

Consultation Paper on the Draft Info-communications Media Development Authority (Amendment) Bill

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1. Summary of Major Points

In this consultation paper, RHTLaw Asia LLP (“RHT”) sets out four observations on the Draft Info-communications Media Development Authority (Amendment) Bill (“Draft Bill”), focusing on its potential legal, regulatory, and practical implications under the Info-communications Media Development Authority Act (the “Act”).

Broadly, our comments address: (i) the clarity and coherence of the proposed amendments within the existing statutory framework of the Act; (ii) the practical impact of enhanced competition and structural regulatory powers on regulated entities; and (iii) the need for legal certainty and predictability in the exercise of discretionary regulatory powers.

Our overarching objective is to support the policy intent of the Draft Bill while highlighting areas where additional clarification, refinement, or guidance may assist in ensuring that the amended Act remains effective, proportionate, and workable in practice.

2. Statement of Interest

RHT is a leading regional law firm headquartered in Singapore with deep expertise in regulatory, technology, communications, and commercial law matters. Our multidisciplinary practice spans key areas including Digital Assets & Technology, Corporate & Capital Markets, Intellectual Property & Technology, Litigation & Dispute Resolution, and related regulatory and compliance advice. RHT also has specialised experience advising clients in the Technology, Media & Communications sector, as well as organisations navigating evolving regulatory frameworks across Asia.

RHT’s involvement in public policy consultations and regulatory developments stems from our commitment to offering informed, commercially grounded legal perspectives that assist both public sector stakeholders and private sector participants in understanding, interpreting, and implementing legislative frameworks effectively. We regularly advise clients on issues concerning telecommunications, digital platforms, media services, data governance, competition matters, and regulatory compliance within Singapore and the broader ASEAN region.

RHT’s interest in the Draft Bill arises from our ongoing engagement with clients subject to Singapore’s information, communications, and media regulatory regimes, as well as our professional focus on legal and policy developments that shape the operational and compliance landscape for entities in these sectors.

Through this paper, we aim to provide constructive, practical, and industry-informed feedback on specific provisions of the Draft Bill. Our comments are intended to assist the Ministry of Digital Development and Information (“MDDI”) and the Info-communications Media Development Authority (“IMDA”) in refining legislative language, clarifying regulatory obligations, and balancing policy objectives with legal certainty and operational feasibility for stakeholders.

The views expressed in this paper are through our legal expertise and professional experience advising a diverse range of clients – including technology providers, media companies, digital platforms, and other affected parties – in matters closely related to regulatory compliance, competition issues, and governance within converging information and communications markets. Our interest is solely professional and is directed toward promoting clarity, proportionality, and resilience in the updated regulatory framework contemplated by the Draft Bill.

3. Comments

3.1 Narrowing and Clarification of Broad Definitions (Section 2 – “Control” and “Essential Resource”)

The definitions of “control” and “essential resource” under Section 2 of the Draft Bill are framed in broad and technology-neutral terms. While this approach offers regulatory flexibility, it also carries the risk of

over-capture, potentially extending regulatory reach to arrangements that do not raise substantive competition or public interest concerns.

To mitigate this risk, it may be helpful to introduce materiality thresholds within the definition of “control”. In particular, clarification could be provided that “control” entails the ability to exercise material influence over an entity’s strategic decision-making, rather than capturing mere contractual protections, minority investor rights, or standard commercial arrangements entered into in the ordinary course of business.

Further, business certainty could be enhanced by providing exhaustive or illustrative examples – whether through a statutory schedule or detailed explanatory notes – clarifying what constitutes an “essential resource” and, equally importantly, what does not. This would be especially useful in distinguishing core infrastructure or bottleneck facilities from ancillary, upstream, or peripheral services.

In this regard, while a purposive approach allows courts and regulators to interpret provisions in light of legislative objectives, it operates most effectively where Parliament has articulated clear boundaries, materiality thresholds, or illustrative indicators within the statute itself. In the context of the Draft Bill, amendments to Section 2 of the Act introduce or refine definitions central to IMDA’s competition and structural powers, including “control” and “essential resource”. Anchoring these concepts with clearer statutory criteria, objective thresholds, or illustrative examples would better support purposive interpretation, reduce interpretive uncertainty, and promote consistent, proportionate regulatory outcomes aligned with the legislative intent of the Draft Bill.

Such clarifications would reduce interpretive uncertainty, minimise unintended chilling effects on investment and innovation, and support more predictable regulatory outcomes.

3.2 Codification of Proportionality in the Exercise of Direction Powers (Section 61A)

Section 61A confers on IMDA broad powers to issue directions “in the public interest”. To strengthen legal certainty and safeguard against over-reach, the Draft Bill could expressly require that any direction issued by IMDA must be necessary and proportionate, represent the least restrictive means reasonably available to achieve the intended regulatory objective, and be accompanied by written reasons.

As an additional enhancement, consideration could be given to requiring IMDA to consult affected parties prior to issuing directions that have industry-wide implications, save in circumstances of urgency or emergency. This would promote transparency and stakeholder engagement while preserving IMDA’s ability to act swiftly where required.

3.3 Transparency Enhancement for Ownership and Control Approvals (Section 65)

Under Section 65, IMDA’s decisions relating to approvals for changes in ownership or control are discretionary, and there is currently no requirement to publish the reasons underlying such decisions. While confidentiality considerations are recognised, the absence of publicly available reasoning may contribute to regulatory uncertainty.

In addition, IMDA could be encouraged to issue non-binding guidance materials outlining factors that are generally considered acceptable in ownership and control structures, as well as common regulatory red flags. Such guidance would not fetter discretion but would enhance transparency and predictability.

These measures would reduce uncertainty for market participants and improve confidence in the regulatory framework, while preserving IMDA’s oversight and enforcement capabilities.

3.4 Scope of Regulatory Powers and the Need for Clear Statutory Definitions

While the Draft Bill is presented primarily as addressing competition-related and structural aspects of IMDA’s regulatory framework, we note broader stakeholder concerns arising from recent legislative developments in the information, communications, and media space, where regulatory powers have at

times been framed using broadly worded or open-ended concepts. In the absence of sufficiently clear statutory definitions or guiding criteria, such breadth may create uncertainty as to the scope and limits of regulatory intervention under the Act.

In particular, where legislative amendments confer discretionary powers without accompanying definitional clarity or articulated thresholds, there is a risk that regulated entities may face challenges in predicting regulatory expectations or assessing compliance risks. This may have downstream implications for commercial planning, investment decisions, and content or service governance, especially for entities operating digital platforms or media services at scale.

We therefore recommend that, the Draft Bill could expand or recalibrate IMDA's regulatory reach, through subsidiary legislation or codes of practice. Such measures would help mitigate the risk of over-broad or inconsistent application, enhance legal certainty, and support the Act's underlying policy objectives while maintaining proportionality and predictability in regulatory enforcement.

4. Conclusion

RHT welcomes the opportunity to comment on the Draft Bill and supports MDDI's and IMDA's efforts to update the Act to reflect developments in the converging information, communications, and media landscape. The proposed amendments represent an important step in strengthening the regulatory framework governing these sectors.

At the same time, careful calibration of regulatory scope, procedural safeguards, and statutory clarity will be essential to ensure that the amended Act achieves its policy objectives without unintended consequences for legal certainty, commercial operations, or regulatory confidence. We respectfully submit that incorporating greater clarity on the application of new powers and review mechanisms would enhance the effectiveness and legitimacy of the regulatory framework.

We hope that our comments provided in this paper will assist MDDI and IMDA in refining the Draft Bill, and we would look forward to any opportunities to further engage or provide additional input should this be helpful.

End of Report