

M1'S RESPONSE TO MDA'S CONSULTATION ON PRELIMINARY POLICY POSITIONS – CROSS-CARRIAGE MEASURE IN THE PAY TV MARKET



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1 Statement of Interest

M1 is a leading integrated communications service provider in Singapore, providing a full range of voice and data communications services over its network. Since 2007, M1 has initiated a strategy of transformation in anticipation of the rapid changes in the telecommunications ecosystem, and the increasing interdependence of devices, networks, application services and content. We are on track in our strategy implementation and are geared up to leverage on the recent launch of the Next Generation Broadband Network to offer a new world of innovative services and rich content at the most competitive prices to our customers.

M1 has also successfully pre-qualified to take part in the joint MDA-IDA Request-for-Proposal (“RFP”) for the Next Generation Interactive Multimedia Applications and Services (“NIMs”). We share the MDA-IDA’s strategic objectives on the NIMs programme. M1 would continue to work closely with the authorities in formulating the strategy and framework to develop the necessary capabilities, infrastructure and industry in driving the development of a vibrant and effectively competitive ecosystem for NIMs, delivering its strategic benefits to Singapore.

2 Summary of major points

M1 fully supports MDA's policy objectives of the proposed Cross-Carriage Measure ("Measure") as it opens up the opportunity for M1 to enter the pay-TV market. We believe the Measure, if implemented effectively, will facilitate new entrants and drive a change in competition dynamics towards a focus on service and innovation excellence. M1 will be able to capitalize on its strengths and established position in these areas.

We are pleased to note that MDA has incorporated our feedback from the previous consultation in its preliminary decisions. However, we view that changes to certain aspects may be necessary to be effective in achieving the policy objectives of the Measure. The following is a list of key changes that M1 views as necessary, that will be elaborated upon in our detailed comments:

- a. Expedite NIMs, as implementation of the Measure will be most effective if it coincides with the introduction of NIMs set-top box to the market;
- b. Mandatory resale model necessary to maximise consumer benefits and effectiveness of stakeholder interests; and
- c. Further refinements to address implementation issues.

3 Detailed Comments

3.1 Expedite NIMs as implementation of the Measure is most effective if it coincides with the introduction of NIMs set-top box (“STB”) to the market

M1 agrees with MDA’s position that the NIMs STB is a complementary initiative. We believe that the implementation of Measure would be most cost-efficient and effective if it coincides with the introduction of the NIMs STB to the market. The advantages are listed as follows:

- **Lower cross carriage fees**
NIMs STB will drive down the cost of cross carriage fees as the standardisation of the STB means that both the Supplying Qualified Licensees (“SQLs”) and the Receiving Qualified Licensees (“RQL”) will adopt the same standard platform. These cost-savings could then be channelled into investments to enhance service quality, innovation, content variety etc. or lower content costs to consumers.
- **More transparent negotiations**
Negotiation of cross carriage fees will be more straightforward and transparent as the SQLs will not have to develop different pricing models for the different platforms of RQLs or to verify the different cross-carriage fees charged by RQLs on proprietary platforms.
- **Shorter Time to Market**
The above will also reduce the time to market for every Qualified Content (“QC”) which will be beneficial for all stakeholders.

In view of the above, we strongly urge MDA to fast track the roll-out of Programme NIMs.

3.2 Mandatory resale model necessary to maximise consumer benefits and effectiveness of stakeholder interests

M1 views that a mandatory resale model will bring about:

- More choices for customers;
- Customer conveniences;
- Increased competition in the pay-TV market, with availability of QC from more service providers; and
- Flourish of innovative offers of QC.

The current Measure retains excessive “controls” by the SQLs. This will limit or stifle competition, service differentiation, innovation, competitive packaging and pricing, as the key prices, terms and conditions of the QC are still controlled by the SQL. Furthermore, the critical customer experiences of subscription, billing, service handling etc. are “mandated” to be passed on to the SQLs, resulting in customer choices and conveniences being compromised. For example, if 3QCs are offered by 3SQLs, customers will have to sign-up with all the 3 different SQLs (ie. 3 service

subscriptions), receive 3 separate billings and have to make 3 separate payment arrangements. This process is highly inefficient and costly for both the customer and the industry. Moreover, customers may choose to subscribe to RQLs because of poor service experiences with specific SQLs. Under the proposed Measure, customers will be “forced” to enter into a relationship with SQLs if they want access to their QCs. High fees for QCs may also continue as SQL still has monopolistic control over the pricing of QC to the market. In fact, the fees may increase further if Programme NIMs is not fast tracked to drive down the cost of cross carriage fees of different platforms.

As such, M1 proposes that MDA reconsiders a mandatory resale model and to establish a framework for just, reasonable and non-discriminatory terms to safeguard against potential gaming and anti-competitive practices.

However, if MDA’s position is to retain the existing model, MDA ought to address the issues of mandating customer sign-up or billing by SQLs as customer experience and convenience are of paramount importance. Clarity should also be provided in the Measure for RQLs to receive compensation or commission as per standard industry practice.

3.3 Further refinements needed to address implementation issues

(a) Refine Measure to safeguard against tacit agreement and effort

We like to highlight that tacit agreement and effort could arise from either party involved in negotiating the agreements. As such, to adequately safeguard against any tacit agreement and effort, the Measure or supporting evidences e.g. statutory declaration made under the Oaths and Declarations Act etc. ought to be broad enough to cover both parties of the agreement.

(b) Address potential abuse and anti-competitive actions in Bundling of QCs

M1 would also highlight that SQLs can potentially abuse the proposed Measure by including its own and/or its affiliates advertisements in QC bundles. We urge MDA to clearly specify that the QC bundles should exclude any advertisements or broadcast for commercial purposes by the SQL and/or its affiliates.

As competition at the retail market is often in the form of bundled offers or packages with non-TV services eg. broadband or telecommunication services, M1 urge MDA to work with the Info-communication Development Authority of Singapore and the Competition Commission Authority of Singapore to establish clear principles and determinations to prevent the potential cross subsidization of QCs when bundled with non-TV services.

(c) Minimum notification period

We submit that the minimum notification period of 30 days is insufficient for the RQL if its network cannot support the QC and significant network/system changes are needed or additional systems/feature are required. Typically, investment in such changes are costly and would require a minimum lead time to acquire and implement.

(d) Clarification on incremental costs

M1 seeks MDA's clarifications on its view of incremental costs if the RQL's network is unable to support the QC. Specifically:

- Can RQL(s) claim for incremental CAPEX on a one-time lump sum basis?
- Can RQL(s) claim for ongoing recurrent OPEX needed to provide support on the incremental requirements of SQL(s)?

4 Conclusion

In summary, M1 proposes that MDA:

- fast track the roll-out of Programme NIMs as the implementation of the Measure is most effective if it coincides with the introduction of NIMs set-top box to the market;
- review and consider mandating a “resale” model to maximise customer benefits and stakeholder interests. However, if MDA’s position is to retain the existing model, MDA should address the issues of mandating customer sign-up or billing by SQLs as customer experience and convenience are of paramount importance; and
- further refine Measure to:
 1. safeguard against tacit agreement and effort by either party involved in negotiating agreements;
 2. address potential abuse and anti-competitive actions in bundling of QCs;
 3. extend the minimum notification period to cater for scenarios where substantial changes would be needed by RQL; and
 4. clarify its view on incremental costs of RQLs.