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Director, Market Analysis Division
100 High Street #09-01
The Treasury
Singapore 179434

By Facsimile: +65 6338 3782
By Email: MTI_draftcompetition@mti.gov.sg

Dear Sir,

Thank you for the opportunity to respond to the "draft" Competition Bill Consultation Paper.

Macquarie Corporate Telecommunications (MCT) wishes to provide the following submission to the first round of public consultations on the proposed Competition Bill ("the Draft Bill") issued by

By way of background, MCT is an Australian owned and ASX listed telecommunications company that has been providing service to the corporate customer segment in Australia for some 12 years. We now offer a full range of fixed voice, mobile, data and secure hosting services to corporate and government customers throughout Australia.

Approximately 4 years ago we commenced our overseas expansion strategy by opening an office in Singapore. Since that time we have had significant success in gaining a strong corporate customer base in Singapore and have plans to move beyond the current core product offering of international voice services. I note that MCT is a member of the Asia Pacific Carriers Coalition (APCC) which has also submitted a response to the Draft Bill.

It is within the context of our significant experience and success of developing both services and markets in regulated telecommunications jurisdictions, that we comment on the Draft Bill. Put simply, Macquarie is in many ways an archetypal successful "new entrant" that has been able to bring forward the benefits of competition to end users hitherto captured by monopoly providers or subject to constraints imposed by anti-competitive conduct. In achieving these outcomes, we have required strong regulatory oversight of our sector to enable economically efficient commercial decisions across a variety of build and buy choices.

In turn, it is our experience that open and transparent markets backed up by regulatory action and enforcement of pro-competition legislation lead to the best consumer outcomes and therefore should be the MTI's goal.

Our key concerns with the thrust of the draft bill relate to the “two tiered approach to regulation of telecommunications markets.

It is MCT’s strong view that it is inappropriate to exclude certain industry sectors from the operation of the generic competition laws (the draft Bill). Establishing multi-regulatory structures in Singapore to enforce different competition laws or codes is likely to lead to inconsistent application of principles and different outcomes arising from similar conduct.

For instance, anti-competitive conduct engaged in by a dominant Telecommunications service provider, for instances a refusal to supply access to a network element, may be dealt with under the sector specific telecommunications competition code. In this example, the relevant regulator (IDA) may decide not to intervene in the matter. As there are no private rights of action under the relevant Code, there would be little if any legal recourse that the effected party might take.

However, if the same type of conduct occurred in relation to say the a freight transport market, the approach to the issue may be dealt with entirely differently under the draft Bill. Furthermore, the effected party in the second scenario may or may not have private rights of actions.

As you can see, the opportunity for vastly different analysis and out come in relation to similar competition issues across different sectors will lead to heightened regulatory risk and uncertainty.

MCT submits that to ensure that the benefits of competition flow through the Singapore economy, consistent, robust and transparent competition laws need be in place. Such laws will operate most effectively if a single industry wide competition law framework applies. This does not mean that extra sector specific requirements are also inappropriate. On the contrary, as occurs in relation to the Trade Practices Act in Australia, telecommunications specific regulation may easily sit within the context and framework of a broader set of laws. The opportunity for inconsistency and uncertainty is largely removed if all sectors have given rights under the draft Bill and in addition, there are sector specific requirements to deal with highly complex, fast moving and nationally critical markets such as telecommunications or energy.

As the draft Bill currently stands, this dual approach will not deliver the out comes intended. Aside from enduring industry specific regulation sits with the draft Bill structure, we note that issues of general transparency and access should be further considered.

In particular, private rights of action ought to arise and reasons for decision must be given.

MCT looks forward to working with the MTI as it moves to finalise this important piece of legislation. If you have any questions regarding this submission, me on +61 3 9206 6847 or via email mhealy@macquarie.net.au .

Yours sincerely,



Per: MATTHEW HEALY
National Regulatory Manager