



CONSULTATION PAPER ISSUED BY

THE INFO-COMM MEDIA DEVELOPMENT AUTHORITY

ON

**THE TELECOMMUNICATION AND SUBSCRIPTION TV MEDIATION-
ADJUDICATION SCHEME**

17 JANUARY 2018

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1. BACKGROUND & INTRODUCTION

- 1.1 In February 2017, the Telecommunications Act (“**TA**”) and the IMDA Act (“**IMDAA**”) were amended to provide IMDA with the powers to establish an Alternative Dispute Resolution (“**ADR**”) scheme for the telecommunication and media sectors, with the policy intent of giving consumers access to an alternative platform to resolve disputes with their telecommunication and/or media service providers (“**Service Providers**”).
- 1.2 Over the past two decades, IMDA has progressively introduced a suite of consumer protection measures to safeguard consumer interest in the telecommunication and media sectors such as those as set out in the Telecommunication Competition Code (“**TCC**”), Media Market Conduct Code (“**MMCC**”), Premium Rate Services (“**PRS**”) Code and Quality of Service (“**QoS**”) frameworks¹. The existing measures have been effective in addressing service related issues that are of a systemic nature or impact a large segment of consumers.
- 1.3 Beyond these regulatory frameworks, IMDA generally relies on promoting effective competition amongst Service Providers to maximise consumer welfare. Hence IMDA does not intervene in the form of remedies that Service Providers should offer to consumers in resolving disputes that are more individualised or contractual in nature, such as billing disputes or dissatisfaction with quality of service. For such disputes, consumers are encouraged to approach their Service Providers first to resolve their concerns. If approached, IMDA will facilitate the process between the parties to reach an amicable resolution. If this fails, consumers are encouraged to approach third-party mediation or ADR bodies² to resolve their disputes.
- 1.4 Participation in such general ADR schemes is typically voluntary and the Service Providers are not obliged to attend the mediation sessions. In some cases, the cost of the dispute resolution process may be borne only by the consumers at the initial stage. However, as explained in the parliamentary readings for the TA and IMDAA amendment bills, there is merit in establishing a dedicated and independent ADR scheme for the telecommunication and media sectors to better serve consumers and resolve their disputes with Service Providers more fairly, efficiently and effectively.

¹ The Quality of Service standards set by IMDA for Broadband Internet Access Service, Public Cellular Mobile Telephone Service, Public Basic Telecommunication Service, Fibre Connection Service, Free-to-Air TV Service, and Subscription TV Service.

² For example, Consumer Association of Singapore (“CASE”), or Singapore Mediation Centre (“SMC”).

- 1.5 The Telecommunication and Subscription TV Mediation – Adjudication Scheme (“**the Scheme**”) is thus aimed at supplementing the existing consumer protection measures and dispute resolution approach, by providing an independent, conclusive, efficient and cost-effective way to resolve disputes between consumers and Service Providers (“**Disputing Parties**”). Such ADR schemes are already common in other countries such as in the United Kingdom, Hong Kong, and Australia, amongst others.
- 1.6 The rest of this Consultation Document sets out IMDA’s proposed framework and the operational mechanics of the Scheme are as follows:
- Section 2 sets out the dispute resolution process
 - Section 3 sets out the Eligible Customers who are the groups of consumers that can seek resolution under the Scheme
 - Section 4 sets out the telecommunication and media service providers who will be required to participate in the Scheme
 - Section 5 sets out the telecommunication and media services that will be eligible for dispute resolution under the Scheme
 - Section 6 sets out the dispute issues that will be eligible for resolution under the Scheme
 - Section 7 sets out the funding and fee structure of the Scheme
- 1.7 IMDA would like to seek views and comments from the members of public and industry on the Scheme as set out in this document. This consultation will be open for a period of six weeks, and will close on 28 February 2018.

2. DISPUTE RESOLUTION PROCESS

- 2.1 Many overseas and local alternative dispute resolution schemes adopt a two-stage process, with mediation as a first phase and adjudication or arbitration as the second. Mediation is often taken as a first step as it has a high settlement rate of 70 to 80% with majority of disputes resolved within a two-hour mediation session, and is faster and cheaper than adjudication or litigation. Mediation is found to reduce the likelihood of protracted disputes as it sets out to achieve a resolution that is satisfactory for both parties. If unresolved at mediation, adjudication is often taken as a second step to ensure finality for the Disputing Parties at the end of the dispute resolution process.
- 2.2 Hence, to allow for consumers to resolve their disputes with Service Providers in an effective and hassle-free manner, IMDA proposes to have a two-stage process for the Scheme – mediation, then adjudication if necessary. Mediation sessions will be conducted face-to-face while adjudication will be based on document reviews. A document-based adjudication is more cost-effective, less time-consuming and overall more efficient for the Disputing Parties. The process is shown in [Figure 1](#) below.
- 2.3 As the Scheme is intended to supplement, not replace the existing complaint channels provided by Service Providers, consumers are to approach their Service Providers first to resolve the dispute before escalating it to the ADR body that is appointed by IMDA to administer the dispute resolution scheme (“**ADR Operator**”). Consumers who choose to resolve the dispute through the Scheme are to serve a “notice of intention to mediate” to their Service Providers at least 14 calendar days before initiating the ADR process.

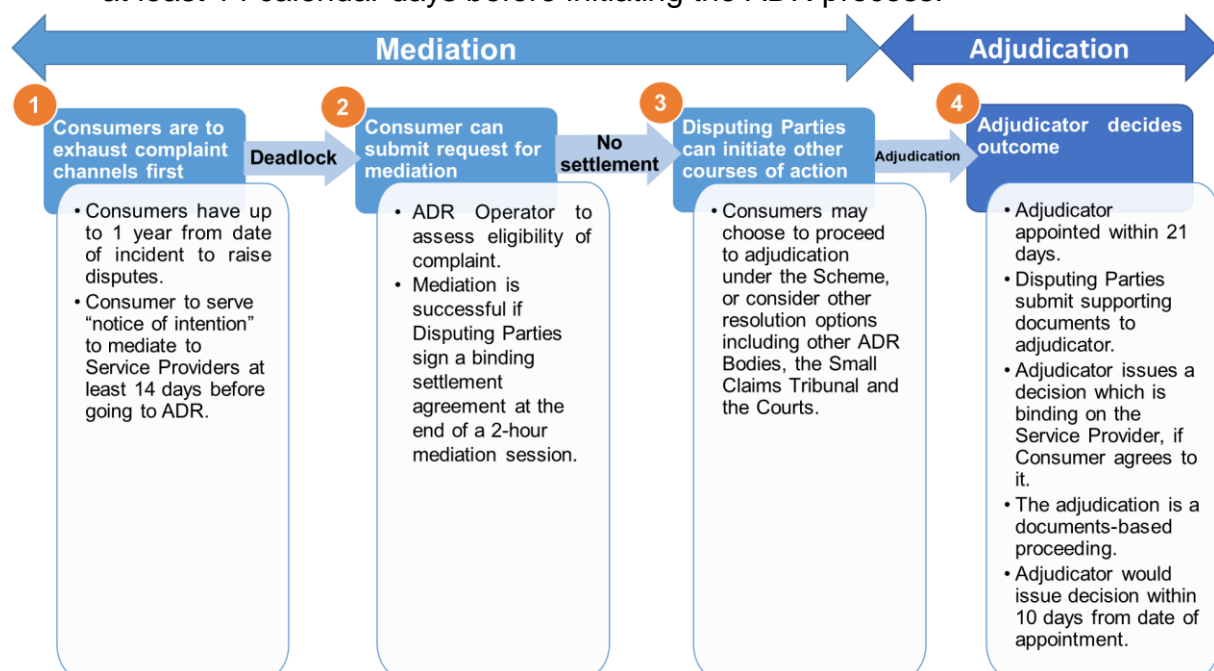


Figure 1: Proposed Dispute Resolution Process

- 2.4 The dispute is considered to be at a deadlock if at the end of the 14-day “notice of intention” period, there is no resolution between the consumer and the Service Provider. The ADR Operator would proceed to assess the eligibility of the complaint for mediation under the Scheme. If eligible, the Disputing Parties will attend a two-hour mediation session, where a neutral third-party (“**the Mediator**”) will facilitate the discussions between both parties to reach an amicable resolution. Where the Disputing Parties agree on a resolution, the terms of settlement for the dispute will be recorded in a written agreement that is binding on both parties (“**Settlement Agreement**”).
- 2.5 For disputes that cannot be resolved at the mediation stage, consumers may choose to escalate it to the second stage – adjudication – where the resolution of the dispute would be decided on by another neutral third-party, who is not the Mediator in the mediation stage (“**the Adjudicator**”). Participation in adjudication is mandatory for Service Providers if consumers choose to proceed with it. At adjudication, there will be no physical meeting, but the Disputing Parties are required to submit their arguments and supporting documents to the Adjudicator, who will decide on a resolution based on the merits of the case and in accordance with the law. The adjudicated decision will be final and binding on the Service Provider only if the consumer accepts it.
- 2.6 For consumers who consider there to be little prospect of reaching an amicable settlement through mediation, IMDA is considering whether consumers should be provided with the option to go straight to adjudication, without requiring the Disputing Parties to go through mediation first. While mediation has high settlement rates, is more affordable and less adversarial, IMDA would finalise its position on this after assessing the responses from the public consultation.

Consultation Questions

1. *Do you have any comments or suggestions on IMDA's proposed two-step Mediation – Adjudication process, and whether this process will achieve the policy objectives of providing the Disputing Parties with a resolution in an effective manner?*
2. *Do you think that it is necessary to serve a “notice of intention to mediate” so that it is demonstrated that the Disputing Parties have exhausted all available options before starting mediation proceedings? What are your views on the 14 calendar days required – is it too long, too short or sufficient?*
3. *Do you agree that a documents-based adjudication is more efficient for the Disputing Parties, or do you have any suggestions to enhance the adjudication stage?*
4. *What are your views on giving consumer the option to choose whether to accept an adjudicated decision for it to be binding on the Disputing Parties? Do you think that this would help to achieve faster resolution of disputes?*
5. *Do you think consumers should be given the option to go straight to adjudication, without requiring the Disputing Parties to go through mediation first?*

3. ELIGIBLE CUSTOMERS

- 3.1 In line with the aim of the ADR framework, individual consumers who subscribe to telecommunication or subscription TV services (“**Individual Consumers**”) will be eligible for the Scheme. IMDA recognises that certain groups of consumers may not be comfortable going through the dispute resolution process. Thus, these groups of consumers, such as the elderly, may appoint an authorised representative to attend or submit arguments on their behalf for both stages of the dispute resolution process.
- 3.2 IMDA also notes that there are some small-scale businesses such as shops or cafes that employ few employees (“**Small Business Customers**”) that may be subject to similar kinds of contractual agreements as individual consumers. Such Small Business Customers may not have as much bargaining power as the larger businesses that are generally able to negotiate the terms of their service with customised agreements, and are more likely able to protect their interests and resolve disputes effectively with their Service Providers. IMDA thus considers that there is merit in also providing such Small Business Customers with an avenue to seek recourse through the Scheme.
- 3.3 Hence, IMDA proposes that Individual Consumers and Small Business Customers who agree to purchase or have purchased telecommunication or subscription TV services from Service Providers (“**Eligible Customers**”) will be eligible for dispute resolution under the Scheme, where
- Individual Consumers are individual or residential subscribers who have a direct billing relationship with the Service Providers either on a recurring or once-off basis for telecommunication or subscription TV services; and
 - Small Business Customers are those that employ 10 workers or less, and register a revenue of \$1 million or less in a year³, that have a direct billing relationship with the Service Providers either on a recurring or once-off basis for telecommunication or subscription TV services⁴.
- 3.4 Examples of these two groups of Eligible Customers are shown below, where Individual Consumers typically subscribe to services using their National Registration Identity Card (“**NRIC**”) numbers (see illustrations in [Figure 2](#) below), whereas business customers use their business registration numbers (“**BRN**”) (“**Business Customers**”).

³ Adapted from SPRING Singapore’s definition of micro food enterprises, which are defined as food enterprises that earn \$1 million or less in annual revenues.

⁴ Businesses not captured under the definition of Small Business Customers still have the option to approach any ADR body for dispute resolution services, but would not be covered under the Scheme.

Example 1

A company negotiates for a mobile service plan at a discounted rate for its employees. Employees can subscribe to this corporate mobile service plan individually using their NRIC. If such a consumer subsequently has a dispute with the Service Provider, he will be considered an Individual Consumer and be eligible under the Scheme provided that it is an eligible dispute issue.

Example 2

A sole proprietor subscribes to a mobile service plan under his NRIC number, for both personal and business usage. He will be considered an Individual Consumer and be eligible under the Scheme provided that it is an eligible dispute issue.

Example 3

A small-office-home-office (“**SOHO**”) owner who subscribes to subscription TV services using his BRN would qualify as a Small Business Customer if he meets the requisite revenue threshold under the Scheme, and provided that the dispute issue is also eligible.

Figure 2: Examples of Individual Consumers and Small Business Customers

Consultation Questions

6. *Do you agree that apart from Individual Consumers, it is beneficial to include Small Business Customers as Eligible Customers under the Scheme? Why do you think so?*
7. *Is the definition of Small Business Customer appropriate? If not, how should it be defined?*

4. DESIGNATED / DECLARED LICENSEES

- 4.1 Today, consumers who take their disputes to existing ADR bodies could encounter Service Providers who choose not to engage in mediation, as participation in such general ADR schemes tend to be voluntary. One of the amendments made to the TA and IMDAA in February 2017 serves to address this by allowing for IMDA to require the participation of designated / declared Service Providers in the Scheme. The requirement for mandatory participation would ensure a more efficient dispute resolution between Eligible Customers and Service Providers.
- 4.2 To this end, IMDA proposes to require the participation of all telecommunication and subscription TV Service Providers that have direct billing relationship with Eligible Customers for the provision of telecommunication and subscription TV services, given that disputes are likely to arise in such direct contractual relationships. The Designated / Declared Licensees under the Scheme would include, but are not limited to:

Telecommunication Service Providers	<ul style="list-style-type: none"> • Singapore Telecommunications / Singtel Mobile Singapore / SingNet • StarHub / StarHub Mobile / StarHub Online / StarHub Internet • M1 / M1 Net • TPG Telecom • Viewqwest • Circles.Life • MyRepublic • NetLink NBN Trust
Subscription TV Service Providers	<ul style="list-style-type: none"> • SingNet • StarHub Cable Vision

Figure 3: Designated / Declared Licensees

- 4.3 Direct billing relationship would cover all instances where the Service Providers enter into service agreements, recurring billing arrangements or impose once-off charges on Eligible Customers for the provision of services.
- 4.4 The mandatory participation of media service providers is limited to subscription TV Service Providers for a start as most complaints for media services relate to subscription TV services. Mediacorp Pte Ltd will not be designated even though it offers subscription TV services via its Toggle service, as the service is provided over an Over-The-Top (“OTT”) platform. IMDA is proposing to exclude

OTT services from the Eligible Services under the Scheme. This will be elaborated in Section 5.

Consultation Questions

8. *Do you agree that IMDA should mandate participation of all telecommunication and subscription TV Service Providers that have direct billing relationship with Eligible Customers in the Scheme?*
9. *Are there other Service Providers that should be required to participate in the Scheme? Why do you think so?*

5. ELIGIBLE SERVICES

- 5.1 Both the telecommunication and the subscription TV markets are liberalised, with many different Service Providers offering a variety of service offerings to Individual Consumers and Business Customers. Not all services offerings, however, come under the regulatory ambit of the IMDA. In the online media market, for example, OTT service providers based overseas may offer their services directly to consumers in Singapore, but are not subject to local licensing regime. Similarly, in the telecommunication market, telecommunication service providers provide bill-on-behalf services for their business partners. For instance, users of e-wallets can pay for top-ups to their e-wallets through their telecommunication service bills, but the e-wallet top-up service is not a telecommunication service regulated by IMDA.
- 5.2 IMDA considers that, for a start, services that are more pervasive and known to have more consumer pain-points should be covered under the Scheme. While we recognise it is in consumers' interest to cover all telecommunication and subscription TV services under the Scheme, we also consider that there needs to be a balance between regulatory intervention and leaving certain issues to market forces to resolve as additional regulatory obligations may discourage innovation and competition. Further, services that are less frequently used or are not telecommunication services will be excluded.
- 5.3 Thus, IMDA proposes to include all telecommunication and subscription TV services for which a consumer would enter into service agreements, billing arrangements or incur once-off charges with Service Providers. Eligible Services would include, but are not limited to:
- Mobile Services (including voice, data, Short Message Service (“**SMS**”), Multimedia Messaging Service (“**MMS**”), international roaming services, Value-Added Services (“**VAS**”) and PRS)
 - Fixed-line Broadband Internet Access Services (including fibre, cable and Asymmetric Digital Subscriber Line (“**ADSL**”))
 - Fixed Line Services (including Direct Exchange Line (“**DEL**”), digital voice, Internet Protocol (“**IP**”) telephony system, Private Automated Branch Exchange (“**PABX**”), VAS, International Calls)
 - Subscription TV Services
 - Fibre Connection Services
- 5.4 For services that are less pervasive or less frequently used, IMDA has identified the following to be excluded from the scope of Eligible Services under the Scheme as a start:
- OTT Services⁵

⁵ Including Mediacorp's Toggle, StarHub Go and Singtel TV Go.

- Bill-on-behalf Services, **except for PRS**
- Payphone Services
- Directory Services

Consultation Question

10. *Do you have any comments on the proposed scope of Eligible Services, and what services should be included or excluded from the scope? Why do you think so?*

6. ELIGIBLE COMPLAINT ISSUES

- 6.1 Disputes between consumers and Service Providers can cover many issues, some of which cannot be quantified or assigned a monetary value. This may include, for instance, dissatisfaction with the advice provided by customer hotline staff, or unhappiness over the service experience at the Service Provider's retail outlet. There is a need to provide certainty to the Disputing Parties on the type of resolution and remedies that can be achieved under the Scheme. Therefore, IMDA views that the issues that can be addressed under the Scheme ought to be limited to issues that can be resolved through service recovery efforts, or compensated in kind or monetary terms.
- 6.2 Further, IMDA views that it would not be in the interest of any of the Disputing Parties if issues were brought to the ADR Operator after a long period of time has lapsed. There is therefore merit in providing certainty by indicating a timeframe within which disputes may be brought under the Scheme. IMDA proposes that the same timeframe of one year as stipulated under Section 3.3.4 of the TCC be adopted. Section 3.3.4 of the TCC provides consumers with one year from the date of the bill or charge to contest the charges that they reasonably believe to be incorrect. IMDA believes that the period of one year should be sufficient for consumers and Service Providers to resolve a dispute, or failing which, to bring the matter to the ADR Operator.
- 6.3 While we understand that the Scheme needs to cover a comprehensive scope of issues to effectively serve the needs of consumers, we also recognise that the ADR Operator requires certainty on issues that should not or cannot be resolved through ADR. To this end, IMDA proposes that the Scheme cover disputes of all issues in relation to an Eligible Service provided by a Designated / Declared Service Provider that has occurred within the past one year that can be resolved through service recovery efforts, or compensated in kind or monetary terms ("**Eligible Complaint Issues**"), except for:
- (a) Cases that are criminal offences or regulatory matters undergoing investigation by any law enforcement or regulatory agency;
 - (b) Cases which have been subjected to a Court hearing / Small Claims Tribunal, for which a judgment or order has been passed;
 - (c) Cases pertaining to telecommunication and media policies;
 - (d) Cases arising from Service Providers providing assistance to law enforcement or other government agencies;
 - (e) Cases that have already been handled or rejected for handling by the ADR Operator in which there is no new relevant information to support the case;
 - (f) Commercial decisions including what services the Service Providers should offer, how the services should be priced and offered, and credit assessment decisions or policies;

- (g) The content of services provided including smartphone applications, premium services, Internet sites and TV; and
- (h) Cases that are considered by the ADR Operator to be frivolous or vexatious.

Some examples of Eligible and Non-Eligible Complaint Issues (non-exhaustive) are provided in Figures 4 and 5.

Example 1

A consumer raised the issue that he was mis-sold a subscription TV plan as he was promised access to specific channels but was unable to access them. He wants to terminate the subscription plan without early termination charges. The dispute is eligible under the Scheme.

Example 2

A Small Business Customer raised the issue that he had been wrongly charged for an unusually high volume of calls made through his company's PABX. He does not want to pay the large amount billed as he thinks that the Service Provider should have alerted him and taken corrective actions more promptly. The dispute is eligible under the Scheme.

Example 3

A consumer is dissatisfied with the recurring service disruptions for his fibre broadband service despite multiple visits by the technician to fix it, and requests to terminate his subscription plan without early termination charges. The dispute is eligible under the Scheme.

Example 4

A consumer is unhappy that the technician did not turn up at the appointed time to install his fibre broadband service and requests to be compensated for the delay in service installation. The dispute is eligible under the Scheme.

Example 5

A consumer is dissatisfied that he lost mobile service coverage for a few hours and requests to be compensated for the loss of service and inconvenience for service disruption. The dispute is eligible under the Scheme.

Figure 4: Examples of Eligible Complaint Issues covered under the Scheme

Example 1

A consumer discovers that he was wrongly billed by his Service Provider for a PRS three years ago, and requests for a refund of the paid fees. This is not eligible for the Scheme as the case is more than one year ago.

Example 2

A consumer was unable to access the Internet through his fibre broadband and requests to be compensated by the Service Provider for the loss of service. It was found that the modem was switched off during the period when he was unable to access the Internet. This is not eligible for the Scheme because the Service Provider is not responsible for the loss of service in this instance.

Example 3

A consumer is dissatisfied that an advertisement showing undesirable content popped up when his child accessed the PRS through an Internet browser, and requests compensation for it. This is not eligible because it relates to the content of services provided by premium service providers on the Internet.

Example 4

A consumer is dissatisfied that a subscription TV programme was classified under the Parental Guidance (“PG”) rating as she saw certain scenes that she deemed to be inappropriate for her child, so she requests the Service Provider to compensate for the detriment. This is not eligible because it relates to the content guidelines set by IMDA on what constitutes PG content.

Example 5

A consumer lodged a case with the ADR Operator, but was informed that it was not eligible for dispute resolution under the Scheme. He lodged the case with the ADR Operator again one month later, even though there is no new relevant information to support the case. This is not eligible as it has already been rejected for handling by the ADR Operator.

Figure 5: Examples of Non-Eligible Complaint Issues

Consultation Questions

11. *Do you agree that Eligible Complaint Issues ought to be limited to issues that can be resolved through service recovery efforts, or compensated in kind or monetary terms? Why do you think so?*
12. *What do you think are other complaint issues that should be included and / or excluded from the scope of issues that are eligible under the Scheme? Why do you think so?*

7. FUNDING OF SCHEME & FEE STRUCTURE

- 7.1 There are several models in the funding of ADR schemes. In Australia and the UK, the scheme is funded by membership fees from the Service Providers and also charged a case fee for each dispute lodged with the ADR bodies. This is also the model adopted by the Financial Industry Disputes Resolution Centre Ltd (“**FIDReC**”) locally. Such a model imposes a fixed regulatory cost on Service Providers with a variable cost component which incentivises the Service Providers to improve consumer handling to avoid disputes.
- 7.2 The common model adopted by most local ADR bodies and schemes of other agencies is a co-payment model where the Disputing Parties co-share the cost of the dispute resolution process and the ADR scheme is sustained through case fees. The case fees are for the ADR bodies to recover cost and sustain their operations. In a self-sustainable model, case fees are determined based on a fee ratio set by the government agencies. IMDA considers that the self-sustainable model is more equitable for the Disputing Parties in that all parties are charged on a per-use basis.
- 7.3 Given these considerations, IMDA proposes for the Scheme to be self-sustainable through co-payment by the Eligible Customers and Service Provider in the ratio of 10:90 for both mediation and adjudication. Eligible Customers would thus bear 10% of the case fees, while the Service Providers bear 90%.
- 7.4 With the co-payment ratio, Service Providers will be incentivised towards faster resolution of disputes and improvement of their consumer handling. It also helps to address the disparity in the bargaining powers of the Disputing Parties.
- 7.5 While the exact fee is to be determined together with the appointed ADR Operator, we are mindful that the mediation and adjudication fees for Eligible Customers should not be prohibitively high relative to the estimated disputed amounts, taking reference from the average monthly household expenditure on telecommunication and subscription TV services⁶. As such, the fees for Eligible Customers are estimated to start from \$10 and \$50 for mediation and adjudication respectively.

⁶ Based on Singapore Department of Statistics, Average Monthly Household Expenditure by Types of Goods and Services (Detailed) and Income Quintile 2012/13, the monthly household expenditure on Telecommunication and Pay TV services is between S\$127 to S\$240.

Consultation Questions

13. *Do you agree that IMDA should adopt a co-payment model so that the Scheme can be self-sustainable? Why do you think so?*

14. *What are your views on the fee ratio of 10:90 in favour of the Eligible Customers to help balance the disparity in the respective bargaining power of the Disputing Parties?*

8. INVITATION TO COMMENT

- 8.1 IMDA would like to seek the views and comments from members of the public and the industry on the above issues.
- 8.2 Parties that submit comments on the issues identified in this Consultation Document should organise their submissions as follows:
- (a) Cover page (including their personal/company particulars and contact information);
 - (b) Table of contents;
 - (c) Summary of major points (structured to follow the individual Parts of the Consultation Document);
 - (d) Statement of interest;
 - (e) Comments (in response to the Questions set out in the Consultation Document and any other comments); and
 - (f) Conclusion.

Supporting material may be placed in an Annex.

- 8.3 Where feasible, parties should identify the specific sections of the Consultation Document on which they are commenting and provide reasons for their proposals.
- 8.4 All submissions must reach IMDA by 12 noon on 28 February 2018. Softcopy of submissions in both Microsoft Word and Adobe PDF format should be provided. Parties submitting comments should include their personal/company particulars as well as the correspondence address, contact number and email addresses on the cover page of their submission. All comments should be addressed to:

Ms Aileen Chia
Deputy Chief Executive / Director-General (Telecoms & Post)
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10 Pasir Panjang Road
#10-01 Mapletree Business City
Singapore 117438

Please submit your softcopy via email to: Consultation@imda.gov.sg

- 8.5 IMDA reserves the right to make public any written submissions and to disclose the identity of the source. Commenting parties may request confidential treatment of any part of the submission that the commenting party believes to be proprietary, confidential or commercially sensitive, with supporting

justification for IMDA's consideration. In such cases, the submission must be provided in a non-confidential form suitable for publication, with any confidential information redacted as necessary and placed instead in a separate annex.

- 8.6 If IMDA grants confidential treatment, it will consider, but will not publicly disclose the information. If IMDA rejects the request for confidential treatment, it will return the information to the party that submitted it and will not consider the information as part of its review. As far as possible, parties should limit any request for confidential information submitted. IMDA will not accept any submission that requests confidential treatment for the entire, or a substantial part of, the submission.