CONSULTATION PAPER ISSUED BY

THE INFO-COMMUNICATIONS MEDIA DEVELOPMENT AUTHORITY

ON

A CONVERGED COMPETITION CODE FOR THE MEDIA AND TELECOMMUNICATION MARKETS

Submission by StarHub Ltd to the Infocomm Media Development Authority

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Introduction:

1. StarHub Ltd ("**StarHub**") thanks the Info-comm Media Development Authority of Singapore (the "**Authority**") for providing the opportunity to comment on its proposed harmonised competition code for the Singapore telecommunication and media markets (the "**Proposed Code**").

2. We sincerely appreciate the effort that has gone into the Authority's consultation paper. As a converged operator, StarHub welcomes the move to establish a converged regulatory framework. This will ensure that there is consistency within the Authority's frameworks and minimises regulatory confusion, especially between licensees who are both telecommunication and media licensees.

3. We fully agree that the Authority should review the broader competition landscape and market trends which are occurring locally and globally. Markets within Singapore are increasingly impacted by players operating globally, outside of the Authority's current regulatory framework. Given the widespread reliance by Singaporeans on services provided by international operators, it is necessary for the Authority to review how it:

- Should regulate players who are currently not licensees, but whose services fundamentally compete with traditional telecommunication and media services; and

- Could level the competitive playing field, by either imposing regulation on overseas players, or significantly reducing the regulation the Authority imposes on local licensees.

4. Furthermore, as many of the telecommunication and media markets in Singapore have become effectively competitive, the Authority should be actively reviewing its existing regulatory frameworks, to remove or scale-down regulations which are no longer needed or relevant. This is in-line with the Authority's goals of proportionate regulation.

5. Ultimately, the Authority's goals should be to move towards a regime where self-regulation is the norm, and regulation is reserved only for demonstrable market failures.

6. StarHub's detailed responses to the Authority's questions are attached below. We sincerely appreciate the Authority's consideration of our comments.

StarHub's Response to the Authority's Questions:

Question 2:1: IMDA invites views and comments on the observed trends and developments in the telecommunication and media industries, as set out in Part II of the consultation document:

7. StarHub broadly agrees with the Authority's observations. There has been increased competition for many telecommunication and media markets. In particular, Over-the-Top ("**OTT**") services are increasingly prevalent, replacing not just traditional linear content delivery, but also telecommunication services (such as voice and messaging).

8. Reports[1] indicate that over four million users in Singapore utilise OTT services such as WhatsApp and YouTube. There is also widespread usage of OTT services like Skype and Facebook Messenger. An increasing number of customers are also moving away from linear content and subscribing to OTT streaming services from players like Netflix.[2]

9. In this market environment, it makes little sense that traditional voice, SMS and Pay-TV services are subject to heavy regulation when OTT services like Skype, WhatsApp, YouTube and Netflix are not subject to any regulation at all. The Authority has acknowledged this point, stating that: "*Media providers such as Netflix, as well as call services such as Skype, are not subject to the competition code, even though the IMDA recognises them as rivals to the telcos*".[3]

10. To ensure a holistic review, the Authority needs to carefully consider the competition implications caused by OTT players. It cannot, on the one hand, recognise the impact of OTT, while on the other hand maintain a status quo regime which heavily regulates existing licensees without regulation being imposed on OTT players. This causes an unfair burden on licensees and creates an imbalanced playing field.

11. We also agree with the Authority's observations that, due to market dynamic changes, Dominant Licensee obligations imposed on StarHub's legacy wholesale broadband products over co-axial cable "*have become irrelevant, and will need to be reviewed*".

12. However, we disagree with the Authority's subsequent statement that these "*Dominant Licensee obligations associated with … coaxial cable network … will be removed when all services provided under these networks have ceased*". Respectfully, if the requirements are irrelevant, there is no reason to wait for all services to be ceased before the

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[1] References:
- https://www.messengerpeople.com/whatsapp-is-singaporeans-most-used-app/
- https://www.statista.com/statistics/284466/singapore-social-network-penetration/
- https://hashmeta.com/blog/social-media-landscape-in-singapore-2019/

[2] https://www.statista.com/statistics/607646/singapore-netflix-subscribers/

[3] Reference, Business Times article on 16-April 2019 entitled: "*Regulator taking light touch on fast-moving telco sector*".

removal of obligations. We submit that the Authority should be pro-actively seeking to remove obligations that are no longer necessary, rather than adopting a "wait-and-see" approach.

13. Nonetheless, we note that the trends observed by the Authority may not apply consistently throughout all markets. While the Nationwide Broadband Network ("**NBN**") has allowed more retail service providers ("**RSPs**") to enter the market, this is broadly true only for the residential services market. For the business market, customers continue to rely heavily on managed services, and place a higher focus on quality of service and quality of delivery. While residential delivery of NBN services is generally adequate, the same cannot be said of the delivery of non-residential NBN services. Under the Authority's QoS standards, NetLink Trust ("**NLT**") has up to eight calendar weeks to provision its non-residential services. Unfortunately, NLT does not appear to have ever met this standard[4], and this means that the NBN will not always meet the needs of non-residential customers.

Question 3:1: IMDA invites views and comments on the following proposals:
(a) to merge the common regulatory principles of the TCC and MMCC; and
(b) to retain the regulatory principle on Promotion of Facilities-based Competition for the telecommunication market only.

14. We appreciate the Authority's continued recognition of the importance of Facilities-based Competition for the telecommunication market. It is important to note that promoting the deployment of facilities should not just be about encouraging new entry into the market. In fact, promoting new entry (especially for markets which are already saturated), could damage the business case for existing operators, while discouraging them from investing in improving their networks.

15. Rather, the Authority should also continue to explore how it can facilitate deployment of new infrastructure by existing operators.

16. In particular, telecommunication providers will need to continually invest and upgrade their networks to meet customer demand for better quality and faster service. For example, mobile network operators ("**MNOs**") will need ready access to space to deploy infrastructure to enhance coverage and speeds for 4G. Going forward, there will also be a need to review the space available for 5G deployments.

17. We therefore sincerely appreciate the significant efforts that the Authority has made to expand the Code of Practice for Info-communication Facilities in Buildings ("**COPIF**"). However, there are limitations to the COPIF, as: (a) it only applies to buildings above a certain size (which excludes structures such as substations and lampposts); and (b) the current space provided may not always be sufficient (especially under a four MNO environment, and in future when 5G deployments are needed). In many cases, MNOs also continue to face challenges requesting building owners to comply with the COPIF provisions.

[4] Most recently, the Authority published that NLT had failed to comply with its QoS standard for provisioning of non-residential orders from the period of April 2017 to March 2018.

18. We are happy to continue working closely with the Authority on this matter.

Question 4:1: IMDA invites views and comments on the proposed standards for dominance classification under the Converged Code.

19. As the Authority has recognised, technology changes and the prevalence of OTT services means that traditional barriers to entry may no longer be present in many markets. For example, the delivery of content is no longer reliant on traditional TV networks (via terrestrial delivery). Players such as Amazon, YouTube and Netflix provide ready alternatives for viewers in Singapore. The ready availability of illegal content (via content piracy) also creates significant competitive pressure on Pay-TV providers.

20. Traditional barriers to entry may also no longer be relevant as services and content move to OTT. It is no longer the case that operators need to have physical infrastructure located in Singapore, in order to provide services to Singaporeans. From the Authority's 2016 study, it found that consumers spent the majority of time consuming media online (see chart below).[5] This percentage would have increased over the past 3-years given the increasing prevalence of OTT content.

Chart 1: Adults' top media activities in terms of daily time spent (hours)

Source: 2016 Media Consumer Experience and Zero to Fourteen Consumer Experience Studies.

21. In our view, while the key concepts of dominance (in terms of control over facilities and significant market power) may still be applicable, it is necessary for the Authority to consider a more expansive definition of the terms "*telecommunication and/or media market in Singapore*". If the market is restricted purely to the Authority's licensees, it may not be an

[5] Reference: https://www.imda.gov.sg/-/media/imda/files/industry-development/fact-and-figures/mces--cs-2016_public_final.pdf?la=en.

accurate reflection of the actual market conditions, and the variety of choices available to consumers of telecommunication and media services in Singapore.

Question 4:2: IMDA invites views and comments on the appropriate level for the SMP Presumption Threshold.

22. We have no objections with the proposal to set a 50% threshold for the SMP Presumption Threshold. Again, the key concern is how the Authority defines markets. Given the changes in the market environment, the Authority should not adopt a narrow definition of a market as confined to just established licensees operating within Singapore.

Question 4:3: IMDA invites views and comments on the proposed changes to the dominance regime for the telecommunication and media industries, specifically;
(i) to adopt the Market-by-Market approach for the dominance classification of a telecommunication licensee in new markets; and
(ii) to require Dominant Persons to demonstrate whether the new service(s) they introduce fall within the market(s) in which they are dominant.

23. It is important to understand how this will be operationalised. In particular, what information would the Dominant Person need to submit to the Authority to demonstrate whether new service(s) fall within the market(s) in which they are dominant.

24. This is particularly relevant when a Dominant Person seeks to introduce a new and potentially innovative service. How would a Dominant Person go about proving that the new service does not fall within an existing market?

Question 4:4: IMDA invites views and comments on the application of the ex ante Dominant Entity duties across both telecommunication and media industries.

25. We respectfully suggest that the Authority remove the obligation relating to access to advertising capacity. We are not aware of this requirement ever having been exercised in the past. Furthermore, the advertising landscape has changed significantly, with advertising now taking place largely over the Internet, and based on collection of data on user habits. This clause is simply outdated and unnecessary, and should be removed.

26. Furthermore, given the general decline of linear content, we do not believe that this obligation is still relevant.

Question 4:5: IMDA invites views and comments on the proposal to shift to a notification and publication regime for most retail tariffs (other than for withdrawal of such tariffs), while retaining the approval regime for wholesale, resale and certain retail tariffs.

27. We have concerns with this approach. We understand that tariff filing has been the Authority's first line review of whether a Dominant Licensee complies with its regulatory obligations. If tariff filing moves towards a "*notification and publication regime*", the Authority will have to rely on after-the-fact complaints and investigations to determine

whether any breach has been made. In such circumstances, commercial contracts may already have been entered into, which may make it more difficult to reverse any errant behaviour.

Question 5:1: IMDA invites views and comments on the proposal to adopt the effects-based test of the TCC for the ex post provision on discrimination of service under the Converged Code.

28. We have reviewed and have no comments on this proposal.

Question 5:2: IMDA invites views and comments in relation to the EEO test benchmark to be adopted for price squeezes and the proposal not to include a "pass-on" criterion.

29. We submit that the Authority should adopt the reasonably efficient operator (REO) test benchmark instead. A Dominant Licensee may be more efficient simply it operates at a larger scale (and could benefit from additional economies). Expecting smaller competitors to compete as efficiently as a Dominant Licensee may be too high of a hurdle, and could unnecessarily hinder anti-competition investigations.

30. Nonetheless, we support the Authority's proposals that it should be allowed to exercise flexibility to make reasonable adjustments to the test where appropriate and justified.

Question 5:3: IMDA invites views and comments on the proposed cost standard/ standards for the telecommunication and media markets and the application of the predatory pricing provision to Dominant Entities.

31. We note that the specifics of a predatory pricing investigation may vary from case-to-case. We suggest that the Authority retain flexibility on this matter to review the specific cost methodology that should apply.

Question 5:4: IMDA invites views and comments on the extension of the cross-subsidisation provision to the media industry.

32. As highlighted above, the media industry is no longer restricted to just traditional media players. Unlicensed OTT providers can easily compete with licensees in Singapore. Therefore, a broader definition of media markets should be adopted, and any potential investigations into cross-subsidisation (or other anti-competitive behaviour) should include players within the broader media market (including overseas players).

33. We welcome the Authority's views on how such a competition regime could be implemented in Singapore.

Question 5:5: IMDA invites views and comments on the extension of the predatory network alteration provision to the media industry.

34. We understand that the traditional concept of "*predatory network alteration*" arises from the need for telecommunication operators to interconnect, and the concern that one (Dominant) operator could degrade services via the interconnection arrangements. However, it is not clear how such a provision would apply to the media industry.

35. We are also not aware of any case relating to this particular provision. We therefore suggest that the provision be subsumed under general competition requirements, rather than existing as a standalone provision.

Question 5:6: IMDA invites views and comments on the inclusion of unreasonable bundling as an example of an abuse of a dominant position in the Converged Code.

36. We note that "*Tying*" is highlighted as an example of an abuse of dominance. However, it is not clear if "*unreasonable bundling*" only covers "*Tying*" or could cover other bundling scenarios.

37. As the Authority has recognised, bundling of products is usually pro-competitive, and provides customers with additional choices and benefits. If the Authority intends to implement a specific prohibition against "*unreasonable bundling*", then more details will need to be provided on how such a scenario could occur.

38. We are concerned by the imposition of a new (and ambiguous) obligation in regard to "*unreasonable bundling*." We submit that the current restrictions on tying are sufficient, and that any related issues can be addressed by the general competition provisions.

Question 5:7: IMDA invites views and comments on the proposed standalone sub-section for the provision for anti-competitive leveraging, including the specific practices on anti-competitive leveraging.

39. We have no objections to this proposal.

Question 5:8: IMDA invites views and comments on the proposal to adopt the "object or effect" approach for the general prohibition of anti-competitive agreements.

Question 5:9: IMDA invites views and comments on the proposed revisions to the anti-competitive agreements, namely:
(a) rename the list of prohibited anti-competitive agreements as "by object" agreements; and
(b) respective amendments to the specific anti-competitive agreements.

40. We suggest that the Authority adopt the effects-based test. This will ensure consistency with the tests for abuses of dominance. If a different approach is adopted for anti-competitive agreements versus abuse of dominance cases, this could create a scenario where, for the same action, a licensee may breach one set of rules, but not another.

41. Such a scenario could become increasingly likely if the Authority expands the scope of its regulations, to include overseas operators (including overseas OTT operators). For

example, if the Authority needs to review dominance by overseas entities, this could also entail a review of whether the dominant licensee has entered into anti-competitive agreements with players operating within Singapore.

Question 5:10: IMDA invites views and comments on the proposed changes to the rules governing unfair methods of competition.

42. We are not aware of any case involving the "*provision of false or misleading information to competitors*". We therefore submit that it is not necessary to have a specific provision related to such action.

43. In terms of "*improper use of information regarding competing licensee's customers*", we submit that this is a data privacy issue that is already covered by the Personal Data Protection Act ("**PDPA**"). Having this clause within the Proposed Code is therefore unnecessary.

44. Where feasible, the Authority should be streamlining its requirements to remove obligations that are no longer necessary or relevant.

Question 6:1: IMDA seeks views and comments on the:
(a) proposed exclusion of Resellers from being protected by the Consumer Protection Provisions in the Converged Code;
(b) proposed application of all the Consumer Protection Provisions in the Converged Code to both residential and business End Users, except for the Pay TV market-specific provisions (i.e., Sub-sections 3.2B, 3.2C 3.2E, 3.5A and 3.5B), and the CIS requirement, which will only be applied to residential End Users; and
(c) proposal to continue to not apply the Consumer Protection Provisions in the Converged Code to OTT TV or content services.

45. We are concerned by the Authority's proposal to extend the application of some Consumer Protection Provisions to Pay-TV business customers. Business Pay-TV customers are fundamentally different from residential Pay-TV customers. For example, businesses (such as hotels) are not reliant on Pay-TV service providers for content services. They can down-link content directly from satellite providers.

46. Furthermore, media services are not essential services, and there have not been a significant number of complaints from business customers about the provision of Pay-TV services.

47. While we have no objections with the Authority's proposal to exempt OTT services from Consumer Protection Provisions, we submit that the Authority should fundamentally review its regulation of linear content as well. If the Authority recognises that OTT content services compete directly with linear services, then the same set of regulations should apply. Otherwise, an unbalanced regulatory regime will simply create an unlevel playing field for licensees in Singapore and impede their ability to compete.

Question 6:2: IMDA seeks views and comments on the proposal to:
(a) merge the requirement on QoS standard; and
(b) extend the flexibility for Licensees to agree to a lower QoS with End Users to the media markets.

48. In general, we disagree with the imposition of QoS standards on Pay-TV services for the following reasons:

- OTT providers (like YouTube and Netflix) compete directly with Pay-TV services and potentially provide content to significantly more customers in Singapore. These providers are not subject to QoS standards.

- Pay-TV services are purely entertainment services, and not essential services. We see little logic in subjecting entertainment services to QoS obligations.

- There have not been a significant number of complaints on the provision of Pay-TV services in Singapore.

49. Therefore, this clause (as well as the overall QoS regime imposed on Pay-TV licensees) should be removed.

Question 6:3: IMDA seeks views and comments on the proposal to merge the requirements and adopt the procedures under the TCC for service terminations or suspensions for both markets.

50. We have reviewed and have no objections to this proposal.

Question 6:4: IMDA seeks views and comments on the proposal to:
(a) merge and adopt the TCC's approach for data protection provisions for both telecommunication and media markets; and
(b) extend the MMCC requirement to the telecommunication markets to require Licensees to develop and inform End Users of easy-to-use procedures by which they can subsequently grant or withdraw consent to the use of their EUSI.

51. Issues regarding data protection and use of EUSI are already covered under the PDPA. Unless the Authority is proposing specific requirements that are outside of the PDPA we would respectfully submit that such requirements are removed entirely from the Proposed Code. Otherwise, this creates confusion as the same (or similar) requirements are covered under multiple regulatory documents, and a licensee may end-up facing penalties from multiple agencies for the same event.

Question 6:5: IMDA seeks views and comments on the proposal to:
(a) merge the disclosure requirements and extend the CIS requirement to all Licensees; and
(b) reduce the timeframe from 14 days to 5 working days for Regulated Persons to provide End Users with the CIS and contracts, and extend this requirement to the telecommunication markets.

52. We agree with this approach. We believe that regulatory requirements should be imposed on a non-discriminatory basis, to ensure a level playing field for all parties. However, as stated above, we believe that it is necessary for the Authority to consider whether this requirement should also be imposed on OTT players who operate outside of Singapore, and are currently not subject to the Authority's requirements.

53. If the Authority's intent is that such obligations should not apply to OTT players, it should then ensure a level playing field by removing these obligations from licensees as well.

Question 6:6: IMDA seeks views and comments on the proposal to extend the requirement for mandatory contract provisions to the media markets.

54. As noted above, the EUSI provisions should be covered under the PDPA, and not under separate regulatory requirements imposed by the Authority.

Question 6:7: IMDA seeks views and comments on the proposal to introduce the list of minimum billing information to be included in End Users' bills for both markets.

55. We believe that the Authority's proposals are unnecessary. It has provided no evidence of any specific market failure, or a pressing need to address customer complaints. If the Authority's intent is to adopt a light touch regulatory approach, we submit that the Authority should be looking at reducing regulatory obligations, rather than imposing new regulations on its licensees. If the industry is already capable of self-regulating, regulatory intervention is unwarranted.

56. Specifically, the proposal that bills contain information on trial / complimentary services is burdensome. In its 2010 review of the Telecom Competition Code, the Authority had already tightened its regulation in this area, by prohibiting licensees from automatically charging customers after a free trial had ended unless express agreement has been obtained.

57. This means that customers would already have been notified upfront of the terms of the free trial / complimentary service, and would have provided express consent prior to being charged. The Authority has provided no statistics to show that, over the past 9-years, the number of complaints about free trial services has grown, and necessitates further regulatory intervention.

58. In many cases, the offering of a free trial is meant to allow customers to "sample" a service before committing to paying for the service. Imposing further billing requirements may deter licensees from offering such free trials, which would be to the detriment of customers. In certain cases, licensees may not even have billing arrangements with customers enjoying the free trial. For example, where a free trial is offered that will automatically terminate without charges being imposed. In such a scenario, it would not be feasible to expect licensees to start sending customers monthly bills providing information on the free trial.

59. We also submit that there should be proper guidance on how the Authority defines free trial / complimentary services. In particular, the following examples should be excluded:

- StarHub's mobile plan offers a variety of value-added services ("**VASes**") and add-ons, such as call divert etc. These are offered free of charge to the customer as part of the mobile service, but should not be classified as "*complimentary services*" which need to be separately indicated on the customer bills.

- StarHub may structure a promotion to offer a fixed period of discounted monthly charges. For example, 6-months free subscription for customers signing up for a 24-month contract. We view this as a discount structure, and not a "*free trial*".

60. In addition, we also seek the Authority's confirmation that term "*the services subscribed*" refers to information such as the name of the service plan provided. The Authority is not asking licensees to provide a description of the details of the plan within the bills. Details of the plan would already have been provided to customers at point of sale, and need not be repeated during each monthly bill.

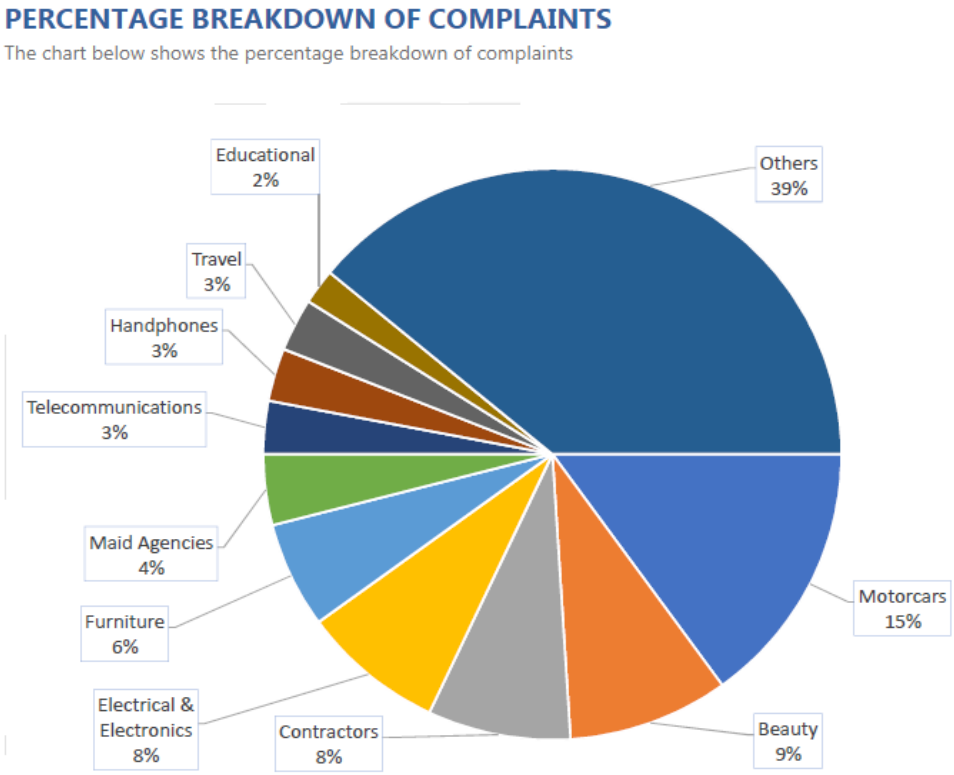
61. We are not aware of any other sector in Singapore in which businesses are required to provide customers with information on trial / complimentary services, in the manner proposed by the Authority. Given the cost of complying with this obligation, and the lack of any demonstrated need for it, we strongly submit that this obligation should be removed from the Proposed Code.

Question 6:8: IMDA seeks views and comments on the proposal to extend the requirement for mandatory contract provisions on procedures to contest charges and dispute resolution to the media markets, including the circumstances in which End User may withhold payment, timeframe for contesting the disputed charges, and setting of the interest rates or methodology for establishing the interest rates.

62. We have no objections with allowing telecommunication and media subscribers to contest charges and request for dispute resolution. This is part of our normal customer handling procedure.

63. However, we are concerned by that the Authority appears to have finalised its position on the introduction of an alternative dispute resolution ("**ADR**") regime for telecommunication / media services in Singapore. In our earlier comments to the Authority's public consultation on this matter, we have questioned the need for such an ADR regime specific to telecommunication and media services.

64. Statistics from the Consumer Association of Singapore ("**CASE**") show that only 3% of the total number of complaints it received are against telecommunication services, with 0% against media services.



Source: https://www.case.org.sg/consumer_guides_statistics.aspx

65. Given that the vast majority of the population utilise telecommunication / media services, this amply demonstrates the ability of the industry to handle customer complaints without need for further intervention. We would respectfully question the need to setup an ADR regime specific to telecommunication / media services when no such industry-specific regime exists for industries which attract even more complaints (such as for motorcars and the beauty industry, for example).

66. If the Authority is concerned about the ability of customers to seek alternative forms of redress, this is already offered via CASE and the Small Claims Tribunal. In particular, the Small Claims Tribunal Act was recently amended in July 2018, and Second Minister of State for Law noted the following improvements:[6]

- "*the amendments strengthen access to justice by allowing the Tribunals to hear more cases in a quicker and cost-effective manner*";
- The Tribunal may "*order parties to attend mandatory mediation at the Community Mediation Centre, or before any other person … And this is in line with the Tribunals' objective to promote and facilitate an early settlement of disputes*";
- "*the tribunal may allow certain individuals to be present to either assist in or observe the proceedings*", which include "*assessors such as industry experts who may have the*

[6] As part of his Second Reading Speech on the Small Claims Tribunal (Amendment) Bill.

necessary skills and experience to assess and to assist the tribunals at the adjudicative stage to deal with the industry-specific stage".

67. We submit that the Authority's efforts should be focused on how it could remove regulation which is no longer needed, rather than increasing regulatory compliance costs. Without evidence of actual market failure, we see no demonstrable market failure which would justify requiring licensees to fund an industry-specific ADR regime (particularly given that dispute resolution forums already exist).

Question 6:9: IMDA seeks views and comments on the proposal to:
(a) retain the prohibition of detrimental mid-contract changes for the telecommunication markets and the requirement to provide at least one-month advance notice for detrimental changes in the media markets; and
(b) introduce an advance notice requirement for any advantageous change that may have a long-term impact on the End User's service for both markets.

68. We believe that it can be sensible for licensees to advise customers of advantageous changes to their prices, terms and conditions. However, this should not be a regulatory obligation.

69. We have seen no evidence that there have been complaints of this nature. Respectfully, the Authority should be looking at reducing unnecessary obligations, rather than continuing to add additional requirements on its licensees.

70. It is also important to note that there will be a significant cost to operators in complying with this obligation (sending out notifications, administering the process, handling queries, etc), and that this cost may outweigh the benefits of the advantageous cost. As such, this measure may actually discourage operators from making advantageous changes to their prices, terms and conditions, to the ultimate detriment of customers.

71. Imposing such obligations create further disparity between the heavy regulation of traditional media / telecommunication services versus the entire lack of regulation on overseas providers / OTT players.

72. We would also request clarification on what the Authority means by an advantageous change that may have a "*long-term impact*", and how this necessitates regulatory intervention by the Authority. We strongly submit that this obligation should be removed from the Proposed Code.

Question 6:10: IMDA seeks views and comments on the proposal to:
(a) extend the requirement to provide advance notice to End Users for termination of operations or services, to the telecommunication markets; and
(b) provide a three-months' advance notice in writing for cessation of operations or provision of any telecommunication and media services, while allowing IMDA to right to require this period to be extended to better protect End Users' interest under certain circumstances.

73. We support any reduction in regulatory obligations imposed on the industry.

74. However, it is important for the Authority to clarify the scenarios under which the "*advance notice*" is required. We would understand the need for ample advance notice for termination of an entire service (e.g., when StarHub chose to terminate its 2G services service).

75. However, we would disagree with the provision of advance notice where licensees terminate a subset of a service. As mentioned above, StarHub provides a variety of mobile VASes. This includes multi-party calling for our mobile customers. If we decide to withdraw such services, would this require a 3-month advance notification? Such an approach would be unnecessarily burdensome, particularly in the situation where usage of such services may be negligible.

Question 6:11: IMDA seeks views and comments for the proposal to retain the prohibition on "slamming" for the telecommunication markets in the Converged Code.

76. We have reviewed and have no objections to this proposal.

Question 6:12: IMDA seeks views and comments on the proposal to include the existing prohibition of mid-contract detrimental changes in the Converged Code and extend its application to all Licensees beyond the Key Telecommunication Licensees.

77. Unfortunately, the existence of such requirements amplifies the disparity between the heavy regulation of licensees, as compared to the complete lack of regulation on OTT players. We urge the Authority to review whether such requirements continue to be necessary.

78. If the Authority believes that such requirements are indeed justifiable, we agree that they should be applied to all licensees to ensure a level playing field (including those parties based outside of Singapore).

Question 6:13: IMDA seeks views and comments on the proposal to retain the requirement for Pay TV service providers to allow End Users to exit their fixed term contracts without ETC for the specific instances, and the enabling provisions (Sub-sections 3.2E, 3.5B and 3.8 of the MMCC) for this requirement.

Question 6:14: IMDA seeks views and comments on the proposal to retain the requirement to offer short term agreements for the Pay TV market only.

79. Unfortunately, such proposals fail to recognise the rapid changes in the media market in Singapore. Given the increasing importance of OTT services, we believe that such legacy obligations should be removed.

Question 6:15: IMDA seeks views and comments on the proposal to retain the prohibition against the leveraging of a Pay TV service to impose changes on the non-Pay TV service in a bundle by service providers.

80. We have reviewed and have no specific concerns with this proposal.

Question 6:16: IMDA seeks views and comments on the proposal to remove the current TCC service quality information disclosure requirements.

81. We support the removal of legacy requirements that are no longer applicable. We urge the Authority to review in detail the requirements imposed on licensees, and remove those requirements that are no longer needed.

Question 6:17: IMDA seeks views and comments on the proposal to remove the anti-avoidance provision for the media markets.

82. We welcome the Authority's moves to remove regulations which are no longer necessary in today's market environment.

Question 7:1: IMDA invites views and comments on the following proposals:
(a) subjecting transactions in which a non-RP or non-AMSP acquires ownership interest in an RP to the requirements of the M&A Provisions; and
(b) extending the pro forma change notification requirement to all RPs.

83. We sincerely believe that this review is an opportune time for the Authority to carry out a broader review of its sectoral regulations, to ensure greater alignment with other markets in Singapore. We do not believe that sector specific M&A provisions with specific thresholds that apply just for telecommunication or media markets are necessary.

84. For example, the Authority could align its requirements with those under adopted by the Competition and Consumer Commission of Singapore. This provides greater certainty to licensees (particularly licensees which operate in multiple markets), and ensures that the Authority's requirements are aligned with the wider economy.

Question 7:2: IMDA invites views and comments on the proposed criteria for the Short Form and Long Form application.

85. We have no specific objections to this proposal, but we would urge the Authority to: (a) align its M&A provisions with the wider economy; and (b) adopt a more expansive view of telecommunication and media markets taking into account competition from overseas players.

Question 7:3: IMDA invites views and comments on the proposed consolidation review timeline.

86. The Authority has indicated that it sees consolidation in the sector as inevitable. If this is the case, it may be necessary for the Authority to hasten its review processes for consolidations, to ensure that its review process does not end up hindering such market developments. Again, an expansive view of the market (taking into consideration competition posed by overseas players) should be considered as part of any consolidation review.

Question 8:1: IMDA invites views and comments on the proposal to limit Media Resource to only infrastructure (akin to Section 7 of the TCC) for the purposes of sharing amongst media licensees.

87. We have no objections to this proposal.

Question 8:2: IMDA invites views and comments on the proposed licensees for which the Resource Sharing Provisions apply.

88. We have no objections to this approach. We agree that there could be circumstances under which a Services-based operator licensee may own and operate infrastructure that is essential for the provision of services.

Question 8:3: IMDA invites views and comments on the proposed criteria in the determination of both Essential Resource and Critical Support Infrastructure.

89. We have no objections to this approach.

Question 9:1: IMDA invites views and comments on continuing to apply the CCM to content of all genres.

90. We disagree with this approach. We note that the Authority's survey results indicate customers view genres such as drama, movies and news as important. However, this conclusion ignores the significant availability of alternatives within genres.

91. For example, if a customer is unable to watch a particular general entertainment channel, they will see another general entertainment channel as a substitute. There is little logic in saying that if a general entertainment channel (with low viewership) is exclusively available on one linear platform, it should then be made available on other platforms as well, to prevent customer dissatisfaction.

92. Contrast this with sport content. We could see a logic that customers treat specific sports content as unique, and would not see alternative content as equivalents. For example, if a customer wants to watch the BPL, that customer may not treat a tennis event (or even football from another country) as a substitute. We would also agree that customers prefer to watch sports content "live", and would place significantly less value on that content if it was only available after the event.

93. We therefore suggest that cross-carriage requirements should only be restricted to identified sports programmes. This ensures that the requirement is targeted, and no wider than actually needed.

94. We respectfully submit that, given the competitiveness of Pay-TV services, the Authority should be exploring how it could reduce regulatory burdens while encouraging licensees to innovate and compete fairly. Allowing differentiation in content is a major part of ensuring Pay-TV providers can continue to offer a compelling service proposition to customers.

Question 9:2: IMDA invites views and comments on the proposal to require the SQL to offer the cross-carried subscribers access to the QC on its OTT platform, if part of the QC is on the Relevant Platform, on non-discriminatory basis i.e., on the same price and terms offered to the SQL's customers.

95. We respectfully seek the Authority's clarification as to how it would impose this obligation on overseas OTT providers that provide services to Singaporeans. For example, Netflix is increasingly producing original content that may only be available on Netflix's platform. Is the Authority proposing that Netflix should allow other OTT players in Singapore to cross-carry its exclusive content?

96. If this obligation will **only** be imposed on local players, it further discriminates against local licensees, creates yet another regulatory hurdle for them, and significantly restricts their ability to compete with global providers.

97. In StarHub's case, our OTT service ("**StarHub GO**") is already available on a network-agnostic basis. Any customer in Singapore with a broadband connection (from any Internet Service Provider, fixed or mobile) can subscribe to StarHub GO, and all of those customers receive the same service. It is therefore unclear what benefits a cross-carriage obligation on StarHub GO would achieve.

Question 9:3: IMDA invites views and comments on the proposal to introduce coverage obligations to complement the existing anti-hoarding provisions.

98. We agree with the proposal, which is sensible to ensure that FTA TV providers adequately broadcast programmes which are covered under the anti-siphoning list.

Question 9:4: IMDA invites views and comments on the removal of Sub-sections 2.5 and 10.4(b) of the MMCC in the Converged Code.

99. We have no objections to the removal of these obligations as they are no longer relevant in the current market environment.

Question 10:1: IMDA invites views and comments on the proposal to remove the Services With No Take-up from the Schedule of IRS and MWS.

100. We support this approach, which is in-line with our general comments that regulations which are unnecessary should be removed.

Question 10:2: IMDA invites views and comments on whether IMDA should continue to require Dominant Licensee to offer the Regulated Services.

101. StarHub supports this approach. We understand that Regulated Services are still relied on by many operators in the market. Requiring Dominant Licensees to offer such services will be needed to promote competition in the market.

Question 10:3: IMDA invites views and comments on the proposed extension of the validity period of the reference interconnection offer to five years, instead of the current three years.

102. StarHub has no objections to this approach. However, we would suggest that the Authority reserve the right to trigger a review within a shorter time period, in the event of any significant changes in the market environment. This could potentially include the possibility of relieving parts of the reference interconnection offer where they are no longer required.

Question 10:4: IMDA invites views and comments on the proposal to harmonise the voice termination regime and change the interconnection charging regime for fixed voice termination from "Calling-Party-Pays" to "Bill-and-Keep". IMDA would also invite views and comments on how IP-based interconnection should be implemented, following the transition from traditional copper-based networks to IP-based networks.

103. We are willing to accept a "*Bill-and-Keep*" model, provided it is implemented across all operators. We note that "*Bill-and-Keep*" makes billing between operators administratively simpler, and removes a source of potential dispute over charges. Nevertheless, it is important to note that removing charges for termination of voice traffic may encourage operators to increase the flow of international traffic into Singapore, particularly undesirable forms of traffic (such as fraudulent and cold calling traffic).

104. However, StarHub has strong reservations over any mandatory move towards IP-based interconnect. As the Authority is aware, traditional voice traffic is declining, and is increasingly being replaced by Internet-based messaging and voice applications. Requiring operators to invest significantly to overhaul their existing voice networks to move towards IP-based networks would not be commercially viable.

105. We would also note that SS7 is an established technology, is reliable and secure with high QoS. In comparison, there may be security and QoS issues if operators migrate to IP interconnect. While smaller players may not mind a lower QoS standard, this raises concerns for larger players (particularly those who are subject to the Authority's QoS requirements).

106. Furthermore, there are multiple technical specifications available for IP-based interconnection, and it is not clear whether there will be a de-facto standard which all

operators should adhere to. If operators are free to choose their own standards, this would create technical and inter-operability issues.

107. From an operational perspective, moving towards IP-based interconnection will also mean that existing operators will need to carry out significant re-testing of interconnect, which will further increase costs.

Question 10:5: IMDA invites views and comments on the proposed broad principles for governing the application of the appropriate pricing methodology for the purpose of price determination in the Converged Code.

108. The Authority has proposed that Historical Cost Accounting ("**HCA**") or Regulated Asset Base ("**RAB**") methodologies would be more suitable for network elements which are passive / civil-based, not easily replicable and re-use is encouraged. This appears to suggest that HCA / RAB methodologies could be applied to Critical Support Infrastructure ("**CSI**").

109. While we recognise the importance of mandating access to CSI, it is also important to recognise that owners of CSI would have incurred significant costs in deploying their infrastructure. Any move towards undercutting the costs of the CSI (including zerorising historical costs and accounting for depreciation) will significantly discourage facilities build-up. This runs contrary to the Authority's proposal of promoting Facilities-based Competition.

Question 11:1: IMDA invites views and comments on the introduction of the reconsideration process to media licensees on IMDA's decisions on matters pertaining to competition and consumer protection.

110. We respectfully request the Authority to clarify the scope of "*competition and consumer protection*" matters. It is important for licensees to understand if this refers to **all** matters under the Proposed Code, or only to specific clauses.

111. We submit that the reconsideration process should apply equally to all telecommunication and media matters. Otherwise, this potentially creates implementation difficulties. The Authority is a converged regulator, and there will be decisions that spread across both the telecommunication and media markets and across different regulatory frameworks. It would be confusing if only certain elements of a decision were subject to reconsideration, while others had to go directly to appeal.

112. If the Authority is indeed proposing that the reconsideration process only applies to specific media-related clauses, this needs to be set-out upfront, to avoid any misunderstanding or confusion by licensees.

Question 11:2: IMDA invites views and comments on the broad changes to the dispute resolution process under the Converged Code and to set out the detailed dispute resolution procedures in a separate set of guidelines.

113. We have no objections to the Authority's proposed approach. In our view, matters should only move towards dispute resolution if there is indeed a demonstrable failure to act within a reasonable time period by one party, or if that party has failed to act in good faith.

Question 11:3: IMDA invites views and comments on extending the Informal Guidance provisions to the telecommunication markets.

114. We would welcome clarity on how licensees can seek guidance from the Authority on regulatory-related matters.

115. Importantly, the Authority should set-out specific timelines under which it should respond to "*Informal Guidance*" requests. Given the fast-moving nature of the industry, a licensee may have urgent requests for clarification which have an impact on services it hopes to launch. If the Authority can provide certainty on when it expects to respond to requests for guidance, this would be greatly appreciated by licensees.

Question 11:4: IMDA invites views and comments on the proposal to align the structural separation powers in the telecommunication and media industries and give Minister the authority to issue structural separation order for both industries.

116. Generally, we have no objections with ensuring consistency between the telecommunication and media markets. However, it is critically important to note that structural separation is a very serious matter, and should not be undertaken lightly.

117. We would urge the Authority to review: (a) if such a requirement is indeed necessary given the current competitive landscape; and (b) how it should be applied to overseas parties who compete directly with licensees in Singapore.

Conclusion:

118. In summary, StarHub's key points are as follows:

- As a converged operator, StarHub supports the move towards a converged regulatory landscape for the telecommunication and media markets. Where feasible, the same regulatory obligations should apply consistently for both telecommunication and media licensees.

  A key issue is the matter of reconsideration requests. We respectfully submit that reconsideration requests should be applicable for all telecommunication and media regulatory matters. Otherwise, this creates confusion and operational difficulties.

- The Authority should review its regulatory requirements to take into consideration the rapid changes in the telecommunication and media markets. As the Authority has recognised the competitiveness of many markets, it should be looking at relieving regulatory obligations, and relying on market self-regulation. Additional regulation should only be imposed when there is clear evidence of market failure. This is in-line with the Authority's goal of proportionate regulation. We would urge the Authority to refrain from imposing additional regulatory obligations on licensees.

- The Authority should also ensure a level playing exists between local licensees and overseas players who provide competing services. The Authority could take guidance from the requirements under the POFMA Act which is currently being reviewed, to consider how it could apply regulatory requirements on overseas players currenting operating outside of its regime.

- The Authority should review competition in the telecommunication and media markets to take into consideration the impact of overseas players. In particular, the Pay-TV services market needs to be reassessed taking into consideration the wide availability of OTT content, and the impact of piracy.

119. StarHub is grateful for the opportunity to comment on this matter and we appreciate the Authority's consideration of our comments.