

ITU Workshop on Policy and Regulations for Newly Established Regulators in the Asia Pacific Region:

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Managing Competition

**Mr YEO Tiong Yeow
Assistant Director
(Competition & Market Access)**

The views expressed herein do not necessarily reflect the official views of IDA.

Scope

- > Background
- > Transitioning from Monopoly to Competition
 - Regulation versus Competition
- > Singapore's Experience
- > Learning Points and Challenges
- > Conclusion

About IDA

- > A Statutory Board, currently under Ministry of Information, Communications and the Arts (MICA)
- > Formed on 1 Dec 1999 with merger of National Computer Board (NCB) and Telecommunications Authority of Singapore (TAS)
 - Rationale: single agency responsible for planning, policy formulation, regulation and industry development of IT, telecom and postal sectors

Introducing Competition

> Phased approach:

1992 – SingTel corporatised and granted 5-year monopoly for mobile services; 15-year monopoly for basic telecom services

1995 – Internet access service market opened to competition.

1997 – Mobile comms market opened to competition. M1 and 3 new paging operators (M1, ST Sunpage & Hutchinson Paging) started offering commercial services to compete with SingTel.



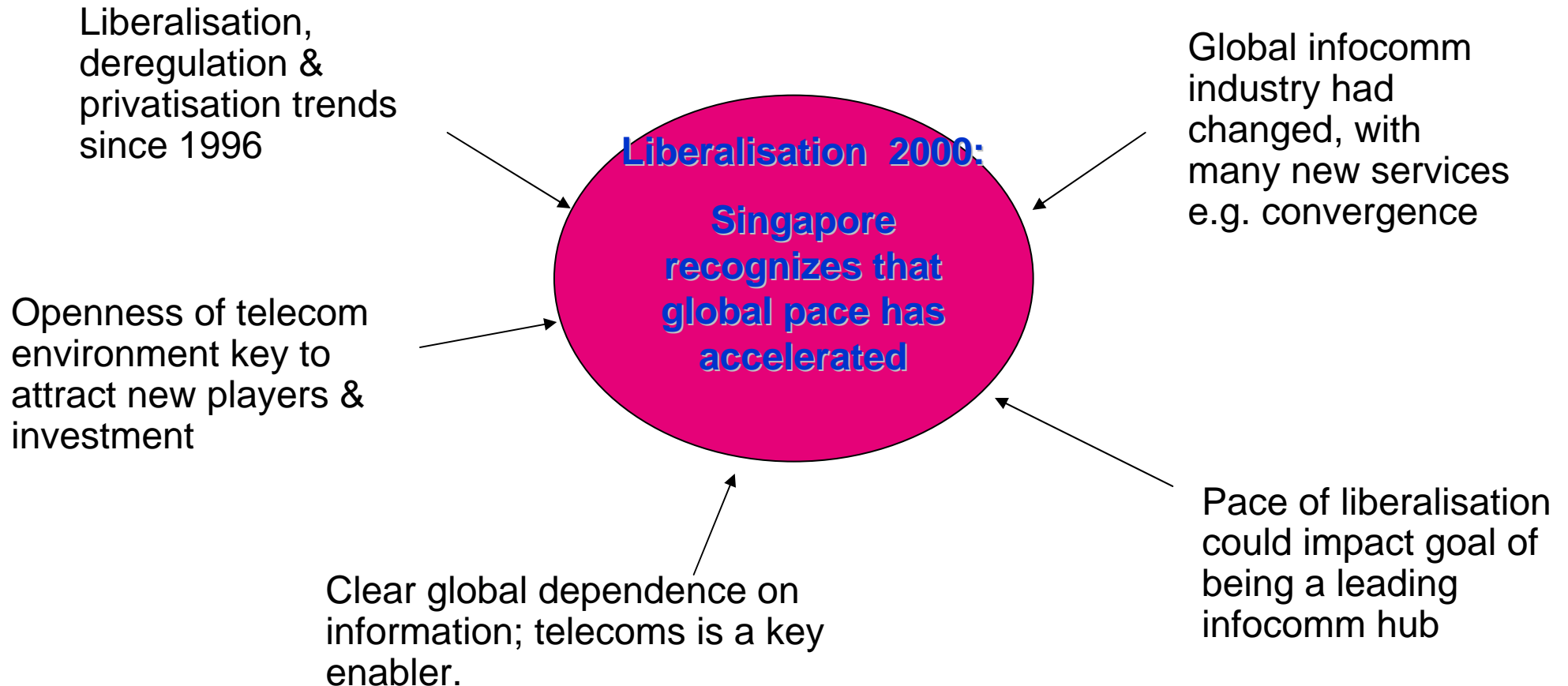
1998 – StarHub awarded second basic telecom service and the third mobile service licence.

2000 – Entire telecoms market opened to competition



Telecom Market Liberalisation

> Why full liberalisation in April 2000?



Telecom Market Liberalisation

- > Direct and indirect foreign equity limits lifted with immediate effect
- > No limit on number or type of players, except when there are physical/resources constraints
 - deployment of wireless-based networks separately licensed via a market-based approach as spectrum is a scarce resource
 - e.g., 3G auction, 2G auction
- > Players free to decide on types of networks, systems, facilities and preferred technology platform to offer services
- > Licence applications will be assessed and granted on the merits of the licence applications

Brief Market Development in Singapore

- > Telecommunications sector one of the first sectors to be liberalised
- > Singapore had no national competition enforcement agency until 2005
- > Sectoral regulators tasked to enforce regulation and promote competition

- > Key Considerations:
 - Foreign investors need clarity to ensure that rules are put in place to curb anti-competitive behaviour by incumbents
 - Need to set up simple and clear rules for all players

Transition From Monopoly to Full Competition

Challenges:

- > 1992-2000 – Regulator acts as proxy competitor
 - Regulates incumbent's price, quality of service
- > Post-2000 – Regulator acts as competition “referee” and consumer protector
 - Facilitates interconnection, resolves inter-operator disputes
 - Prevents incumbent from abusing its market power to unfairly restrict competition

Should Competition Policy Replace Regulation?

> Competition regime

- Not industry-specific, assumes market functioning well, allows free play, less compliance cost
- Challenges: Anti-trust enforcers –
 - tend to have less extensive powers than regulatory agencies
 - relies on judicial process – tends to be lengthy
 - tend to have less expertise/knowledge of industry than industry-specific regulators

> Regulation

- Industry-specific, pre-emptive, transparent, faster process
- Challenges
 - Compliance cost
 - Technology changes – e.g. impact on price regulation
 - Market changes: e.g. convergence

- > General acceptance that general competition law alone not sufficient for sectors transiting from a monopolistic to a competitive environment – also needs effective ex ante regulation

Why Still Regulate?

- > Need to regulate incumbent who will defend its turf vigorously against new entrants
 - Usually via unfair or anti-competitive means
- > New entrants need to depend on incumbent's network and to interconnect
 - Incumbent has pervasive network and last mile connections to end users
- > Entry barriers may still exist
- > Competition may not achieve all policy objective
 - Example: Accessibility of services to rural areas
- > Regulators need to send a strong signal to the market that rules are set in place to lower entry barriers, regulate and promote competition to attract new entrants
- > Regulation rules (ex-ante) and competition rules (ex-post) needed during transition

Regulation Rules

- > Licensing
- > Economic Regulation
 - Price regulation
 - Access or interconnection regulation
 - Accounting separation
 - Universal service obligations
- > Technical Regulation
 - Spectrum
 - Numbering
 - Service quality
 - Standards
- > Consumer Protection
 - Misleading advertising



Why Competition Rules?

- > Having competition rules is important because:
 - Unmonitored, firms may resort to actions that increase their profits, but harm consumers and society
 - Allow healthy, effective and sustainable competition to flourish – players win based on having better quality, better price, better innovation
- > Having clear competition rules create a conducive environment for investment and innovation



Types of Competition Rules

- > Competition rules are generally designed to prohibit behaviour that prevents, restricts or distorts competition
- > Three main types of rules:
 - Prohibitions against anti-competitive agreements (concerted behaviour)
 - Price fixing; Bid rigging
 - Prohibitions against abuse of dominant position (unilateral behaviour)
 - Price abuse (predatory, price squeeze); Discriminatory; Tying; Refusal to supply
 - Prohibition of M&As that would result in a substantial lessening of competition
 - Create, preserve or enhance significant market power
 - Facilitate concerted anti-competitive conduct
 - Eliminate potential competitor
 - Limit competitors' ability to access an "upstream" input or "downstream" facility

Singapore's Experience: Telecom Competition Code (TCC)

- > First issued in September 2000
- > Sector-specific competition management framework
- > Subject to review every 3 years
- > Code revised March 2005
- > Now in its 2nd triennial review



TCC - Goals

- > Promote the efficiency and competitiveness of Singapore's infocomm industry
- > Ensure telecom services are reasonably accessible to all people in Singapore
- > Promote and maintain fair and efficient market conduct and effective competition
- > Promote effective participation of all sectors of Singapore's infocomm industry
- > Encourage, facilitate and promote industry self-regulation
- > Encourage, facilitate and promote investment in infocomm infrastructure in Singapore

TCC - Key Regulatory Principles

- > Reliance on market forces & proportionate regulation
 - Where markets are effectively competitive - only minimal requirements for consumer protection and preventing anti-competitive behaviour
 - Where markets are not effectively competitive - balance between *ex ante* and *ex post* regulation
- > Promote effective and sustainable competition
 - Remove or minimise entry barriers, and eliminate anti-competitive behaviour
- > Promote facilities-based competition
 - Sustainable competition best achieved through facilities-based competition
 - IDA tries to balance between facilities-based and services-based competition
- > Technology neutrality
- > Efficient, transparent and reasoned decision-making

TCC – An Integrated Code

Covers *ex ante* and *ex post* requirements:

- Dominance classification – “licensed entity” approach
- Duty to consumers
- Price regulation framework for Dominant Licensees - Tariffing
- Interconnection & Access – Reference Interconnect Offer
- Fair competition rules – Abuse & Anti-competitive agreements
- M&A rules – Mandatory notification depending on ownership threshold at 5%, 12%, 30% and having effective control
- Enforcement mechanism

Results of Market Liberalisation

- > More choice of service providers:
 - More than 40 facilities-based licensees
 - More than 200 services-based (individual) licensees
 - More than 600 services-based (class) licensees
- > More choice of services:
 - Service providers more customer-focused – compete to serve different customer groups
 - e.g. close to 30 different service plans offered by 3 mobile operators; wide range of international telephone services
- > Lower prices:
 - International telephone rates fell by up to 80% since 2000
 - International leased line rates fell by up to 95% since 2000
- > More users (Sep 2009):
 - Mobile phone – 134.5% (population)
 - Broadband – 128.7% (household)



Results of Market Liberalisation

> Impact on SingTel:

- Domestic market share fell, but number of subscribers and revenue grew – the pie has grown larger
- Diversified and invested heavily into regional markets: Australia, Thailand, Indonesia, Philippines, India, Bangladesh; 2/3 of revenue now from overseas, from less than 10% in 1992

> Level of competition unevenly distributed

- In some segments, market has failed to bring about effective competition
- After 8 years of market liberalisation, SingTel retains 95% of fixed line telephone service market
- SingTel remains dominant in many local connectivity services e.g. Local Leased Circuits
 - In 2003, IDA mandated that SingTel must offer its local leased circuits at a discount initially, and at cost-based rates eventually under its Reference Interconnection Offer



SingTel told to rent out leased lines at discount

IDA ruling on the year-long dispute will mean discounts of up to 50% from its retail rates, much to the telco's chagrin

By BRIAN LEE
THE Infocomm Development Authority of Singapore (IDA) has finally put its foot down on a year-long dispute which has seen rancour between itself, SingTel and the telco's rivals.

The industry regulator yesterday ruled that SingTel would be required to provide wholesale prices for its local leased circuit (LCC) services to its competitors at rates up to 50 per cent cheaper than its retail prices. LCCs are telephone circuits that have

been limited and that regulatory intervention was necessary given that full conditions for effective competition were not yet present.

SingTel remains the only operator with pervasive nationwide network coverage and is the main LCC supplier to competing operators and retail customers, he said.

The telco is estimated to have a 60 per cent share of the market with rivals StarHub and M1's distant second and third respectively.

The regulator, however, recognised that some parts of SingTel's LCC network were unlikely to be replicated by competitors and would need regulation even beyond the two-year period.

Called "tail circuits", these are "last-mile" LCCs that link retail users to telephone exchanges. They generally have lower bandwidth than "trunk circuits" which link exchanges with data centres and other exchanges.

The IDA has mandated that prices for tail circuits would follow a cost-based approach after the two-year period, which should see a further reduction in rates for these services.

In the meantime, to encourage SingTel's rivals to roll out its own trunk circuits, IDA has said

that those buying both trunk and tail or "full circuits" will get only a 30-per-cent discount. Those buying just tail circuits will enjoy a 50-per-cent discount.

Especially, SingTel spoke out against the new regulation, calling it a "regressive step". It said the decision reduced incentives for operators to roll out their own networks in Singapore, and encouraged instead the easier and cheaper option of "free-riding" on its network.

Asked whether it would make an appeal to Communications Minister Lee Boon Yang in the next 14 days, he said it would review the IDA decision and seek clarification before deciding on its next step.

What We Learnt

- > Engage the industry when formulating policies and frameworks
 - Helps promote buy-in by industry players
- > Encourage industry self-regulation; co-regulation
 - Industry plays a major role in detecting anti-competitive behaviour
- > Enforcement of competition rules a complex and time-consuming exercise
 - Need extensive economic and market analysis and extensive collection of market data
 - Not every restriction of conduct is a restriction of competition – distinguish between aggressive and unfair competition

IDA seeks views on SingTel

THE Infocomm Development Authority (IDA) is calling for public feedback as to whether SingTel should be exempted from its classification as the dominant provider of International Capacity Services (ICS).

A telco that is classified as

Last November, SingTel managed to obtain partial exemption for its dominant licensee status in the international voice calls market.

"SingTel believes that market evidence clearly shows that the ICS market is highly competitive," the company said.

Challenges

- > Speed of decisions versus transparency
- > Know when to intervene and how much
- > Dealing with market and technology changes: convergence
 - e.g. Is bundling of cable TV with mobile and broadband anti-competitive?
- > Educating consumers
 - Caveat emptor, exercising choice
 - Short term vs long term benefits



Conclusion

- > A competitive infocomm sector will benefit the economy and the consumers
- > Market forces generally far more effective than government regulation in promoting consumer welfare
- > Competition rules need to be clear and enforced – to facilitate effective and sustainable competition, and promote investment
- > Transition from a monopolistic to a competitive environment – *ex ante* regulation needed to complement *ex post* competition rules

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**www.ida.gov.sg
www.infocommsingapore.sg**

Thank you