



SUBMISSION FOR THE CONSULTATION PAPER

ON

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

To:

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

For clarification on any views expressed by LW in this document, please contact:

Adeel Najam
Co-Founder and Director
adeel@circles.asia
+65 8133 9322

Liberty Wireless Pte. Ltd.
221 Henderson Road, #06-10
Singapore 159557

Liberty Wireless Pte. Ltd. (“LW”) would like to thank the IMDA for inviting LW to comment on the proposed Telecommunication and Subscription TV Mediation-Adjudication Scheme (hereinafter referred to as “the Scheme”). Our response to the Consultation Paper is structured as follows:

PART I - SUMMARY OF MAJOR POINTS	3
PART II - STATEMENT OF INTEREST	5
PART III - SPECIFIC COMMENTS	6
PART IV - CONCLUSION	13

PART I - SUMMARY OF MAJOR POINTS

1 LW welcomes IMDA's move to establish an independent ADR specifically dedicated to the telecommunications and media sector. With clearer guidelines in place, the Scheme has the potential to significantly benefit consumers as well as Service Providers ("SPs") by definitively resolving disputes between both parties in an efficient and fair way.

Dispute Resolution Process

2 We support the right of consumers to escalate disputes to resolution through the Scheme, and believe that SPs can and should be equally empowered to do so without imbalancing the outcome of conflict resolution in favour of the SP.

3 By providing specificity in the form of guidelines, standards, and submission forms at every stage of the proposed Scheme (from the point of initiating mediation to accepting an adjudicated decision), IMDA will give more clarity to Disputing Parties, reduce the proportion of invalid and ineligible complaints that are escalated to the Scheme, and strengthen its ability to achieve the stated policy goals of fairness, effectiveness, and efficiency.

4 We recommend the creation, maintenance, and provision of a public database of sample complaints escalated to, considered valid under, and resolved through the Scheme. This empowers Disputing Parties to independently resolve conflicts based on their understanding of the principles and likely positions of the ADR Operator, lends further clarity to whether complaints are eligible or ineligible for consideration by the Scheme, and expedites conflict resolution on issues that have previously been resolved under the Scheme.

5 LW also holds that participation in the Scheme should preclude all Disputing Parties from consulting other alternative resolution options at any point during or after they have entered the point of mediation through the Scheme, as this is incongruous with the conclusivity that the Scheme aims to provide to conflict resolution in the industry.

Eligible Customers

6 LW agrees that Small Business Customers (“SBCs”) should be similarly empowered to seek recourse for disputes with their SPs through this Scheme, and agrees that the definition of SBCs as laid out by IMDA is appropriate.

Designated / Declared Licensees

7 IMDA should provide comprehensive, regularly updated guidelines that list the services that are covered under the Scheme to give Disputing Parties greater clarity on its purview.

8 In recognition of the fact that there are several recent and incoming entrants to the industry, we assert that they should immediately be required to participate in the Scheme to ensure that their customers also receive its protections.

Eligible Services

9 MVNOs should be exempted from the coverage of the Scheme insofar as mobile network issues are concerned, as responsibility for the performance of their network coverage falls under the purview of their partner MNOs which operate and maintain the network assets, as per the commercial agreements between MVNOs and their partner MNOs.

Eligible Complaint Issues

10 LW agrees that Eligible Complaint Issues ought to be limited to issues that can be resolved through service recovery efforts, or compensated in kind of monetary terms.

11 We reiterate that MVNOs should be exempted from the coverage of the Scheme insofar as mobile network issues are concerned.

Funding of Scheme & Fee Structure

12 We agree that the proposed co-payment model is a sustainable way to fund the Scheme, particularly if implemented in conjunction with our requests for greater specificity and a public database of complaints previously resolved through the Scheme from the IMDA.

13 LW supports the proposed fee ratio, and shares IMDA's view that it recognises and helps to address the imbalance of negotiating power between eligible Disputing Parties.

14 To ensure that the fees paid by both parties are fair, we believe that the Scheme should allow for consumers to pay a higher fee in instances where consumers reject the proposed resolution set forth during mediation and elect to proceed with adjudication.

15 We also hold that the collective fees payable by Disputing Parties should not exceed the monetary value being disputed over.

PART II - STATEMENT OF INTEREST

16 The empowerment of mobile consumers at every stage of their customer experience, including conflict resolution, remains central to LW's mission and long-term strategy for success in local and regional markets.

17 LW shares IMDA's recognition of the challenges that consumers may face in engaging Service Providers, and supports IMDA's move to establish a decisive ADR scheme that balances both the interests of consumers and Service Providers fairly.

18 In our response, LW would like to offer several refinements to the proposed Scheme that would ensure that its implementation successfully meets IMDA's expectations of providing a fair, efficient and effective dispute resolution for consumers.

PART III - SPECIFIC COMMENTS

Question 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?

19 As established in our opening comments, LW believes that the Scheme would be more effective at meeting the mentioned policy objectives with several refinements in place.

20 While the proposed Scheme supports the right of consumers to escalate complaints to the ADR Operator for mediation, it should also provide for SPs to do the same (when they have been unable to resolve disputes with consumers despite exhausting their dispute resolution channels). As the eligibility of the complaint is ultimately assessed by the independent ADR Operator, this addition would empower both Disputing Parties to expedite a decisive resolution to their conflict through the Scheme.

21 In the proposal, IMDA laid out a three-stage process before Disputing Parties should engage in mediation through the Scheme: that the consumer a) raise disputes with the SP up to a year from the date of the incident, b) serve a notice of intention to SPs at least 14 calendar days before going to ADR, then c) submit a complaint to the ADR Operator, which will subsequently assess the eligibility of the complaint.

22 LW believes that IMDA should define both the submission of both the notice of intention as well as the submission of the complaint to the ADR Operator with greater specificity, for the Scheme to meet its stated policy goals. By providing standardised forms and specific guidelines on the information necessary for a complaint to be considered valid for both submissions, IMDA would ensure the Scheme achieves fairness, effectiveness, and efficiency in two ways.

23 First, these measures streamline the processing of such paperwork on the part of the SP and the ADR Operator by providing clarity to both consumers and SPs on the information required to demonstrate that all available complaint channels have been exhausted. This makes it easier for both parties to establish the eligibility of any dispute for mediation, and reduces the number of ineligible complaints that have to be processed by the ADR Operator.

24 Second, they facilitate the collection of data on complaints that can subsequently be used by consumers, the ADR Operator, and SPs to assess the validity and likely resolution of any conflicts.

25 LW believes that the collected data should be used by the ADR Operator in a similar manner to the hypothetical case studies provided by IMDA in Section 6 of the Consultation Paper - to provide a public database of sample eligible and ineligible complaints. These examples would further reinforce the guidelines provided by IMDA, enabling more would-be Disputing Parties to resolve conflicts without resorting to mediation under the Scheme, and expediting the assessment of the eligibility of any escalated complaints by the ADR Operator.

26 As noted in our opening statement, LW shares the view expressed in Section 1.5 of the Consultation Paper that the Scheme should be a “conclusive” way to resolve disputes between Disputing Parties.

27 We believe that the third stage of mediation during which “Disputing Parties can initiate other courses of action” after mediation creates the possibility of prolonging the dispute resolution process for both Disputing Parties by allowing the complaint to be renegotiated through other channels beyond the provisions of the Scheme after mediation.

28 Similarly, the lack of regulation on whether the consumer can simultaneously engage other channels of dispute resolution beyond those provided by their SP also undermines the intent and effectiveness of the Scheme; it imposes additional burdens on all parties involved without reducing the load on other dispute resolution mechanisms.

29 LW therefore holds that allowing for alternative resolution options (including “other ADR Bodies, the Small Claims Tribunal, and the Courts”) to be consulted at any point during, or after Disputing Parties have entered mediation through the Scheme, is incongruous with the conclusivity that it aims to provide to consumers and businesses. Instead, we assert that the interests of all Disputing Parties are best served when the Scheme offers a direct path to conflict resolution through mediation or through adjudication, without recourse to other resolution options.

Question 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?

30 LW agrees that serving a notice of intention to mediate is necessary, as it both encourages Disputing Parties to expedite the resolution of the issue, and allows time for both

parties to prepare for participation in the Scheme. The 14-day “notice of intention” period seems sufficient for the Disputing Parties to make last efforts to resolve the dispute between the Disputing Parties.

31 As mentioned in Paragraph 23, we believe that the proposed notice of intention to mediate will be an effective way to demonstrate that all available options have been exhausted with the addition of guidelines and structured forms, which would provide clarity to consumers and SPs looking to resolve conflict through the Scheme.

Question 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?

32 LW agrees that a documents-based adjudication would be more efficient for the Disputing Parties. Additionally, similar to our previous proposal in Paragraph 25, LW believes that key details of selected disputes and their respective adjudication outcomes should also continually be made available as a public database of “indicative cases”, for the adjudication process to be as conclusive and efficient as possible.

33 Identifying details should be redacted from these “indicative cases” by the ADR Operator to preserve the anonymity of the respective Disputing Parties, while retaining elements of these complaints that illustrate the principles and positions taken by the ADR Operator in mediation and adjudication. As with our earlier proposal, this gives Disputing Parties greater clarity and transparency on the principles and likely positions of the ADR Operator on a range of disputes.

34 The use of such a database therefore allows Disputing Parties to engage the Scheme with greater confidence, as it a) empowers and encourages Disputing Parties to resolve their conflicts without the need for external intervention, by taking reference from previous cases; b) reduces the time and resources spent by the ADR Operator on resolving disputes of a similar nature, and c) discourages frivolous and vexatious claims from being escalated to mediation and adjudication, reducing the number of complaints that need to be addressed by the ADR Operator and SPs.

Question 4. What are your views on giving consumers 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?

35 LW agrees that consumers should have the option to accept an adjudicated decision for it to be binding on both Disputing Parties, as this grants more control to consumers.

36 We also believe that the process and terms of accepting the adjudication system should be clearly laid out by IMDA in order to achieve a conclusive outcome for both Disputing Parties. Customers should be offered an opt-out option, in which they would automatically be considered by IMDA to have accepted the decision unless writing in to indicate their rejection of the adjudicated decision within a specified timeframe. This would create more certainty for both Disputing Parties as well as the IMDA with regard to when the adjudicated decision would be considered final and binding.

Question 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?

37 LW believes that consumers should have the option to proceed directly to adjudication. This is in line with LW's position on preserving consumers' right to choose, and advances the process towards a conclusive outcome, to the benefit of both Disputing Parties.

Question 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?

38 LW shares IMDA's view that that individual consumers and Small Business Customers (SBCs) have a comparable level of negotiating power in contractual agreements with SPs, and agree that they should therefore be similarly empowered to seek recourse for disputes with their SPs through this Scheme.

Question 7. Is the definition of Small Business Customer appropriate? If not, how should it be defined?

39 LW agrees that the definition of an SBC as outlined in the Consultation Document is appropriate.

40 In line with our call for more standardisation to be put in place for consumers looking to serve SPs with notices of intention and lodge complaints with the ADR Operator, the SBC should also provide clear documentation (as specified by IMDA) to prove their status as an

SBC.

Question 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?

41 LW believes that IMDA should provide comprehensive, regularly updated guidelines that list the services provided by telecommunication and subscription TV SPs that are covered under the Scheme, to give both consumers and SPs greater clarity on the purview of the Scheme.

42 Similarly, the list of telecommunication and subscription TV SPs that are covered by the Scheme should be regularly updated by IMDA, to ensure that consumers purchasing services from new industry entrants receive the same access to dispute resolution.

Question 9. Are there other Service Providers that should be required to participate in the Scheme? Why do you think so?

43 Elaborating on our comments in Paragraph 42, several new MVNOs have entered or will soon be entering the telecommunications industry - including ZeroMobile (launched in early December 2017) and Zero1 (launched in February 2018). We understand that there will be more entrants of a similar nature entering the telecommunications and subscription TV services markets, and assert that these entrants should also be required to participate in the Scheme to ensure that their customers are comprehensively protected.

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?

44 LW maintains that provisions should be made to exempt MVNOs from the coverage of the Scheme on mobile network issues, as MVNOs rely on the network assets of their partner MNOs to provide these services. Responsibility for the performance of these assets falls under the purview of the MNO, as per the commercial agreements between MVNOs and their partner MNOs. As such, a blanket mandate that MVNOs participate in the Scheme would unfairly penalise MVNOs in instances where customers of MVNOs engage the Scheme on mobile network issues.

Question 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?

45 LW agrees that Eligible Complaint Issues ought to be limited to issues that can be resolved through service recovery efforts, or compensated in kind of monetary terms, as these proposed resolutions are usually the easiest and quickest to implement which can generate an immediate, positive impact on customer experience.

Question 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?

46 As mentioned above in Paragraph 44, LW is of the view that MVNOs should be exempted from disputes over mobile network issues, as MVNOs are not responsible for the disruption of services arising from network failure on the part of their partner MNOs.

Question 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?

47 LW agrees that the proposed co-payment model is a sustainable way to fund the Scheme, and believes that it will discourage frivolous and vexatious engagement of the Scheme by consumers and SPs, particularly when Disputing Parties are informed by clear guidelines (in the form of standardised submissions) and illustrative examples (in the form of a public database of eligible and ineligible complaints, sample cases, and final mediation and adjudication outcomes) provided by the IMDA.

Question 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?

48 LW agrees that the 10:90 fee ratio proposed by the IMDA is a suitable benchmark that recognises and helps to address the imbalance of negotiating power between eligible Disputing Parties.

49 However, we believe there should be some level of flexibility to allow for a higher fee

payable by customers, in instances where consumers reject the proposed resolution set forth during mediation and elect to proceed with adjudication.

50 Additionally, while the fee ratio of 10:90 in favour of the Eligible Customers sets the floor limit, there should also be guidelines that cap the monetary compensation that SPs may be required to pay. The fee ratio should also be pegged to monetary amounts in disputes such that the collective fees payable by Disputing Parties do not exceed the monetary value being disputed over.

PART IV - CONCLUSION

51 LW supports IMDA's effort to establish a decisive avenue for conflict resolution dedicated to the telecommunications and media industry, and appreciates IMDA's consultation of SPs in the formulation of the Scheme to empower consumers while also respecting the fair business interests of SPs.