



**SINGAPORE TELECOM MOBILE PTE LTD**

**SUBMISSION TO THE MEDIA DEVELOPMENT AUTHORITY OF  
SINGAPORE**

**POLICY & REGULATORY FRAMEWORK FOR MOBILE  
BROADCASTING SERVICES IN SINGAPORE**

**18 JANUARY 2008**

**TABLE OF CONTENTS**

	<b>PAGE</b>
<b>INTRODUCTION</b>	<b>1</b>
<b>EXECUTIVE SUMMARY</b>	<b>2</b>
<b>DEFERRAL OF MULTIPLEX LICENSING</b>	<b>9</b>
<b>REGULATION OF CONTENT OVER 3G</b>	<b>11</b>
<b>ACCESS REGULATION APPLICABLE TO MULTIPLEX LICENSEES</b>	<b>19</b>
<b>OTHER COMMENTS</b>	<b>28</b>
<b>CONCLUSION</b>	<b>32</b>



SINGAPORE TELECOM MOBILE PTE LTD

SUBMISSION TO THE MEDIA DEVELOPMENT AUTHORITY OF  
SINGAPORE

POLICY & REGULATORY FRAMEWORK FOR MOBILE  
BROADCASTING SERVICES IN SINGAPORE

RESPONSE TO PUBLIC CONSULTATION PAPER

18 JANUARY 2008

**1. INTRODUCTION**

- 1.1. Singapore Telecom Mobile Pte Ltd (**SingTel Mobile**) refers to the Media Development Authority of Singapore's (**MDA**) public consultation paper on the Policy & Regulatory Framework for Mobile Broadcasting Services issued on 21 November 2007 (**Consultation Paper**).
- 1.2. SingTel Mobile welcomes the opportunity to make a submission in response to the Consultation Paper and has a strong interest in the development of an effective regulatory framework for mobile broadcasting services.
- 1.3. Companies in the SingTel Group are licensed to provide the following services:
  - (a) Internet services – SingNet is a leading Internet service provider (ISP) in Singapore and has been at the forefront of internet innovation since 1994, being the first ISP to launch broadband services in Singapore.
  - (b) Video-on-Demand (VoD) services – VoD is provided through Singapore Telecommunications Limited's (SingTel) asymmetrical digital subscriber line (ADSL) platform.



- (c) IPTV services – The MDA has granted SingNet a nationwide subscription television licence to offer IPTV services.
- (d) Mobile services – SingTel Mobile is a leading mobile cellular service provider and offers both 2G and 3G services; SingTel Mobile’s mobile cellular customer base exceeds 2 million.

1.4. In this submission, SingTel Mobile has focused on the significant issues raised by the MDA and the implications that the proposals made by the MDA would have.

1.5. This submission is structured as follows:

Section 1 – Introduction

Section 2 – Executive Summary

Section 3 – Deferral of Multiplex Licensing

Section 4 – Regulation of content over 3G

Section 5 – Access Regulation applicable to Multiplex Licensees

Section 6 – Other Comments

Section 7 – Conclusion

## **2. EXECUTIVE SUMMARY**

### **2.1 Licensing process should be deferred**

- (a) SingTel Mobile believes that it is too early for the MDA to consider issuing multiplex licences and broadcasting licences for the supply of mobile broadcasting services.

- (b) There is currently a lack of agreed or well accepted worldwide mobile broadcasting standard.
- (c) Accordingly, SingTel Mobile considers that the MDA should defer the commencement of the licensing process for multiplex and new broadcasting licences for mobile broadcasting services until an agreed or well accepted worldwide broadcasting standard is in place. This will avoid the risk of significant wasted investment and adverse impact on end-users.

## 2.2. Regulation of content on 3G

- (a) SingTel Mobile also has strong concerns about the MDA's proposal that each cellular mobile TV services provider should obtain a broadcasting service licence before transmitting content to its customers in the future. This proposed new licensing structure and new licence fees for cellular mobile TV services will serve only to inhibit or dampen 'mobile television' growth, particularly, the growth of content services delivered over 3G mobile networks.
- (b) SingTel Mobile has already paid S\$100 million for its 3G licence to deliver high speed data services, convergent and value-added services, content delivery and video transmission and downloads, video calls, location based services and multimedia applications (e.g. internet and intranet transmission).
- (c) Since acquiring its 3G licence, SingTel Mobile has operated under the MDA's broadcasting class licensing framework. The imposition of a new licensing structure and new licence fees is likely to have an adverse impact on customer charges for 3G services and further inhibit the take-up of content by 3G end-users, which is already limited.

- (d) Accordingly, SingTel Mobile does not agree with the proposal in the Consultation Paper that each cellular mobile TV service provider be required to obtain a broadcasting service licence before offering content to customers. SingTel Mobile instead proposes the following in relation to the provision of content services over 3G networks:
- (i) the definition of ‘mobile television’ service(s) should exclude the content provided over 3G mobile networks, given the differences between the types of content available on 3G and other forms of MTVS envisaged by the MDA;
  - (ii) that there should be no licence fee requirement imposed on the content or TV services delivered over 3G mobile networks, as they have already paid their full licence fees for the delivery of these services under the auction framework in 2001;
  - (iii) 3G mobile operators should not be subject to content approval and advertising regulatory requirements that apply to subscription television services and /or free-to-air television services;
  - (iv) 3G mobile operators should not be subject to the advertising time limits for the content delivered over 3G mobile networks;
  - (v) there should be no further requirement for 3G mobile operators to obtain a licence, whether niche or nationwide;
  - (vi) Part X of the Broadcasting Act (Cap 28) should not apply to 3G mobile operators; and
  - (vii) the MDA should continue to apply the broadcasting class licensing framework to 3G content.



2.3. Proposal if the MDA proceeds with the licensing process

- (a) SingTel Mobile considers that the MDA should defer the commencement of the licensing process for multiplex and new broadcasting licences for mobile broadcasting services.
- (b) However, if the MDA proceeds with the licensing of multiplex licences and an accompanying broadcasting service licence, SingTel Mobile makes the following submissions about the importance of a rigorous access regime applicable to multiplex capacity held by the multiplex licensee(s):
  - (i) The MDA has not proposed a limit on the number of multiplex licences that can be acquired by a single entity. Therefore, there is a strong possibility that the multiplex licences will be acquired by the same entity which will then hold a monopoly interest in the provision of multiplex services. A strong access regime is necessary to address monopoly power issues.
  - (ii) The commercial viability of two multiplex licensees is also open to question. The lack of clarity around the commercial viability of two multiplex licensees may result in only one bid for a multiplex licence or only one multiplex licensee being commercially viable in the medium to long term. The risk of a single (commercially viable) multiplex licensee creates a need for strong access regulation applicable to multiplex licensee(s).
  - (iii) It also appears that there could be two types of multiplex licences that are of significance – these are the multiplex licences available in the UHF band. In addition, there is a limit on the number of channels that may be broadcast over the VHF band. In short, the two VHF band multiplex licences may not provide a strong competitive constraint on the two UHF multiplex licensees which can offer many more channels.

- (iv) Even where two UHF multiplex licences are awarded and the licensees are ultimately commercially viable and separately owned, the existence of two UHF multiplex licensees is not likely to provide sufficient competition to ensure that third party content providers can acquire multiplex services on a competitive basis. This is particularly the case if the multiplex licensees are vertically integrated content providers (i.e. providers who obtain multiplex licence(s) and simultaneously hold rights to a large amount of content that can be provided over mobile devices).
- (v) SingTel Mobile is already aware that potential bidders for multiplex licences include vertically integrated content providers who could potentially fill the allocated multiplex capacity with their own content, thus restricting the multiplex capacity available to third party content providers to provide their own competitive content.
- (vi) SingTel Mobile recommends that additional elements as further described in this submission should be incorporated into MDA's regulation in order to prevent a situation arising where there is a shortage or restriction of multiplex capacity for the provision of third party content services.

#### 2.4 Key aspects of the required access regime

- (a) First, an essential requirement in relation to access to multiplex capacity is that the multiplex licensee must, in addition to providing non-discriminatory access, also **reserve capacity** for competing third party content providers to provide their services over the multiplex capacity.

- (b) This would avoid the situation where a vertically integrated content provider fills up (or plans to fill up) the multiplex capacity with their own channels **before** they receive any requests for access from third parties. The vertically integrated content provider(s) could then refuse access on the basis that its channels were full with its own content, or it had planned to use the capacity for its own purposes. This situation is addressed in countries such as Finland, Australia and Germany by requiring multiplex capacity to be reserved for competing third party content providers or by requiring the multiplex licensee to be independent from any content providers.
- (c) Second, SingTel Mobile agrees with the MDA approach that relying simply on *ex-post* regulation will “*lead to delay and give the owner of scarce resources an entrenched market position*”.<sup>1</sup> However, we note that MDA’s proposal to rely simply on a proposal that multiplex licensees be obliged to make access available on fair, reasonable and non-discriminatory terms and conditions does not provide sufficient or adequate comfort to third parties who wish to access multiplex capacity. In short, strong *ex-ante* access regulation is required. At a minimum, this means immediately designating access to multiplex capacity as an Essential Resource under Section 9 of the Code of Practice for Market Conduct in the Provision of Media Services (**Code**) as an *ex ante* measure.
- (d) However, SingTel also considers that Section 9 of the Code would require amendment to cater more specifically for access to multiplex capacity, including:
- (i) enhancing the non-discrimination obligation, so that a multiplex licensee is required to provide access to an acquiring party on the same basis as it provides to itself, including requiring the multiplex licensee to set-aside sufficient capacity

---

<sup>1</sup> Media Development Authority, *Policy and Regulatory Framework for Mobile Broadcasting Services in Singapore*, Public Consultation, 21 November 2007, page 16.



to enable multiple acquiring parties to provide a diversity of content over the multiplex capacity as described above;

- (ii) requiring multiplex licensees to publish terms and conditions upfront which would need to be approved by the MDA to ensure that the terms and conditions were fair, reasonable and non-discriminatory terms;
- (iii) in accordance with the provisions in Section 9 of the Code, there should be an ability of a competing third party content provider - who wishes to acquire multiplex capacity - to resort to dispute resolution by MDA. A process for the resolution of disputes on a purely commercial basis is vastly inadequate in circumstances where one party – the multiplex licensee – has far greater bargaining power than the acquiring party.

- (e) The MDA should also determine the cost-orientated pricing principles and pricing methodology (or methodologies) for access to multiplex capacity

## 2.5 Other comments

- (a) Finally, SingTel Mobile also provides its views in relation to the other aspects of the Consultation Paper as it should apply to multiplex licensees only.
- (b) SingTel Mobile believes that for the purpose of delivering television service(s) over the multiplex capacity, there should be a minimum outdoor coverage standard. We agree that the minimum outdoor coverage requirement should be 95% in the short to medium term.
- (c) Whilst SingTel Mobile does not object to the MDA proposal to assign multiplex licences based on a comparative tender, given the scarcity of the multiplex capacity / broadcasting frequency available, SingTel



Mobile believes that there should be full and complete transparency and clarity as to the weighing assigned to each criteria.

- (d) At a minimum, greater weight should be given to bidders that:
  - (i) commit to reservation of multiplex capacity for third party content providers; and
  - (ii) provide in their bid a clear proposal that supports a strong access regime for multiplex capacity.
- (e) SingTel Mobile requests that the MDA provides more details in relation to the proposed licence conditions for a multiplex licence.
- (f) SingTel Mobile agrees with the proposal not to impose any public service broadcasting obligation.
- (g) SingTel Mobile believes that the MDA should require, as a condition of the multiplex licence, that all the multiplex capacity obtained should be used for the purpose of delivering television service(s) only.

### **3. DEFERRAL OF MULTIPLEX LICENSING**

- 3.1. SingTel Mobile submits that the MDA should defer the commencement of the licensing process for issuing multiplex and new broadcasting licences for mobile broadcasting services until an agreed or well accepted worldwide broadcasting standard is in place.
- 3.2. As the MDA itself recognises in section 2.1 of the Consultation Paper, there are many different technology standards for delivering MTVS and no single standard is yet emerging to dominate MTVS markets worldwide.



- 3.3. Whilst it is inevitable that a well accepted standard will emerge, at present, it is premature to predict which standard will become the agreed or well accepted standard.
- 3.4. The MDA attempts to address the issue of the current lack of an agreed or well accepted standard by adopting a technology neutral approach and effectively leaving it to the successful multiplex licensee to adopt a sensible standard for Singapore.
- 3.5. While SingTel Mobile supports a technological neutral approach proposed by the MDA, SingTel Mobile does not support licensing of new technologies in a ‘standards vacuum’.
- 3.6. Other operators have made similar warnings about mobile broadcasting. For example, Justin Milne, Managing Director of Telstra broadband service provider BigPond in Australia said in March 2007:

*“The whole broadcast to mobile world – so called DVB-H – has a long way to go. And it may well be that when we finally deliver higher quality signals to mobile phones, it might be just through a different technology to DVB-H or it might be through DVB-H”.*

*Mr Milne would not comment on a time frame in which he expected DVB-H to become a mainstream technology within Australia.*

*“We need to work our way carefully forwards from here so that we don’t all put lots of money and lots of effort into launching something that doesn’t work.”<sup>2</sup>*

- 3.7. Without an agreed or well-accepted worldwide standard, Singapore risks adopting a mobile broadcasting technology that may turn out to be the wrong technology. SingTel Mobile therefore submits that the MDA should defer the commencement of the licensing process for issuing multiplex and new

---

<sup>2</sup> Australian IT, “No hurry on mobile TV”, says Telstra, 7 March 2007.



broadcasting licences for mobile broadcasting services until an agreed or well accepted worldwide broadcasting standard is in place. This will avoid the risk of significant wasted investment and adverse impact on end-users.

#### **4. REGULATION OF CONTENT OVER 3G**

##### *Background*

- 4.1. The MDA's proposed framework considers content services delivered over 3G cellular services as a form of MTVS and proposes changes to the policy and regulatory framework for 3G content.
- 4.2. The 3G mobile operators acquired their existing 3G spectrum in 2001 under an auction based framework. Each 3G mobile operator paid an upfront fee of S\$100 million for the use of the spectrum, which included the ability to deliver high speed data services, convergent and value-added services, such as video streaming, video transmission and download, making video calls, location based services, multimedia applications (e.g. gaming), watching video, internet and intranet transmission.
- 4.3. The 3G mobile operators have consequently rolled out their 3G networks and deployed 3G services. Mobile operators have already started to offer a variety of content over their 3G networks.
- 4.4. 3G mobile operators are subject to concurrent licensing under the MDA's class licensing framework and already comply with the requirements under the Class Licence. In addition, the mobile operators have also set up a voluntary self-regulatory code of practice for the content offered over their 3G mobile networks.
- 4.5. 3G mobile operators therefore had a reasonable expectation that the S\$100 million it paid for the use of the spectrum to provide 3G services (including content video services) was full payment for 3G services and that the class licensing framework would continue. It would therefore be of great concern if



the MDA introduced a new regulatory structure that differs considerably from the existing structure and which has enabled the industry to develop.

4.6. The concerns are elaborated further below.

*Licence Fees*

- 4.7. Whilst we recognise that the MDA has proposed a moratorium on licence fees for the first 5 years on any form of MTVS, including the cellular mobile TV services or content over 3G, we stress that the situation concerning content over 3G is unique.
- 4.8. The 3G Spectrum Right granted under the auction framework in 2001 required that each mobile operator paid an upfront fee (Reserve Price) of S\$100 million for the licence period of 20 years. No further recurrent licence fees were required for the licence duration which ends only in 2021. Consequently, each 3G mobile operator was granted the use of the spectrum, which included the ability to deliver high speed data services, convergent and value-added services, including content services.
- 4.9. The MDA proposal, however, would require that 3G mobile operators who charge their end-users for content to be essentially taxed on the revenues from content services from the expiry of the moratorium, at the rate of 2.5% of their total revenues subject to minimum sums.
- 4.10. Given that the 3G mobile operators have each already paid S\$100 million for the right to deploy 3G networks and offer 3G services, the proposal to levy new licence fees for the revenues earned from content or TV services would essentially result in a “double payment” of licence fees and lead to increased cost burdens that would eventually be passed on to end-users.
- 4.11. SingTel Mobile considers that the existing regulatory framework should be retained on the basis that it has already paid for the capability to provide video service offerings over its 3G mobile network. The MDA should not now

impose a new licensing structure and new licence fees on 3G mobile operators.

*Difference between cellular mobile TV services and other MTVS*

- 4.12. First, contrary to the MDA's belief, content services offered by 3G mobile operators do not necessarily have the 'look and feel' of other forms of MTVS. As the MDA itself acknowledges, the content offered by mobile operators over 3G are largely offered on a point-to-point basis and this limits the number of subscribers or end-users that can use these services. The nature of the 3G technology and the mobile network constraint restrict the ability of operators to offer a 'broadcast-like' service (i.e. there is no sending of one transmission to multiple users in a defined group simultaneously).
- 4.13. 3G is fundamentally not a broadcast technology; content over 3G (even the same programme) has to be sent individually to each user (i.e. unicast). As a result, 3G users typically need to log-on and request the content before it is delivered to them. Furthermore, most content would need to be purpose-built or customised for a 3G mobile handset. In most cases, the content generally consists of news alerts or short time sensitive programmes as compared to the traditional TV content where scheduled and linear programming is made available to the general public.
- 4.14. In short, 3G was not designed as a broadcast-like technology and the content delivered over 3G does not necessarily resemble the characteristics of the conventional TV services that are currently available using the traditional broadcast technologies or the technologies identified by the MDA in its Consultation Paper.
- 4.15. Given the differences between 3G mobile TV services and other forms of MTVS, we submit that it is inappropriate to apply a regulatory framework that is designed for broadcast-like services to content services offered over 3G.

*Limited take up for 3G mobile content*

- 4.16. Mobile operators have only in recent years completed their 3G network rollouts and commenced offering content services over 3G. The total 3G customer base is less than 30% of the total mobile cellular customer base in Singapore<sup>3</sup>. The take up of content by 3G end-users is limited.
- 4.17. The introduction of a new regulatory framework for content over 3G must take into account the fact that the take up of any ‘television’ service over mobile devices today is still very limited. This largely arises from the fact that viewing of content on mobile devices is still not popular nor as prevalent as viewing content on the typical devices like television sets. This arises largely from the fact that viewing content on a mobile or handheld device is viewed as a niche application.
- 4.18. End-users who avail themselves of ‘television’ services over mobile devices are generally interested in specific types of content (e.g. news alerts, clips) and such content would need to be customised for delivery on the mobile device and cater for viewing only on the move or to end-users who consume such content during their travelling time. Given the local environment (e.g. travelling time is relatively short compared to Japan, European countries) viewing content on mobile or handheld devices has not taken off in a large way.
- 4.19. In short, a ‘television’ service or any form of content over mobile devices is still largely a limited application and is in no way equivalent to a full scale subscription television service.
- 4.20. As such, the proposed regulatory framework, including content and advertising regulation would significantly reduce incentives, dampen the initiatives in creating suitable content for delivery to mobile devices, reduce the speed to market and generally reduce the commercial viability of these services which currently have very limited take up.

---

<sup>3</sup> IDA, *Statistics on Telecom Services for 2007 (Jul - Dec)*, [www.ida.gov.sg](http://www.ida.gov.sg).

*Adequate regulation in place for 3G mobile content*

- 4.21. The MDA proposes to impose content guidelines in the form of the Free-to-Air programming codes, the Subscription TV programming code, the VOD programming code and applicable regulation on advertisements and sponsorship
- 4.22. This would be a regressive step.
- 4.23. As the MDA is aware, the regulations needed to safeguard the public and the industry are already in place. First, mobile operators are already regulated under the MDA's class licensing framework. Second, in 2006, the mobile operators, in conjunction with the MDA, developed a voluntary self-regulatory code that is modelled largely on the MDA's class licence.
- 4.24. When the voluntary code was developed, it was believed that content over mobile was still at a nascent stage and that it was inappropriate to require stringent regulation over such content. Furthermore, the use of the MDA class licence as a form of guidance already ensures that the content conforms to a specific framework and provides for some level of certainty as to the nature and type of content that can be delivered to mobile end-users.
- 4.25. We believe that nothing has changed. Content services and TV services over 3G is still at a nascent stage.
- 4.26. The MDA proposal would effectively impose a drastic and unnecessary framework for content over 3G mobile networks which are generally regarded as niche applications and does not resemble a full scale subscription TV or free-to-air suite of content.
- 4.27. Again, we stress that viewing of content on mobile devices is still not popular nor is it as prevalent as viewing content on the typical receptacles like television sets. End-users who avail themselves of 'television' services over



mobile devices are generally interested in specific types of content (eg news alerts and short sports segments) and such content would need to be customised for delivery on the mobile device.

- 4.28. It is inappropriate to regulate mobile content using the current programming codes and advertising regulation.
- 4.29. We therefore propose that the MDA continues to apply the class licensing framework to 3G mobile operators for their offer of any content over 3G mobile networks.

Advertising Time Limit

- 4.30. Whilst the MDA proposes to remove the cap on advertising revenues, it requires that mobile operators who offer content over 3G in the form of scheduled channels comply with the set advertising time limit of no more than 14 minutes per hour.
- 4.31. As we have highlighted above, the take-up of content over 3G is still very limited. The business model for content over 3G would not resemble that of a typical subscription TV based service; the rates for content over 3G would generally be lower to encourage take up. The business case for content over 3G therefore needs to be complemented by other value-added services that can be delivered to the end-user, for example, advertising and location-based services.
- 4.32. Whilst the MDA has limited the amount of advertising time only in respect to channels for scheduled programming, given the fact that content over 3G is still at a nascent stage, we believe that any form of advertising time limits would be disruptive for the business case for content over 3G.
- 4.33. We therefore propose that the MDA continues to apply the class licensing framework to 3G mobile operators for the content offered over 3G with no restriction on the amount of advertising time

*Niche vs. Broadcasting licence*

- 4.34. The MDA proposes that MTVS providers, including 3G mobile operators, obtain a niche subscription TV licence.
- 4.35. The MDA proposal includes a high level of uncertainty for the mobile operators. A key criterion in determining whether a niche or nationwide licence is required is the number of subscribers. Niche licensees are required to have no more than 100,000 subscribers in Singapore whilst nationwide licensees have no limits to the number of subscribers in Singapore. The MDA indicates that the niche licensee shall be converted to a nationwide licensee where its subscriber base exceeds the pre-set limit or meets the criteria for the latter (subject to certain exceptions).
- 4.36. The need to acquire a niche licence at the outset, with the risk of migrating to a nationwide licence, gives little certainty to the providers including the 3G mobile operators. In particular, we note that whilst the take up of content over 3G is currently limited, the risk of being converted to a nationwide licensee with the ensuing obligations such as a higher licence fee in the long run, ownership controls etc, may in fact dampen any incentive that the 3G mobile operator may have for growing its content services.

*Ownership controls*

- 4.37. With the niche licence, the MDA proposes that no ownership controls will be imposed on the MTVS providers, including the 3G mobile operators.
- 4.38. Nonetheless, as highlighted above, 3G mobile operators face the risk of being converted to a nationwide licensee. As the MDA is aware, the 3G mobile operators are all part of publicly – listed companies.
- 4.39. Furthermore, the 3G mobile operators are currently licensed by the IDA for their telecommunication services and are regulated under the



Telecommunications Act (Cap 323) and the Telecom Competition Code 2005 (**Telecom Competition Code**).

4.40. The proposal by the MDA would impose conflicting and contradictory requirements on the mobile operators. The Telecommunications Act and Telecom Competition Code carry specific obligations for telecommunication licensees in respect of ownership control which differ from those outlined in Part X of the Broadcasting Act. Neither the Telecommunications Act nor the Telecom Competition Code imposes requirements on the citizenship of the CEO and /or board members of the licensees, unlike Part X of the Broadcasting Act.

Summary

4.41. Accordingly, SingTel Mobile submits that:

- (a) the definition of 'mobile television' service(s) should exclude the content provided over the mobile operators' 3G networks given the differences between the types of content available on 3G and other forms of MTVS envisaged by the MDA;
- (b) that there should be no new licence fee requirement imposed on the content or TV services delivered by the 3G mobile operators over their 3G networks as they have already paid their full licence fees for the delivery of these services under the auction framework in 2001;
- (c) 3G mobile operators should not be subject to content approval and advertising regulatory requirements;
- (d) 3G mobile operators should not be subject to the advertising time limits for the content delivered over 3G;
- (e) there should be no further requirement for 3G mobile operators to obtain a new licence, whether niche or nationwide;

- (f) Part X of the Broadcasting Act (Cap 28) should not apply to 3G mobile operators; and
- (g) the MDA should continue to apply the class licensing framework to 3G content.

## 5. ACCESS REGULATION APPLICABLE TO MULTIPLEX LICENSEES

### *Characteristics of the industry justifies ex-ante access regulation*

- 5.1. If the MDA proceeds with the licensing of multiplex licences and an accompanying broadcasting service licence, then notwithstanding the submissions above about the deferral of the licensing process, SingTel Mobile considers that a rigorous and *ex-ante* access framework should apply to multiplex licensees.
- 5.2. The importance of rigorous access regulation is increased due to the industry structure that is likely to emerge following the allocation of multiplex licences in Singapore. SingTel Mobile considers the following industry structure is a likely outcome of multiplex licensing in Singapore:
  - (a) The MDA has not proposed a limit on the number of multiplex licences that can be acquired by a single entity. Therefore, there is a strong possibility that the multiplex licences will be acquired by the same entity which will then hold a monopoly interest in the provision of multiplex services. Hence, a strong access regime is necessary to address monopoly power issues.
  - (b) Furthermore, as the MDA itself points out, the commercial viability of two multiplex licensees is open to question. The lack of clarity around the commercial viability of two multiplex licensees may result in only one bid for a multiplex licence or result in only one multiplex licensee being commercially viable in the medium to long term. Given that a

single multiplex licensee is a likely commercial outcome in Singapore, there is a clear need for strong access regulation applicable to multiplex licensee(s).

- (c) It also appears that there could be two types of multiplex licences that are of significance – these are the multiplex licences available in the UHF band. In addition, there is a limit on the number of channels that may be broadcast over the VHF band. In short, the two VHF band multiplex licences may not provide a strong competitive constraint on the two UHF multiplex licensees which can offer many more channels.
- (d) Even where two UHF multiplex licences are awarded and the licensees are commercially viable and separately owned, the existence of two UHF multiplex licensees is not likely to provide sufficient competition such that third party content providers can acquire multiplex services on a competitive basis from the multiplex licensees. This is particularly the case if the multiplex licensees are vertically integrated content providers (i.e. providers who obtain multiplex licence(s) and simultaneously hold rights to a large amount of content that can be provided over mobiles).
- (e) SingTel Mobile is already aware that potential bidders for multiplex licences include vertically integrated content providers who could potentially fill the allocated multiplex capacity with their own content, thus restricting the multiplex capacity available to third party content providers to provide their own competitive content.

5.3. Therefore, a strong and rigorous *ex-ante* access regime is necessary to address the likely issues which arise from the industry structure and spectrum scarcity in Singapore.

5.4. The application of a transparent access regime in the telecommunications market has led to the emergence of vigorous facilities-based and services-based competition. For example, there is approximately fifty facilities-based



operators (**FBOs**), both local and global service providers, offering a variety of telecommunication services, including mobile cellular services (both 2G and 3G), basic domestic and international voice and data services. There are also several hundreds of services-based operators (**SBOs**) that now offer services in Singapore.

- 5.5. It is an essential requirement of the access regime that multiplex licensees must be required to set-aside sufficient multiplex capacity to enable competitive third party content providers to provide a diversity of content over the multiplex capacity. That is, there should be an express requirement imposed on the multiplex licensee to reserve an amount of multiplex capacity so that competitive content providers will not be refused access by vertically integrated content providers who choose to fill the available multiplex capacity with their own content.

*International practice*

- 5.6. SingTel Mobile considers that an access regime of this form is also consistent with international practice and precedent applicable in Finland, Australia and Germany, as cited by the MDA:

- (a) In **Finland**, the successful bidder chosen in a beauty parade was Digita Oy. Digita's business model is described as follows:

*“Digita’s business model includes open, shared networks, which Digita offers as a neutral operator to all customers with equal, non-discriminating terms. The business model has been proven sensible and cost-efficient, because it allows several parties to utilise the same network”.*<sup>4</sup>

*“Digita’s business model includes open, shared networks, which Digita offers as a neutral operator to all customers*

---

<sup>4</sup> Mobicli TV Article and Press Release, *Digita granted the operating licence for mobile television*, 23 March 2006.



*with equal, nondiscriminating terms. The business model has been proven sensible and cost-efficient, because it allows several parties to utilise the same network.”<sup>5</sup>*

Therefore, in Finland, the chosen operator was not vertically integrated but was an independent operator that was subject to a requirement to provide equal, non-discriminatory access to content providers. SingTel Mobile considers that additional elements as further described in this submission should be adopted by the MDA to prevent a monopoly situation arising in the provision of content services over multiplex capacity.

- (b) In **Australia**, the Australian Competition and Consumer Commission is finalising its position on how it will implement the access regime which has been included in legislation about access to be provided by the multiplex licensee for mobile TV<sup>6</sup> and has raised its concerns about vertically integrated content owners who become the multiplex licensee for mobile TV as follows:

*“Concerns about access to bottleneck inputs are usually greatest when the bottleneck controller is vertically integrated into potentially competitive upstream or downstream sectors.*

...

*If the channel B DTL holder [channel B is the mobile TV multiplex licence] is integrated into related communications or content sectors, it may have an incentive to deny its rivals access to transmission services*

---

<sup>5</sup> Ibid.

<sup>6</sup> Division 4A of Part 3.3 of the *Radiocommunications Act 1992* (Cth).

*in order to leverage its control of the channel B DTL into those related sectors.”<sup>7</sup>*

The ACCC then considered two models where the access obligations would apply to: (a) a minimum proportion of the capacity of the datacasting transmitter that should be made available to access seekers; and (b) a minimum number of sub-channels with or without programmed content that should be made available to access seekers. Importantly, however, the access regime is likely to incorporate a reservation of capacity for competitive content providers so that vertically integrated content providers cannot fill-up the multiplex capacity with their own content.

- (c) In Germany, Mobile 3.0 was the successful party awarded the licence to operate the platform for mobile television in DVB-H standard. The licence was awarded following a beauty contest. The licence conditions applicable to the award of the licence required Mobile 3.0 to present a plan for the allocation of the available capacity to television broadcasters, including a regional offer.<sup>8</sup> Importantly, the licence condition effectively regulates access and ensures diversity of content so that Mobile 3.0 shareholders (which are German media companies) do not dominate the content available on the multiplex service.

- 5.7. From the precedents listed above, it is clearly essential that in Singapore, third party content providers must be able to deliver their services over the multiplex capacity. This requirement can be implemented through a number of options including licence conditions, access regulation or through the comparative tender process itself.

---

<sup>7</sup> Australian Competition and Consumer Commission, *New Digital Television Services: ACCC Discussion Paper*, December 2006, pages 10-11.

<sup>8</sup> Rapid TV News, *Mobile 3.0 winning German DVB-H*, 2007.



Key requirements of ex ante regulation

- 5.8. From the above examples in Finland, Australia and Germany, the reservation of capacity for new entrants is an essential requirement when allocating multiplex licences where vertically integrated content providers are allowed to participate in the licence allocation process. This requirement can be implemented through a number of options including licence conditions, access regulation or through the comparative tender itself.
- 5.9. SingTel Mobile proposes that a bidder for the multiplex licensee in the comparative tender should be required to submit, as part of its application for the multiplex licence, its proposed framework for providing third party access to the multiplex capacity. Significant weighting should be given in evaluating bids to this criteria (as discussed further below) to reflect the importance of the access framework.
- 5.10. In addition to the abovementioned requirements about reserving multiplex capacity, SingTel Mobile submits that *ex ante* access regulation is required. Relying on *ex-post* regulation alone will damage the competitive provision of mobile broadcasting services in Singapore.
- 5.11. In particular, SingTel submits that the following *ex ante* measures should be introduced:
- (a) designating access to multiplex capacity as an Essential Resource under Section 9 of the Code; and
  - (b) amending Section 9 of the Code (or introducing a new sub-section) to cater more specifically for access to multiplex capacity in a vertically integrated environment including:
    - (i) enhancing the non-discrimination obligation, so that a multiplex licensee is required to provide access to an acquiring third party on the same basis as it provides to itself;

- (ii) requiring the multiplex licensee to set-aside sufficient multiplex capacity to enable multiple acquiring party to provide a diversity of content over the multiplex capacity as described above;
- (iii) requiring multiplex licensees to publish terms and conditions upfront which would need to be approved by the MDA to ensure that the terms and conditions were fair, reasonable and non-discriminatory terms;
- (iv) the MDA should specify cost-orientated pricing principles and pricing methodology (or methodologies) which the multiplex licensee will be required to use in offering third parties access to multiplex capacity;
- (v) there should be clear procedures and processes that must apply when a third party requests for access to multiplex capacity; and
- (vi) there should be a set timeframe by which negotiations for access to multiplex capacity must be completed.

5.12. Some of these issues are discussed in greater detail below.

*Reservation of capacity*

5.13. As currently drafted, Section 9 of the Code would not prevent a vertically integrated content provider with a multiplex licence from filling up the multiplex capacity with its own channels. In fact, Section 9 of the Code may encourage this practice.

5.14. Section 9.3.1.5(e) of the Code provides that an Entity Controlling Resources is required to provide access to an Essential Resource where the MDA concludes



that “*the Entity Controlling Resources has no legitimate business justification for denying access to the resource*”.

- 5.15. However, the Entity Controlling Resources is considered to have a “legitimate business justification” where that entity has “*specific plans to use the resource for its own business purposes within the next 24 months*”.
- 5.16. This requirement would permit a vertically integrated content provider with a multiplex licence to refuse access to third party content providers on the basis it had plans to fill up the multiplex capacity with its own channels. In doing so, the vertically integrated content provider with a multiplex licence would be able to preserve available multiplex capacity for itself.
- 5.17. The removal of this requirement is therefore essential to ensuring effective access to multiplex capacity by third parties.

#### *Cost-Orientated Pricing Principles*

- 5.18. The pricing of access to multiplex capacity is an issue of fundamental importance to competition in the supply of mobile television services.
- 5.19. SingTel considers that a key element of an *ex ante* access regime is the development by the MDA of cost-orientated pricing principles. These cost-orientated principles would set out the pricing methodologies to be used for access to multiplex capacity and would avoid pricing proposals that seek to generate monopoly profits.
- 5.20. SingTel Mobile considers that the use of cost-orientated pricing principles represents the most appropriate form of regulation for access to multiplex capacity. Under this approach, the MDA would determine the cost-orientated pricing methodology (or methodologies) to be applied by a multiplex licensee. The multiplex licensee would then set its prices using this methodology and the MDA would audit these prices to ensure that they comply with the applicable cost-orientated pricing principles.

- 5.21. This is consistent with practice in the Singapore telecommunications sector.
- 5.22. There are also other ways of determining the price of access to multiplex capacity, but SingTel Mobile considers these alternatives would not be viable or appropriate in the Singapore context.
- 5.23. For example, in its Discussion Paper on new digital television services, the ACCC has stated that access prices could be set via an auction process.<sup>9</sup> However, the ACCC has also criticised this approach on the basis that auctions can distort economic efficiency due to poor design or where there are too few bidders (which is a possibility in Singapore).<sup>10</sup>
- 5.24. SingTel Mobile considers that an auction process would be highly deficient in the context of the pricing of access to multiplex capacity, as the vertically integrated multiplex licensee could potentially constrain capacity to create conditions of scarcity (e.g. by allocating it to itself), thereby increasing the price that is likely to be paid for access by third parties through the auction process.

*Availability of dispute resolution*

- 5.25. In accordance with the provisions in Section 9 of the Code, the ability of a competing content provider to resort to dispute resolution by MDA is essential.
- 5.26. Allowing the parties to resolve disputes on a purely commercial basis is vastly inadequate in circumstances where one party – the multiplex licensee – has far greater bargaining power than the acquiring party.

---

<sup>9</sup> Australian Competition and Consumer Commission, *New Digital Television Services: ACCC Discussion Paper*, December 2006, pages 20-21.

<sup>10</sup> Ibid, page 20.



## 6. OTHER COMMENTS

### Technology issues

- 6.1. The MDA has made specific proposals in relation to:
- (a) Quality of Service requirements for MTVS; and
  - (b) Technology standards for MTVS
- 6.2. SingTel Mobile has provided its comments in relation to the technology standards and the risk of issuing multiplex licences and broadcasting licences for the purposes of providing mobile broadcasting services, due to the lack of an agreed or well accepted worldwide mobile broadcasting standard.
- 6.3. We submit that there is a risk of wasted investment and adverse impact on end-users where licences are issued without an agreed or well accepted worldwide standard. Nonetheless, if the MDA intends to go forward with the licensing of multiplex licences, SingTel has provided further comments on the other aspects of the proposed licensing framework, including QOS requirements.
- 6.4. The MDA's proposals indicate that the recommendations in relation to quality of services do not apply to cellular TV services but would apply to the MTVS delivered by multiplex licensees.
- 6.5. First, SingTel Mobile understands from the Consultation Paper that multiplex licences are issued by the MDA for the right to use broadcasting frequencies as well as the right to use / lease digital multiplex capacity for approved radio, TV or programme and non-programme associated data broadcasting services.
- 6.6. Parties who require the broadcast frequency and /or digital multiplex capacity would obtain such a licence. However, mobile cellular operators /3G mobile



operators would not require a multiplex licence for the delivery of content services over their 3G networks.

- 6.7. Nonetheless, SingTel Mobile believes that, for the purpose of delivering television service(s) over the multiplex capacity, there should be a minimum outdoor coverage standard. We agree with the MDA proposal that the minimum outdoor coverage requirement should be 95% in the short to medium term.

*Mechanisms for awarding licences*

- 6.8. The MDA proposes to issue multiplex licences for MTVS through a comparative tender selection process. Whilst the MDA has identified the criteria that it would use to evaluate a multiplex licence application, we stress that the selection process has to be rigorous, pro-competitive and promote diversity of content.

- 6.9. Given the scarcity of the multiplex capacity / broadcasting frequency available and the risk to competition associated with the allocation of a limited number of multiplex licences, we believe that greater weight should be given to bidders in the selection criteria that:

- (a) commit to reserve capacity for third party content providers; and
- (b) provide in their bid a clear proposal that supports a strong access regime for capacity.

- 6.10. SingTel Mobile also notes that in the comparative tenders held in Europe for mobile televisions licences, there are published criteria and published weightings assigned to each criteria. In the recent Swiss invitation to tender for a national licence for mobile TV, the selection criteria included:

- (a) coverage and rollout;



- (b) concept and implementation;
  - (c) business and service plan;
  - (d) contribution to media and diversity; and
  - (e) coherence and credibility of the candidature.
- 6.11. The above criteria were coupled with a strong access requirement to provide all TV broadcasters and telecommunication service providers with equal access to the broadcasting platform under equitable and non-discriminatory conditions.
- 6.12. SingTel Mobile submits that clear and transparent criteria and weighting should be published if a comparative tender approach is to be adopted and that more weight should be placed on pro-competitive, pro-diversity outcomes as described above.

#### Licence Conditions

- 6.13. SingTel Mobile notes that the MDA has made some recommendations with regard to the licence conditions for multiplex licences and broadcasting licences. We note, however, that there are far too few details provided in relation to the additional licence conditions applicable for the multiplex licences for review. Whilst we provide below our comments in relation to the conditions outlined by the MDA, we request that the MDA provide the full details of the multiplex licences for our review and comment.
- 6.14. Spectrum is a scarce resource. SingTel considers that spectrum obtained by the multiplex licensee must be efficiently utilised for the sole purpose of delivering television services. Hence, we disagree with the proposal that a multiplex licensee must ensure that at least 65% of the multiplex capacity granted be used for television services. The MDA should require, as a



condition of the multiplex licence, that all the multiplex capacity obtained should be used for the sole purpose of delivering television service(s).

- 6.15. SingTel Mobile agrees with the proposal that websites offering short video clips such as movie trailers and user-generated content to continue being regulated under the class licence framework.
- 6.16. SingTel Mobile also agrees with the proposal to issue a 10 year licence for multiplex licences, with an option to renew it for a further 5 years.
- 6.17. In relation to the licence fees, as we are aware, the MDA has proposed that broadcasting licensees will pay a 2.5% of total income as licence fees per annum, subject to minimum sums (which differ depending on whether they are niche or nationwide subscription TV licences) and provides for a moratorium on licence fees for the first 5 years. It is not clear from the Consultation Paper whether the MDA intends for this licence fee to apply to a multiplex licence as well. That is:
- (a) Multiplex licence – licence fee of 2.5% of total income; and
  - (b) Broadcasting licence – licence fee of 2.5% of total income.
- 6.18. We also note that in the evaluation criteria for a multiplex licence, the MDA has indicated that a lump sum money bid will be an assessment factor. We believe that more clarity as to the actual fees payable for a multiplex licence is needed.

#### Market Structure for MTVS

- 6.19. The MDA proposes to issue up to two 8 MHz multiplex licences in the UHF band and up to two 1.5 MHz multiplex licences in the VHF band for those who wish to acquire such spectrum for the delivery of MTVS, and to allow applicants to bid for more than one licence. We note that where providers like





the cellular mobile TV providers are concerned, these would not apply as no multiplex licences will be required.

- 6.20. SingTel Mobile has provided its comments and views in relation to the potential risks involved with the number of licences and proposes that a strong, rigorous and transparent access regime be put in place.

Advertising revenue cap

- 6.21. Notwithstanding our belief that there is no need to impose the subscription TV based framework on the content delivered over 3G mobile networks, SingTel Mobile agrees with the MDA approach to remove the advertising revenue cap for subscription TV services.

Public Service Broadcasting (PSB) Obligations

- 6.22. SingTel Mobile agrees with the MDA's proposal not to impose any PSB obligation.

## **7. CONCLUSION**

- 7.1. SingTel Mobile appreciates the opportunity to comment on the Consultation Paper.
- 7.2. In this submission, SingTel made the following key points (without limitation):
  - (a) The MDA should defer the commencement of the licensing process for multiplex and broadcasting licences for mobile broadcasting services until an agreed or well accepted worldwide broadcasting standard is in place.

- (b) However, if the MDA proceeds with the licensing process for multiplex and broadcasting licences for mobile broadcasting services, then a robust *ex ante* access regulation is required.
- (c) SingTel Mobile has strong concerns about the MDA's proposal that each cellular mobile TV services provider should obtain a broadcasting service licence before transmitting content to its customers in the future; we propose that the existing regulatory framework in the form of the broadcasting class licensing framework should be retained for delivery of content to 3G customers.
- (d) This *ex ante* access regime must at minimum provide for the following:
  - (i) competing content providers must be able to obtain access to multiplex capacity on non-discriminatory terms and conditions;
  - (ii) the reservation of multiplex capacity for competing third party content providers, to avoid the hoarding of multiplex capacity by vertically integrated content providers;
  - (iii) the MDA should require multiplex licensees to publish terms and conditions upfront which would need to be approved by the MDA to ensure that the terms and conditions were fair, reasonable and non-discriminatory terms
  - (iv) the MDA should determine and specify the cost-orientated pricing principles and pricing methodology (or methodologies) that multiplex licensee must use in providing access to multiplex capacity;
  - (v) the ability of competing third party content providers to invoke dispute resolution from the MDA.



7.3. SingTel Mobile looks forward to the MDA's favourable consideration of these proposals.