CONSULTATION ON THE TELECOMMUNICATIONS AND SUBSCRIPTION TV MEDIATION-ADJUDICATION SCHEME

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1.1. This submission is structured as follows:

2. INTRODUCTION AND STATEMENT OF INTEREST

2.1. Singtel refers to the Consultation Paper issued by the IMDA on the telecommunication and subscription TV mediation-adjudication scheme.

2.2. Singtel has a comprehensive portfolio of services that includes voice and data services over fixed, wireless and Internet platforms. Singtel services both business and residential customers and is committed to bringing the best of global info-communications to its customers in the Asia Pacific and beyond.

2.3. Singtel is also 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. It is also licensed to offer IPTV services under a nationwide subscription television licence granted by the IMDA.

2.4. Singtel welcomes the opportunity to make this submission on the Consultation Paper.

2.5. Singtel would be pleased to clarify any of the views and comments made in this submission, as appropriate.

3. EXECUTIVE SUMMARY

3.1. In Singtel's response to the Ministry of Communications and Information (**MCI**) review of the Telecommunications Act and related amendments to the Media Development Authority of Singapore Act dated 31 August 2016, we submitted that the proposed Alternative Dispute Resolution (**ADR**) scheme was not necessary and that its costs would outweigh its benefits. There are already a range of consumer protection mechanisms in the telecommunications and media sectors, ranging from regulatory measures designed to deal with systemic concerns (such as the Telecom Competition Code and Media Market Conduct Code) to mechanisms for dealing with individual contractual disputes (including through the Courts, Small Claims Tribunal (**SCT**), Consumers Association of Singapore (**CASE**) and the IMDA).

3.2. There remains no evidence that these mechanisms are not working satisfactorily; indeed, as set out in paragraph 4.6 below, the telecommunications and media sectors do not record a particularly high level of consumer complaints compared to other sectors of the economy. As such, Singtel submits that there is no need to impose additional regulatory requirements to establish an ADR scheme.

3.3. Notwithstanding the above, Singtel has reviewed the IMDA's proposed ADR scheme and submits its proposed amendments to the proposed ADR scheme. Singtel's proposed amendments include:

(i) The ADR scheme should be developed in the first instance as a self-regulatory scheme designed by the telecommunications and media industry, to be considered and approved by the IMDA.

(ii) To ensure that the proposed ADR scheme is used only where other available options have proved unsuccessful, the consumer should be required to serve a notice of intention to mediate confirming that it has exhausted the complaints channel, and a consumer should not be permitted to issue a notice of intention to mediate until three (3) months after first complaining to the service provider.

(iii) While a documents-based adjudication will generally be more efficient, adjudication should be available by way of a face-to-face meeting where agreed by the Disputing Parties.

(iv) Consumers should not be given the option to reject the adjudication decision. Details and results of the mediation and adjudication should be kept strictly confidential between the Disputing Parties.

(v) An appeals process for adjudication decisions should be clarified and, if necessary, developed.

(vi) The scheme should require the participation of any service provider who supplies an Eligible Service (not just those with a billing relationship with the consumer), and should extend to partners with a billing-on-behalf arrangement and handset manufacturers.

(vii) The scope of Eligible Services should be limited to a defined list of services, being the list set out as example at paragraph 5.3 of the Consultation Paper.

(viii) The financial remedies which the ADR operator would be able to award should be capped, as is the case in Australia, New Zealand and the UK. We suggest that an appropriate cap would be $5,000.

(ix) The fee ratio for disputes which are resolved through mediation should be 50:50. The fee ratio in respect of adjudication should be determined by the adjudicator, with the default position being that the unsuccessful Disputing Party should bear a higher proportion.

4. SPECIFIC COMMENTS

Question 1
Do you have any comments or suggestions on IMDA's proposed two-step Mediation-Adjudication process, and whether this process will achieve the policy objectives of providing the Disputing Parties with a resolution in an effective manner?

4.1. In Singtel's response to the MCI's review of the Telecommunications Act and related amendments to the Media Development Authority of Singapore Act dated 31 August 2016, we submitted that the proposed ADR scheme was not necessary and that its costs would outweigh its benefits. We reiterate our reasons below.

4.2. First, the IMDA has put in place various consumer protection measures to safeguard consumer interests in the telecommunications and media sectors. Telecommunications service providers are obliged to comply with the mandatory contractual obligations set out in the Telecom Competition Code; these address, among other things, billing periods, prices and non-price terms and conditions of service(s), avenues for private dispute resolution, procedures to contest charges, how the end-users' information may be used and circumstances under which suspension or termination of a service can take

place. There are similar provisions in the Media Market Conduct Code for media service providers.

4.3. Second, the establishment of an ADR scheme is not necessary given the various channels (e.g. the Courts, SCT and IMDA) through which consumers can already seek assistance in resolving individual disputes with their service providers. All such avenues are provided for under the law and/or contracts. Furthermore, the charges for such other channels is very reasonable, which customers can easily avail themselves to, e.g. SCT charges $10 for a claim up to $5,000.

4.4. Third, the establishment of an ADR scheme may not be efficient in resolving consumer disputes due to the need for specialised industry practitioners who also have a working knowledge of law and regulations, and the possibility of the ADR scheme undermining the certainty of contracts. In particular, we would highlight that it is important for the ADR operator to be familiar with all applicable laws, regulations and industry practices in the telecommunications and media sector in order to ensure that there will be consistency and fairness in the mediation/adjudication process.

4.5. It remains unclear as to the benefits and effectiveness of establishing an ADR scheme specifically for the telecommunications and media sector in view of the above considerations, and how it would specifically provide a resolution in an effective manner. Forcing service providers to accept mediation in contrast to other forms of dispute resolution is neither fair nor effective, particularly when consumers can avail themselves of the services offered by a variety of service providers in a highly competitive market. There is no practical or economic requirement to implement additional regulations to 'protect consumers' in a market that is already very competitive and where consumers will simply vote with their feet where disputes arise in relation to alleged/perceived bad service.

4.6. We also note that in a press release by CASE on 7 February 2018[1], only 3% of the total number of complaints received by CASE in 2017 related to telecommunications. With only approximately 470 telecommunication cases in 2017, it is highly questionable whether there is any need for, or that there would be much use made of, any ADR scheme. There are a significant number of other industries in Singapore (most notably motorcars, beauty, renovation contractors and electrical and electronics) that attract a far greater number of complaints and disputes than the telecommunications industry, yet such industries do not have their own ADR scheme and instead rely on the current dispute resolution bodies, like CASE, and other channels.

[1] https://www.case.org.sg/admin/news/pdf/292_pdf.pdf

4.7. The growth of mediation shows that consumers are making use of existing alternative dispute resolution mechanisms. There was a significant increase (8%) in the number of cases filed with the Singapore Mediation Centre (**SMC**) in 2017 compared to 2016. In total 538 matters were filed for mediation at the SMC in 2017 of which 465 were eventually mediated[2]. These figures illustrate that consumer complaints already have an effective forum in which they can be resolved.

4.8. We submit that the establishment of such an ADR scheme is not necessary and that its costs would outweigh its benefits.

4.9. Notwithstanding our views and comments set out above, should the IMDA decide to proceed with an ADR scheme, Singtel submits that a self-regulation scheme would ensure effective resolution of disputes whilst reducing the related costs. For example, in New Zealand, the NZ Telecommunications Forum, an industry organisation representing the telecommunications providers of New Zealand, has delegated statutory responsibility for preparing a draft dispute resolution scheme which is then submitted to the Minister of Communications for approval. If the Minister is not satisfied with the industry-led scheme, he or she can impose a regulated scheme instead. This reserve power has never been used; the industry-led scheme has operated successfully since it was established over a decade ago.

4.10. Implementing such a self-regulation scheme in Singapore would improve efficiency and reduce costs in dealing with consumer disputes over a regulated ADR scheme, through the involvement of specialised industry practitioners. It would also be consistent with the IMDA's statutory powers for the industry to propose a scheme to be endorsed by the IMDA: section 32N (1) of the Telecommunications Act empowers the IMDA to "*establish **or approve** one or more dispute resolution schemes*" (emphasis added).

Question 2
Do you think it is necessary to serve a "notice of intention to mediate" so that it is demonstrated that the Disputing Parties have exhausted all available options before starting mediation proceedings? What are your views on the 14 calendar days required – is it too long, too short or sufficient?

4.11. We refer to our comments above on the benefits and effectiveness of establishing an ADR scheme.

[2] http://www.straitstimes.com/singapore/record-year-for-mediation-centre-in-2017

4.12. Notwithstanding our comments above, we agree with the position that the proposed ADR scheme should be available only where other available options have proved unsuccessful.

4.13. In summary, we suggest that:

(i) the consumer should be required to serve a notice of intention to mediate, in which the consumer confirms that it has approached the service provider directly, it has provided all necessary information to the service provider and exhausted the complaints channel;

(ii) a consumer should not be permitted to issue a notice of intention to mediate until a minimum period of time – we suggest 3 months – has passed since the consumer first complained directly to the service provider;

(iii) once a notice of intention to mediate has been given, there should be a minimum notice period of one (1) month before the mediation occurs to allow sufficient time for the service provider to respond to the consumer and prepare the necessary information in the event of mediation and/or adjudication;

(iv) [service providers should also have the ability to serve a notice of intention to mediate when issues arise with consumers. This would help to ensure a more fair and consistent system.]; and

(v) the terms of reference of the ADR scheme should not permit vexatious or frivolous claims to proceed.

4.14. As part of the ADR operator's assessment of whether the consumer has exhausted the complaints channel, we submit that the ADR operator should reject complaints until a minimum period of time has passed since the consumer first complained directly to the service provider. This would ensure a more efficient and fairer ADR scheme as well as bringing such a scheme into alignment with schemes in Australia, New Zealand and the UK. We suggest that 3 months would be an appropriate period of time. In addition, Singtel submits that the ADR scheme should dismiss at an early stage disputes where the consumer has refused to engage properly with the service provider (or stay such disputes until the consumer has adequately engaged) or otherwise acted in bad faith in relation to the dispute.

4.15. Furthermore, it is not clear to us how the ADR operator could adjudicate on matters that are clearly vexatious complaints from consumers attempting to extract higher values that do not have any basis in the complaints. For example, a customer may complain that a service disruption for an hour has led to a S$1 million loss and expects a monetary compensation of S$1 million, which subsequently leads to a dragged-out

process. Referring such complaints to an ADR scheme can only have the desired effect if the entire focus is on determining the reasonableness of the case, and not on providing consumers with an alternative dispute resolution centre in order to maximise their chances of receiving a financial (or other) reward from service providers.

4.16. For this reason, we suggest that the terms of reference of the ADR scheme be clear and identify that the ADR scheme is not to benefit end-users' frivolous and vexatious demands. We recommend that vexatious and frivolous claims are dismissed at an early stage. For the same purpose, the scheme should incorporate an award for costs for end-users to bear if their complaint is found to be vexatious or frivolous. This would bring a sense of rigour and professionalism to the process.

4.17. We caution that the ADR scheme could not be allowed to degenerate into a market bargaining place where parties can undertake 'forum shopping' and look to it as a means to obtain better deals.

Question 3
Do you agree that a documents-based adjudication is more efficient for the Disputing Parties, or do you have any suggestions to enhance the adjudication stage?

4.18. We agree that a documents-based adjudication would generally be more efficient as compared to a face-to-face session. However, we wish to highlight that there may be cases where there may be forms of documentation that are not in writing, e.g. voice recordings of the conversation between the consumer and our customer service officer. We seek the IMDA's clarification as to whether the submission of such other forms of documentation would be accepted.

4.19. We also suggest that where the Disputing Parties agree to do so, adjudication should be available by way of a face-to-face meeting as an alternative to a documents-based process. This recognises that while decisions on the papers will typically lead to a more efficient process, there may be instances where a dispute can be more efficiently resolved through an in-person meeting. Our suggested requirement that face-to-face adjudications be available only by mutual agreement would limit their use to only cases where efficient and constructive dialogue can be expected.

4.20. We also seek the IMDA's clarification on the information to be provided by the consumer when a notice of intention to mediate is submitted by the consumer to the ADR operator. Singtel submits that there should be clarity and transparency in the consumer's submission of the notice of intention to mediate, so that service providers

have the opportunity to respond and provide the relevant information on the dispute. This would allow for a fairer, more reasonable and efficient process in resolving such disputes.

Question 4

What are your views on giving consumers the option to choose whether to accept an adjudicated decision for it to be binding on the Disputing Parties? Do you think that this would help to achieve faster resolution of disputes?

4.21. We are of the view that it would be counter-productive for consumers to be given the option to reject the adjudication decision. Furthermore, there is no objective basis why the consumer should have all the rights and deciding powers under the proposed ADR scheme. It would not be fair or reasonable for the adjudication decision to be final and binding on the service provider, yet the consumer has the right to decide to accept or reject the adjudication decision at will. It raises the possibility that a dispute could go through three rounds of resolution – directly with the service provider, mediation then adjudication – and then still finish without any resolution. This is inconsistent with the fundamental intent for adjudication to result in a final and binding outcome.

4.22. We are also of the view that the details and results of the mediation and adjudication should not be publicised and should be kept strictly confidential between the consumer and the service provider, whether or not the decision is accepted by the consumer. This should include prohibiting disclosure on social media. This is necessary because the resolution could involve details that a party may not be willing or legally permitted to disclose more broadly, including commercially confidential information. Furthermore, the proposed resolution should not be able to be relied on in the course of any further dispute resolution on such matter between the parties or as a case precedent by the public in general. Otherwise, it will engender the same effect that has been pointed out in the previous sections, i.e. it encourages end-users to drag out their resolutions for reference to the ADR (and potentially, then, additional dispute resolution after ADR) in order to obtain what the end-user feels is a better deal.

4.23. We also seek the IMDA's clarification on the availability of an appeals process in the event that service providers wish to appeal against the adjudication decision, e.g. the Courts or any other body. Singtel submits that such an appeals process should be considered and established as part of the ADR scheme.

Question 5

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

4.24. As explained above, we are of the view that the establishment of an ADR scheme is not necessary given the various channels (e.g. the Courts, SCT, CASE and IMDA) through which consumers can already seek assistance in resolving individual disputes with their service providers. All such avenues are provided for under the law and/or contracts, and there is already a clear and established process to follow.

4.25. We do not support the option of one party deciding to go straight to adjudication. This will allow one party to unilaterally skip important steps in the ADR process if it did not suit it to follow the process. We believe that it would be more reasonable to allow the choice of dispute resolution to be left open to be agreed by both the consumer and the service provider. Accordingly, the ability to go straight to adjudication (and bypass the mediation stage) should only be available by mutual agreement between the consumer and service provider.

Question 6
Do you agree that apart from Individual Consumers, it is beneficial to include Small Business Customers as Eligible Customers under the Scheme? Why do you think so?

4.26. We note that in the MCI's public consultation, it was proposed that the ADR scheme would only cover residential/individual retail customers as it was observed that "*business end-users generally have greater bargaining power and hence most disputes would usually be resolved amicably between the affected business end-users and the relevant service provider*"[3]. Singtel had supported the MCI's position on this regard.

4.27. It is therefore unclear why the IMDA has now decided to include Small Business Customers under the ADR scheme. Small Business Customers have bargaining power, particularly since the next gen NBN nationwide deployment and the services offered to these customers may include services which are more sophisticated and complex, e.g. the Singtel PhoneNet service and Singtel Meg@POP service. Such services also typically offer service-level agreements which are contractually binding on the service provider. Singtel submits that it is unnecessary to include Small Business Customers under the ADR scheme.

4.28. Notwithstanding our comments above, if the IMDA decides to include Small Business Customers under the ADR scheme, we suggest that the scope of complaints to which

[3] Footnote 14 of the MCI's consultation on 5 August 2016

the ADR scheme will apply for Small Business Customers should be more focussed. For example, under the UK's Communication ADR scheme, certain services (notably premium rate services, On Demand services and disputes regarding mobile handsets) are excluded from the scope of the ADR scheme for Small Business Customers. We suggest that there should also be exclusions in relation to the scope of the ADR scheme for Small Business Customers in Singapore.

4.29. Further, in the first example provided on page 7 of the Consultation Paper, it is not immediately clear whether the relevant services are purchased by (and the relevant disputes brought by) the individuals directly, or the company on behalf of its employees. In either scenario, we would expect that the ADR scheme would not apply. The ADR scheme is intended to redress imbalances of negotiating power. Where corporate customers are involved (whether directly or indirectly) in negotiating deals for their employees' benefit, the ADR scheme should not apply.

Question 7
Is the definition of Small Business Customer appropriate? If not, how should it be defined?

4.30. We refer to our comments above on the exclusion of Small Business Customers from the ADR scheme. We also recommend that LLPs and private limited companies be excluded from the ADR scheme.

Question 8
Do you agree that IMDA should mandate participation of all telecommunication and subscription TV Service Providers that have direct billing relationship with Eligible Customers in the Scheme?

4.31. As explained above, we are of the view that the establishment of an ADR scheme is not necessary.

4.32. Notwithstanding the above, we agree with the proposal to require the participation of all telecommunication and subscription TV service providers that have a direct billing relationship with eligible customers. This will ensure an equal playing field between all telecommunication and subscription TV service providers and avoid potential confusion over which service providers are covered.

4.33. We note for example that there have been cases where consumers have assumed that one provider is responsible for the services provided by another provider and then bring

complaints. This happens when a consumer has multiple services and some services are delivered on top of other services. The consumer will feel confused and view the process as inefficient if it is allowed to only rely on the ADR process for some services and not others.

Question 9
Are there other Service Providers that should be required to participate in the ADR scheme? Why do you think so?

4.34. Should the IMDA implement the proposed ADR scheme, we are of the view that the scheme should require the participation of any service provider who supplies an Eligible Service. In addition to all telecommunications and subscription TV service providers who have a direct billing relationship with eligible customers, the following service providers should also be covered:

a) Partners with a billing-on-behalf arrangement – as the IMDA is aware, Singtel offers a billing-on-behalf arrangement for various parties such as third-party premium-rate services (**PRS**) providers, Google Play Store, Apple iTunes, etc. Consumers sign up for services and content with such third-parties and pay for such services and content via their Singtel bill. Singtel submits that in the event of any dispute or disagreement between consumers and such parties, such parties should be responsible for resolving the dispute instead of the billing-on-behalf operator.

b) Handset manufacturers – Singtel Mobile is licensed to offer mobile services to consumers. Consumers may be offered attractive handset subsidies when signing up for such mobile services. However, such handsets are manufactured by handset manufacturers, not Singtel. While in the event of any dispute or disagreement recourse should first be had to the Consumer Protection (Fair Trading) Act (**CPTFA**), the CPFTA will not cover all disputes that may arise in relation to handsets. Accordingly, handset manufacturers should be covered by the ADR scheme to ensure consumers can obtain an appropriate resolution from the party responsible for the handset instead of the mobile operator.

4.35. In practice, inclusion of a service provider within the scheme will not adversely affect that service provider unless it also supplies Eligible Services (as discussed below). This would avoid an unfair situation where – if the scheme is implemented – a service provider provides an Eligible Service but escapes responsibility to the consumer due to falling outside the scope of service providers covered by the scheme.

Question 10
Do you have any comments on the proposed scope of Eligible Services, and what services should be included or excluded from the scope? Why do you think so?

4.36. Singtel submits that there needs to be clearly defined guidelines and definitions of the services covered so that both service providers and consumers are clear about the criteria and eligibility of the disputes that can be brought up to the ADR operator.

4.37. We are of the view that the proposed scope in the Consultation Paper to cover all telecommunications and subscription TV services is too broad. We propose that a fixed list of services be defined, i.e. the ADR scheme should only cover the following services for residential consumers, including the key associated services such as handsets and PRS:

a) Mobile services;
b) Broadband internet services;
c) Fixed line services;
d) Subscription TV services; and
e) Fibre connection services.

4.38. This defined list of Eligible Services would replace the broad and ambiguous proposed scope of "*all telecommunication and subscription TV services for which a consumer would enter into service agreements, billing arrangements or incur once-off charges with Service Providers*" currently proposed at paragraph 5.3 of the Consultation Paper.

Question 11
Do you agree that Eligible Complaint Issues ought to be limited to issues that can be resolved through service recovery efforts, or compensated in kind or monetary terms? Why do you think so?

4.39. We have provided some of our views in the preceding sections. We are of the view that there needs to be clearly defined guidelines and definitions of the types of disputes that can be brought up to the ADR operator so that both service providers and consumers are clear about the criteria and eligibility of the disputes that can be brought up to the ADR operator. For example: what kind of cases would be considered by the ADR operator to be frivolous or vexatious? Will cases which were previously handled by other bodies such as CASE, SCT, SMC or the Courts be entertained by the ADR

operator? What are considered as 'issues that can be resolved through service recovery efforts or compensated in kind or monetary terms'?

4.40. Should the IMDA decide to proceed with the implementation of the ADR scheme, we propose that the scope of the ADR scheme should only cover billing disputes. This is observed in countries like Hong Kong, where the Customer Complaint Settlement Scheme (**CCSS**) only covers billing disputes.

4.41. Singtel also submits that a period of one (1) year for consumers to raise a dispute is too long. Section 3.3.4 of the Telecom Competition Code relates to a dispute that "*the End User reasonably believes to be incorrect, including situations in which the End User reasonably believes that the charge was improperly calculated as well as situations in which the End User reasonably believes that the Licensee has not provided the service that it has agreed to provide".* It is not meant to cover the wide scope proposed under the ADR scheme. For the purpose of the validity period under the ADR scheme, we are of the view that a period of 3 months should be sufficient. This puts the responsibility on consumers to raise their disputes in a timely manner. It is also more consistent with the stated intention that the ADR scheme should allow disputes to be settled in an efficient way.

4.42. Singtel submits that the remedies which the ADR scheme would be able to award should also be clearly defined. Transparency regarding remedies would encourage more effective use of the scheme and earlier resolution of issues. In particular, we submit that the financial remedies which the ADR operator would be able to award should be capped, as is the case in Australia, New Zealand and the UK. We suggest that an appropriate cap would be $5,000 which would ensure the scheme fulfils its purpose of providing an alternative dispute resolution for individual claims while ensuring more complex actions that require more detailed consideration are still dealt with appropriately.

Question 12
What do you think are other complaint issues that should be included and/or excluded from the scope of issues that are eligible under the Scheme? Why do you think so?

4.43. We refer to our comments above regarding the fixed list of services and limiting the scope of the scheme to Billing Disputes.

4.44. We are of the view that the following issues should also be excluded from the scope:

a) terms and conditions of the service that are stated in the consumer's contract – the Telecom Competition Code and the Media Market Conduct Code place specific restrictions on the terms in agreements with end-users. In addition, the competitive nature of the telecommunications and media markets further restrains service providers in setting terms and conditions of service. As such, where the terms and conditions of the service (including technical limitations and constraints) are stated in the consumer's contract, any action taken under the ADR scheme should only address whether the contractual terms have been complied with. The consumer should not have the right to dispute such matters where there has been no breach of the contractual terms they have voluntarily entered into with their service provider, as this would undermine the certainty of contracts. Further, any remedies imposed by the ADR operator should be consistent with the remedies which are available under the customer's contract. Singtel considers that the Telecom Competition Code and the Media Market Conduct Code already have sufficient consumer protection and a lack of contractual certainty would negatively affect the telecommunications and media sectors and would potentially increase costs.

b) Complaints regarding "general dissatisfaction" which is not specific to a product, service or event should be excluded from the scope of the scheme. This would help to ensure the scheme operates efficiently and limit abuse. In such a competitive market, general dissatisfaction will be dealt with by consumers moving to a different service provider.

4.45. We have also reviewed the list of examples provided by the IMDA in relation to eligible and non-eligible complaint issues on page 14 of the Consultation Paper. We wish to highlight the following considerations under the list of eligible complaints:

a) Example 1 – it is unclear why this is an eligible complaint. Under the Media Market Conduct Code, SingNet is required to provide information on the list of channels which the consumer can access under their content pack. Since such information is already provided to the consumer as part of the service contract, which the consumer has agreed to, this cannot be considered as an eligible complaint.

b) Example 2 – we do not agree that this is an eligible complaint. As the IMDA is aware, telecommunication service providers are not responsible for the security of third-party equipment and devices. It is the responsibility of customers to secure their equipment and devices such that they are not susceptible to such unauthorised

access/charges. Furthermore, Singtel already provides information in its service application form to warn customers about such a situation.

c) Example 3 – it is unclear why this is an eligible complaint. The service disruption could be due to various reasons, some of which may or may not be under the control of service providers, e.g. faulty customer equipment, wear and tear, poor internal wiring or disruption/cable cuts by third-parties. Furthermore, our service agreements with consumers do not include a service level guarantee or a mean-time-to-repair guarantee.

d) Example 4 – it is unclear why this is an eligible complaint. The delay could be due to various reasons, e.g. unexpected delay from a previous appointment or the consumer requesting a last-minute change in the appointment time. Furthermore, our service agreements with consumers do not include a service installation guarantee.

e) Example 5 – it is unclear why this is an eligible complaint. The delay could be due to various reasons, e.g. faulty customer equipment or disruption/cable cuts due to third-parties. Furthermore, our service agreements with consumers do not include a service level guarantee.

4.46. As the IMDA would be aware, many disputes are not clear-cut and may involve multiple parties and various considerations. It is important that the ADR operator understands and appreciates the intricacies and complexities of the telecommunications and media industries in order for there to be a fair and reasonable outcome.

Question 13
Do you agree that IMDA should adopt a co-payment model so that the Scheme can be self-sustainable? Why do you think so?

4.47. Given that the ADR scheme would be a regulatory requirement imposed by the IMDA, we are of the view that the IMDA should also be responsible for funding part of the cost of the mediation-adjudication process.

Question 14
What are your views on the fee ratio of 10:90 in favour of the consumer to help balance the disparity in the respective bargaining power of the Disputing Parties?

4.48. We do not agree that the ratio of 10:90 is fair or reasonable. As explained above, consumers can avail themselves of the services offered by a variety of service providers in a highly competitive market. There is no objective basis why service providers should pay 90% of the charges. This is especially the case given the consumer's proposed right to reject the adjudication decision and then pursue a new dispute resolution procedure. In this case, not only would the service provider have incurred 90% of the costs for the initial ADR process, it will additionally have to incur further costs in participating in a second dispute resolution procedure where it has had no control over its participation in either process.

4.49. The fee ratio for disputes which are resolved through mediation should be 50:50. This reflects that mediation is designed to achieve a resolution which is satisfactory to both parties. In that context, any concerns in relation to bargaining power are not relevant; both parties have equal responsibility for achieving a mutually acceptable mediated outcome.

4.50. We would also propose that the allocation of charges in respect of adjudication should be determined by the adjudicator, with the default position being that the unsuccessful Disputing Party should bear a higher proportion. This will mitigate against consumers who submit frivolous disputes to the ADR operator.

4.51. Should the IMDA decide to proceed with the implementation of the ADR scheme, we are also of the view that it would only be fair and reasonable for the IMDA to contribute to the funding of the ADR scheme. This is observed in countries like Hong Kong, where the Office of the Communications Authority (**OFCA**) supports the operation of the CCSS by contributing the necessary funding of the scheme. The contribution by the IMDA to the ADR scheme would help protect customers from the increased costs such a scheme would incur.