

**REACH LTD.**

**SUBMISSION IN RESPONSE TO**

**IDA'S CONSULTATION PAPER**

**DESIGNATION OF SINGAPORE**

**TELECOMMUNICATIONS LIMITED'S LOCAL LEASED**

**CIRCUITS AS MANDATORY WHOLESALE SERVICE**

**30 JUNE 2003**

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**SUBMISSION IN RESPONSE TO IDA'S CONSULTATION PAPER**

**DESIGNATION OF SINGAPORE TELECOMMUNICATIONS LIMITED'S LOCAL**

**LEASED CIRCUITS AS MANDATORY WHOLESALE SERVICE**

**1. INTRODUCTION**

Reach Ltd. ("*REACH*") provides this submission in response to the IDA's Consultation Paper "*Designation of Singapore Telecommunications Limited's Local Leased Circuits as Mandatory Wholesale Service*" ("*LLC Consultation*"). Our comments are made on behalf of our subsidiary, Reach International Telecom (Singapore) Pte Ltd, which is the holder of a Facilities Based Operator Licence ("*FBO*") in Singapore.

REACH is strongly supportive of the IDA's decision to pursue the option of regulating supply of local leased circuits ("*LLCs*") by way of inclusion in Singapore Telecommunications Limited's ("*SingTel*") Reference Interconnection Offer ("*RIO*"). We believe that the proposal in the LLC Consultation to designate LLCs as a wholesale service under the Code of Practice for Competition in the Provision of Telecommunications Services ("*Code*") will definitely improve competition in relevant markets. There are clear benefits of then mandating retail minus prices as compared to the status quo where SingTel only supplies LLCs on retail terms.

However, REACH believes that there may be more efficient and pro-competitive alternatives to the IDA's proposal such as treating LLCs as a core interconnect service to be supplied at cost based prices. Further, regardless of the approach taken by the IDA to regulating LLCs, there are a number of issues not specified in the LLC Consultation, which the IDA should address in finalising its regulation. Key here are the non-price terms of LLC supply.

In this submission, we expand on these views. We first address the need for regulation, then discuss the appropriateness of the IDA's current proposal, possible alternatives, the scope of the required LLC services, pricing models and other key issues for the IDA to consider. Our comments are linked as necessary to the specific questions raised in the LLC Consultation.

## 2. SUMMARY

The key points made in REACH's submission are summarised below for the IDA's ease of reference:

- SingTel dominates local LLC markets.
- The key market which is not effectively competitive is the wholesale LLC market.
- This has flow through impacts at the retail level as SingTel is able to leverage its market power into those markets which rely on LLCs as an input, including corporate voice, broadband, data and Internet, as well as retail LLC markets.
- The wholesale LLC market is not competitive for a range of reasons including SingTel's incumbency advantages and high barriers to entry.
- Evidence of the lack of competition can be found in SingTel's high market share, its failure to offer a wholesale product, its excessive LLC prices and the absence of alternative access networks, given high barriers to entry.
- Where market forces are failing to produce competition, it is appropriate to regulate and, in the case of LLCs, intervention should take the form of setting the price and terms of supply under SingTel's RIO.
- While this could be achieved by designating LLCs as a wholesale service, such an approach fails to recognise that LLCs are core interconnect services.
- LLCs should therefore be regulated under one of the core RIO categories such as UNS, a new broadband category, or perhaps most appropriately as an OT&T service.
- In regulating LLCs, there is a whole raft of other issues to be taken into account and particular regard needs to be given to the exact scope of service regulated.
- Options including the ability of operators to self-provide grooming pipes require definition of how these must be self-provided; whether pipes can serve multiple exchanges, who will perform the various interconnection tasks, etc.

- All options require technical scoping of the service, which should be as broad and flexible as possible, covering all speeds from E1s to STM-1s.
- Supplementary services should also be caught by the scope of LLC regulation, in particular interconnection and related equipment such as muxes.
- As well as considering the scope of service and the prices applicable, the IDA must clearly specify the non-price terms that should apply, rather than leaving these to SingTel manipulation.
- Key non-price terms include SLAs for standard processes such as ordering, provisioning, fault management etc.
- In terms of price regulation, retail minus would be better than the status quo but it does not represent a serious or efficient attempt to improve competition in Singapore markets.
- Retail minus models are inherently problematic, particularly in terms of proper selection of retail benchmarks and the arbitrary nature of discount levels applied.
- A cost based approach is the most efficient and likely to produce the greatest long term benefits to competition and consumers.
- If the IDA is concerned about the length of time to develop cost based pricing, it should implement an interim approach using international benchmarks as a proxy for cost and then apply cost based prices retrospectively after finishing its cost studies.
- Given the fact that LLCs are core interconnect services requiring cost based pricing, it is inappropriate to treat regulated provision of them as a short term measure.
- There should be no automatic sunset of LLC regulation and any review of the need for regulation should be based on a proper analysis of the state of competition in wholesale LLC markets at the time.

### 3. NEED FOR REGULATION

**The IDA welcomes views and comments on competition in the local LLCs market. Is the local LLCs market competitive and if not, what are the factors contributing to this?**

#### General Comments

REACH submits that local LLC markets are not competitive. They continue to be dominated by SingTel as a result of its incumbency advantages and high barriers to entry at the wholesale level, which mean that substitute access networks are unlikely to emerge in the foreseeable future.

This should not be surprising as LLC markets have been the subject of much regulatory attention in international markets for the same reasons. Regulators such as Oftel and the EC have been active in intervening to promote competition. As with the IDA, they have recognised that LLCs are critical services to the telecommunications industry but also for consumers economy wide. Regulatory intervention is therefore both necessary and appropriate.

As Oftel commented in its PPC Phase Two Direction (S3-S4) in December 2002:

*“Leased lines are one of the key telecoms products for business. They provide dedicated capacity for both voice and data services to corporate – and increasingly SME – customers, giving them the opportunity to gain in both price and quality terms, compared to services provided on the public network. While leased lines are available at all bandwidths, they are increasingly one of the key drivers of broadband rollout for businesses.*

*Regulators have long been interested in ensuring that prices for leased lines are subject to competitive pressure. This is an area where effective telecommunications regulation can not only boost competition within the telecoms sector, but can make a material contribution to competition in the economy overall.”*

We consider that little analysis is required to conclude that there is a problem with LLC markets in Singapore as the facts speak for themselves. Regulation is therefore needed. Nevertheless, in this section we outline evidence of the problem and likely causes. As with any competition analysis, it is necessary to start with identification of relevant markets.

## **Market Definition**

The LLC Consultation broadly refers to an LLC market and the fact that a number of services rely on LLCs as an input. While we do not believe that the IDA needs to definitively identify all markets, we do consider it necessary to focus market analysis a little further. This will ensure that the justification for regulation on the basis of lack of competition is clear and that any regulation is appropriately targeted.

In the case of LLC markets, REACH submits it is sensible to rely on the extensive market definition exercises done elsewhere and in particular the UK and Europe. The regulators in these countries emphasise that there are separate functional markets for LLCs such that they must be split into wholesale and retail services. The EC Recommendation dealing with telecommunications markets specifically defined a market for “wholesale or terminating segments of leased lines”. Oftel has identified several wholesale markets for “wholesale symmetric broadband origination” (also referred to by Oftel as “partial private circuits” or PPCs) depending on whether the service is high or low speed. It explains these services as providing “*dedicated symmetric capacity from a customer’s premises to an appropriate point of aggregation, generally referred to as a node*”.

These regulators have identified wholesale LLC markets in the context of reviewing the need for regulated supply to address lack of wholesale competition and thereby to prevent flow through impacts on downstream retail markets. Competition in wholesale markets is therefore treated as being the core issue.

Given that such regulators are targeting regulation at the wholesale level, they have not needed to carry out an extensive definition of retail markets. However they have stressed that the relevant markets are much broader than just the retail LLC market. Wholesale LLCs are also key inputs to corporate voice as well as broadband, Internet and data markets (“*Retail Broadband Markets*”).

REACH submits that the LLC Consultation should more clearly identify the lack of competition in the wholesale LLC market as the key concern, which is why it is targeting regulation at the wholesale level. It should also recognise that the impact on the retail LLC market is just a small issue as compared to the wider implications for Retail Broadband Markets.

## **Wholesale Market is Not Competitive**

The wholesale LLC market is not competitive as indicated by SingTel’s market share, its conduct to date in refusing to provide a wholesale product, the lack of substitutes available, high barriers to entry and high prices.

SingTel's real market share at the wholesale level is high. We do not have actual figures but given the absence of alternative infrastructure a high share can be assumed. REACH believes SingTel has almost 100% market share outside the CBD areas and at least 70% in CBDs. However, the latter figure is somewhat misleading as SingTel still has almost all last mile connectivity. Even where StarHub does have its own connections, SingTel generally also has access to those buildings.

We note that while StarHub does supply a number of operators with their LLCs, these do not really counter SingTel market share but rather contribute to it. StarHub does not provide true competition as it only offers LLCs at slightly lower prices than SingTel rather than a proper wholesale product. MCI does offer a very limited number of LLCs but the proportion and its effect on SingTel dominance is too insignificant to measure.

REACH also submits that SingTel's failure to offer a wholesale LLC product to date is clear evidence that the market is not competitive. In the UK, Oftel has treated BT's failure to offer a wholesale product without regulatory intervention as a key factor in finding that the market is not competitive. In a competitive market, one would expect to see an attempt to entice wholesale customers through creative pricing and service solutions. In Hong Kong, REACH has quite a different experience when buying LLCs. Hong Kong LLC arrangements are more flexible, with a greater range of discount plans and wholesale and carrier-to-carrier options.

High barriers to entry to the wholesale LLC market also indicate (and entrench) the lack of competition. To be able to provide a true substitute to SingTel's LLC products, a new entrant needs to be able to roll out an access network. This network further needs to be sufficiently ubiquitous for it to be a viable and attractive option for customers. It goes without saying that building alternative access networks is extremely expensive and not practical in today's economic environment. This is exacerbated by SingTel's sunk cost advantages.

Overseas regulators have recognised this, including Oftel in its current review of LLC markets and the regulatory measures that should be taken: "*Review of retail leased lines, symmetric broadband origination and wholesale trunk segments markets, 11 April 2003*" ("*Oftel LLC Review*"). We recommend that the IDA consider Oftel's in-depth analysis of the same issues we are confronting in Singapore, rather than REACH attempting to summarise here. The realities of the marketplace also demonstrate high barriers to entry. For example, we refer to the often cited example of New York where, despite around 20 years of competition, Verizon still dominates last mile connectivity.

Further evidence of SingTel's dominance of wholesale LLC markets is found in the fact the price for LLCs is excessively high. In this submission, we do not go into detailed pricing comparisons as the industry has already provided data on regional LLC prices in earlier submissions.

## **Retail markets**

Retail markets are being impacted as a result of high wholesale input prices. As a wholesale operator, REACH cannot comment on impacts on its product range but we know that our customers are finding it difficult to compete at the retail level. This has been recognised more broadly in public statements to the effect that Singapore is no longer viewed as a competitive telecoms hub. We refer in this regard to comments made by the Economic Development Committee as referred to in previous submissions made by the group of concerned licensees last year. We also refer to the extra attention telecommunications and LLC issues in particular were given as part of the US-Singapore trade talks and the final agreement provisions in this regard.

## **4. APPROPRIATE FORM OF REGULATION**

<p><b>The IDA welcomes views and comments on the IDA's proposed regulatory measures to promote greater competition in the local LLCs market and those market sectors that may depend on LLCs.</b></p>
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### **Regulation under RIO**

The IDA has proposed to designate LLCs as a wholesale service under the Code so that it must be supplied under SingTel's RIO.

REACH is strongly supportive of regulatory intervention as it is widely recognised that this is necessary in the absence of effective competition. REACH believes it is essential to regulate the price and terms of LLC supply under the RIO to ensure that there are controls on SingTel's market power in wholesale LLC markets. This will promote competition in those and downstream retail markets.

In this regard, we believe that any regulation that sets prices and terms for wholesale LLCs under the RIO is better than the status quo. However, the IDA's proposal to designate LLCs as a wholesale service is not the ideal solution. Under the Singapore regime, wholesale services are conceptually distinct from the core interconnect services under the RIO and are almost treated as ancillary services. REACH submits that LLCs are absolutely key inputs to retail services and are bottlenecks. They should therefore be treated as core interconnect services, such approach being consistent with international precedent such as in the UK and EU.

Other criticisms with slotting LLCs into the wholesale category include the following:

- Wholesale services have typically only been regulated on a temporary basis (related to the fact they are not seen as core interconnect services). For the reasons elaborated in our discussion of sunset clauses in section 8 of this submission, we believe more extended regulatory intervention will be required. This is because of the bottleneck characteristics of the market and high barriers to entry.
- To date retail minus models have typified wholesale regulation rather than the cost based pricing used for interconnect services. For the reasons elaborated in our discussion of pricing models (section 7), we believe that cost based pricing should be applied. It is the most efficient regulatory outcome, reflects the fact that LLCs are a core service, and is less arbitrary than a retail minus model.

REACH points out that overseas regulators have taken a very strict line with regard to LLC regulation. Oftel has first hand experience that starting off with lighter regulation and guiding principles for LLC pricing does not work. The current regulatory approach as per the Oftel LLC Review goes beyond this and, aside from inclusion of LLCs in a reference offer, imposes the following obligations:

- A general obligation to provide access on reasonable request
- Requirement not to unduly discriminate
- Charges to be cost oriented and a cost accounting system to be implemented
- Price control
- Accounting separation obligations
- Obligation to give advance notice of changes to prices and terms
- Requirement to provide quality of service information
- Requirement to provide technical information well in advance
- Obligations relating to requests for new network access.

Clearly, Oftel does not treat LLCs as an ancillary wholesale service.

**Are there additional issues that the IDA needs to consider in implementing these measures?**

**Scope of regulation**

The IDA needs to consider a number of issues relating to the scope of LLC regulation, whether it pursues the wholesale service proposal or another form of intervention.

A key issue is which licensees should be eligible to acquire the service. As an FBO, REACH is neutral on this point. However, we do believe the IDA needs to be mindful to ensure that the market is not distorted by what are really retail customers such as hotels being able to acquire wholesale LLCs on the basis of their SBO (Class) licences.

Another fundamental issue is whether regulation only applies to new services or extends to existing LLCs. REACH strongly submits that if IDA wants to really address competition in the markets and effectively regulate LLCs, it must provide for migration of existing circuits provided at excessive retail prices to the new regulated regime.

In the UK, Oftel has rejected attempts by BT to entrench previous anti-competitive conduct by keeping existing LLC customers on retail terms. Oftel has insisted that operators have a right to migrate to a wholesale product both in technical terms and on paper. It has also rejected any limitation on the time that these operators have to migrate. Further, it has had due consideration to transitional issues such as impacts on contract term by providing that any migrated contract will be deemed to have started from the date of the original contract. This prevents BT from locking in operators to LLCs beyond the term originally intended.

A further issue is defining the exact scope of service to be regulated. The IDA has proposed two complementary LLC structures – acquiring the full LLC from SingTel and self providing the grooming pipe and only acquiring the head end from SingTel. REACH supports both of these options at face value but the key service is still the full LLC. It is not a practical option for FBOs to build out to all SingTel exchanges so grooming pipes from SingTel will still be a bottleneck in most instances.

Both of these options proposed by IDA require consideration of what capacity and distance of LLC should be regulated. Our submission is that the full range from E1 to STM-1 and all distances should be included under the RIO as dealt with in section 5.

The IDA proposals should also focus the scope of regulated LLCs on circuits used to link customers back to competing operator nodes rather than to other customer sites. The current service diagrams in section 1 of the LLC consultation seem to confuse these scenarios. Typically a competing operator will acquire the tail circuit from the customer site to SingTel and then the trunk circuit or grooming pipe is leased from there back to

the operator's network as in an interconnection scenario. The wholesale demand for grooming pipes is less concerned with aggregating capacity from customer branch sites to customer headquarters.

The scope of regulated pricing must include both the recurring charges for LLCs and one off fees eg. for connection. The scope of regulation should also extend to all aspects of LLC use, including interconnection and equipment. This would avoid problems such as those that arose when IDA regulated cable station access initially without the connection service. Some of the issues IDA must address include the following:

- Who has responsibility for which task when an operator is installing its own mux.
- What are the lead time for tasks.
- How will network outages be handled.
- What will be the procedure for patches, testing and commissioning.

Oftel has stressed in its review of LLC regulation that a holistic approach must be taken. Even although it is regulating "LLCs" it has specifically picked out certain technical components that need to be supplied on the same regulated price and non-price terms.

In the Oftel LLC Review, Oftel has identified the point of connection ("POC") where the incumbent connects to other operators as requiring particular attention. The relevant services supplementing LLCs which are provided at POCs are interconnect links between the two networks and equipment in the form of muxes used for aggregation and disaggregation of circuits ready for onward transmission. These services take a slightly different form depending on whether the interconnection is virtual or physical. However, in both instances, Oftel underlined the need to for regulation to apply (6.39):

*"To achieve an overall solution, the Director considers that it is also necessary to regulate BT's provision of interconnection links and equipment, in the absence of which, BT would have an incentive to charge prices well above the cost of provision. As operators must purchase these links and equipment to interconnect and purchase interconnection services, this would have the same effect as charging excessive prices for the regulated interconnection services in each SMP market, and would undermine the remedies that are being proposed by the Director."*

REACH submits that IDA should take a similar holistic approach.

## **Self-provided grooming pipe proposal**

While initially supportive, REACH stresses that the scope of the self-provided grooming pipe proposal also requires careful definition. Operators should have the choice of whether to build or lease pipes from third parties. Build should not be required as it may not be an efficient or realistic option. The use of grooming pipes also needs to be treated carefully. SingTel should not be allowed to restrict the use of a grooming pipe to a single dedicated exchange. It should be possible for operators to self provide a grooming pipe to a key SingTel exchange and from there have SingTel provide further grooming pipes to other exchanges to which relevant head end circuits are connected. This is necessary for the IDA's proposal to be workable.

REACH submits that it is key that the IDA flesh out the self-provided grooming pipe option further before operators can commit to whether it will work or not. Currently, there are too many unanswered questions. For example, if operators are allowed to connect to a key SingTel exchange with other exchanges sitting behind, the IDA needs to identify what SingTel can charge for connectivity to these other exchanges. This would need to be regulated or overall pricing of LLCs would remain excessive. Other questions REACH would have in relation to the IDA's proposal include:

- What would provisioning times be like for connections?
- How many exchanges would an operator have to link to and place muxes in – just one 'central' exchange or multiple exchanges?
- Would there be an interconnection from customers to operator and what would be the timeline for SingTel to do this?
- Would SingTel offer different grades of service? There would be no point building grooming pipes if other operators could only get customers connected in 2 weeks when SingTel can do the same in 3 days.
- What would be required in relation to circuit testing to customer, circuit maintenance, trouble shooting etc?
- Could operators jointly build grooming pipes and then connect to SingTel under the RIO?

**Would these regulatory measures be effective in stimulating network rollout by competing operators in the longer term?**

### **No impact on network rollout**

LLC regulation would improve the ability of other operators to earn a reasonable margin. Profits can then be reinvested in their networks. To this extent, network rollout may be stimulated where it makes sense, such as for limited city rings or international infrastructure.

However, the real point is that LLC regulation may neither stimulate nor be detrimental to network rollout of alternative access networks as such rollout is unlikely to occur anyway. In other words, the effect of LLC regulation should be neutral – there is no significant roll-out of LLC infrastructure without regulation at present; the same is likely to continue even with LLC regulation.

IDA should not allow itself to be blinded by standard incumbent arguments about regulation damaging investment in infrastructure and the development of facilities based competition. Such arguments are often hollow, particularly in an area like this where there are no real prospects for competition without IDA intervention.

**Are there other more appropriate or effective regulatory measures that the IDA should consider rather than designating SingTel's LLCs as a mandatory wholesale service under the Code in the short-term?**

### **LLCs a core interconnect service**

As highlighted above, it would be more appropriate to treat LLCs as a core interconnect service and regulate under one of the other Code/RIO sections. For example, LLCs could be treated as Unbundled Network Services or similar. This option was proposed by the group of operators who made submissions to IDA on the need for LLC regulation in late 2002.

Given the ease with which the IDA can amend the Code and the forthcoming overhaul of the Code, the IDA could also redraft provisions to include LLCs as a new class of RIO service. We are not suggesting that they merit a category of their own. Rather, the IDA could take the opportunity to revisit the question of broadband regulation. While it may still be early days for it to take a definitive approach across the board, it could include a category of broadband interconnection services that could be expanded over time.

The easiest and most logical option may be to treat LLCs as origination services under the Code. They would then sit alongside PSTN OT&T as a form of broadband origination.

OfTel and the EC have classified LLCs in a similar way so the IDA would have sound precedent in taking this approach. This would require little amendment to the Code other than changes extending OT&T from PSTN voice to broadband.

## **5. DEFINITION OF REGULATED LLCS**

**The IDA welcomes views and comments on the technical definition or specification for the LLCs including the range of bandwidths (for example, 64kbps, 512 kbps, 2 Mbps) that the IDA should designate as mandatory wholesale service.**

### **Products to be included**

The scope of the LLC service subject to regulation should include the full range of bandwidths and distances, including high speed circuits. In other words, LLC prices should be established from 64kbps up to STM-1 level. Circuit distances of up to 2 km, up to 5 km and above 5km should be addressed. As a licensee operating at the wholesale level of the markets, REACH itself requires LLCs from E1 to STM-1. We note that OfTel takes the approach of regulating both low speed circuits 2 mbps (E1) and below and high speed circuits up to 155Mbps (STM-1). The EC does the same up to 34 Mbps (E3), with indications that it will also look at higher bandwidths in future.

As highlighted previously, the IDA should also require provision of the grooming pipe segment at various speeds that either match the tail segment or allow an operator to aggregate tails, for example over an STM-1. Handover speed is also relevant as highlighted by OfTel in its regulation of LLCs. Once again, as a wholesale operator REACH requires LLCs of at least E1 speed for grooming.

## **6. OTHER ISSUES TO ADDRESS – NON PRICE TERMS**

**The IDA welcomes views on other related issues that the IDA needs to address in designating SingTel's LLCs as a mandatory wholesale service. Comments should be supported by relevant evidence and reasoning.**

### **SLAs for standard processes**

In addition to price terms discussed below, IDA must clearly specify key non-price terms for LLC regulation to be meaningful. Non-price terms should be included in the IDA's proposal rather than just left to SingTel when developing new RIO provisions.

We refer to our comments in section 4 regarding non-price aspects of LLC regulation that need to be elaborated.

The IDA should also require SLAs for LLCs with specified processes and timeframes for key operational matters such as ordering, provisioning, fault management and rectification. Penalties should apply for non-compliance. These SLAs should cover ordering, supply and repair of equipment as well as circuits.

On the other hand, IDA should preempt attempts by SingTel to impose unnecessary burdens on operators by requiring key processes to be reasonable, and to ensure that SingTel does not unreasonably hamper or delay other operators through mechanisms such as security requirements or timeframes for access to SingTel sites.

REACH urges the IDA to lay down key non-price rules in its regulation of LLCs rather than leave these to SingTel to develop. The EC has taken the approach of setting key non-price terms relating to matters such as delivery timeframes as these have been a major problem in Europe. Oftel also specifies a number of non-price terms on matters such as forecasting, SLA requirements on the basis that these are too critical for the success of LLC regulation to leave to BT.

## **7. APPROPRIATE PRICING MODELS**

**The IDA also seeks views and comments on the proposed pricing principle to be adopted in the designation of SingTel's LLCs as a mandatory wholesale service and its effectiveness in promoting competition in the local LLCs market.**

### **Difficulties with retail minus**

REACH is of the view that, while a retail minus model would be better than the status quo, this model does not represent best practice regulation of key interconnect services such as LLCs. It is well recognised that retail minus models are inefficient, especially as compared to cost based pricing.

Retail minus models are also problematic to implement as generally the definition of retail price is unclear. Incumbents often have complicated pricing structures, which may change on a regular basis or for different customers. It is very difficult to be sure that the retail price used by regulators as the benchmark for this model is going to be meaningful on an ongoing basis.

In Singapore, the difficulty in applying retail minus pricing is exacerbated because there is no industry visibility of SingTel's filed retail tariffs. More importantly, these filed retail

tariffs do not represent actual prices in the market place. In fact, REACH believes there may be significant disparities. Clearly regulatory intervention based on a discount from standard prices will fail in this situation. For example, if SingTel offers retail minus 40% off its list price for an LLC to another operator but then its actual retail price to a large corporate is already discounted 40% or more, the other operator will be unable to compete for that same customer given the need to add on its own cost components and also make a margin on sale. We do not believe that there are adequate controls on SingTel preventing it from dropping its retail price at its pleasure.

REACH strongly submits that if IDA insists on a retail minus model it must make the relevant retail price completely transparent, prior to implementation and on an ongoing basis. It is also essential that any retail minus model be based on actual or averaged actual prices otherwise price regulation may prove pointless. However, ultimately REACH believes cost based pricing should be imposed instead (see below).

**As set out in paragraph 3.1(a) in this consultation paper, the IDA welcomes views on the proposed pricing methodologies to be adopted, in particular the magnitude of discount for “retail-minus” and whether it should be a single discount or tiered based on quantity purchased.**

### **Discount for wholesale**

The 40% discount proposed by IDA does not seem to have any sound analytical basis. It could therefore produce unintended results as is often the case with arbitrary regulation. If IDA insists on imposing a retail minus model, it should engage in a thorough consultation. It should announce the retail price it intends to use as a benchmark. The IDA should indicate how a 40% discount would reflect the difference in cost between retail and wholesale operations. It should then check this by looking at the flipside as to whether other operators could acquire LLCs (either head end only with self provided grooming pipe or full LLC) from SingTel at this discount while still making a viable margin.

REACH cannot ascertain for itself nor provide any guidance to the IDA as to whether the 40% discount is sufficient in the absence of visibility of SingTel's retail pricing or the 'retail price' benchmark the IDA proposes to use. The IDA should provide full details of this to allow for proper industry consultation.

Even in the absence of necessary details, REACH believes it is safe to assume 40% may be an inadequate discount for those operators who wish to take the regulatory option of building their own grooming pipes. The cost of these pipes and the equipment needed to collocate and connect to SingTel is high and may not be covered by the 40% discount while still leaving a sufficient profit margin to effectively compete against SingTel at the retail level.

As a separate issue, REACH stresses that IDA should impose a single discount if it takes a retail minus approach. Volume based discounts would only promote the interests of SingTel as its related entities ie. SingNet and SingTel Mobile would be the largest acquirers of LLCs. The same distortion would arise if IDA imposed differential discounts as between those who built grooming pipes and those buying the end to end LLC – SingTel entities would benefit disproportionately to the rest of the industry.

**The IDA welcomes any comments or alternative proposals on the pricing methodologies to be adopted.**

### **Cost based pricing**

The IDA should take a more rigorous regulatory approach and impose cost based pricing for LLCs. Cost based pricing accords with international best practice eg. in Europe and the UK. Regulators in both of these jurisdictions are currently reviewing LLC regulation and after several years of experience remain of the view that cost based pricing should be imposed.

REACH notes and agrees with the IDA's point that it is important to introduce regulation quickly so consumers reap benefits as soon as possible. However, we believe this is an insufficient reason to deviate from best practice and instead implement a second class retail minus model. If there is going to be regulatory intervention, REACH believes that the whole objective should be ensuring the best outcome for consumers over the long term. In any event, we believe that a quick solution is still possible under a cost based approach.

The IDA can implement cost oriented pricing at an early stage by relying on international best practice. It could use the wholesale LLC prices from a range of countries where LLC prices are low or have been set after cost studies. It could then use the average of these prices to determine a cost based price in Singapore. REACH submits that the IDA should seriously consider the benefits of this approach and further consult with industry about how it could best be implemented, including appropriate reference countries and services.

Benchmarking as a proxy for cost based prices is a model that is being adopted by regulators with increasing frequency across a range of interconnect services. For example, this approach has been taken in countries as diverse as New Zealand and Sri Lanka. In relation to LLCs specifically, REACH observes that the EC approach to cost based pricing is to take the average of actual prices in the three member countries with the lowest pricing. The US-Singapore FTA provisions would support such an approach being taken in Singapore, given the requirement for LLC suppliers to offer reasonable rates based on like LLCs in comparable international markets.

In taking this international benchmarking approach, IDA should avoid some of the confusion in current reviews of international pricing. The benchmarks for tail and grooming pipe combined products should not be worked out based on 2 x tail circuit price eg. 2 x 64kpbs circuit price. Rather, they should reflect the predominant practice in Singapore by combining tail circuit price + at least a 2 Mbps grooming circuit price.

REACH submits that the above benchmark model should be used on an interim basis. IDA should then set a timeframe for carrying out cost studies and implementing real cost based pricing in the Singapore context. This would put Singapore ahead in this region in terms of its approach to LLCs, which are such a critical business input for those large corporates and MNCs who want to base themselves here.

Work should start on a cost based approach immediately rather than waiting to assess how any interim prices are working. Cost studies can take some time. If the IDA pursues the LLC Consultation suggestion that the initial pricing model only be reviewed after 3 years, and then decides to impose cost based pricing, the lead time could be 4 years or more. Clearly this will have a deleterious effect on competition.

The IDA should also provide that once cost based prices have been determined, they will apply retrospectively from when IDA first decided to impose LLC regulation. This will require a netting out process from the interim prices charged. In this way, the IDA will ensure the most efficient outcome but will not let any delays in costing studies adversely affect competition in the short term. Such an approach is in line with best practice. Oftel has currently decided to use an interim price for wholesale LLCs while it carries out cost studies. Oftel has also provided that once it sets its cost based price this will apply retrospectively.

Even after cost based studies have been finalised, the IDA should ensure that pricing remains in line with international best practice by carrying out regular price reviews. This should be a totally separate exercise from any review of the need for LLC regulation (see section 8). Presently, similar reviews are only conducted after three years. However, we believe that this should be annual. Even although costs may not change so rapidly, the IDA may find that its initial studies need fine-tuning in light of industry feedback. This may include that the 'cost based' prices still do not allow effective competition, or are totally out of line with international benchmarks, such that their accuracy must be tested.

Further, IDA should monitor SingTel's costs on an ongoing basis through financial reporting obligations. It should ensure that accounting separation and reporting obligations on SingTel are sufficiently granular to demonstrate that SingTel meets its obligations for non-discrimination both in the allocation of cost components between LLCs and other services and in respect of the prices it charges to affiliated businesses.

## 8. TIMEFRAME FOR REGULATORY INTERVENTION

**The IDA welcomes views on the adequacy of the proposed 2-3 year timeframe for FBOs to build or develop the necessary infrastructure to compete in the local LLCs market in the longer term.**

### **Sunset clause inappropriate**

REACH submits that FBOs will not build sufficiently ubiquitous networks to compete in wholesale LLC markets within a 2-3 year timeframe. Over this period, we believe it is more realistic to expect some limited core network build and very sporadic attempts to build to customers. That does not make for a competitive market.

In terms of whether FBOs *could* build alternative networks, we think that reality indicates that they *could not* with regard to current economic conditions, market demand or sensible network design. In any event, in considering whether to roll back regulation it is more relevant to consider whether there will be actual competition in 2-3 years. Without actual substitutes, SingTel is unlikely to feel threatened enough to reduce prices and offer reasonable terms. The fact that it has not offered a wholesale LLC product to date despite all the forecasts for aggressive competition post April 2001 indicates that the forces of 'potential' competition are not working on it.

REACH postulates that it may be there are no proper substitutes for SingTel's wholesale LLC services in the foreseeable future. LLCs are a true bottleneck facility as with the CAN – the fact that the odd alternative circuit is built does not derogate from this. As a result, we believe it is appropriate to regulate LLCs as core interconnect services rather than just wholesale services with a limited shelf life.

In the UK, Oftel appears to have recognised that while certain LLC speeds are prospectively competitive, the main low speed LLCs used in the marketplace are simply not competitive. In the US, there is growing recognition that the FCC made a mistake when rolling back LLC regulation on the basis that LLCs were 'about to become' competitive. The incumbent companies are now gouging the market and rates of return for LLCs have risen nearly fourfold. Their arguments justifying removal of price control to the effect that they would be constrained by 'potential' competition have proven to be meaningless. Last mile access to most customer locations is still only available from incumbent providers.

We strongly urge the IDA to avoid trying to guess the future as it would be if it includes a sunset clause in any LLC regulation. It would be more appropriate to provide for periodic reviews of the state of competition in relevant markets, particularly at the wholesale level. If competition is found to be effective, then the general Code principles dictate that regulation should be wound back.

Any reviews should be set over reasonable periods so that SingTel does not waste IDA resources with unsubstantiated claims for review. The period should be long enough for there to be real change in the markets. We believe that the first review should be six years after imposition of LLC regulation. That review would then include consideration of the appropriate timeframe for subsequent reviews, depending on conditions at the time.

## **CONTACT DETAILS**

REACH trusts that the above provides some useful feedback on the questions raised by the LLC Consultation. We remain ready to discuss LLC issues with the IDA as and when required.

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