

GETTING THE DEAL THROUGH

# Telecoms and Media

An overview of regulation  
in 48 jurisdictions worldwide

# 2008

Consulting editors: Rachel Brandenburger and Natasha Good



Published by  
**GLOBAL COMPETITION REVIEW**

in association with:  
A Y Chitale & Associates  
Al Tamimi & Company  
Avramopoulos & Partners Law Firm  
Barretto Ferreira Kujawski Brancher e Gonçalves  
Sociedade de Advogados  
Blake Cassels & Graydon LLP  
Bowman Gilfillan Attorneys  
Carey y Cia Ltda  
Dimitrov Petrov & Co  
Drew & Napier LLC  
EsinIsmen  
Freshfields Bruckhaus Deringer  
GFT Advocates  
Gonzalez Calvillo SC  
Henry Davis York  
Lavrynovych & Partners Law Firm  
Lenz & Staehelin  
LG@vocats  
Mannheimer Swartling Advokatbyrå AB  
Matheson Ormsby Prentice  
Messrs Wong Jin Nee & Teo  
Moreno Baldovieso Estudio De Abogados  
Palacios Ortega y Asociados  
PLMJ  
Raidla Lejins & Norcoux  
Roschier, Attorneys Ltd  
Simonsen Advokatfirma DA  
Simpson Grierson  
SyCip Salazar Hernandez & Gatmaitan  
Udo Udoma & Belo-Osagie  
Weil Gotshal & Manges  
Wierzbowski Eversheds  
Wiley Rein LLP  
Yangming Partners  
Yulchon  
Zang, Bergel & Viñes Abogados

# Singapore

Chong Kin Lim and Wei Hao Loh

Drew & Napier LLC

---

## Communications policy

### 1 Policy

How would you summarise government and regulatory policy for the telecoms and media sector? What is the policy-making and policy development procedure?

Singapore puts great emphasis on the development and maintenance of a sophisticated and vibrant telecoms and media industry.

On 23 November 2001, the Singapore government established a unified ministry, the Ministry of Information, Communications and the Arts (MICA), to ensure better policy coordination and consistent policy formulation across the converging industries of telecoms, IT and broadcasting. Arising from this, both the Info-Communications Development Authority of Singapore (IDA) and the Media Development Authority (MDA) have been placed under the direct authority of MICA.

IDA is the statutory body responsible for the development, promotion and regulation of the info-communications industry. In 1999, IDA was formed by the merger of the National Computer Board and the Telecommunications Authority of Singapore. The first was the statutory body overseeing the development of IT; the second was the statutory body regulating the telecoms industry. IDA has therefore assumed responsibility for overseeing the development of both the telecoms and IT sectors.

MDA is the statutory body responsible for broadcasting and content regulation, irrespective of transmission medium. MDA was formed on 1 January 2003 by the merger of the Singapore Broadcasting Authority, the Films and Publications Department and the Singapore Films Commission.

### Telecoms

The government has stated that its goal is to transform Singapore into an 'intelligent' island that will meet global standards for telecoms and IT. To this end, the telecoms industry was, as of 1 April 2000, fully liberalised to encourage greater competition. The government hopes that with full liberalisation, global players will increasingly participate in Singapore's telecoms industry, choosing Singapore for their regional hubs and thus developing Singapore into a leading knowledge-based economy and telecoms hub for the Asia-Pacific region. Full liberalisation notwithstanding, a telecoms licence is granted at the discretion of IDA.

IDA, in consultation with MICA, formulates policies for the telecoms industry. Before making any decision on key regulatory and licensing issues, it is common for IDA to produce policy papers and invite the public or industry to comment on the issues. IDA also engages the industry in dialogue as part of its consultative policymaking process. IDA has also set up five

industry working groups to address inter-operator technical and operational issues. These are the inter-operator SMS industry, number portability industry, directory enquiry, integrated printed directory and mobile number portability working groups.

### Media

MDA's vision is to transform Singapore into a global media city. Shortly after MDA's formation, it published its 'Media 21' blueprint to outline its plans for the industry and the various initiatives that it will put in place over the next 10 years to nurture homegrown media enterprises and attract foreign direct investment in the media industry. The blueprint covers the full range of media industries, from print, broadcasting, film and publishing to new areas such as digital and online media.

In respect of policy formulation, MDA consults a number of committees in creating and developing its regulatory framework. These include the national internet advisory committee and other programme advisory committees. Their members are drawn from a wide cross-section of society and the media industry.

Although the telecoms and media sectors have developed considerably and rapidly over the past 10 years, content and broadcasting regulation remains separate from infrastructure regulation. Therefore firms should be mindful that they must comply with both the licensing and regulatory requirements imposed by MDA for content and broadcasting, and those imposed by IDA for the establishment and operation of any media infrastructure.

---

### 2 Convergence

Has the telecoms-specific regulation been amended to take account of the convergence of telecoms, media and IT? Are there different legal definitions of 'telecoms' and 'media'?

The telecoms-specific regulation has been revised to take greater account of the convergence of telecoms, media and IT. In January 2005, the revised Telecommunications Act (the Telecoms Act) was issued. It made clear that the IDA will regulate broadcast infrastructure. However, this does not make the Telecoms Act a piece of convergence legislation; there remains a structural distinction between the regulatory framework for telecoms and broadcasting (the latter being regulated by MDA). To minimise overlapping of jurisdiction, section 72 of the Telecoms Act states that it shall not apply to the licensing of any broadcasting service or any broadcasting apparatus that is regulated under the Broadcasting Act. Further, content regulation will also remain the responsibility of MDA.

As mentioned in question 1, IDA and MDA are under the direct authority of a unified ministry, MICA. The intention was

to ensure that the two regulatory authorities would be better placed to jointly develop Singapore's information and communications, and media industries in a coordinated and harmonised manner. Although existing telecoms regulation does not yet reflect a complete convergence of telecoms, media and IT, this may change in the future.

'Telecommunications' is defined differently from 'media'. 'Telecommunications' is defined very broadly under the Telecoms Act as:

*[A] transmission, emission or reception of signs, signals, writing, images, sounds or intelligence of any nature by wire, radio, optical or other electromagnetic systems whether or not such signs, signals, writing, images, sounds or intelligence have been subjected to a rearrangement, computation or other processes by any means in the course of their transmission, emission or reception.*

'Media' is defined in the Media Development Authority of Singapore Act (the MDA Act) as referring to any: film; newspaper; broadcasting service; or publication (as defined in the Films Act, Newspaper and Printing Presses Act, Broadcasting Act and Undesirable Publications Act, respectively). The minister may further specify in the Gazette any other thing to be included under 'media'.

This difference in definitions suggests a distinction between the provision of infrastructure and content regulation: IDA is concerned with the acts of transmission, emission and reception of signs and signals, whereas MDA is concerned with regulating the content in the abovementioned forms of media. Where services appear to concern issues of both network infrastructure and broadcasting of content, service providers (eg, internet service providers) require licences from both IDA and MDA, for infrastructure and content provision, respectively.

### 3 Broadcasting sector

Is the broadcasting sector or content regulated separately from telecoms?

The broadcasting sector and content are at present regulated separately from telecoms in Singapore. The statutory body responsible for broadcasting and content regulation (irrespective of the transmission medium) is the MDA and the applicable legislation is the MDA Act and the Broadcasting Act. The telecoms sector is regulated by the IDA under the Telecoms Act and the IDA Act.

### Telecoms regulation

#### 4 WTO Basic Telecommunications Agreement

Has your jurisdiction committed to the WTO Basic Telecommunications Agreement and, if so, with what exceptions?

Singapore is a signatory to the WTO Basic Telecommunications Agreement. Singapore committed to provide for limited competition in wire-based public switched telephony services beginning in 2000, with full competition in 2002. Singapore also committed to open markets for mobile data, cellular telephony, trunk radio services and paging services from April 2000, and to the provision of domestic and international resale of public switched capacity (not including the connection of leased lines to the public network) for most basic services, including voice, data and ISDN. Since the full liberalisation of the telecoms industry on 1 April 2000, Singapore has met and exceeded its WTO commitments in relation to the telecoms sector.

#### 5 Public/private ownership

What proportion of the stock of any incumbent operator is in the ownership of the public or of private enterprise?

Singapore Telecommunications Ltd (SingTel) is the incumbent telecoms service provider. Based on shareholder information disclosed in SingTel's Annual Report of 30 May 2007, Temasek Holdings (Pte) Ltd, the government's private investment arm, holds a direct and deemed interest of around 56 per cent in SingTel's issued share capital. The rest of the shares are in public hands.

#### 6 Foreign ownership

Do foreign ownership restrictions apply to authorisation to provide any telecoms services?

Since 1 April 2000, no direct or indirect foreign equity limits have been applicable to telecoms licences. However, IDA's current practice is to issue telecoms licences only to companies incorporated in Singapore, which can be wholly owned by a foreign entity. Merger and acquisition control regulations exist under the Telecom Competition Code 2005 (the TCC) (see question 44).

#### 7 Operator exclusivity

Does any operator have exclusivity, and, if so, for which services, and for how long?

With effect from 1 April 2000, the telecoms industry in Singapore has been fully liberalised and is subject to market competition. Accordingly, no operator has exclusivity over any telecoms service.

#### 8 Fixed, mobile and satellite services

Comparatively, how are fixed, mobile and satellite services regulated? Under what conditions may publicly available telephone services be provided?

Fixed, mobile and satellite services are regulated by legislation and through licence conditions.

#### Legislative framework

The Telecoms Act is the primary legislation governing the telecoms industry in Singapore. It sets out the broad licensing and regulatory framework for the telecoms sector. Specific issues are dealt with through regulations, codes of practice, standards of performance, directions and advisory guidelines issued by IDA, pursuant to its powers under the Telecoms Act.

The Telecoms Act does not make a distinction between fixed, mobile and satellite services per se. This is consistent with the technology-neutral approach that IDA has taken in regulating the industry. There are, however, licensing and regulatory requirements that are service-specific. For instance, the Telecommunications (Radio-Communications) Regulations (the Radio Communications Regulations) regulate the licensing process for radio frequency (RF) spectrum, the use of RF spectrum and the operation of radio stations and networks. This set of regulations is applicable primarily to mobile services.

Other regulations cover specific issues pertaining to fixed, mobile and satellite services. Examples of such regulations are the Telecommunications (Class Licence) Regulations, the Telecommunications (Dealers) Regulations and the TCC. The TCC regulates competition, interconnection and market access across the entire telecoms industry.

#### Licensing framework

All persons operating and providing telecoms systems and serv-

ices in Singapore must be licensed under section 5 of the Telecoms Act.

The licensing framework does not make a distinction between licences for fixed, mobile or satellite telecoms services. Instead, IDA categorises licences for the operation and provision of telecoms systems and services into either facilities-based operations (FBO) or services-based operations (SBO) and where RF is required for the provision of wireless services, additional licensing is required under the Radio Communications Regulations.

#### Facilities-based operations licence (FBO) licence

A person intending to deploy telecoms infrastructure (generally taken to refer to any transmission facility) to provide telecoms services to other telecoms licensees or end-users must obtain an FBO licence. IDA adopts a technology-neutral approach towards the licensing of telecoms infrastructure. The configuration of the systems deployed and the technology platform (wireless or wired) adopted will be left to the choice of the licensee, subject to spectrum and other physical constraints.

An FBO licence is on a higher hierarchical level than an SBO licence. As such, an FBO licensee does not need an SBO licence if it wishes to provide services that on their own would have required an SBO licence. The converse, however, does not apply. An SBO licensee that wishes to deploy telecoms infrastructure in the provision of telecoms services must apply for an FBO licence. The FBO licence will then replace the SBO licence.

Although the general conditions of an FBO licence are the same for all FBO licensees, the specific terms and conditions (contained in Schedule C of an FBO licence) of each individual FBO licensee are dependent on the services that the licensee may provide.

The following are some telecoms systems and services that require an FBO licence to operate or provide:

- any terrestrial telecoms infrastructure for the carriage of telecoms or broadcasting traffic (international, local nationwide or selected local geographic broadcast coverage), including but not limited to:
  - submarine cables (including the establishment of frontier stations, backhaul and sale of indefeasible rights of use);
  - satellite international gateways; and
  - domestic telecoms networks (including core backbone and local access networks);
- public switched telephone services;
- public switched message services;
- public switched integrated services digital network (ISDN) services;
- leased circuit services;
- public switched data services;
- public radiocommunication services;
- public cellular mobile telephone service (PCMTS);
- public radio paging services (PRPS);
- public trunked radio services (PTRS);
- public mobile data services (PMDS);
- public mobile broadband multimedia services (including 3G mobile communication systems);
- public fixed-wireless broadband multimedia services;
- terrestrial telecommunication network for broadcasting purposes only; and
- satellite uplink/downlink for broadcasting purposes.

#### Services-based operations licence (SBO) licence

SBO licences are granted to operators that do not intend to deploy telecoms infrastructure. Such licensees may instead lease

telecoms network elements (such as transmission capacity) from FBO licensees to provide telecoms services, or resell the telecoms services of other telecoms licensees.

SBO services can be individually licensed or class-licensed. Class licensing is a licensing scheme where the standard terms and conditions that apply to the category of licences are published in an official gazette for compliance. Operators providing the services within the scope of the class licence will be deemed to have read and agreed to the terms and conditions of the class licence. Generally, operators leasing international transmission capacity to provide telecoms services will be licensed individually.

The range of telecoms services that require individual licensing includes:

- international simple resale;
- resale of leased circuit services;
- public internet access services;
- internet exchange services;
- virtual private network services;
- managed data network services;
- store-and-forward value-added network services;
- mobile virtual network operation;
- bandwidth capacity exchange operation;
- backhaul bandwidth capacity services;
- live audiotext services; and
- prepaid services for other telecoms services such as:
  - callback and call re-origination services;
  - internet-based voice and data services;
  - store-and-retrieve (S&R) value-added network services;
  - international calling card (ICC) services;
  - resale of public switched telecoms services; and
  - global mobile personal communications by satellite (GMPCS) services.
- IP telephony services; and
- voice and data services with masking of calling line identity.

The range of telecoms services that require only a class SBO licence includes:

- callback and call re-origination services;
- internet-based voice or data services;
- resale of public switched telecoms services;
- S&R value-added network services;
- ICC services;
- audiotext services; and
- public chain payphone services.

IDA and MDA have concurrent licensing and regulatory jurisdiction over certain services, namely: audiotext, videotext and teletext services; broadcast data services; value-added network computer online services; and computer online services that are provided by internet content providers and internet service providers. These services are considered licensable broadcasting services and are therefore deemed to be class licensed under the Broadcasting (Class Licence) Notification. Internet content providers and internet service providers that are class-licensed as such are additionally subject to the Internet Code of Practice issued by MDA.

#### Licensing: radio frequency

Under the Radio Communications Regulations, RF may be allocated administratively by IDA or via a grant of a spectrum right. RFs required for the provision of 2G and 3G mobile services, wireless broadband and LMDS services have been granted as spectrum rights through an auction process (see questions 10 and

11). A spectrum right permits the grantee to use the RF identified therein for the specified purposes. It also contains conditions that the spectrum right grantee must comply with. RF required for the operation of a satellite is generally allocated administratively or assigned by IDA as part of the satellite licence (see question 10). The Radio Communications Regulations also regulate the installation and maintenance of radio communications stations or networks in Singapore.

#### Provision of publicly available telephone services

Since 1 April 2000, subject to IDA's licensing requirements, any person may apply to IDA for a licence to provide telecoms services to the public. There are no special conditions imposed by IDA for providing telecoms services to the public.

A holder of an FBO licence may, however, depending on the scope and requirements of its operations, apply to IDA to be designated as a public telecoms licensee (PTL) under section 6 of the Telecoms Act. A PTL is accorded certain statutory powers under the Telecoms Act to facilitate the deployment of telecoms infrastructure, including the power to enter state and private property to lay telecoms infrastructure. IDA will grant such applications only if the FBO licensee has committed to substantial telecoms infrastructure investment and roll-out so as to offer services to a significant proportion of the population within a reasonable time. IDA also reserves the right to impose basic service obligations on a PTL.

#### 9 Satellite facilities and submarine cables

In addition to the requirements under question 8, do other rules apply to the establishment and operation of satellite earth station facilities and the landing of submarine cables?

##### Establishment of satellite earth station facilities

Where an operator wishes to establish and operate satellite earth station facilities to provide telecoms services, in addition to an FBO licence, the operator must also obtain a satellite communications station licence from IDA for the operation and use of the earth station and associated equipment; and necessary approvals for the site and building plans of the earth station from the Urban Redevelopment Authority (URA) and Building and Construction Authority (BCA).

However, if an operator wishes to establish and operate satellite earth station facilities to provide broadcasting services only, the operator will not require an FBO licence. Instead, in addition to the satellite communications station licence and URA/BCA approvals, the operator will have to obtain:

- a satellite uplink and downlink licence or satellite downlink only licence from IDA for the transmission or reception of broadcast signals; and
- a broadcasting licence issued by MDA (the type of licence to be issued will depend on the nature of the broadcasting services provided).

A satellite communications station licence is required for the installation and operation of an earth station that includes the use of earth station equipment. Frequency will generally be assigned as part of the grant of this licence. When the licence is granted, a permit is also required to import the equipment into Singapore. The licence is for an initial term of one year, subject to renewal on a yearly basis thereafter.

Approval must be obtained from URA regarding the suitability of the site for the installation of the earth station. Following URA's approval, BCA must approve the building plans of the

earth station (BCA is concerned with the structural soundness of the building). In obtaining BCA's approval, it is possible that other relevant authorities (for example, the Fire Safety and Shelter Bureau) may be required to endorse parts of the building plan before BCA will give its final approval.

A satellite uplink and downlink licence is required for the operator to transmit and receive (ie, uplink and downlink) broadcasting signals with the use of an earth station. The yearly licence fee payable to IDA for a satellite uplink or downlink licence is S\$5,000 (approximately US\$3,700).

#### Landing of submarine cables

To land submarine cables in Singapore, the operator must obtain an FBO licence from IDA. The operator must also obtain approval from other relevant authorities, including the Singapore Maritime Port Authority in relation to the allocation of a cable route in Singapore's sea corridor. Land use planning approval from URA, BCA, or both will be required for connectivity to the nearest road from the beach manhole, and if a party wishes to construct its own cable landing station. IDA will generally help the applicant to coordinate with the other authorities.

#### 10 Radio frequency (RF) requirements

For wireless services (eg, mobile), are radio frequency (RF) licences required in addition to any telecoms services authorisations, and is an RF licence available on a competitive or non-competitive basis? Are RF licences allocated using auctions or other procedures? Is licensed spectrum tradable in any circumstances?

Any person intending to operate and provide wireless telecoms systems and services (eg, PCMTS or wireless broadband access) will require an FBO licence, a station or network licence for establishing the radio station or network, and a spectrum right for the required RF.

A spectrum right is granted according to the Radio Communications Regulations, which were issued on 2 March 2001. The Radio Communications Regulations empowers IDA to grant to any person the right to use RF spectrum for a specified period through any procedure that IDA may adopt, including a market-based allocation (ie, an auction), tender or allocation for a predetermined fee or a negotiated fee. For example, in April 2001 and May 2005 IDA auctioned spectrum rights for the provision of 3G services and wireless broadband services respectively.

Radio frequency may also be assigned by IDA as part of the relevant telecoms licence. In such event, no additional licence or spectrum right is granted for the required RF as such RF is allocated administratively, rather than through a competitive process such as an auction. Typically, RF that is not subject to market constraints will be allocated administratively and on a fixed annual fee basis.

In addition to the right to use RF, any person seeking to establish a radio station or network must obtain a station or network licence from IDA, issued on a fixed annual fee basis.

A person who uses a radio-communications station in connection with a public cellular mobile telephony system, public radio paging system, public mobile data system, public trunked radio system, public satellite mobile telephone or data system is deemed to have been granted a class licence to establish and operate the station or network.

Radio frequency that is granted under a spectrum right may be traded and shared. Such spectrum trading and sharing is subject to IDA's prior approval, the provisions of the TCC and any restrictions and conditions specified by IDA. At present, IDA has

not issued any specific regulations on the trading and sharing of RF, although conditions may be imposed via the licences.

#### 11 Third generation services

Is there any regulation for the specific roll-out of third generation mobile services (eg, in terms of licences, geographic coverage, national roaming for new entrants, etc)?

An operator wishing to provide 3G mobile services will require a 3G FBO licence, a 3G spectrum right and a station or network (spectrum) licence. A 3G spectrum right guarantees the right to use the RF identified in the grant for the purposes of operating 3G systems and providing 3G services. 3G spectrum rights were auctioned in April 2001 (3G Spectrum Auction) and were granted to MobileOne (M1), SingTel Mobile and StarHub Mobile. Upon the grant of their respective spectrum rights, the grantees were accordingly issued with 3G FBO licences and station or network (spectrum) licences. No new entrants participated in the 3G Spectrum Auction.

Pursuant to their licences, 3G FBO licensees were required to complete a nationwide network roll-out of 3G systems and services by 31 December 2004. Each licensee was obliged to provide coverage for the whole island of Singapore, including, but not limited to, MRT underground stations, lines and road tunnels, offshore islands and territorial waters up to 15km from the coastline of the island of Singapore.

IDA indicated in the information memorandum for the 3G Spectrum Auction that the licences of existing FBO licensees operating PCMTS networks would be modified to require these licensees to offer new 3G entrants roaming services on their PCMTS networks. The modified licences will require the holders to negotiate appropriate roaming agreements with new 3G entrants. IDA has indicated that it will intervene where agreement cannot be reached. Any such agreement reached through IDA's intervention will expire three years from the date of the agreement, or at the end of the nationwide 3G roll-out period, whichever is earlier. Such roaming agreements may be extended for an additional year subject to the parties agreeing on applicable rates for that year.

#### 12 Fees

What fees are payable for each type of authorisation?

The current licence fee structure for FBO licences are outlined in the table under question 14.

The licence fees payable for SBO licences are set out below.

SBO (Individual) licence	
SBO (Individual)	Initial fee: none; annual fee: S\$5,000 (US\$3,700)
Live Audiotex services only	S\$200 every three years (US\$148)
SBO (Class) licence	
SBO (Class)	S\$200 (one-time payment)
Resale of public switched telecommunication services and store and retrieve value-added network services (without the use of leased circuits)	No registration fee

#### 13 Authorisation timescale

How long does the licensing authority take to grant licences or other necessary authorisations?

An FBO licence is issued within eight weeks, an SBO (Individual) licence within four weeks and an SBO (Class) licence within two

weeks of receipt of the application or registration by IDA, provided the applicants submit all the necessary information.

#### 14 Licence duration

What is the normal duration of licences?

##### FBO licences

FBO licences and spectrum rights	Licence fee and duration
FBO designated as PTL	Initial fee: none Annual fee: 1% AGTO, subject to a minimum of S\$250,000 per year (US\$185,000) Licence duration: 20 years, renewable as IDA thinks fit
Terrestrial telecoms networks for telecoms purposes	Initial fee: none Annual fee: 1% AGTO, subject to minimum of S\$100,000 per year (US\$73,900) Licence duration: 15 years, renewable as IDA thinks fit
Public cellular mobile telephone Public mobile broadband multimedia services Public fixed-wireless broadband multimedia services	Due to limited frequency spectrum, the licence fees and licence duration will be specified together with the approach to award the respective spectrum rights and licences, via a comparative selection exercise and/or an auction exercise.
Public radio paging services Public mobile data services Public trunked radio services	Initial fee: none Annual Fee: 1% AGTO, subject to minimum of S\$1,200 per year (US\$887) Licence duration: 10 years, renewable as IDA thinks fit
Terrestrial telecoms network for broadcasting purposes only Satellite uplink/downlink for broadcasting purposes	Initial fee: none Annual Fee: S\$5,000 (US\$3,700) Licence Duration: 10 years, renewable every 5 years

##### SBO licences

All SBO (Individual) licences are valid for three years and renewable every three years. No renewal is required for SBO (Class) licences.

#### 15 Modification and assignment of licence

How may licences be modified? Are licences assignable or able to be pledged as security for financing purposes?

IDA may modify the conditions of a telecoms licence granted under section 5 of the Telecoms Act. The procedure to be followed is set out in section 7 of the Telecoms Act, which prescribes that IDA first has to give notice to the PTL licensee of the proposed modifications to the licence, including whether compensation is payable. Before finalising any direction to implement the licence modifications, IDA is also required to give PTL licensees at least 28 days to make written representations on the proposed modifications. Although the Telecoms Act does not set out the procedure to be followed in relation to the modification of non-PTL licences, it would appear that IDA has statutory discretion under section 7 to determine the modification procedure of a non-PTL licence without any limitation (subject, of course, to judicial review). Typically, the modification procedure of a non-PTL licence is set out in the relevant licence. IDA generally provides one month's notice of an intended licence modification.

Under the terms of their licences, telecoms licence holders may not assign, transfer, deal with or otherwise dispose of the whole or any part of the rights, privileges, duties or obligations (or both) under the licence without obtaining the prior written approval of IDA.

**16 Radio spectrum**

Is there a regulatory framework for the assignment of unused radio spectrum (refarming)?

Pursuant to its exclusive privilege under the Telecoms Act, IDA has the power to determine how RF is allocated. IDA also has the power to take decisions on the assignment of unused radio spectrum. Specifically, the Radio Communications Regulations give IDA the right to prepare and publish radio spectrum plans and RF band plans. The Radio Spectrum Master Plan is a document prepared by IDA pursuant to such statutory right and it serves to inform the industry and interested parties on the allocation and availability of spectrum, technological trends in the use of spectrum and IDA's policy with regard to spectrum allocation and re-allocation for public communication networks. IDA is also empowered under the Radio Communications Regulations to vary or revoke any radio spectrum plan or RF band plan, in whole or in part.

**17 Cable networks**

Is ownership of cable networks, in particular by telecoms operators, restricted?

As at 31 March 2008 there are no such restrictions in Singapore.

**18 Local loop**

Is there any specific rule regarding access to the local loop or providing for local loop unbundling?

Under the TCC, dominant licensees are required to offer unbundled network elements (which include local loop and line-sharing (loop spectrum)) to FBO licensees requesting such elements.

By a notice published in the Gazette on 15 September 2000, IDA designated SingTel and Singapore Cable Vision Ltd (now known as StarHub Cable Vision Ltd, SCV), the incumbent cable network operator, as dominant licensees.

As at 31 March 2008, an FBO licensee seeking access to SingTel's local loop may elect to rely on SingTel's reference interconnection offer (RIO) to provide such access. Where local loops or sub-loops are licensed under SingTel's RIO, SingTel may reject a request for licensing only on certain grounds as set out in Schedule 3A of SingTel's RIO. Where access to SingTel's local loop or sub-loops is not available, a licensee may request that SingTel construct the requested facilities. Any such construction request must be for a minimum of 200 pairs of loop feeder or five pairs of loop distribution (as defined in SingTel's RIO). Upon such request, SingTel is obliged to conduct a feasibility study. If the study concludes that the construction is not feasible, SingTel must provide a statement of reasons. SCV does not have to comply with similar interconnection provisions (see question 21).

More generally, the TCC includes provisions for infrastructure sharing applicable to FBO licensees only. Infrastructure sharing under the TCC is mandated where IDA deems specific infrastructure to be critical support infrastructure (CSI). FBO licensees may request infrastructure sharing in accordance with section 7 of the TCC. Section 7 also sets out the criteria under which infrastructure will be deemed as CSI by IDA.

**19 Internet**

How are internet services, including voice over the internet, regulated?

IDA regulates the provision of internet services as telecoms services. A telecoms licence is required to establish, install and maintain a public internet access facility or a system to provide such services. The provision of public internet access services requires

an SBO (Individual) licence. A telecoms licence is also required to establish, install and maintain an internet exchange facility or system for providing high-speed bandwidth connections to the internet backbone. The provision of internet exchange services requires an SBO (Individual) licence.

The provision of VoIP is similarly a licensable service and is subject to SBO (Class) licensing.

In respect of content regulation, internet access providers and internet content providers are class-licensed under an automatic licensing framework embodied in the Broadcasting (Class Licence) Notification 2001 and there is no need to obtain prior approval from MDA. In addition to the conditions of their class licences, these internet access and content providers must observe the Internet Code of Practice issued by MDA.

**20 Broadband**

Is there a government financial scheme to promote broadband penetration?

The Singapore government has been keenly promoting the development of broadband infrastructure, application and services since the 1990s. Many initiatives have been put in place over the years. Currently, the most prominent initiative launched by the government is the development of a 10-year master plan, iN2015 (Intelligent Nation 2015), to develop the information and communications sector, use technologies to enhance the competitiveness of key economic sectors and build a better-connected society. The iN2015 master plan was launched in 2006, and is spearheaded by IDA (for more details, please see 'Update and trends').

In terms of government financial schemes for the promotion of a Next Generation National Broadband Network (Next Gen NBN) as part of the IN2015 initiative, it was announced in December 2007 that the government is prepared to provide a grant of up to S\$750 million (around US\$555 million) for the development of this high-speed broadband network. This is part of the government's intention to adopt a public-private partnership approach with regard to the building, ownership and operation of the network. In particular, the government hopes that more small firms will be able to offer online services without being burdened by the cost of building the network.

**21 Interconnection**

How is interconnection regulated? Can the regulator intervene to resolve disputes between operators? Are wholesale (interconnect) prices controlled and, if so, how? What are the basic interconnect tariffs?

**Regulation of interconnection**

Interconnection arrangements between telecoms licensees are governed under the TCC. Section 5.2 of the TCC imposes a duty on telecoms licensees to interconnect.

For interconnection arrangements between non-dominant licensees, IDA will generally not intervene in the negotiation, implementation or enforcement of such agreements. IDA only imposes minimum regulatory requirements under sections 5.4 to 5.4.8 of the TCC with which the non-dominant licensees must comply in respect of their interconnection arrangements.

Section 6 of the TCC provides a basis for IDA to intervene in the negotiations for, implementation of and enforcement of interconnection arrangements with a dominant licensee. This is on the basis that a dominant licensee may lack the incentive to enter into interconnection agreements voluntarily on a commercial basis.

The TCC requires a dominant licensee to provide interconnection-related services (IRS) and mandated wholesale services (MWS) to other licensees. A qualifying telecoms licensee seeking

to obtain IRS or MWS from a dominant licensee may do so:

- by accepting the dominant licensee's RIO;
- by adopting an existing agreement for the provision of IRS and MWS (as the case may be) that has been entered into between the dominant licensee and any similarly situated licensee; or
- by seeking to negotiate an individual interconnection agreement with the dominant licensee. The TCC provides for a comprehensive dispute resolution framework to facilitate the negotiation of an individual interconnection agreement.

There are currently only two telecoms operators designated as dominant licensees. Pursuant to Government Gazette Notification No. 2535, 15 September 2000, SingTel and SCV were designated as dominant licensees. SingTel's current RIO was approved by IDA in November 2005 and is available at the IDA website ([www.ida.gov.sg](http://www.ida.gov.sg)). The revisions are expected to lower costs for telecoms operators, cover service provisioning time frames, streamline processes and reduce the costs of obtaining services from SingTel.

SCV has been exempted from interconnection provisions applicable to dominant licensees for technical reasons. However, it continues to comply with other dominant licensee obligations, such as tariff filing. Further, SCV is required by IDA to provide cable open access to competing ISPs in a non-discriminatory and transparent manner.

#### Dispute resolution

IDA is generally not involved in the day-to-day implementation of interconnection agreements entered into by non-dominant licensees. Further, as these agreements are essentially private contracts, IDA will not resolve disputes arising therefrom. However, a non-dominant licensee may request that IDA provide an interpretation of the Telecoms Act, any subsidiary legislation, any IDA decision or any provision of the TCC, if pertinent to a dispute.

In the event of a dispute in relation to interconnection agreements entered into with a dominant licensee, the following options apply: both parties may request that IDA provides conciliation (as defined in the TCC); or either party may request that IDA resolve the dispute pursuant to the dispute resolution procedures under the TCC. The procedures for requesting IDA to resolve disputes, the process for submitting petitions and responses by the parties in dispute and the standards that IDA will apply to resolve disputes are specified in the Dispute Resolution Guidelines issued by IDA on 18 February 2005. If IDA declines to intervene, the licensees may resolve the dispute in any mutually agreeable manner.

#### Control of wholesale (interconnect) prices and basic interconnect tariffs

A dominant licensee must obtain IDA's approval for the prices and terms on which it will provide IRS and MWS under its RIO. A dominant licensee also has an obligation to file a tariff with IDA and to obtain IDA's approval of the terms on which certain telecoms services (which include wholesale telecoms service) are provided. Any licensee entitled to obtain IRS or MWS may request the current prices from IDA. Otherwise, the prices for IRS and MWS are not generally available to the public.

Appendix 1 of the TCC specifies the methodology that a dominant licensee must use to develop the prices for IRS and MWS contained in its RIO. Briefly, IDA requires the dominant licensee to use long run average incremental costs, which is a common measure for forward-looking economic cost, to com-

pute the prices for most of the IRS that the dominant licensee is obligated to provide.

---

#### 22 Mobile call termination

Does the originating calling party or the receiving party pay for the charges to terminate a call on mobile networks? Are calls to mobile networks regulated, and, if so, how?

Singapore currently operates a mobile party pays (MPP) charging regime under which the receiving mobile party pays for both incoming and outgoing calls. Therefore, for fixed-to-mobile calls, the fixed-line operator (originating calling party) is not required to pay call termination charges to the mobile operator (receiving party) as the mobile operator is already compensated for terminating such calls. Origination, transit and termination charges for calls, including calls to mobile networks, are regulated and details of their computation are contained in Appendix 1 of the TCC.

---

#### 23 International mobile roaming

Are charges for international mobile roaming regulated?

Yes, in the same manner that retail tariffs are regulated. Please refer to question 24.

---

#### 24 Retail tariffs

Are retail tariffs regulated? If so, which operators' tariffs are regulated and how?

The TCC regulates retail tariffs. Dominant licensees must file retail tariffs with IDA and obtain IDA's prior written approval of the terms on which certain telecoms services (including telecoms services to end-users) are offered. This also applies to the modification of such service offering.

In reviewing retail tariffs filed by a dominant licensee, IDA will determine whether the proposed terms and conditions are just and reasonable or whether the prices are excessive or inadequate (from a competition perspective). IDA will determine whether the proposed prices are competitive by benchmarking the prices with a 'basket' of jurisdictions. To determine if the proposed prices are inadequate, IDA will assess whether the proposed prices are either above average incremental cost or higher than those offered by licensees that provide a comparable service. IDA will also seek to determine whether the proposed prices, terms and conditions are discriminatory by comparing them to those that the dominant licensee offers in other tariffs for comparable telecoms services. IDA may also consider other relevant factors. Generally, IDA will accept or reject a retail tariff within seven working days from the date of filing and the review period will be shortened to five working days for joint promotional offerings or three working days for stand-alone promotions. IDA also has the right to review any retail tariff previously approved to determine if the prices, terms and conditions remain just, reasonable and non-discriminatory.

IDA exercised its powers to reject a retail tariff when SingTel attempted to raise its local fixed-line telephone charges. Using internationally accepted costing principles, IDA determined that SingTel had not incurred an overall deficit in the provisioning of basic local telephone services.

Non-dominant licensees are not required to file retail tariffs with IDA. However, as a matter of practice, non-dominant licensees must submit, for notification purposes only, their prices, terms and conditions for telecoms services to IDA before providing such services. Non-dominant licensees are required under section 3.2.2 of the TCC to make available to end-users the prices, terms and conditions for their standard telecoms services

or equipment offerings. IDA nevertheless has the right under the FBO and SBO licences to exercise price regulation and control.

With effect from 1 March 2008, IDA has stopped regulating the prices for resale of public switched telecommunication services (PSTS). PSTS services include provision of PCMTS and public ISDN services. Licensees who currently provide resale of PSTS include hotels, service apartment providers, office rental companies, and companies providing payphone services for local and international calls within their premises. From 1 March 2008, these licensees will have the flexibility to set their own prices for the resale of PSTS. Nevertheless, PSTS resellers must still comply with IDA's requirement to disclose the prices, terms and conditions of any telecommunications service, prior to providing that service to end-users.

#### 25 Customer terms and conditions

Are customer terms and conditions required to be filed with, or approved by, the regulator or other body?

Retail tariffs filed by dominant licensees for approval with IDA must include the customer terms and conditions. As a matter of practice, non-dominant licensees are also required to notify IDA of their customer terms and conditions.

Section 3 of the TCC also sets out minimum service requirements and consumer-protection rights that must be embodied in all end-user service agreements. These include provisions relating to minimum quality of service standards, billing timelines, clarity and the right to dispute charges.

IDA also has the right under the FBO and SBO licences to require licensees to file their schemes of service, including non-price terms and conditions for the provision of services, with IDA before the launch or announcement of such services.

#### 26 Changes to telecoms law

Are any major changes planned to the telecoms laws?

The two most important pieces of telecoms legislation in Singapore, the Telecoms Act and the TCC, were revised in early 2005.

Importantly, the TCC is due for its triennial review in 2008. It is expected that any further changes to the TCC this year will seek to further accelerate telecoms development in light of the impending Next Gen NBN initiatives.

#### 27 Next-generation networks

How are next-generation networks (NGN) regulated?

NGNs (in the Singapore context, IDA's Next Gen NBN initiative), seek to converge wireline, wireless voice, video and data using a packet-based infrastructure. IDA presently adopts a technology-neutral approach towards the licensing of telecoms infrastructure, and the licensing framework does not distinguish between licences for fixed, mobile and satellite telecoms services. At present, NGNs are regulated under existing telecommunications and media legislation (see also question 8 and 'Update and trends'). While there are presently no separate regulations for NGNs, IDA is expected to introduce specific regulations in the near future to provide for a licensing framework to regulate the activities of the Next Gen NBN Operating Company (OpCo) and Network Company (NetCo).

#### 28 Structural separation

Is there a legal basis for requiring structural separation between an operator's network and service activities? Has structural separation been introduced or is it being contemplated?

At present, there is no general legislation requiring structural separation of an operator's network and service activities. However, the concept of structural separation has been introduced with regard to the deployment of Next Gen NBN.

According to IDA's studies, the creation of a more competitive broadband market requires a Next Gen NBN deployment that promotes effective open access to downstream operators. To achieve this, IDA has required structural separation between the NetCo (which builds the passive infrastructure) and the OpCo (which will provide the NGN services). According to statements made by MICA and IDA, the government is also prepared to consider legislation to achieve such effective open access for downstream operators, should the need arise.

#### Media regulation

##### 29 Ownership restrictions

Is the ownership or control of broadcasters restricted? May foreign investors participate in broadcasting activities in your jurisdiction?

##### Ownership controls

The Broadcasting Act contains ownership and control provisions that apply to broadcasting companies as defined therein. A 'broadcasting company' is a Singapore-incorporated company or Singapore branch office that holds a 'relevant licence'. A 'relevant licence' refers to any free-to-air licence, or any broadcasting licence under which a subscription broadcasting service may be provided that permits a broadcast capable of being received in 50,000 dwelling houses or more. In addition, the minister may designate any other broadcasting licence as a 'relevant licence' on public interest or national security grounds. A class licence will not be considered a 'relevant licence'.

Under the Broadcasting Act, no person may, on or after 2 September 2002, become a 12 per cent controller or an indirect controller of a broadcasting company without first obtaining the approval of the minister. The terms 'controller' and 'indirect controller' are defined in section 36 of the Broadcasting Act.

Pursuant to section 33(2) of the Broadcasting Act, unless MDA approves otherwise, the chief executive officer of a broadcasting company and at least half of its directors must be citizens of Singapore. A broadcasting company may request to be exempt from this requirement and exemptions have been made by MDA.

Notably, the new category of niche subscription television licensees has been exempted from all foreign ownership restrictions (see 'Update and trends').

Broadcasting licensees that are regulated persons (within the meaning of the MDA (Regulated Persons) Notification 2003) are subject to the provisions on consolidations and mergers in the MDA Act and the Code of Practice for Market Conduct in Provision of Mass Media Services (MDA Code) (see question 46).

##### Foreign investors

There are provisions regulating foreign participation in a broadcasting company. For instance, the prior approval of MDA must be obtained if a person wishes to receive funds from a foreign source to finance any broadcasting service owned or operated by a broadcasting company (section 43(1) of the Broadcasting Act). In addition, no company (unless the minister approves otherwise) is to be granted or permitted to hold a 'relevant licence'

(as defined in the Broadcasting Act) if the minister is satisfied that any foreign source, alone or together with one or more foreign sources:

- holds not less than 49 per cent of the shares in the company or its holding company;
- is in a position to control voting power of not less than 49 per cent in the company or its holding company; or
- all or a majority of the persons having the direction, control or management of the company or its holding company are appointed by, or accustomed or under an obligation to act in accordance with the directions of, any foreign source.

### 30 Cross-ownership

Are there any regulations in relation to the cross-ownership of media companies, including radio, television and newspapers?

No regulations specifically prohibit the cross-ownership of media companies, including radio, television and newspapers.

Such mergers and acquisitions between media companies are regulated by MDA. The prior written approval of MDA is required for all consolidations or mergers between a regulated person (as defined in the MDA Act) and another regulated person, or any other person (not being a regulated person) carrying on business in the media industry (section 23 of the MDA Act). Section 8 of the MDA Code details MDA's regulation of such consolidation activities.

### 31 Licensing requirements

What are the licensing requirements for broadcasting, including the fees payable and the timescale for the necessary authorisations?

Under section 5 of the Broadcasting Act, MDA may grant two types of licences: broadcasting licences and broadcasting apparatus licences.

#### Broadcasting licences

To broadcast programmes in Singapore, a person must obtain a broadcasting licence from MDA. Broadcasting licences may be granted for the following categories of licensable broadcasting services:

- free-to-air nationwide, localised and international television services;
- subscription nationwide, localised and international television services;
- niche subscription television services;
- special interest television services;
- free-to-air nationwide, localised and international radio services;
- subscription nationwide, localised and international radio services;
- special interest radio services;
- audiotext, videotext and teletext services;
- video-on-demand services;
- broadcast data services; and
- computer online services.

The fees payable for many of the services listed above (in particular the free-to-air or subscription television broadcasting services) are not publicly available, and are subject to revision. Listed below are the licence fees that have been published by MDA as payable for the following broadcasting services:

- S\$5,000 per annum (US\$3,700) for a subscription international television services licence (SITV licence). A performance bond of S\$50,000 (US\$37,000) must be given to MDA

by broadcasters not based or registered in Singapore. The performance bond must be issued by a financial institution approved by MDA;

- a concessionary rate of 0.5 per cent of total revenue for the first three years of operation for a nationwide subscription television licence; and 2.5 per cent of total revenue for the subsequent years, subject to a minimum licence fee of \$50,000 per year throughout. In addition, a performance bond of S\$200,000 (US\$148,000) must be furnished. A nationwide subscription licence is valid for 10 years;
- a concessionary rate of 0.5 per cent of total revenue for the first three years of operation for a niche subscription television licence; and 2.5 per cent of total revenue for the subsequent years, subject to a minimum licence fee of \$5,000 per year throughout. In addition, a performance bond of S\$50,000 must be furnished. A niche licence is valid for five years; and
- S\$1,000 per year for a television receive-only (TVRO) licence (per satellite dish).

Section 8(2) of the Broadcasting Act provides that a broadcasting licence must be in such a form and for such a period and may contain such terms and conditions as MDA determine. The Broadcasting Act sets out certain conditions that licensees must comply with, for example compliance with MDA codes of practice and certain public service broadcasting obligations. Templates of such licences are not publicly available. MDA has not indicated publicly how long it will take to process a licence application. Generally, MDA takes two to eight weeks to process an application, provided that the applicant has submitted all the information required for MDA's evaluation purposes. For more complex or novel applications, MDA may take longer.

In addition to the individual broadcasting licences listed above, there is also a class licensing regime. MDA has specified that the following licensable broadcasting services are subject to the class licence regime:

- audiotext, videotext and teletext services;
- broadcast data services;
- VAN computer online services; and
- computer online services that are provided by internet content providers and internet service providers.

A company wishing to provide a licensable broadcasting service that is subject to the class licence regime must register with MDA. In particular, audiotext service providers and internet service providers must register with MDA within 14 days of commencing the service. MDA will take about one week to process the registration forms. Registration forms for the services subject to the class licence regime are on MDA's website.

All class licensees must comply with the licence conditions contained in the Broadcasting (Class Licence) Notification. In addition, internet content providers and internet service providers must comply with the Internet Code of Practice (available at [www.mda.gov.sg](http://www.mda.gov.sg)). The yearly fees payable for the services listed below have been published in the Schedule of the Broadcasting (Class Licence) Notification:

- S\$2,000 for the provision of teletext services (US\$1,480);
- S\$1,000 for internet access service providers (US\$793);
- S\$1,000 for non-localised internet service resellers (with 500 or more user accounts);
- S\$100 for non-localised internet service resellers (with less than 500 user accounts) (US\$79.30); and
- S\$100 (per premise) for localised internet service.

The fees payable for the services not mentioned in the Broadcasting (Class Licence) Notification are not publicly available.

If broadcasting infrastructure is to be deployed, a licence (typically an SBO licence) from IDA may also be required (see question 8).

### Broadcasting apparatus licences

To install, import, sell or operate any broadcasting apparatus in Singapore, a person must obtain a licence from the MDA under section 20 of the Broadcasting Act. This requirement applies to all apparatus currently listed under the First Schedule to the Broadcasting Act (ie, broadcast television receiver, broadcast sound receiver, TVRO system). MDA retains the discretion to exempt any person or broadcasting apparatus (or class thereof) from this licence requirement.

### 32 Broadcast of foreign-produced programmes and local content requirements

Are there any regulations concerning the broadcasting of foreign-produced programmes? Do the rules require a minimum amount of local content?

There are no express regulations concerning the broadcast of foreign programmes. Such broadcasts are, however, subject to paragraph 16 of the Schedule of the Broadcasting (Class Licence) Notification that states that an internet content provider licensee shall remove, or prohibit the broadcast of, the whole or any part of a programme included in its service if MDA informs the licensee that its broadcast is against the public interest, public order or national harmony, or offends against good taste or decency.

There are no explicit rules requiring a minimum amount of local content. However, under section 17 of the Broadcasting Act, MDA may require a broadcasting licensee to broadcast programmes provided by MDA or the Singapore government as a condition of its licence, including the following:

- programmes for schools or other educational programmes;
- news and information programmes produced in Singapore or elsewhere;
- arts and cultural programmes; and
- drama and sports programmes produced in Singapore.

Further, free-to-air television and subscription television broadcasting licensees may be subject to programme codes issued by MDA containing programming and content guidelines, such as the Free-to-Air TV Programme Code and Subscription TV Programme Code (available at [www.mda.gov.sg](http://www.mda.gov.sg)). Generally, programme codes will contain guidelines congruent with national objectives, uphold racial and religious harmony, observe societal and moral standards, and promote positive family values.

Section 19 of the Broadcasting Act also provides for a must-carry provision (discussed in question 34).

### 33 Advertising

How is broadcast media advertising regulated?

At present, stricter content standards are applied to advertisements in public places (in view of their unsolicited viewing) and in mediums that have a wider impact on the general public, such as advertisements on TV. The Advertising Standards Authority of Singapore (ASAS) lays down broad industry codes and guidelines. The Singapore Code of Advertising Practice is reviewed periodically by ASAS, most recently in 2008. The Code seeks to promote a high standard of ethics in advertising through self-regulation against the background of national and international laws and practices, including the International Code of

Advertising Practice published by the International Chamber of Commerce. Together with the ASAS codes, MDA guides the advertising industry when the need arises. For TV broadcasts, MDA issues advertising codes to broadcasters, which are stricter than those for the print media due to TV's wider reach. MDA has issued a Television and a Radio Advertising Code (the Advertising Codes). These aim to protect the interests of viewers as consumers and require advertisements to be truthful, lawful and not to contain any misleading claims. All claims and comparisons must be capable of substantiation. The Advertising Codes require advertisements to respect public taste and interests and uphold moral and social values. The Advertising Codes also stipulate that broadcasters should exercise discretion when scheduling advertisements and trailers to ensure that they are appropriate for the target audience.

With regard to holders of class licences, paragraph 16 of the Schedule to the Broadcasting (Class Licence) Notification states that a licensee shall remove, or prohibit the broadcast of, the whole or any part of a programme included in its service if MDA informs the licensee that its broadcast is against the public interest, public order or national harmony, or offends against good taste or decency.

The Undesirable Publications Act prevents the importation, distribution or reproduction of undesirable publications. This covers any form of advertising that would be considered undesirable, obscene or objectionable.

### 34 Must-carry obligations

Are there regulations specifying a basic package of programmes that must be carried by operators' broadcasting distribution networks, ie, 'must-carry obligations'? Is there a mechanism for financing the costs of such obligations?

The Broadcasting Act provides for a must-carry obligation. Under section 19 of the Broadcasting Act, MDA may require a broadcasting licensee to provide for transmission and reception of any broadcasting service that is provided by any other person or that is specified in its licence (see below for details). Additionally, must-carry obligations are imposed on all nationwide subscription TV licensees to allow their subscribers to access all local free-to-air channels on their network.

Under section 2.3 of the current MDA Code, free-to-air television and radio licensees must comply with MDA's requirements regarding the broadcast of events that are of national significance. No less than once per year, MDA will provide written notification to free-to-air television and radio licensees regarding the events of national significance that they are to broadcast. MDA will generally designate only very select events as events of national significance that are to be broadcast live or delayed.

The following events are currently identified in the MDA Code as being events of national significance:

- National Day parade;
- National Day rally;
- the Prime Minister's National Day message;
- parliamentary proceedings, including budget speech and debate;
- general election, by-election and presidential election; and
- state funerals.

MDA may specify additional events or remove previous ones.

If it is not desirable for more than one entity to locate cameras and other equipment at the site of such an event, MDA may select a broadcaster to be the sole broadcaster for the event (the lead broadcaster), or conduct a competitive tender for the posi-

tion. The lead broadcaster must make the feed from the event available to all free-to-air television and radio licensees.

Any free-to-air television or radio licensee that receives the feed from the lead broadcaster has an obligation to compensate the lead broadcaster for reasonable costs, not otherwise compensated (eg, through government subsidies), that the lead broadcaster incurred in providing the free-to-air television or radio licensee with the feed.

### 35 Changes to the broadcasting laws

Are there any changes planned to the broadcasting laws? In particular, do the regulations relating to traditional broadcast activities also apply to broadcasting to mobile devices or are there specific regulations or laws in place or anticipated for those services?

The MDA Code is due for its triennial review in 2008. In November 2007, MDA completed its two public consultations on revisions to the MDA Code. As of March 2008, MDA has yet to issue a finalised version of the revised MDA Code.

At present, broadcasting to mobile devices is considered to be a licensable broadcasting service and is deemed to be class licensed under the Broadcasting (Class Licence) Notification. However, the regulations relating to mobile broadcasting activities are presently pending change. MDA completed a public consultation in January 2008 on the proposed policy and regulatory framework for mobile broadcasting services in Singapore. In the public consultation, MDA proposed that each cellular mobile TV service provider shall obtain an individual broadcasting service licence (as opposed to the present class licensing regime) before transmitting TV services in future.

Currently, MDA has adopted a flexible two-tier licensing framework – niche and nationwide licences for IPTV services. MDA proposes to adapt the same two-tier framework to regulate mobile TV service operators and cellular mobile operators that wish to provide content services on their cellular network. As mobile TV services are in their infancy, MDA proposes to license both the mobile TV service and cellular mobile TV service providers under the niche licensing framework (See 'Update and trends'). The MDA does not propose to limit the number of mobile TV broadcasting service licences.

### 36 Digital switchover

When is switchover from analogue to digital broadcasting required? How will the radio frequencies that are freed up from this switchover be reallocated?

The switchover from analogue to digital broadcasting is part of MDA's 'Media 21' blueprint but there is no specific deadline for completing the switchover. MDA is currently working with industry players and agencies to accelerate the switch to digital broadcasting. One initiative was the introduction of Digital Audio Broadcast (DAB) technology (digital radio) for all households.

Spectrum allocations have already been planned for digital broadcasting. As digital technology emerged, freed-up radio frequencies have been re-farmed by IDA in accordance with the International Telecommunication Union's spectrum allocation plan. IDA, however, continues to study the transition from analogue to digital broadcasting and will review the use of broadcasting frequencies if necessary. Of late, IDA has conducted two auctions for spectrum rights to wireless broadband and public cellular mobile telecommunications services.

## Regulatory agencies

### 37 Regulatory agencies

Which body or bodies regulate the communications sector? Is the telecoms regulator separate from the broadcasting regulator?

The IDA is primarily responsible for the development and regulation of telecoms, IT and the postal service, while the MDA is responsible for media industry development, broadcasting and content regulation, irrespective of transmission medium.

### 38 Establishment of regulatory agencies

How is each regulator established and to what extent is it independent of network operators, service providers and government?

IDA is a statutory body, established under the Info-communications Development Authority of Singapore Act; MDA is a statutory body, established under the MDA Act.

By definition, these statutory bodies are bodies corporate with perpetual succession, capable of suing and being sued in their corporate names, having the power to perform acts that bodies corporate may by law perform, and also exercise and perform such other powers and functions as are conferred by the relevant acts establishing these bodies.

IDA and MDA are not concerned with network operation and services, and are independent of government-linked corporations concerned with network operation and services. These statutory bodies are also structurally independent of the government, although their members consist of persons appointed by the minister.

### 39 Appeal procedure

How can decisions of the regulators be challenged and on what bases (merits, law, procedure etc)?

Under section 69 of the Telecoms Act, any telecoms licensee aggrieved by an IDA decision, or anything in any code of practice or standard of performance, or in certain directions of IDA, may request IDA to reconsider the matter or appeal to the minister, whose decision is final. Where a reconsideration request and an appeal have been simultaneously filed, IDA will reconsider the matter and the appeal to the minister will be withdrawn. The minister may confirm, vary or reverse the decision of IDA.

Under section 27 of the MDA Act, any licensee that is aggrieved by any decision of MDA, or anything contained in any code of practice or any direction of MDA, may appeal to the minister, whose decision is final. The minister can confirm, vary or reverse the decision of MDA.

A licensee that has exhausted the appeal process to the minister may seek judicial review of the decision in the courts.

### 40 Competition and telecoms and broadcasting regulation

To the extent that there are separate national regulatory bodies for the telecoms and broadcasting sectors responsible for sector-specific regulation and a national competition authority responsible for general competition rules, what is the respective scope of their jurisdiction in the telecoms and broadcasting sectors? Are there any mechanisms under national law to avoid conflicting exercise of jurisdiction by the authorities? Is there a specific mechanism to ensure the consistent application of competition and sector-specific regulation?

Singapore enacted a general Competition Act in 2006, which is of general application and does not apply to the telecoms and media sectors, where specific regulation exists.

IDA has issued the Telecom Competition Code (TCC), which provides for competition law applicable to the telecoms industry only, with IDA as the sector-specific competition regulator.

Likewise, MDA has issued the MDA Code which provides for market conduct and competition rules applicable to the media industry only, with MDA as the sector-specific competition regulator.

Although there is currently no specific mechanism under national law to avoid conflicting exercise of jurisdiction by IDA and MDA (especially in an increasingly convergent environment), IDA and MDA are statutory bodies that fall under the purview of the same supervising ministry (ie, MICA), and can be expected to consult with each other to ensure that their policies and the implementation thereof are not inconsistent.

In this regard, the TCC also includes a provision that IDA will consult with other regulatory authorities, where feasible and appropriate, to develop a consistent regulatory policy that promotes fair and effective competition and serves the public interest. The TCC is due for its triennial review in 2008/2009.

The MDA Code also contains a similar provision, namely that MDA will, where feasible and appropriate, consult other regulatory authorities in Singapore to develop a consistent regulatory policy that promotes fair and effective competition and serves the public interest. As mentioned, the MDA Code is currently undergoing its first triennial review. After the second public consultation ended in November 2007, the MDA proposed amendments to the MDA Code to promote congruence with the Competition Act (please see 'Update and trends').

#### 41 Interception

Do any special rules require operators to assist government under certain conditions in the interception of telecommunications messages?

In general, the Telecoms Act provides that the minister may, on the occurrence of any public emergency, in the public interest or in the interests of public security, national defence or relations with the government of another country, and after consultation with IDA, direct a licensee to stop, delay or censor messages as the minister considers requisite, expedient or necessary.

Similarly, FBO and SBO licences issued by IDA will ordinarily contain provisions to the effect that the licensee shall, where required by IDA, participate in any emergency activity or preparation thereof in collaboration with other relevant agencies, organisations and government ministries and departments, in accordance with the written law. For example, the Kidnapping Act empowers the public prosecutor to authorise any police officer to, *inter alia*, intercept any message transmitted or received by telecoms. In addition, the Official Secrets Act provides that any person owning or controlling any telecoms system used for sending or receiving messages to or from any place out of Singapore may be required to produce originals and transcripts of such messages as the minister may request.

#### 42 Data retention obligations

What are the obligations for operators and service providers to retain the data of its customers? Will they be compensated for their efforts?

There is no express obligation for operators and service providers to retain customer data and, therefore, no provisions on compensation. However, the TCC contains regulations imposing a duty on operators and service providers to take reasonable measures to prevent the unauthorised use of customer data.

In practice, operators and service providers may keep customer data for many reasons, including for the purpose of

answering customer complaints and avoiding service interruption in the event that the operator or service provider intends to terminate a service or discontinue operations. In addition, such data must be kept to meet obligations under the TCC on the termination of services and discontinuance of operations, and IDA's quality of service standards in relation to customer complaint reporting or service transitioning.

#### 43 Unsolicited communications

Does the legislation prohibit unsolicited communications (eg, by e-mail, SMS)? Are there exceptions to the prohibition?

The recent Spam Control Act (Act 21 of 2007) prohibits the sending of unsolicited e-mails and text messages. Such communications are considered 'spam' when they are commercial in nature; unsolicited by the recipient; sent in bulk; and possess a link to Singapore. Senders of spam will not be penalised if the message contains a valid 'unsubscribe' facility and the communication fulfils the labelling requirements as given in the Second Schedule (Requirements for Unsolicited Commercial Electronic Messages) to the Spam Control Act (ie, the communication must be labelled as an advertisement and state the senders' identity).

The law on spam is intended to balance the interests of businesses seeking to advertise legitimately via such methods and the wish of users not to be deluged by unwanted e-mail. To achieve this balance, the Spam Control Act prescribes a statutory exception, namely where the unsolicited commercial electronic message was sent, caused to be sent or authorised to be sent by mistake, 'mistake' being defined in the Spam Control Act to mean a reasonable mistake of fact. This would mean that an offending sender can only claim it was mistaken as to the person it was sending the spam to, and not as to the law regarding spam. Also, the sender can remove the 'unsolicited' element in the communications by seeking the express consent of the recipients of the communication prior to sending it.

Other than the Spam Control Act, there is also legislation prohibiting e-mail fraud, the sending of false or misleading advertising or product claims, or communication that contains pornography.

#### Competition and merger control

##### 44 Competition law in the telecoms and broadcasting sectors

Are anti-competitive practices in these sectors controlled by regulation or general competition law? Which regulator or competition authority controls these practices?

As mentioned in question 40, general competition law is governed under the Competition Act, which contains provisions on anti-competitive behaviour. However, the Competition Act is for general application and does not apply to the telecoms and media sectors, where sector-specific regulation exists.

In the telecoms sector, the TCC contains provisions governing anti-competitive practices and IDA is the competition regulator that enforces the TCC. The TCC does not create any private right of action. Therefore a telecoms licensee or end-user that has been harmed by the anti-competitive acts of a telecoms licensee must ask IDA to take action. The TCC also specifically empowers IDA to commence enforcement actions on its own initiative.

The provisions of the TCC apply to FBO licensees, SBO licensees and telecoms equipment dealer licensees, although to varying degrees, in recognition of the fact that certain licensees are subject to market forces whereas others are not by virtue of the extent of their control over the market. The TCC regulates competition by:

- prohibiting the abuse of a dominant position and unfair methods of competition (section 8);
- prohibiting agreements between telecoms licensees that unreasonably restrict competition (section 9); and
- regulating M&A transactions involving FBO licensees or SBO licensees that have been declared 'designated telecommunication licensees' under the Telecoms Act (section 10).

IDA, as the competition regulator, can bring the following enforcement actions against a telecoms licensee:

- interim directions to cease and desist;
- warnings;
- directions to take specific remedial actions;
- directions to cease and desist;
- financial penalties of up to S\$1 million (approximately US\$740,000) per contravention; and
- in serious cases, suspension or cancellation of the licence.

For the broadcasting sector, the MDA Act and the MDA Code contain competition provisions. As with the TCC, the MDA Code does not create any private right of action. Therefore a broadcasting licensee that has been harmed by the anti-competitive acts of another will have no private remedy (such as an action for damages) against that licensee. However, a person or entity may make a private request for MDA to take enforcement action. In the event of a breach of the MDA Code, MDA will take regulatory enforcement action (similar to the enforcement actions in the TCC) against the offending broadcasting licensee. Briefly, the MDA Code regulates competition by:

- prohibiting unfair methods of competition (section 4);
- imposing special duties and obligations on dominant licensees (sections 5 and 6);
- prohibiting agreements between broadcasting licensees that unreasonably restrict competition (section 7);
- regulating M&A transactions involving broadcasting licensees, ancillary media services providers and newspaper companies (section 8); and
- ensuring access to essential resources (section 9).

#### 45 Regulatory thresholds for the review of telecoms and broadcasting mergers, acquisitions and joint ventures

What are the jurisdictional thresholds and substantive tests for regulatory or competition law review of telecoms sector mergers, acquisitions and joint ventures? Do these differ for transactions in the broadcasting sector?

##### Thresholds: telecoms

Telecoms transactions are governed by the Telecoms Act and the TCC. Under the Act, all designated telecoms licensees (currently notified in the Gazette as being all FBO licensees) must:

- give written notice to IDA if any person acquires an ownership interest in the voting shares (whether by a series of transactions over a period of time or otherwise) that would result in the acquiring party holding an ownership interest of 5 per cent or more but less than 12 per cent of the voting shares;
- obtain IDA's written approval where a person (whether through a series of transactions over a period of time or otherwise) wishes to hold an ownership interest of 12 per cent or more but less than 30 per cent of the voting shares in the target licensee, without effective control. Such approval must be made in a prescribed manner; and within a prescribed period of time; and

- obtain IDA's written approval through a detailed consolidation application procedure where the acquisition of voting shares in the target licensee constitutes a consolidation as defined in the TCC: acquisition of at least 30 per cent voting shares; acquisition of the ability to exercise effective control; or acquisition of the business as a going concern. Such approval must be made in a prescribed manner and within a prescribed period of time. Briefly, the TCC defines a 'consolidation' as being a merger, asset acquisition or any other transaction that results in previously separate economic entities becoming a single economic entity.

A designated telecoms licensee is not required to notify IDA if an acquiring party acquires less than 5 per cent of its shares. Section 10 of the TCC sets out detailed provisions on changes in ownership and consolidations involving the aforementioned 'designated telecoms licensees'. These provisions include procedures for notification and seeking IDA's approval, presumptions that IDA will apply in reviewing such submissions, the information and documents that must be provided to IDA in respect of consolidation applications and provisions on tender offers and share buy-backs. In addition, IDA issued, on 18 February 2005, Consolidation Review Guidelines and Tender Offer Guidelines that are advisory in nature. The Consolidation Review Guidelines elaborate on the procedures, standards and principles that IDA will apply in conducting a consolidation review. The Tender Offer Guidelines explain the procedures that an acquiring party must observe before making a tender offer where the Singapore Code on Take-overs and Mergers apply. Where an FBO licensee is a publicly listed company, the licensee is also required to observe the rules governing take-overs, mergers, and acquisitions under the Singapore Code on Take-overs and Mergers.

In reviewing requests to assign a licence or change the ownership, shareholding or management of an FBO licensee in connection with a merger, acquisition or consolidation, IDA will not give its written approval unless it is satisfied that the transaction is unlikely to substantially lessen competition in any telecoms market in Singapore or harm the public interest.

As a condition of approval, IDA may, in regard of the FBO licensee:

- require it to provide access to infrastructure, information or services to other licensees, entities or end-users on a non-discriminatory basis; or reject any preferential access to infrastructure, information or services from any specified entity;
- require it to account separately for revenues from operations that are subject to effective competition and operations not subject to effective competition, and to comply with rules governing allocation of joint costs and transactions between affiliates to deter cross-subsidisation;
- require it to establish structurally separate affiliates;
- require it to divest certain assets to a third party in an arm's length transaction; and
- impose other conditions designed to increase competition.

##### Thresholds: broadcasting

Under the Broadcasting Act, no person has been able, since 2 September 2002, to become a 12 per cent controller or an indirect controller of a broadcasting company without first obtaining the approval of the minister (see question 29 for the definition of a 'broadcasting company'). All broadcasting licensees that are considered 'regulated persons' must obtain MDA's prior written approval before any consolidation or merger.

## Update and trends

### Next Generation National Broadband Network and Wireless@SG

In 2007, major developments took place on two fronts – the wired and wireless components of an enhanced National Information Infrastructure were laid out, namely the Next Generation National Broadband Network (Next Gen NBN) and Wireless@SG.

The IDA is currently developing a world-leading Next Gen NBN as one aspect of the enhanced National Infocomm Infrastructure, in line with Singapore's plan to realise the potential of info-communications. To this end, the iN2015 initiative is a 10-year master plan that aims to transform Singapore into an intelligent nation and global city powered by infocomm. The Next Gen NBN will provide nationwide ultra high-speed broadband access by 2015.

On 23 March 2006, IDA announced the Next Gen NBN Request-For-Concept (RFC), which aimed to solicit industry inputs in the areas of network capability, interconnection issues, market coverage, possible roll-out strategies and construction and installation techniques, to shape the Next Gen NBN initiative.

The RFC closed on 15 June 2006 with 33 submissions from local and international telcos, hardware and software providers, among others. Based on the submissions, fibre was suggested as the solution of choice to provide ultra high-speed broadband access of 1Gbps and above. The submissions also offered innovative business models to help Singapore enjoy some of the lowest broadband prices in the world and encourage new broadband-enabled services and applications, including immersive learning experiences, telemedicine, HD-TV, immersive video conferencing and grid computing.

On 3 March 2008, IDA started the pre-qualification exercise for the Request-For-Proposal (RFP) for the Operating Company (OpCo) of Singapore's Next Gen NBN following the launch of the Next Gen NBN Network Company (NetCo) RFP on 11 December 2007. Both launches took place after a year-long consultation and studies of deployments internationally.

As at 31 March 2008, nine consortiums remain in the running; IDA is expected to award the NetCo RFP in the third quarter of 2008 and the OpCo RFP in the first quarter of 2009.

On the wireless front, the roll-out of Wireless@SG was undoubtedly the most significant infocomm infrastructure development in 2007, with more than 620,000 users signed up for free 512Kbps wireless internet access at more than 6,200 hotspots across Singapore (as at November 2007). Wi-Fi access is presently provided by iCELL, QMax and SingTel and is available to anyone with a Wi-Fi-enabled laptop or PDA.

### Media regulation: roll-out of internet protocol television (IPTV)

MDA is actively promoting and facilitating the rollout of IPTV. IPTV uses the IP network and communication protocols to deliver television programmes to Singapore viewers via a broadband connection and a set-top box connected to a television. IPTV allows for integration of TV programmes, video-on-demand (VOD) and other interactive applications (ie, two-way communication between the service provider

and the viewer) into a comprehensive offering.

MDA has introduced a flexible, two-tiered licence framework for the regulation of IPTV: nationwide subscription TV licence and niche subscription TV licence (niche licence). The niche licence is a new type of licence designed to facilitate the growth of IPTV and other novel services in Singapore by offering operators greater flexibility to roll out services for different market segments with less onerous regulatory obligations. In particular, the niche licence does not impose any ownership or must-carry obligations on the licensee. Niche licence holders are restricted to transmitting to up to 100,000 subscribers in Singapore (unless otherwise exempted) and will be subject to the usual advertising time limits for scheduled programming and content codes for subscription and VOD programmes. VeeV Interactive Pte Ltd, a wholly owned subsidiary of Sky Media Pte Ltd, was awarded the first niche licence in March 2008.

The other licence category is the nationwide subscription TV licence, which caters to operators targeting the mass market (ie, more than 100,000 subscribers). The first nationwide IPTV licence was awarded to SingNet Pte Ltd in January 2007 for the provision of SingTel's mioTV service.

Licence applicants are free to decide which licence tier they wish to operate under. Importantly, trial licences are also available for the provision of IPTV. MDA has stated that it will not limit the number of Niche Licence holders, and welcomes local and overseas IPTV service providers to establish their presence in Singapore.

### First triennial revision of the MDA Code

MDA initiated the first triennial review of the MDA Code (available at [www.mda.gov.sg](http://www.mda.gov.sg)) in early 2007 when it released its revised MDA Code for public consultation. Pursuant to the comments and proposed changes suggested, MDA reissued a revised MDA Code for public comments. The second public consultation closed on 6 November 2007. As of March 2008, MDA has yet to issue a final version of the new MDA Code.

Based on the second revised MDA Code, MDA's proposed changes include:

- widening the MDA Code in specific areas of positive obligations, instead of widening the scope of the application of the MDA Code to include more persons. For example, MDA has proposed to widen section 9 of the second revised MDA Code on essential resources.
- aligning, where relevant, the second revised MDA Code with the principles and guidelines adopted under other competition laws prevalent in Singapore (ie the Competition Act, the TCC, relevant Competition Commission of Singapore (CCS) guidelines and codes). For example, MDA has proposed to align the definition of 'consumer' to that of 'buyer' as defined by the CCS.
- changing its consolidation thresholds to reflect those found in the CCS Guidelines on Substantive Assessment of Mergers and on Merger Procedures. Depending on the post-consolidation entity's market share, applicants must submit either a long form application form or a short form application form to obtain MDA's approval of the

**Update and trends (continued)**

proposed consolidation. Please see question 45 for details on the proposed consolidation thresholds and the long form and short form application procedures.

**Public consultation on proposed framework for mobile TV policies**

In late 2007, MDA conducted a study on international best practices and carried out a public consultation on its proposed policy and regulatory framework for mobile TV services. The introduction of mobile TV in Singapore is a further development to the broadcast media industry, and presents a new platform for content producers to showcase their

products. Simultaneously, consumers will benefit from having more media choices, varied content and the ability to access TV programmes anywhere.

In its proposal, certain key features were the adaptation of the two-tier IPTV framework to regulate mobile TV and cellular mobile TV operators. This means the introduction of the Niche Licence to mobile TV services. Currently, MDA proposes not to impose must-carry obligations on commercial mobile TV operators, but operators must comply with the current framework for advertising regulation and programme codes. It is expected that the finalised mobile TV service framework will be released in the second half of 2008.

Section 8 of the MDA Code contains further provisions on consolidations involving such regulated persons. As mentioned, MDA has yet to issue its finalised version of the revised MDA Code. According to the current MDA Code, MDA will generally conclude that any regulated person entering into a consolidation that is likely to unreasonably restrict competition in any media market in Singapore should be prohibited (paragraph 8.4). A consolidation means a merger, acquisition, take-over or other similar transaction that results in two persons ceasing to be distinct. A consolidation can take the following forms: creation of a single legal person; one person obtaining effective control over another person (ie, where a person has the ability to cause or prevent, another person's decision regarding management and major operating decisions. MDA presumes there is effective control when a person has an ownership interest or control over voting shares of 30 per cent or more); or the assets of one media service provider are purchased by another person, or where significant assets of two or more persons are transferred to a new legal person (ie, in the case of corporate joint ventures).

Persons seeking to consolidate should submit a consolidation application to MDA, which must comply with certain minimum requirements. There are two application procedures available: long and short form, with the long form being the default procedure. Applicants required to file a consolidation application may use the short form if: the post-consolidation entity in a horizontal consolidation does not have more than a 15 per cent share in any media market in any relevant geographical location, or the post-consolidation entity in a non-horizontal consolidation does not have more than a 25 per cent share in any media market in any relevant geographical location. Under the MDA Code, MDA may grant a consolidation application with or without conditions. MDA has the power to impose on the post-consolidation entity conditions for structural separation and behavioural conditions (eg, separate accounting for revenues from operations under effective competition and operations not under effective competition).

The draft revised MDA Code proposes changes to the thresholds for determining whether an applicant for consolidation should use a long or short form application procedure. Briefly, a short form may be used where it is unlikely the post-consolidation entity will have market share of 40 per cent or more, or have a market share of between 20 per cent and 40 per cent of any media market in Singapore and the post-consolidation combined market share of the largest three licensees, ancillary media service providers or a combination thereof is 70 per cent or more.

**46 Regulatory authorities for the review of telecoms and broadcasting mergers, acquisitions and joint ventures**

Which regulatory or competition authorities are responsible for the review of mergers, acquisitions and joint ventures in the telecoms and broadcasting sectors?

IDA is the authority responsible for such review in the telecoms sector, and MDA is responsible in the broadcasting sector.

**47 Procedure and timescale for the review of telecoms and broadcasting mergers, acquisitions and joint ventures**

What are the procedures and associated timescales for review and approval of telecoms and broadcasting mergers, acquisitions and joint ventures?

**Telecoms**

Section 10.5 of the TCC sets out two procedures by which applicants (ie, both the acquirer and target companies) may seek written approval from IDA: the submission of a long form or a short form consolidation application.

Unless the proposed consolidation is one that permits the submission of a short form, an FBO licensee must file a long form to seek IDA's approval for the acquisition or consolidation. Applicants submitting a long form pursuant to section 10.5.1 of the TCC must tender the following documents:

- a copy of the consolidation agreement, including any appendices, side letters and supporting documents;
- copies of all agreements that, although not directly addressing the consolidation, are an integral part of the transaction or that are necessary or useful for IDA to assess fully the competitive impact of the consolidation;
- a statement that provides a clear, accurate and comprehensive description of the consolidation, a good-faith assessment of the likely impact of the consolidation on competition in the telecoms market in Singapore and a discussion of why approval of the consolidation would serve the public interest; and
- any other supporting document that would assist IDA in assessing the likely competitive effect of the consolidation, (eg, the licensee's current annual reports or audited financial statements, shareholding charts or the licensee's business plans for the current and immediately preceding years).

A short form consolidation application may be used where the proposed consolidation is horizontal and will not result in a post-consolidation entity with more than 15 per cent of the telecoms market; or where the proposed consolidation is non-horizontal

in nature and none of the applicants has more than a 25 per cent share of any telecoms market (in Singapore or elsewhere).

Applicants submitting a short form pursuant to section 10.5.2 of the TCC must tender an abbreviated statement that provides a clear, accurate and comprehensive description of the consolidation, a good-faith description of the basis on which the applicants believe that the consolidation does not raise significant competitive issues and a brief discussion of why the approval of the consolidation would serve the public interest.

Pursuant to section 10.6.1 of the TCC, IDA may seek public comments prior to making its determination, if appropriate.

The consolidation review period begins when the applicants submit a consolidation application containing all required material (as determined by IDA). IDA will ordinarily issue its decision indicating whether it rejects or approves the transaction (and if so, whether there are any conditions) within 30 days after the start of the consolidation review period. IDA, however, reserves the right to extend the review period for up to 90 days where complex issues are raised, up to a maximum of 120 days. Where IDA grants its approval subject to conditions, the licensee is required to notify IDA within 14 days of IDA's decision as to whether it accepts the conditions or wishes to withdraw its application.

#### Broadcasting

The procedures and timescale for transactions involving regulated persons in the broadcast sector are found in section 8 of the MDA Code.

Based on the current MDA Code, all regulated persons seeking to enter into a consolidation with another regulated person, or any person (not being a regulated person) that provides mass media services or ancillary media services must file a consolidation application with MDA (please refer to question 45). The consolidation application must be submitted not prior to, but within 30 days of the day on which the relevant parties enter into a consolidation agreement. Depending on the competitive effect of the consolidation, applicants must submit either a long form application or a short form application. The requirements for a long form application are stated in paragraphs 8.5.3.1 to 8.5.3.1.2 of the MDA Code, and are essentially the same as for telecoms (above), save that a copy of the consolidation agreement is not needed.

A short form application may be submitted where the proposed consolidation is a horizontal consolidation that will not result in a post-consolidation entity having more than a 15 per cent share in any mass media services market in Singapore; or where the proposed consolidation is non-horizontal in which none of the applicants has more than a 25 per cent share of any mass media services market or ancillary media services market in any geographic location. The supporting documents are an abbreviated form of the above.

The consolidation review period begins on the day on which the applicants submit a consolidation application that contains all the required material. MDA will ordinarily complete its review of the consolidation application within 30 days. For applications that MDA considers raise novel or complex issues, MDA may extend the consolidation review period by up to 90 days, to a maximum of 120 days.

## DREW & NAPIER LLC

Advocates & Solicitors • Trademark & Patent Agents

---

**Chong Kin Lim**

**chongkin.lim@drewnapier.com**

20 Raffles Place  
Ocean Towers #17-00  
Singapore 048620

Tel: +65 6531 4110  
Fax: +65 6535 4864  
www.drewnapier.com