

## Client Alert

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## Public Consultation on Proposed Amendments to the Telecommunications Act and Media Development Authority of Singapore Act

The Ministry of Communications and Information ("MCI") is conducting an online public consultation exercise on proposed amendments to the Telecommunications Act (Cap. 323) ("TA") and the Media Development Authority of Singapore Act (Cap. 172).

The objectives of the proposed changes are to: (1) enhance the process of deploying telecommunications systems; (2) introduce a new Alternate Dispute Resolution ("ADR") regime for disputes between customers and telecommunications companies; (3) strengthen the Infocomm Development Authority's ("IDA") oversight of the telecommunications industry; and (4) provide greater clarity to specific provisions in the TA.

### 1. Enhancing the Process of Deploying Telecommunications Systems

To increase accessibility of mobile telephony and broadband services, MCI's proposed amendments will give IDA powers to require developers and building owners to include rooftop spaces as part of the IDA-prescribed Mobile Deployment Space required to be provided on a rent-free basis, upon the request of mobile operators required to provide nationwide coverage.. Building owners will not be allowed to reject mobile deployments on their building rooftops on the basis that the proposed deployment will not primarily serve the building or development itself. Mobile operators will be required to pay building owners the reasonable costs for access to rooftops and other associated deployment costs.

The proposed amendments also seek to clarify the notification and dispute resolution processes regarding telecommunication licensees accessing buildings for equipment installation or maintenance purposes. Building owners are to raise objections to IDA within 14 days of the licensee's notice to enter the land or building. Telecommunications licensees are also to make clear in its notifications, any intention to use space in the building to serve any other land or building.

Finally, the IDA will be empowered to prohibit exclusive arrangements between building owners and telecommunication licensees regarding the provision of telecommunication services, that would have the effect of denying end-users or occupants of the buildings their choice of or access to telecommunication service providers.

### 2. Introducing a New ADR Scheme

Currently, consumers who have individualised or contractual disputes are encouraged to first approach their service provider. Should this fail, the consumers and service providers may voluntarily use third-party mediation or ADR channels provided by the Singapore Mediation Centre and the

Consumers Association of Singapore. Nonetheless, service providers may choose not to resolve their customer disputes through existing ADR channels, and the IDA and the Media Development Authority (MDA) do not mandate the form of remedies by service providers.

To supplement the existing dispute resolution options and suite of consumer protection measures, MCI's proposed amendments will enable authorities to compel telecommunications companies to resolve consumer disputes via mediation. Further, consumers retain the flexibility to lodge claims with the Small Claims Tribunal and the Courts.

The new scheme aims to provide the telecommunication sector with an industry-dedicated channel and targeted approach to such disputes. The proposed ADR scheme further includes the appointment of an independent organisation to establish the ADR framework and rules, including customers' eligibility, the scope of issues, and the dispute resolution process.

### **3. Strengthening the Oversight of the Telecommunications Industry**

The proposed amendments will clarify IDA's powers to issue directions to enforce conditions imposed by IDA when IDA's written approval to the mergers / acquisitions was granted. Such powers extend to imposing conditions for the approval of CEO and board appointments to ensure sufficient regulatory oversight.

MCI and IDA also propose increasing the maximum compoundable amount for offences under the TA from SGD 5,000 (approx. USD 3,700) to one half of the maximum fine prescribed for the offence or SGD 10,000 (approx. USD 7,430), whichever is lower. The proposed increase aims for greater deterrence in view of increased cable cut offences resulting from road and construction projects and contractors' failures to follow procedures before commencing earthworks.

Further, the proposed amendments will expressly require any aggrieved telecommunication licensee making an appeal against IDA to the Minister to copy IDA in the lodgement of appeals and all related materials sent to the Minister. The proposed amendments ensure greater transparency and streamlining of such appeals following the licensee's request of reconsideration to IDA, where the IDA must be kept fully apprised of any appeals in a timely manner.

### **4. Providing Greater Clarity to Certain Provisions in the TA**

- i. Section 2 will define "telecommunication service" to expressly include the leasing of telecommunication cables.
- ii. Section 8 will be amended to provide that licensees are not entitled to compensation or a refund of licence fees by IDA for the unexpired period of a licence where cancelled or suspended by IDA, or where the licence has been terminated at the telecommunication licensee's request. This will align the current TA with IDA's various regulations.
- iii. A new Section 11A will reiterate that IDA is not liable for any interference arising from the use of shared-use radio frequencies, and operators operating shared radio frequencies shall accept any interference from legitimate operations. This is currently set out in IDA's Telecommunications (Radio-communication) Regulations only.

- iv. Section 26 will expressly provide IDA with powers to authorise the collection, use or disclosure of personal data by telecommunication licensees without end-users' consent, for the operations of telecommunication systems and the provision of telecommunication services. This is in accordance with the exception under the Personal Data Protection Act (No. 6 of 2012).
- v. Section 32D will clarify that IDA's directions can specifically override the provisions in the Business Trusts Act (Cap. 31A), Companies Act (Cap. 50) and Limited Liability Partnerships Act (Cap. 163A) and Trustees Act (Cap. 337), and any listing rule as defined in Section 2(1) of the Securities and Futures Act (Cap. 289).
- vi. Section 33(1) will clarify that it is an offence for a telecommunication licensee, whose licence has been suspended, to establish, install, maintain, provide or operate a telecommunication system or service within Singapore.
- vii. Section 74 will clarify that IDA can issue regulations on the wiring of telecommunication cables in access networks deployed by other telecommunication system licensees (e.g. optical fibre cables). The IDA's regulations would therefore not only be restricted to telecommunication cables in the wire-based public switched telephone network belonging to public telecommunication licensees.

The online public consultation closes on **31 August 2016, 12 noon**.

All interested parties' may give feedback to the MCI by email. More details of the amendments and the public consultation are available on the MCI's website, which is accessible at this [link](#).