent also noted that while it had not acquired access to NetLink Trust's CO lead-in facilities and in-building facilities through Schedule 3 to the RAO, it had been obtaining such access through the FCCIS provided by NetLink Trust. Further, the respondent indicated that it and other RLs would need to continue acquiring such access as part of the FCCIS provided by NetLink Trust.
7. Given the above, the respondent submitted that NetLink Trust, being the sole provider of access to such bottleneck facilities, should continue to make access available on reasonable and non-discriminatory cost-based prices, terms and conditions. In this regard, the respondent considered the FCCIS to be the sole means for RLs to obtain access to NetLink Trust's CO lead-in facilities and in-building facilities should NetLink Trust be allowed to remove Schedule 3 to the RAO. As such, the respondent submitted that NetLink Trust should be required to offer and make the FCCIS available as an ESF to all RLs pursuant to the RAO.

IDA's Assessment

8. Having carefully considered NetLink Trust's proposal and the response obtained through the Public Consultation, IDA makes the following assessment.
9. At the outset, IDA highlights that Schedule 3 to the RAO was introduced in 2012 to enable licensees, whose Mandated Services may only be accessed at CityNet's local exchanges, to offer access to CityNet's local exchanges to third party operators who wish to deploy their own facilities to CityNet's local exchanges for the purpose of obtaining the licensees' Mandated Services.
10. IDA was mindful of the administrative complications if third party operators have to enter into CityNet's RAO for access to CityNet's local exchanges, and a further agreement with other licensees for access to their Mandated Services. As such, for administrative convenience, IDA had required CityNet to offer access only to licensees whose Mandated Services are hosted in CityNet's local exchanges; in turn, these licensees would be required to offer a "one-stop" service for third party operators who wished to deploy their own infrastructure to CityNet's local exchanges. This obviated any need for these third party operators to enter into additional agreements under CityNet's RAO. At the point of introduction of Schedule 3 to the RAO, the relevant Mandated Licensees were OpenNet and Singtel, with their respective obligations under OpenNet's ICO and Singtel's Reference Interconnection Offer ("**RIO**").
11. Prior to the consolidation between OpenNet and CityNet to form NetLink Trust, OpenNet would take up RAO Schedule 3 Services from CityNet in order to obtain access to CityNet's lead-in and/or in-building facilities so that such access could be provided to Singtel as part of the FCCIS. With the consolidation between OpenNet and CityNet, there is no longer a need for NetLink Trust to procure such access to perform its obligations under the FCCIS.

12. Singtel has a similar obligation under Schedule 8A to the RIO to allow its RLs as well as third party operators to access and establish their own local connectivity in Singtel's local exchanges. For Singtel's local exchanges that are physically situated within NetLink Trust's COs, IDA notes that Singtel would continue to need RAO Schedule 3 Services in order to procure the necessary access to facilitate such RLs establishing their own local connectivity in Singtel's local exchanges.
13. In view of the above, IDA considers that it remains necessary for Schedule 3 to the RAO to be retained.
14. Given that IDA has decided that Schedule 3 to the RAO is to be retained, there is no necessity for IDA to consider the issue of directing NetLink Trust to make available the FCCIS as an ESF to all RLs pursuant to the RAO.
15. For the reasons set out above, IDA declines to accede to the proposal that Schedule 3 be removed from the RAO.
16. IDA has considered NetLink Trust's proposal in the 29 July 2015 Emails to require RLs to include additional documents when submitting the Notification of Acceptance of the RAO to NetLink Trust. NetLink Trust had justified the proposed amendment on the basis that this would be in line with NetLink Trust's ICO as approved by IDA on 25 June 2015. In the interest of consistency between NetLink Trust's ICO and RAO, IDA accepts NetLink Trust's proposal on the requirement for RLs to provide additional documents in the Notification of Acceptance of the RAO. However, as with IDA's position on the ICO, NetLink Trust shall not reject an RL's Notification of Acceptance of the RAO if the RL is able to provide valid reasons for not providing the RL's latest audited financial statements.
17. In view of the above, IDA has set out the amendments required for the RAO in the accompanying Appendix – Directed Amendments. The RAO, incorporating the directed amendments, will be effective for three (3) years from the date of approval by IDA. Separately, IDA has engaged NetLink Trust to review the prices in the RAO and has also commenced review of the prices in the ICO. In view of the consolidation of CityNet and OpenNet into one company providing both duct and fibre related wholesale services, IDA intends to align the price review exercises for both the ICO and the RAO, and as such, will extend the existing RAO prices until such time that the combined RAO and ICO price review is completed.