

Exclusions from draft Competition Bill Third and Fourth Schedules

	Sector/ Activity	Rationale	Alternative Regulatory Framework
	<i>Third Schedule, para. 5 (Goods and services regulated by other competition law)</i>		
1.	Electricity and gas sectors regulated under the Electricity Act (Cap. 89A) and the Gas Act (Cap. 116A)	<u>Electricity:</u> A competitive wholesale electricity market was put in place on 1 January 2003 to facilitate competition among generation companies. The retail electricity market is being opened to competition in phases. Phase 1 commenced on 1 June 2003, Phase 2 is being implemented progressively from December 2003 and the final phase, which will result in full retail contestability, is currently being studied. <u>Gas:</u> The gas industry in Singapore is also being further restructured to enhance efficiency through competition in the contestable sectors, while ensuring reliability and security of supply. The restructuring of the gas industry is scheduled for completion by 2004. Dealing with competition issues in the electricity and gas industries would require specialist knowledge of how the electricity/gas industries work. The Energy Market Authority (EMA) would be in a better position to deal with these issues.	The electricity and piped gas industries in Singapore are regulated by EMA under the legal frameworks of the Electricity Act and the Gas Act respectively. The relevant provisions of the Gas Act, which have already been passed by Parliament, are scheduled to come into operation when the restructured gas industry commences. <u>Prohibited Practices and Conduct:</u> Under the competition provisions of the Electricity and Gas Acts, any agreement, decision or concerted practice which is or is intended to be implemented in Singapore that prevents, restricts or distorts competition in any electricity or gas market in Singapore is prohibited. Any conduct, which amounts to the abuse of a dominant position in any electricity or gas market in Singapore, is also prohibited. <u>Process, Enforcement and Appeals:</u> If EMA has reasonable grounds for suspecting that the competition provisions in the Electricity Act or the Gas Act have been infringed, it will initiate an investigation. In the event that EMA makes a decision that anti-competitive activities have been carried out, it may give directions that it considers appropriate to bring the infringement to an end.

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			If the person is aggrieved by the decision of EMA in the exercise of its powers with respect to anti-competitive activities, he may notify the Minister that he wishes to make an appeal. The appeal would be heard by an Appeal Panel established by the Minister.
2.	Provision of regulated telecommunication services by licensees	The Infocomm Development Authority of Singapore (IDA) has put in place a sector-specific competition framework following the full liberalisation of the telecommunication market on 1 April 2000. IDA issued a Telecom Competition Code ("Code") on 29 September 2000 after two rounds of public consultation. Issued under the Telecommunications Act (Cap. 323), the Code sets out IDA's regulatory principles and approach towards competition regulation. The Code also establishes a clear and robust regulatory framework to help foster competition in a fully liberalised and competitive telecommunication market in Singapore. The Code is intended to provide existing licensees, new entrants and investors coming into the market certainty and predictability about IDA's competition regulatory framework. The Code has worked well to promote competition in the telecommunication sector since its introduction. IDA has committed to review the Code once every three years to ensure that it remains relevant and effective. In line with this commitment, the Code is now being reviewed, taking into account feedback from industry players and members of the public. Following this review, the Code will be due for the next triennial review in 2006-2007.	The Code addresses the following areas: (a) regulatory principles and framework (b) consumer protection rules (c) interconnection regime (d) infrastructure sharing requirements (e) sector-specific competition rules (f) mergers and consolidation framework (g) enforcement mechanism; and (h) interconnection and IDA determined pricing approach.

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3.	Commercial activities by regulated persons gazetted under s16(3) of the Media Development Authority Act (Cap. 172)	Competition practices and conduct of regulated persons are regulated by the Media Market Conduct Code (MMCC). The MMCC came into force on 15 April 2003 and is relatively nascent. Licensees are adapting to this framework. Hence these regulated persons will not be subject to the competition law for now.	The MMCC addresses the following areas: (a) unfair methods of competition (b) agreements that unreasonably restrict competition (c) abuse of dominant position in a manner that unreasonably restricts competition (d) improper business practices towards customers (e) consolidations that are likely to unreasonably restrict competition (f) access to essential resources; and (g) public interest obligations. In the event that the Media Development Authority of Singapore (MDA) concludes that any regulated person has contravened the MMCC, MDA may take enforcement measures such as issue warnings, orders to cease engaging in a particular conduct and directions to take remedial action. MDA may also impose a financial penalty.
4.	Supply of armed security services by an auxiliary police force formed pursuant to the Police Force Act 2004 (Act 24 of 2004).	The armed security industry will be regulated under the Police Force Act 2004 which was enacted on 15 June 2004. The Ministry of Home Affairs/Singapore Police Force (MHA/SPF) are best placed to regulate all aspects of the armed security industry, including competition. It is a strategic sector, which MHA/SPF regards as a key player in maintaining the safety and security of Singapore.	Despite its exclusion from the competition law, the armed security industry will still be subject to robust sectoral regulation under the Police Force Act 2004 to guard against anti-competitive industry activities. This includes prohibitions on key anti-competitive activities, sanctions against anti-competitive activities and a means to appeal against regulatory actions.
<i>Third Schedule, para. 6 (Specified activities)</i>			
5.	Provision of ordinary letter and postcard services by licensed and	Singapore Post Limited (SingPost) has been granted a monopoly for the provision of ordinary letter and postcard services until 31 March 2007. IDA will review the state of the postal services market before	Under the licence granted to SingPost, IDA has imposed various regulatory obligations and prohibitions against anti-competitive activities. These include restrictions on undue preference and undue discrimination, restrictions against

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	regulated entities	the expiry of the monopoly to ascertain the pace of market liberalisation.	anti-competitive arrangements, restrictions on exclusive agreements for international services and requirements for tariff filing and publication of prices, terms and conditions of postal services and products offered.
6.	Supply of piped potable water	Water is of strategic importance and sensitivity to Singapore. The Public Utilities Board (PUB), which is also the Water Authority of Singapore, remains the main piped potable water supplier in Singapore. The pricing of piped potable water, supplied by PUB, is regulated by the Government.	The supply of piped potable water is subject to PUB and National Environment Agency (NEA)'s existing regulatory frameworks. The pricing of piped potable water, supplied by PUB, is regulated by the Government. The tariffs for piped potable water supply are contained in the Public Utilities (Tariffs for Water) Regulations.
7.	Supply of wastewater management services, including the collection, treatment and disposal of wastewater	PUB manages the nation's wastewater services to ensure proper collection, treatment and disposal of wastewater to safeguard against pollution. The pricing of wastewater services is also regulated by the Government.	The proper collection, treatment and disposal of wastewater are subject to PUB and NEA's existing regulatory frameworks. The pricing of wastewater services is regulated by the Government under the Sewerage and Drainage Act (Cap. 294). The wastewater tariffs are contained in the Sewerage & Drainage (Sanitary Appliances and Water Charges) Regulations.
8.	Public Transport: a) Supply of scheduled bus services by any person licensed and regulated under the Public	Public transport services and fares have an extensive impact on commuters. The Land Transport Authority (LTA) and the Public Transport Council (PTC) are better positioned to exercise full regulatory control over the public transport operators in a manner that best serves commuter interests. Further, LTA and the PTC already have a tight framework in place today to regulate the market practices and conduct of public transport operators.	<u>Public Transport Fares</u>: The PTC regulates public transport fares under the Public Transport Council Act. <u>a) Scheduled Public Bus Services</u>: The PTC currently regulates scheduled public bus services through the PTC Act and bus service licences. Under the PTC Act, the PTC imposes service standards on the bus services. Non-compliance with the licence conditions

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	Transport Council Act (Cap. 259B) b) Supply of rail services by any person licensed and regulated under the Rapid Transit Systems Act (Cap. 263A)		or unsatisfactory performance could mean the forfeiture of the operator's security deposit and the suspension or cancellation of the licence. <u>b) Rapid Transit Industry:</u> LTA regulates the operators through the Rapid Transit Systems (RTS) Act and the licences it issues to the RTS operators. LTA can impose conditions relating to the control or restriction of shares in the licensee or its shareholders, as well as restrictions on trades and activities undertaken by the licensees. To supplement the regulatory framework, LTA can issue codes of practice and directions in connection with the provision of RTS services and require the operators' compliance. Non-compliance with the RTS Act, codes of practice, directions or the licence conditions could result in the imposition of a financial penalty, forfeiture of the operator's security deposit or even the suspension and cancellation of the licence. With the extensive regulatory and licensing framework in place for the RTS operators, LTA is able to ensure that any change in market structure and service provision is allowed to proceed only if commuter interests are safeguarded.
9.	Cargo terminal operations by a person licensed and regulated under the Maritime and Port Authority of Singapore Act	The regulation of cargo terminal operations involves in-depth knowledge of the industry, and understanding of the complex relationships between the different players along the value chain. Hence, it would be more appropriate for competition issues to be decided by the sectoral regulator, i.e. the Maritime and Port Authority of Singapore (MPA).	MPA currently licenses and regulates cargo terminal operators under the MPA Act. The licences prohibit the misuse of monopoly or market power, and any contravention may result in the cancellation, suspension or imposition of fines, in accordance with the MPA Act. Competition issues for cargo terminal operators will be evaluated and decided by MPA, with appeals going to the

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	(Cap. 170A)		Minister for Transport. To ensure consistency, MPA intends to model its competition framework for cargo terminal operators after the competition law, where appropriate.
<i>Third Schedule, para. 7 (Clearing houses)</i>			
10.	Clearing and exchanging of articles undertaken by the Automated Clearing House (ACH) established under the Banking (Clearing House) Regulations (Cap. 19, Rg 1) Activities of the Singapore Clearing Houses Association (SCHA) in relation to its activities regarding the ACH	ACH provides cheque clearing and interbank GIRO services for banks. The SCHA establishes, manages and administers clearing services and facilities; and membership is open to licensed banks wishing to participate in clearing cheques and interbank GIRO transactions. ACH is a payment system of system-wide importance. The Monetary Authority of Singapore (MAS) intends to continue its policy of having only a single provider of ACH services to maintain the stability and efficiency of the payment infrastructure.	ACH is currently regulated under the Banking (Clearing House) Regulations and will be regulated in future under the proposed Payment Systems Oversight Act, which is expected to come into effect by end-2004. SCHA's Committee of Management is chaired by an MAS officer. In addition, changes to the SCHA by-laws, which govern the ACH activities, require MAS' approval. Through these avenues, MAS will have due consideration of any anti-competitive practices and conduct in relation to ACH or SCHA.
<i>Fourth Schedule (Exclusions from section 54 prohibition)</i>			
11.	Mergers and acquisitions (M&As) approved under any written	Regulated entities that are already required to seek approval for M&As should not be subject to another approval process by the Commission. Among other issues, the regulatory authorities will consider	

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	law; or any code of practice issued under any written law relating to competition M&As involving any undertaking relating to any specified activity as defined in <i>paragraph 6(2) of the Third Schedule</i>	competition issues and other policy issues. The regulatory authorities would be in the best position to assess the details of such M&As and balance with their broader policy objectives.	