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TVBI Company Limited
電視廣播(國際)有限公司



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SDCA/CA/1
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Ms Aileen Chia
Deputy Chief Executive (Policy, Regulation & Competition Development)
Director-General (Telecoms & Post)
Infocomm Media Development Authority
10 Pasir Panjang Road
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Singapore 117438

By email (Consultation@imda.gov.sg) & by post

Dear Ms Chia,

Comments in Response to the Consultation Paper on A Converged Competition Code for the Media and Telecommunications Markets issued by the Infocomm Media Development Authority of Singapore (“IMDA”) on 20 February 2019 (“Consultation Paper”)

TVBI Company Limited is an international audio-visual content distributor based in Hong Kong. We have been licensing our programmes to pay- and free-TV stations in Singapore and have recently set up an office in Singapore to provide OTT service for Singaporeans. We welcome the opportunity to comment on the Consultation Paper.

We appreciate the IMDA’s efforts in reviewing the Telecom Competition Code and the Media Market Conduct Code with an aim to developing a harmonized competition code (“**Converged Code**”) that applies to both the telecommunication and media markets in Singapore.

While we support the IMDA’s proposal that OTT TV or content services provided by all OTT TV or content service providers shall be exempted from the consumer protection provisions in the Converged Code, we have concerns over the proposed cross carriage measures (“**CCM**”) under the public interest obligations. Specifically,

- (a) the continued application of the CCM to content of all genres; and
- (b) the extension of the CCM to certain OTT services.

Continued application of the CCM to content of all genres

CCM deprive content providers of their right to manage and license/sublicense their copyrights freely in a manner that best suits their commercial needs. Thus, CCM should be restricted to a limited justifiable content.

Sports and non-sports contents such as TV dramas, movies and documentaries are fundamentally different. Each individual sports event is unique and may not be substitutable. There is, however, no TV drama which cannot be substituted. Since major sports event is considered “hot news” and a large number of viewers wish to have access to such events in real-time and live, broadcasting of premium sports events forms a distinct product market. Pay-TV operators are willing to pay very large amounts for exclusive rights to premium sports events, as the acquisition price can be outweighed by advertising or sponsorship revenue and subscription fee. This may result in an increased potential of excessive competition between pay-TV operators from hogging and over-



bidding exclusivity of premium sports content, which is the underlying primary concern of the IMDA.

Content of other genres, however, does not have the same powerful effect as sports in bringing in significant returns in terms of advertising and sponsorship revenue and in enticing consumers to switch or subscribe to a particular pay-TV operator. Pay-TV operators have no incentive to pay high acquisition fee for the exclusivity of such content. As far as non-sports content is concerned, there is no particular ground of public interest which may outweigh the content providers' freedom to contract. This is well proven by the fact that the CCM have only been imposed on certain key sports content, all of them international football events, since the introduction of the CCM in 2010.

Indeed, content exclusivity can be pro-competitive. It differentiates one content provider from another, thereby providing customers with a wider choice of content providers based on, inter alia, content offerings.

We therefore submit that the regulation of exclusive broadcast rights to sports and non-sports contents need to be separated.

Extension of the CCM to certain OTT services

At the time when introducing the CCM, the then-MDA clarified in its Closing Note dated 1 July 2011 that the CCM only applies to a Subscription Television Licensee who produces, commissions, acquires or otherwise obtains Qualified Content, and it does not apply if the pay-TV operator only acquires exclusive rights for broadcast over the (unmanaged) Internet such that rights to Relevant Platforms are still available for acquisition by other Regulated Persons. We consider that the status quo should be maintained, such that OTT services will not be subject to the CCM.

Given that consumers are now able to conveniently access content that suits their needs through OTT apps available on the public Internet at marketplaces such as Google Play and iTunes, extension of the CCM to OTT services is unnecessary. As the OTT media landscape in Singapore is highly fragmented, OTT services shall be given more room to innovate and compete with incumbents. We believe that a light-handed regulatory approach will encourage new entrants to enter the nascent OTT market, and help Singapore's media industry remain competitive in the digital era.

To conclude, we are of the view that the CCM should not be applied to non-sports contents, and should not be extended to OTT services, whether onshore or offshore.

Yours sincerely
For and on behalf of
TVBI Company Limited

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