

<b>Case Reference</b>	R/E/I/086
<b>Title</b>	SingTel's Failure to Comply with Sections 4.4.1 and 4.6(a) of the Telecom Competition Code
<b>Case Opened</b>	17 March 2011
<b>Case Closed</b>	10 June 2011
<b>Complainant</b>	IDA initiated enforcement proceeding
<b>Respondent</b>	Singapore Telecommunications Limited (" <b>SingTel</b> ")
<b>Case Summary</b>	<p>Arising from a complaint received from another licensee (the "<b>Licensee</b>"), IDA discovered that, in April 2007, SingTel had entered into an agreement, on a 3-year contract term, for DigiLink services (the "<b>Services</b>") to the Licensee (the "<b>Agreement</b>"). The rates offered to the Licensee for the Services under the Agreement were the list rates for the Services as at April 2007 (the "<b>April 2007 List Rates</b>"). However, SingTel had omitted to seek IDA's approval to apply the April 2007 List Rates throughout the duration of the Agreement contract.</p> <p>Subsequently, SingTel lowered the April 2007 List Rates of its 2Mbps, 45Mbps and 155Mbps Services on 1 September 2007, with another two rounds of price revision thereafter. However, SingTel continued to provide the Licensee with these Services at the April 2007 List Rates under the Agreement, which was not an effective tariff as it had not been filed with IDA for approval.</p>
<b>IDA's Determination</b>	<p>Section 4.4.1 (Services for Which A Dominant Licensee Must File Tariffs) of the Telecom Competition Code 2005 (the "<b>Code</b>") states that: "[a] <i>Dominant Licensee must file a tariff with IDA and obtain IDA's written approval prior to offering, or modifying the terms on which it offers, any of the following telecommunication services ...</i>" [emphasis ours].</p> <p>Although SingTel had sought and obtained IDA's approval for the April 2007 List Rates for the Services, SingTel had failed to seek IDA's approval to apply the April 2007 List Rates throughout the duration of the 3-year contract term of the Agreement.</p> <p>Therefore, for failing to obtain IDA's approval to apply the April 2007 List Rates throughout the duration of the Agreement, IDA found that SingTel had contravened Section 4.4.1 of the Code.</p> <p>Section 4.6(a) of the Code provides that: "<i>Dominant Licensees must provide telecommunication services on the prices, terms and conditions specified in the applicable effective tariffs</i>".</p>

Based on IDA's investigations, IDA discovered that SingTel had provided the Services to the Licensee at the April 2007 List Rates from September 2007 (i.e., the date when the April 2007 List Rates were first revised downwards) till the end of the Agreement.

Given the extended period over which such Services were provided to the Licensee at prices which were not specified in any applicable effective tariffs, IDA found that SingTel had contravened Section 4.6(a) of the Code.

In determining the appropriate enforcement measures to be taken against SingTel, IDA considered the following factors:

Aggravating Factors

- (a) SingTel's contraventions occurred over an extended period, during which it had provided the Licensee with the Services at the ineffective April 2007 List Rates.

Mitigating Factors

- (b) SingTel's failure to file tariffs pursuant to Section 4.4.1 of the Code applied only to a single contractual term (i.e., the 3-year contract term of the Agreement), as opposed to an entire service offering.

IDA also noted that, in the Agreement with the Licensee, there was a clause which specifically allowed the Licensee to purchase Services outside of the Agreement. IDA also found no evidence that the Licensee was prohibited by SingTel to purchase Services at rates other than the April 2007 List Rates. While this does not absolve SingTel of its obligation under Section 4.6(a) of the Code, it was a relevant factor which IDA considered in determining the appropriate enforcement action to take against SingTel.

In consideration of the above, IDA imposed a financial penalty of \$50,000 on SingTel for its contraventions of Section 4.4.1 and 4.6(a) of the Code.