News Corporation

Introduction

News Corporation[1], a global media and entertainment company with operations in a number of industry segments, is pleased to provide these comments to the Media Development Authority (MDA or "the Authority").

In Singapore, News Corporation has a substantial presence in the pay television industry, with wholly and partially owned subsidiaries providing channels to the market under the **Fox, National Geographic Channel** and **STAR** brands. This includes more than 20 channels in all, with one or more channel from all of the various programming genres: educational, children, news, general entertainment, sports and music.

In addition, News Corporation is a 50:50 joint venture partner with Walt Disney in **ESPN STAR Sports**. Of further relevance is that News Corporation is the parent company of **Twentieth Century Fox**, one of the six major Hollywood producers and distributors of films, home video and television programs.

News Corporation is a committed partner of both of the operators in Singapore and the millions of viewers that watch our content. We are therefore pleased to offer these comments in response to the MDA's consultation paper issued on September 1st entitled *"Consultation on Preliminary Policy Positions."*

We refer the MDA to the detailed formal comments we have submitted on two earlier occasions. In this instance, therefore, we will be succinct, reiterating our view that the proposed intervention is flawed in its design, with both consumers and the industry likely to suffer significantly should the MDA proceed without adjusting course.

Comments

Singapore to its credit has employed balanced, market friendly policies while building itself into a regional and global hub for media content.

Regrettably, the proposed cross-carriage intervention is a wrong turn for Singapore, with consumers and industry both set to fare badly should MDA decide not modify its proposed approach.

Three main concerns lead us to this conclusion, each of which we articulate in turn as follows.

1. Unintended Consequences: Deep-seated Consumer Confusion and Frustration

The proposed intervention is complex in design and thus destined to result in unintended consequences, the most serious of which is deep-seated consumer confusion in an industry serving more than half of all homes in Singapore.

[1] For more information, please refer to http://www.newscorp.com

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New channels are launched and existing channel agreements are renewed, month in month out, some of which will be subject to cross supply while others will not. Consumers, however, will not know which channels fall into which category and their confusion is not likely to abate over time.

The MDA's September 1st consultation document is further indicative of the creeping complexity the government will face as the MDA attempts to "fix" its regime by micro managing the market, for instance, as the MDA itself anticipates: setting channel lineups, requiring statutory declarations from company executives, stipulating timelines for service delivery and creating cost models for carriage terms between competitors.

Viewer confusion from this complex intervention will in turn result in frustration, eroding the ecosystem of an industry that thrives in large part on the simplicity of the product it delivers to subscribers.

2. Hostile Treatment of Content Owners

The inclination of content owners and channel providers is to support the entrance of new distribution platforms and provide content on a non-exclusive basis. This is particularly true in markets where the new entrants are committed to working with content companies over time to develop a sizable multichannel subscription television business.

We believe strongly, however, that maintaining the right to choose which partner, or partners, to work with, or not work with, is absolutely fundamental. This remains the case even if ultimately, at the conclusion of commercial negotiations, a non-exclusive arrangement is reached. It is, to reiterate, the right of copyright holders to authorize who does or does not have access to its product.

The MDA suggests, strangely, that exclusive arrangements are not restricted, that they will remain permissible, just that when a content company reaches agreement with one distribution platform to the exclusion of the other, its content must then be shared with subscribers connected to the other company's network.

We cannot agree with this creative thinking. Copyright holders maintain the right to both authorize and exclude and limiting these rights, as the MDA's proposed intervention undeniably does, is a violation of the intellectual property rights recognized by international treaties. To suggest that the content provider fails to understand the enlightened nature of the MDA's intervention (that we should somehow be pleased at a hypothetical potential to gain more viewers under an odd and untested regulatory decree) entirely misses the point -- copyright holders not regulators have the right to make such decisions.

3. The Intervention is Unnecessary

Singapore's next generation broadband network, already operational, will soon permit SingTel and StarHub to provide their respective pay-TV services to all customers nationwide over a single underlying network.

This presumably will address the perceived "customer inconvenience" of switching between services provided by SingTel and StarHub over two different underlying networks, xDSL and hybrid fiber coaxial cable, respectively.

In addition, recent news from Singapore indicates the government's continued enthusiasm to fund the creation of a single set-top box for use with the next generation broadband network. In the government's view, this too will presumably further reduce the perceived "customer inconvenience" of switching between the pay-TV service providers, or, indeed, subscribing to both operators simultaneously, something many Singaporeans already do.

Finally, as explained at length in our earlier submissions, even without consideration of the next generation broadband network and next generation set-top boxes, exclusivity in Singapore will naturally wane in the near term. The new dynamic in play, as of 2009, is that SingTel and StarHub are both dedicated to partnering with content providers to grow their respective multichannel subscription businesses. Evidence of this new dynamic is found in SingTel's significantly increased subscriber bases, which in turn provides added commercial incentive for content owners and the platforms to reach non exclusive agreements going forward. With two platforms of roughly equal size, exclusive content agreements will become the exception not the rule and cross carriage a remedy in search of a problem.

Conclusion

Content creators and major suppliers of media and entertainment have been pleased over the years to select Singapore for substantial investment in both program production and as a hub for some regional functions. This is to Singapore's great credit; it is an attractive location for creative companies, providing a highly conducive business environment, including a reasoned-based system for rulemaking and a well developed respect of intellectual property rights.

For this reason -- and the three more specific issues described in these comments -- we hope that MDA decides to alter its course and adjust its proposed intervention.

Given the importance of these issues to the industry and consumers, we remain pleased to provide further input or analysis in person or by additional written submission.