

21 March 2018

Ms Aileen Chia
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Infocomm Media Development Authority of Singapore
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Dear Aileen,

Consultation feedback on 'The Telecommunication and Subscription TV Mediation-Adjudication Scheme' issued on 17 January 2018

1. Thank you for giving MyRepublic Limited ("MyRepublic") the opportunity to provide feedback with regards to The Telecommunication and Subscription TV Mediation-Adjudication Scheme, dated 17 January 2018 ("Scheme").

General Comments

2. In summary, MyRepublic is **NOT** supportive of the Scheme based on the following reasons:
 - 2.1. Existing dispute resolution forums such as the Small Claim Tribunal (SCT), Consumer Association of Singapore (CASE) and Singapore Mediation Centre (SMC) are in place to resolve disputes between customers and telecommunications and/or media service provider ("Service Provider"). The proposed Scheme does not introduce a new alternative dispute resolution mechanism not already available to Singapore consumers nor does it demonstrate vast improvements to the existing mechanisms in place.
 - 2.2. The scope of dispute matters under this Scheme was not clearly defined in the Consultation Paper. It should exclude matters related to service contract terms, quality of services, service disruptions and/or third parties' services or devices.
 - 2.3. The proposed cost of mediation is exorbitant and an unsustainable model for the Service Provider. IMDA has not provided any justifications behind the 90% co-payment rationale imposed on Service Providers. We propose instead an equal allocation of cost between consumers and operators. We have seen such regimes abused in other markets and these risks need to be mitigated or avoided altogether.
 - 2.4. Our feedback is based on our experience in our other markets, where similar structures have been put in place by the regulator – and while well intended, have been subject to abuse and exploitation. We would welcome the opportunity to come in to share with you our experience in that regard.
3. The following sections contain feedback referencing to the details in the Consultation paper.

Reference to Section 1 – Background & Introduction

Reference to Sub-Section 1.4

4. We respectfully disagree with IMDA's statement that there is merit in establishing another ADR scheme to serve consumers and resolve disputes with Service Providers. As Service Providers, we have always encouraged consumers to approach us in the event of any dispute to seek resolution. In addition to informal resolutions between Consumers and Service Providers, Consumers today are very aware of their legal rights and have recourse to various existing ADR schemes such as Small Claim Tribunal (SCT), Consumer Association of Singapore (CASE) and Singapore Mediation Centre (SMC).

Reference to Section 2 – Dispute Resolution Process

Reference to Sub-Section 2.2 – Figure 1, on 'Proposed Dispute Resolution Process'

5. Queries and/or comments on Step 1 – '*Consumers are to exhaust complaint channels first*'
 - 5.1. It is impossible to determine whether a consumer has acted in good faith when a customer states that all complaint channels has been exhausted. There are no proposed methods in the Scheme to validate consumer's claim that all channels has been pursued with or without an outcome.
 - 5.2. Disgruntled consumers will approach their Service Provider for resolution of any disputes as the first point of contact. As stated earlier, it is part of any customer service that Service Providers will endeavour to resolve the dispute informally. Despite any offered settlements, the consumers may still in their belief find the settlement insufficient to redress their complaint and proceed to use this Scheme as a tool to obtain a more favourable outcome to their advantage.
 - 5.3. With consumers "forum shopping" to obtain the best deal, Service Providers would have to expend considerable resources, time and effort on the same disputed matter brought up to various channels without a definite end.
 - 5.4. We opine that the duration of "up to 1 year from date of incident to raise disputes" is too long. As stated in Section 6.2 of the Consultation Paper, it would not be in the interest of any disputing parties if the issues were brought up a long period has lapsed. If a consumer believes in there is a valid matter in a dispute, we recommend that the dispute should not be raised to Service Providers later than 3 months from the date of incident to ensure both parties would have recent records and recollection of the chain of events..
 - 5.5. We were not provided with an explanation on the process to serve "notice of intention" on Service Providers for our evaluation and feedback. .
 - 5.6. We can only surmise that there is a lack of duty on the part of consumers to actually show that they have used all means to resolve the complaint would be used as a tool to to threaten Service Providers to accede to their possibly

groundless demands at the risk of Service Providers using additional time, effort and resources being entrenched in this Scheme, which decision of the dispute again be determined at the consumer's election.

6. Queries and/or comments on Step 2 – *'Consumers can submit request for mediation'*
 - 6.1. The eligibility of a consumer complaint was not addressed in the Scheme. Further, the Scheme did not provide guidelines where an ADR Operator would use to determine if the complaint was with cause. As Service Providers, we require to know the scope of issues would be eligible for an ADR Operator to resolve. For example, would a waiting time of 3 minutes give rise to a complaint by a customer for poor customer service?
 - 6.2. A clearly defined framework is essential to determine the eligibility of complaints submitted under this Scheme.
7. Queries and/or comments on Step 3 (*'Disputing Parties can initiate other courses of action'*)
 - 7.1. As iterated in Item 5.3 above, it's highly possible that Consumers would choose not to settle if they believe that they could gain a more advantageous outcome through other resolution options despite the matter already negotiated at mediation, resulting in a loss of time, effort and resources from the earlier mediation sessions. We strongly believe that control on consumers' ability to shop for decision must be enforced as the alternative would be inequitable to Service Providers. Consumers, at this point, should only be allowed to accept the mediation outcome, or proceed for adjudication.
8. Queries and/or comments on Step 4 - *'Adjudicator decides outcome'*
 - 8.1. We want to seek clarification from IMDA on the qualifications of the appointed Adjudicator under this Scheme. As this Scheme was formulated to address telecommunications disputes between consumer and Service Providers, and to reach an equitable decision on a disputed telecommunications matter, the Adjudicator would have to be well-versed in the norms and practices of the telecommunications industry.
 - 8.2. We further disagree that an Adjudicator's decision solely based on submitted documents without further engagement with the parties is binding on the Service Provider only if accepted by the customer. If the customer remains unhappy with the outcome, the Service Provider would have to continuously defend its position while expanding more cost and time until the final judgement can be obtained.
 - 8.3. We want to understand IMDA's reasons behind the manner that the Scheme was formulated to impose mandatory participation during the "adjudication stage", binding adjudicated decisions on Service Provider but the same standards are not applicable on consumers. Further we also are unable to discern the fairness or and practicalities in allowing consumers to solely determine the finality of the case, despite a decision on the matter provided by the Adjudicator.

Reference to Sub-Section 2.5

Our comments are the same as Item 8.3.

Reference to Consultation Question 1

9. *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?*
- 9.1. There are sufficient existing dispute resolution regimes in Singapore for consumers to address disputes with Service Providers without the need to set up this Scheme to address the same dispute.
- 9.2. However if IMDA chooses to implement this Scheme, we strongly recommend that unambiguous frameworks, eligibility criteria, and guidelines are in place to ensure consumers come to the Scheme in good faith, and fair and equitable treatment is given to all parties.

Reference to Consultation Question 2

10. *Do you think 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?*

Please refer to our comments above in Item 5.

Reference to Consultation Question 3

11. *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?*
- 11.1. We do not agree that a purely document-based adjudication is entirely ideal, as the Adjudicator would not be able to engage parties for further clarifications. The Adjudicator should confer with parties to ensure the veracity of documents.

Reference to Consultation Question 4

12. *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?*
- 12.1. The consumer must not be given a choice on the adjudicated decision as there must be finality for both parties under this Scheme on the disputed matter. If a consumer is unable to accept the Adjudicator's decision, an appeal process should be set up to look into the Adjudicator's decision. Otherwise, the "aggrieved" consumer might continue forum shopping until he obtains the most advantageous position possible or threaten Service Providers to give into his demands at the risk of the consumer dragging out resolution.

Reference to Consultation Question 5

13. *Do you think consumers should be given the option to go straight to adjudication, without requiring the Disputing Parties to go through mediation first?*

13.1. We are not agreeable to the concept that only consumers are provided with options to resolve the dispute while Service Providers are not afforded the same option.

Reference to Section 3 – Eligible Customers

Reference to Sub-Section 3.3

14. With reference to the definition of 'Small Business Customers', it is absolutely not within a Service Provider's role to verify whether our consumers actually fall within the defined categories of having 10 workers or less, and register a revenue of \$1 million or less in a year. We propose to exclude this category of customers from this Scheme, if it is to be implemented.

Reference to Consultation Question 6

15. *Do you agree that apart of individual consumers, it is beneficial to include Small Business Customers as Eligible Customers under the Scheme? Why do you think so?*

15.1. We propose that all consumers that are not using the telecommunications services for their personal and non-commercial use be excluded from this Scheme as the services, terms and conditions provided to this group of customers would not be similar to those provided to Consumers.

Reference to Consultation Question 7

16. *Is the definition of Small Business Customers appropriate? If not, how should it be defined?*

16.1. We do not agree to include any customers using telecommunications services for commercial and non-personal use (including Small Business Customers) to be included under this Scheme as iterated in our proposal in Item 6 above.

Reference to Section 4 – Designated / Declared Licensees

17. We propose that third party service providers like NetFlix be included as a Service Provider under this Scheme. Service Providers may not necessarily be the owner or controller of the products or services that are bundled with their offerings.

Reference to Consultation Question 8

18. *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?*

- 18.1. We propose that any form of mandate should be applicable to all parties involved in the disputes and if there are any options available in the Scheme (for example, choosing not accepting a decision) such options should be made available to all parties involved in the dispute.

Reference to Consultation Question 9

19. *Are there other Service Providers that should be required to participate in the ADR scheme? Why do you think so?*

- 19.1. The Scheme should include other service providers like NetFlix, Premium Rated Service Providers, and any other service providers providing services or products to consumers, whether with or without a direct billing relationship.

Reference to Section 5 – Eligible Services

Reference to Consultation Question 10

20. *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?*

- 20.1. We propose to exclude 'International Roaming Services', as their performance and service levels are solely dependent on overseas operators, beyond any possible control and management of the local Service Provider.

- 20.2. Service Providers for Premium Rated Service ("PRS") should be included in this Scheme. We require further clarifications on the position of a mobile virtual network operator ("MVNO"). For example, if there is a dispute relating to a mobile network issue, who should the Consumer direct his complaints - the MVNO or the MNO providing the network services to the MVNO?

Reference to Section 6 – Eligible Complaint Issues

Reference to Sub-Section 6.1

21. MyRepublic believes that Service Providers need to be provided with clear guidelines and framework on which disputes can be brought up in this regime. We propose that the list should in the very least exclude:
- 21.1. Items covered by service contract, signed and agreed by the consumers
 - 21.2. Customer service and related matters
 - 21.3. Suspension, termination and debt collection related matters
 - 21.4. Services provided by oversea suppliers, matters beyond control by the Service Providers
 - 21.5. Issues with third party devices or premiums
 - 21.6. Discounts & promotion

Reference to Sub-Section 6.2

Please refer to our comments in Item 5.4 above.

Reference to Figure 4 – Examples of eligible complaint issues covered under the scheme

22. We disagree that 'Example 2' in Figure 4 qualifies for dispute resolution whether under this Scheme or otherwise. The customer would be solely responsible for the usage of services rendered by the Service Providers for their business operation needs. The Service Providers are not in a position to determine if such usages are excessive nor consistently monitor service usage on behalf of customer.
23. We disagree with the general sweeping statement on service disruption stated in Example 3 for a "service disruption" dispute to be addressed under this Scheme. Various factors could contribute to a service disruption. For example, did the customer update or change the network device incorrectly? Did the customer communicate his requirements correctly to the Service Provider to ensure Service Provider provide corresponding advice on the technical capabilities of the network device?

Reference to Consultation Question 11

24. *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 of monetary terms? Why do you think so?*
 - 24.1. We disagree with the concept of classifying eligible complaints with any form of compensation in kind in monetary terms. If association is made with monetary term, consumers will find different ways to exploit the system.
 - 24.2. Thus, a 'fair' scheme to be implemented to ensure consumers understand the scheme and only bring forward dispute cases that are genuine and reasonable. Monetary recovery should just be a form of channels to compensate the consumers for a genuine case.

Reference to Consultation Question 12

25. *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?*

MyRepublic has illustrated our concerns and feedback in earlier sections of this response.

Reference to Section 7 – Funding of Scheme & Fee Structure

Reference to Sub-Section 7.3

26. We strongly disagree with the apportion of cost ratio of 10:90 between the consumers and the Service Providers. IMDA has not provide any concrete nor reasons within the Consultation Paper on its imposed uneven cost ration split between the parties.

Reference to Sub-Section 7.4

27. We strongly disagree with the reasoning and concept that such uneven split of cost structure will incentivised Service Providers to provide faster resolution. Instead, this approach may encourage certain Consumers to "threaten" the Service Providers to

accede their demands, regardless of how unreasonable it may be, in order to prevent higher costs from mediation and adjudication.

Reference to Consultation Question 13

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

28.1. MyRepublic is supportive of a co-payment model should this Scheme be implemented.

Reference to Consultation Question 14

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

29.1. We strongly disagree with the fee ratio of 10:90. The existence of current dispute resolution forums as well as the level of committed customer service provided by Service Providers suggest that the bargaining power between the Disputing Parties is far more balanced.

29.2. As shared during the briefing session with various Service Providers providing examples on how a 10:90 split might be exploited by certain consumers of bad faith, MyRepublic would like to propose the following approach:

29.2.1. a 50:50 split between Consumers and Service Provider

29.2.2. 100% to any of the party, who the adjudicator decides should bear the cost, based on the merit of the dispute case

Summary

While the Scheme has the protection of consumer rights in mind, it proposes no new mechanisms that are not already available to Singapore consumers. The Scheme also unfairly and egregiously burdens Service Providers, at no discernable improvements to existing dispute resolution forums. IMDA has also provided no statistical evidence that such a scheme was warranted, or that it would benefit consumers in any way.

Thank you.

With regards,



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MyRepublic Limited

on behalf of Yap Yong Teck
Managing Director
MyRepublic Limited