

**MEDIA DEVELOPMENT AUTHORITY OF SINGAPORE
AND
SINGAPORE SPORTS COUNCIL**

**CLOSING NOTE TO PUBLIC CONSULTATION ON
REVISIONS TO THE ANTI-SIPHONING LIST AND
DEFINITION OF DELAYED BROADCAST**

11 January 2013

- PART I. INTRODUCTION**
- PART II. SUMMARY OF COMMENTS RECEIVED AND MDA'S AND SSC'S
RESPONSE TO COMMENTS RECEIVED**
- PART III. CONCLUSION AND ISSUANCE OF REVISED LIST AND DEFINITION OF
DELAYED BROADCAST**

PART I: INTRODUCTION

1.1 The Media Development Authority (“MDA”) introduced the anti-siphoning scheme¹ (“Scheme”) as part of the Media Market Conduct Code (“MMCC”) in 2003. Under this Scheme, Subscription Television (“Subscription TV”) Licensees are restricted from acquiring certain exclusive broadcast rights for programmes listed in the anti-siphoning list (“List”) to increase the opportunities for viewers in Singapore to gain access to these programmes on Free-to-Air Television (“FTA TV”). The List classifies the programmes into two categories:

- (a) Category A (“Cat A”): Subscription TV Licensees cannot acquire exclusive “live” or “delayed” rights to broadcast all or part of the programme; and
- (b) Category B (“Cat B”): Subscription TV Licensees can acquire exclusive “live” rights, but not exclusive “delayed” rights to broadcast all or part of the programme.

1.2 To ensure that the List remains relevant in covering programmes of public interest and national significance, MDA and the Singapore Sports Council (“SSC”) conducted a two-phase review. In Phase 1, a consultative panel (“Panel”) was convened to review and propose revisions. This was followed by a Public Consultation in Phase 2 which took place from 20 September to 18 October 2012.

1.3 Guided by the principle of balancing the interests of viewers and the industry, MDA and SSC proposed the following revisions to the List for the Public Consultation:

| Status | Programme | Proposal |
|--------------------------------------|---|------------------|
| Existing Events in Cat A | Asian Games | Maintain on List |
| | Commonwealth Games | Maintain on List |
| | Southeast Asian Games (“SEA Games”) | Maintain on List |
| | Summer Olympic Games | Maintain on List |
| | Singapore League (“S-League”) | Remove from List |
| New Events Proposed for Cat A | Federation Internationale de Football Association (“FIFA”) World Cup (Key matches (opening, semi-finals & finals) & matches involving Team Singapore, including the qualifiers) | New inclusion |
| | Formula 1 (“F1”) Singapore | New inclusion |

¹ Paragraph 2.6, MMCC

| Status | Programme | Proposal |
|---------------------------------------|---|----------------------------|
| New Events Proposed for Cat B | Winter Olympic Games | Revise from Cat A to Cat B |
| | ASEAN Football Federation ("AFF") Suzuki Cup | New inclusion |
| | Malaysia Cup (matches involving Singapore Club team(s)) | New inclusion |
| | Malaysia Football Association ("FA") Cup (matches involving Singapore Club team(s)) | New inclusion |
| | Malaysia Super League (matches involving Singapore Club team(s)) | New inclusion |
| | Summer Youth Olympic Games ("YOG") | New inclusion |
| Other Events for Consideration | International Table Tennis Federation ("ITTF") World Team Table Tennis Championships (matches involving Team Singapore) | New inclusion |
| | ITTF World Team Cup (matches involving Team Singapore) | New inclusion |
| | Summer Paralympic Games | New inclusion |

1.4 In addition, MDA and SSC proposed two possible definitions for delayed broadcast for the Public Consultation:

- (a) Option 1: Maximum delay of 24 hrs from the scheduled end of the event; and
- (b) Option 2: Maximum delay of 48 hrs from the scheduled end of the event.

1.5 At the close of the Public Consultation, MDA and SSC received two submissions from SingNet Pte Ltd ("SingNet") and StarHub Cable Vision Ltd ("SCV").

1.6 MDA and SSC would like to thank both respondents for their useful feedback and comments. Part II of this closing note summarises the feedback received and MDA's and SSC's responses to the feedback. Part III of this closing note sets out herein the final List and the definition of delayed broadcast to be effective by way of gazette to be issued on 11 January 2013, with the changes taking effect from 12 January 2013.

PART II: SUMMARY OF COMMENTS RECEIVED AND MDA'S AND SSC'S RESPONSE TO COMMENTS RECEIVED

2.1 Overview

2.1.1 The comments received by the two respondents can be categorised into three areas:

- (a) General comments and suggested refinements to the anti-siphoning scheme;
- (b) Proposed revisions to the List of programmes under Cats A and B; and
- (c) Proposed definition of delayed broadcast.

2.2 General Comments and Suggested Refinements to the anti-siphoning Scheme

2.2.1 Both SingNet and SCV had included comments on the scheme, which MDA would evaluate separately during the triennial review of the MMCC scheduled in 2013. The following is a summary of the general comments and suggested refinements to the scheme:

- (a) Criteria for Anti-Siphoning List. While SingNet agreed that national significance should be a core objective, they commented on the lack of an objective criteria or measurement.
- (b) Tiered List. SingNet suggested a review of whether to amend Cat A to cover only exclusive live and not exclusive delayed rights, and consequently, to consider whether a Cat B list is still required in such a revised framework.
- (c) Protected Platforms Rights. SingNet suggested that the prohibition on Subscription TV Licensees should be limited to service(s) carried over platforms such as the hybrid fibre-coaxial, optical fibre and/or ADSL.
- (d) De-listing and Anti-hoarding. As the scheme does not guarantee programme coverage on FTA TV, both SingNet and SCV felt that more measures to address hoarding could be considered, for example, de-listing an event if the FTA TV Licensee fails to broadcast it over two consecutive years / seasons. SCV also suggested publishing information on the proportion of the listed programmes being shown on FTA TV to determine if the objectives of the scheme are being achieved.
- (e) Convergence and New Technology. SCV questioned the continued relevance of protecting exclusive broadcast rights for Singapore viewers as convergence has provided consumers with an ever-increasing choice of platforms, services and providers to access and view content, which reduces the number of FTA TV viewers. SingNet commented that potential implications of new technology, including multi-channelling of sporting events, should also be considered.

2.3 Comments on Proposed Revised List

2.3.1 General Observations

- 2.3.1.1 SingNet commented that the proposed revised List had an over-emphasis on sports and appeared to cater more for the commercial appetite of viewers rather than for national significance. SingNet suggested that more weight should be given to commercial considerations, as unnecessary expansion of the List was likely to further reduce competition in the Singapore broadcast market.
- 2.3.1.2 SCV commented that the inclusion of a programme on the List would create a strong disincentive for Subscription TV Licensees to acquire the content. Firstly, consumers would not pay for content that would be available on FTA TV. Secondly, SCV was worried that their promotional and advertising efforts for listed content would be wasted if the FTA TV Licensee decided to carry the programme only after it became popular through their marketing efforts. Further, the FTA TV Licensee would be restricted by their channel capacity to provide significant amount of coverage. SCV thus suggested that the List should be limited to programmes involving the national team - Team Singapore or Singapore participants, and which had not appeared previously on Subscription TV services.

MDA and SSC's Response

- 2.3.1.3 *As explained in the Public Consultation paper, although the current List comprises only sports programmes, this need not be the case. Any programme which meets the Criteria as set out in the MMCC or any other relevant consideration can be considered for inclusion into the List. However, neither the Panel nor the Public Consultation process surfaced programmes of other content genres to be included on the List.*
- 2.3.1.4 *Contrary to the respondents' suggestions, commercial considerations are taken into account when determining the List. Indeed, one of the Criteria for Listing is "the extent to which the proposed restrictions would be likely to adversely affect the ability of Subscription TV Licensees to provide a commercially viable service." (paragraph 2.6.1.3(e), MMCC). MDA and SSC are also mindful of the unintended consequences of an unnecessarily expanded List and have judiciously selected the programmes on the List in order to balance public interest in enabling viewers' access to certain key programmes and commercial interest to monetise the acquired content.*

Comments on Review of Existing Programmes

2.3.2 Asian Games, Commonwealth Games and SEA Games

2.3.2.1 Both SingNet and SCV supported the continued inclusion of the Asian Games, Commonwealth Games and SEA Games.

MDA and SSC's Response

2.3.2.2 *In view of the continued importance and national significance of these games, MDA and SSC would maintain the Asian Games, Commonwealth Games and SEA Games in Cat A.*

2.3.3 The Olympic Games

2.3.3.1 SingNet supported the inclusion of the Summer Olympic Games but objected to the inclusion of the Winter Olympic Games, citing low interest among Singapore viewers. SCV objected to the inclusion of the Summer and Winter Olympic Games, on the basis that the volume of content generated exceeded the FTA TV Licensee's capacity. SCV also commented that broadcast rights to these Games were generally sold as a package and hence the two events cannot be taken separately.

MDA and SSC's Response

2.3.3.2 *MDA and SSC understand that separate acquisition rights are negotiable.*

2.3.3.3 *For the previous editions of the Summer Olympic Games, the FTA TV Licensee has been providing selective but significant coverage of events that appeal to general viewers, with the Subscription TV Licensees supplementing the coverage of the remaining events that may appeal to certain niche viewers. In view of the continued expectation of Singapore viewers to be able to watch the Summer Olympic Games on FTA TV, the Summer Olympic Games would be maintained in Cat A.*

2.3.3.4 *For the Winter Olympic Games, MDA and SSC recognise that there has been no past Singapore participation, and correspondingly, low public demand to be able to watch the programme on FTA TV. Thus, the Winter Olympic Games would not be listed.*

2.3.4 S-League

2.3.4.1 SCV reflected that the inclusion of the S-League since 2003 has not resulted in high FTA TV viewership of the programme, and hence, its removal would not have a significant impact on FTA TV viewers. Instead, the removal could potentially allow a Subscription TV Licensee to invest in the event.

MDA and SSC's Response

2.3.4.2 *MDA and SSC do not have any objection to delisting the S-League given the low interest in the programme, and would remove the S-League from the List.*

Comments on Proposed Inclusion of New Programmes in Category A

2.3.5 FIFA World Cup (Key and Team Singapore Matches)

2.3.5.1 While SingNet expressed support for the inclusion of the key matches (opening, semi-finals and finals), it did not comment on matches involving Team Singapore. On the other hand, SCV objected to the proposed inclusions, citing difficulties in acquiring ala-carte rights for the key and Team Singapore matches, and the rest of the event. SCV was also concerned about breaching the MMCC, in the event that the Subscription TV Licensee acquired exclusive rights for the event, and Team Singapore subsequently qualified for the tournament. SCV added that as the key matches were already being made available to FTA TV viewers through an agreement between FIFA and the Subscription TV Licensees, or via the Subscription TV Licensees' preview channels, the inclusion on the List was thus unnecessarily restrictive.

MDA and SSC's Response

2.3.5.2 *MDA and SSC note that the key matches and national team matches of the FIFA World Cup are similarly listed in some other countries, such as Australia, Belgium and the United Kingdom. Moreover, as the key matches are already made available to FTA viewers through an agreement between FIFA and the Subscription TV Licensees, public expectations for these matches remain. The listing of these matches would thus serve to formalise an industry practice.*

2.3.5.3 *In view of these considerations and the strong public sentiments of Singapore viewers, MDA and SSC would list the key matches and Team Singapore matches in Cat A.*

2.3.6 F1 Singapore

2.3.6.1 SingNet objected to the inclusion of F1 Singapore in the List and proposed that the event be left to commercial negotiations between the FTA TV, Subscription TV Licensees and the event organisers. SingNet viewed that the event did not have sufficient nation building element as there was no Singapore participation and interest in the event was limited to a small group of local motoring enthusiasts. SCV did not comment.

MDA and SSC's Response

- 2.3.6.2 *MDA and SSC are of the view that there is certain public expectation for the F1 Singapore races to continue to be shown on FTA TV, given the support from Singapore viewers of the event on FTA TV since its inaugural edition in 2008. Moreover, Singapore is not the only host country of this major international sporting event to list it. Other host countries such as Australia, Belgium and France also include the F1 leg they host on their respective lists. Thus, MDA and SSC would list F1 Singapore in Cat A.*

Comments on Proposed Inclusion of New Programmes in Category B

2.3.7 AFF Suzuki Cup

- 2.3.7.1 While SCV supported the inclusion of the AFF Suzuki Cup in Cat B, SingNet disagreed with the inclusion of any football events in Cat B, which included the AFF Suzuki Cup. SingNet viewed these football programmes as having little mass appeal beyond a small group of football fans, and hence did not have a sufficient nation-building element to be included in Cat B.

MDA and SSC's Response

- 2.3.7.2 *The AFF Suzuki Cup is a significant football competition for the Southeast Asian region and involves Team Singapore. The event had in the past years also received support from Singapore viewers when shown on FTA TV. Thus, the MDA and SSC would list the AFF Suzuki Cup in Cat B.*

2.3.8 The Malaysia FA Cup, Malaysia Super League and Malaysia Cup (Matches involving Singapore Club team(s))

- 2.3.8.1 Both SingNet and SCV objected to the inclusion of the Singapore Club team(s) matches in the Malaysia FA Cup, Malaysia Super League and Malaysia Cup. SingNet, in general, disagreed with the inclusion of any football events in Cat B. SCV objected on the basis that the events did not involve Team Singapore and being a sponsor of the Malaysia Cup, the inclusion would adversely affect their ability to provide a commercially viable service and discourage further investment to promote the event. Further, SCV commented that FTA TV viewers did not have a reasonable expectation to access the programme on FTA TV as it had not been shown on FTA TV in recent years.

MDA and SSC's Response

- 2.3.8.2 *Before Singapore's period of absence from the Malaysia Cup from 1995 to 2011, there was significant public interest in the matches. Hence, it would be presumptuous of SCV to conclude that there is no reasonable expectation for the matches on FTA TV. Feedback from the focus groups discussions conducted by MDA*

and SSC revealed that Singapore viewers resonate with the club representing Singapore. When shown on FTA TV, the matches involving the Singapore Club team(s) for the Malaysia Cup received strong support from viewers. Thus, even though the matches involve the Singapore Club team(s), it is nonetheless recognised by viewers as the team representing Singapore, and hence almost equivalent to Team Singapore.

2.3.8.3 However, MDA and SSC note the concerns on the impact of the Listing on the commercial value of the Malaysia football competitions and also recognise that these are primarily league games which are typically not listed in other countries.

2.3.8.4 Thus, to balance the commercial interest of the Subscription TV Licensees and the interest of Singapore viewers, and also in consideration that the Malaysia Football Association Cup and Malaysia Super League are of lesser appeal and importance as compared to the Malaysia Cup, MDA and SSC would list only the Malaysia Cup (matches involving Singapore Club team(s)) in Cat B, and exclude the Malaysia FA Cup and Malaysia Super League.

2.3.9 Summer YOG

2.3.9.1 Both SingNet and SCV supported the inclusion of the Summer YOG in Cat B.

MDA and SSC's Response

2.3.9.2 In view that the Summer YOG would be a good platform to foster a sporting culture amongst Singapore youth athletes, MDA and SSC would list the Summer YOG in Cat B.

Comments on Programmes for Consideration

2.3.10 ITTF World Team Cup and ITTF World Team Table Tennis Championships (Matches involving Team Singapore)

2.3.10.1 SingNet did not support inclusion of these events on the basis that the support for these events, while increasing, was not at a nationally significant level, and hence there was insufficient nation-building element to justify that these events were of public interest. SCV had no objections to the inclusion.

MDA and SSC's Response

2.3.10.2 MDA and SSC note that there is neither strong support for the inclusion nor exclusion of these events. Thus, the MDA and SSC would not list the ITTF events.

2.3.11 Summer Paralympic Games

2.3.11.1 SingNet did not support the inclusion on the same grounds as those for the ITTF events, i.e. these events were not at a nationally significant level, and hence its inclusion was not justified. SCV had no objections to the inclusion.

MDA and SSC's Response

2.3.11.2 *MDA and SSC note that Team Singapore has been participating and performing well at the Summer Paralympic Games, winning medals in 2008 and 2012. Thus, to ensure that reputable and important international multi-sports programmes in which Singapore participants are recognised and continue to be accessible to Singapore viewers, and as part of Singapore's efforts to build an inclusive society, MDA and SSC would list the Summer Paralympic Games in Cat B.*

2.4 Comments on Proposed Definition of Delayed Broadcast

2.4.1 SingNet felt that the "delayed broadcast" period should be up to 72 hours, if not 48 hours, and from the actual end of the event, to allow Subscription TV Licensees the flexibility in programme scheduling to capture a wider audience, especially when there was a time difference for a "live" event played overseas. A short delay window would also impact on the advertising sales potential of Subscription TV Licensees that had acquired exclusive "live" rights for Cat B programmes. SCV, on the other hand, felt that the "delayed broadcast" period should be at least 48 hours. If the timeframe was shorter, it would remove the difference between Cat A and Cat B programmes (making the distinction almost irrelevant) and undermine the commercial viability of showing the content on Subscription TV. Both SingNet and SCV sought clarifications on the definition of delayed broadcast.

MDA and SSC's Response

2.4.1.1 *To balance the commercial interest of both the FTA and Subscription TV Licensees, and the interest of the Singapore viewers, MDA and SSC would define delayed broadcast as per paragraph 2.4.1.2 below.*

2.4.1.2 *For the purpose of paragraphs 2.6.1.2(a) and 2.6.1.2(b) of the MMCC, a broadcast of a Cat B programme of an event is —*

(a) a live broadcast, if the broadcast is —

(i) simultaneous with the event or not later than 48 hours after the conclusion of that event as scheduled by the content provider of the broadcast; or

(ii) where the event comprises separate components determined by the content provider of the broadcast, simultaneous with the component or not later than 48 hours after the conclusion of that

*component as scheduled by the content provider of the broadcast;
and*

(b) a delayed broadcast, if the broadcast occurs after the relevant 48-hour period referred to in paragraph (a).

2.4.1.3 *A Subscription TV Licensee that has acquired the exclusive “live” rights to a Cat B programme would be able to negotiate for a maximum exclusive rights period of up to 48 hours from the scheduled end of the event. As the actual delay period for each individual programme in Cat B would have to be negotiated by the FTA and Subscription TV Licensees and the content rights owner, the above definition provides flexibility to both the FTA and Subscription TV Licensees to customise the delay period within the 48-hour delay period depending on their commercial considerations.*

2.4.2 SingNet commented that there might be cases where a programme ended later than its scheduled end time and hence Subscription TV Licensees should be provided with the necessary flexibility to maintain the full “delayed broadcast” rights that they had paid for.

MDA and SSC’s Response

2.4.2.1 *As the use of “actual end” would provide less certainty to both the FTA TV Licensee and viewers on when the delayed broadcast would be shown on FTA TV, MDA and SSC would maintain the “scheduled end” to minimise the need to regulate the actual end time of the event and any disputes that may arise from it. Moreover, if the “actual end” of the programme occurs before the “scheduled end”, the Subscription TV Licensee would enjoy a longer delay period.*

PART III: CONCLUSION AND ISSUANCE OF REVISED LIST AND DEFINITION OF DELAYED BROADCAST

3.1 Anti-Siphoning List

3.1.1 MDA and SSC have completed the review of the anti-siphoning list. The anti-siphoning list would comprise the following:

| Category | Programmes |
|----------|---|
| Cat A | Asian Games |
| | Commonwealth Games |
| | F1 Singapore |
| | FIFA World Cup (Key matches (opening, semi-finals and finals) and matches involving Team Singapore, including the qualifiers) |
| | SEA Games |
| | Summer Olympic Games |
| Cat B | AFF Suzuki Cup |
| | Malaysia Cup (Matches involving Singapore club team(s)) |
| | Summer Paralympic Games |
| | Summer YOG |

3.2 Definition of Delayed Broadcast

3.2.1 For the purpose of paragraphs 2.6.1.2(a) and 2.6.1.2(b) of the MMCC, a broadcast of a Category B programme of an event is —

(a) a live broadcast, if the broadcast is —

- (i) simultaneous with the event or not later than 48 hours after the conclusion of that event as scheduled by the content provider of the broadcast; or
- (ii) where the event comprises separate components determined by the content provider of the broadcast, simultaneous with the component or not later than 48 hours after the conclusion of that component as scheduled by the content provider of the broadcast; and

(b) a delayed broadcast, if the broadcast occurs after the relevant 48-hour period referred to in paragraph (a).

3.3 Effective Date

3.3.1 The gazette would be issued on 11 January 2013, with the changes taking effect from 12 January 2013.