



**MDA Public Consultation on the
Policy and Regulatory Framework for Mobile Broadcasting Services in Singapore**

**Submission by
The Cable and Satellite Broadcasting Association of Asia (CASBAA)
January 17, 2008**

This submission is made on behalf of the Cable and Satellite Broadcasting Association of Asia (CASBAA). CASBAA is an industry association with members and activities in 15 Asia Pacific markets; many have regional headquarters located in Singapore. The Association is dedicated to the promotion of multi-channel television via cable, satellite, broadband and wireless video networks across the Asia-Pacific region and represents some 125 corporations, which in turn serve more than 3 billion people. Member organizations include AETN International, Asian Food Channel, BBC Global Channels, Bloomberg Television, CNBC Asia, Discovery Networks Asia, ESPN Star Sports, HBO Asia, Intelsat Asia Pacific, Globecast, Media Corp News, Microsoft, MGM Channel, MTV Networks Asia, Motorola, Nokia, Qualcomm/MediaFLO, SES New Skies, Sony Pictures Television, Starhub Cable Vision, Zonemedia, Celestial Pictures, China Entertainment Television, Chung Hwa Telecom, National Geographic Channel Asia, NDS, PCCW/Now TV, PricewaterhouseCoopers, STAR Group, Time Warner, Turner Broadcasting, TVB Pay Vision, and Walt Disney Television.

CASBAA and its members wish to congratulate the MDA on its timely and comprehensive examination of policy and regulatory issues which must be considered in order to facilitate launch of mobile broadcasting services in Singapore. MDA's openness in considering the issues and its thoughtful consultation paper demonstrate an outstanding approach to regulatory governance.

CASBAA's member companies work in an industry which is rapidly converging, both commercially and technologically. Pay-TV content is today available to consumers in Asia through distribution platforms using cable, satellite, proprietary broadband, internet, and mobile telephony. The distinctions between the "broadcasting" and "telecommunications" industries are rapidly blurring, and are likely to virtually disappear within the next decade. New business models are rapidly evolving, as industry players gain a surer knowledge of consumers' desires, and willingness, to purchase content over various transmission platforms. It is, therefore, no surprise that the industry favours a

regulatory regime that is open, transparent, even-handed, technologically neutral, protective of creative freedoms, and flexible enough to permit evolution of new business models.

MDA's proposed approaches are by and large supportive of those goals; we share the belief expressed in MDA's announcement that a "market-driven, light-touch and pro-enterprise regulatory framework" will attract more players into the Singapore market and facilitate development of this fledgling sector. However, we believe there is good reason, and ample room, for MDA to go even further than it proposes. "Even lighter touch" regulation will greatly facilitate rapid growth of new services and – applied in a technology-neutral fashion – will provide an appropriate framework for further development of existing services. In any case, we fully support MDA's desire to rapidly resolve the remaining questions and adopt a formal policy framework so that industry players will proceed quickly to roll out additional mobile television services in Singapore, and allow consumers to choose which of many competing offerings they favour. In this way, Singapore will continue to develop its communication markets as a regional leader, new content markets will be stimulated, and consumers will enjoy – if they wish – the benefits of content services anytime and anywhere.

The following comments are keyed to the sections in MDA's Consultation Paper.

Technical Issues:

Our Association endorses MDA's overall approach to the technical issues considered in this consultation, which aims to leave as many decisions as possible in the hands of market players.

In particular, we believe that MDA is wise to:

- a) refrain from mandating any particular technology standard for mobile broadcasting in Singapore;
- b) leave quality-of-service issues to be settled by the marketplace, rather than by regulatory intervention. (Market players have a clear interest in assuring picture quality, customer service, etc. in order to provide a competitive package to consumers.)

While we do not believe it is strictly necessary for MDA to provide any minimum network coverage requirements either, we understand the government's legitimate interest in using available spectrum efficiently to provide a nationwide service. We believe MDA's proposed approach to mandate only outdoor coverage requirements is appropriate.

Licensing framework:

Our overriding goal is to see a transparent, predictable and market-friendly process put in place as quickly as possible so potential operators and investors can assemble and rapidly implement a commercially viable business plan. Singapore's potential market for these

services is small, and MDA's consultation paper rightly notes that demand for mobile TV services is uncertain. This makes investing in a mobile broadcasting service risky; rapid roll-out of mobile TV services will only be achieved if the licensing framework is in reality market-driven and pro-enterprise. We believe that certain aspects of the MDA's proposed framework should be adjusted to improve the system's market-friendly orientation.

- We believe that the attractiveness of the tender for multiplexes will be increased if the duration of the license is straightforward, clear, and as lengthy as possible. MDA proposes a 10-year license, extendable to 15; we would propose that this be simplified into a 15-year license. Appropriate conditions on service roll-out can be attached to the tender to assure that frequencies are utilized, but the large investments necessary to create a mobile broadcasting system can better be justified with a longer licensing term.
- Similarly, we do not see the desirability of limiting the term of the "niche" broadcasting licenses to 5 years, and we believe that such a duration is too short. A 10-year (or even 15-year) license duration would be more market-friendly. This point is valid for all delivery platforms; MDA should take the opportunity of its examination of these mobile TV issues to extend the standard validity of all niche licenses (whether for delivery over mobile, or other, platforms).
- A related problem is created by the dual-tier licensing system. A "niche" operator whose business is successful will become ineligible to retain its niche license if it grows past the limit of 100,000 subscribers; if the operator has substantial foreign investment it may have to arrange divestment of those shares in order to meet the requirements of Part X of the Broadcasting Act and thereby qualify for a Nationwide Subscription TV License. The only alternatives would be to avoid bringing in foreign investors from the very beginning, or to limit the system's subscriber growth to keep it under the 100,000 ceiling. Neither of these options is desirable, in the context of MDA's stated intention to attract investment and grow this industry. We believe that Part X of the Broadcasting Act should be amended, and its restrictions on foreign ownership – which are vestiges of an earlier media age – should be relaxed. (We recognize this may not be achievable in the context of this consultation, and we do not advocate delay of roll-out of the licensing framework to achieve this "lighter touch." However, we believe this is a worthy goal for MDA to pursue, and one that will become increasingly necessary as the technological convergence and commercial fragmentation of the media industry continues.)
- We believe the proposed requirement that 65% of the multiplex capacity be used for video is too high. To stimulate development of this nascent industry, the number of constraints imposed on market players' business models should be as low as possible; no one knows what kind of product mix might make commercial sense for a multiplex operator. Recognizing government's desire to see mobile broadcasting licenses used for mobile TV services, we would suggest that, at

most, a 50% requirement might be adopted, with provisions for MDA to grant waivers of this rule upon a justified application from a license-holder.

- We appreciate the good intent behind MDA’s proposal to waive license fees for five years. However, following the five-year period, MDA proposes to apply the 2.5% (of revenue) licensing fee that is applicable to other broadcasting licenses. We believe this is another area where the advent of mobile broadcasting suggests a re-examination of MDA’s overall policy is warranted. The 2.5% fee is among the highest in Asia, and is high by comparison with the fees leveled by comparable developed-country jurisdictions;¹ the prospect of its imposition after five years will weigh down the business planning of potential licensees. We believe the fee is simply an additional tax imposed on the various segments of the broadcasting industry, as we see no indication that the level of this fee is associated with any calculation of the cost of administration of the licensing system. In today’s market, broadcasters are competing with many different networks (wired and wireless) for providing entertainment products to consumers, and it is preferable that taxation for all be handled through the overall corporate tax system, rather than through high license fees.
- Likewise, we do not believe that a “lump sum money bid” should be included in the evaluation criteria for a possible tender. Inclusion of such a criterion will tend to turn the tender into an auction, and benefit incumbent players who have the deepest pockets. We believe the Singapore public will be better served by making it possible for a wide range of potential entrants to compete in this tender; the tender exercise should be seen as a way to stimulate new services and vibrant competition, not as a cash cow.
- We are concerned at the ambiguous nature of some of the criteria for the “beauty contest” (comparative tender) selection mechanism proposed by MDA. It is important, to facilitate participation by a range of potential investors, that the benchmarks to be used be fully transparent and susceptible to objective analysis. We would urge MDA to make whatever criteria are adopted as “hard” and quantitative as possible.

¹ In CASBAA’s recent “Regulating for Growth” survey of Asian jurisdictions, only Thailand was reported to have a higher fee than the proposed 2.5% level. India has varying fees, some of which are quite high. However, we do not believe these are appropriate comparators for Singapore.

Among comparable jurisdictions to Singapore, prevailing levels are much lower:

UK -- A one-time application fee of GBP2,500 plus a minimum annual licence fee of GBP1,000 (with the actual amount payable being a percentage of revenue according to a sliding scale of up to 0.78718%).

Hong Kong -- A one-time application fee of HKD1,533,000 plus HKD4 per subscriber per annum.

Malaysia – 0.5% of gross annual turnover or RM50,000; whichever is higher

Australia -- A one-time application fee of AUD1,600 per channel / service.

Market Structure Issues:

We see no reason to object to the number of multiplex licenses MDA proposes to issue, nor to its plan to require that licensees make access available on fair, reasonable and non-discriminatory terms and conditions. (The latter condition is likely to favour entry of additional services, which would be a competitive benefit.)

We warmly support MDA's proposal not to limit advertising revenue earned from mobile TV services. Indeed, we believe that the proper mix of advertising and subscription revenue across all broadcasting platforms is best determined by market actors, and we urge MDA to relax the advertising revenue constraints imposed on all Singapore subscription television operators. The current restriction of advertising to 25% of total revenue is the tightest such restriction in Asia, and we are unaware of any theoretical foundation for it (other than protection of incumbent competing media interests, which goes against the goal of technology and platform neutrality in regulation).

Regulation of Content:

In general, our Association supports creation of a level playing field with respect to content regulation across all platforms. This means that like kinds of content (linear subscription channels, VOD content, etc.) should be regulated in the same fashion whether delivered on cable, satellite, broadband or wireless platforms. Such regulation should be founded on clear, published codes of practice that are developed by the industry or with substantial industry participation. It appears to us that it is MDA's intention to achieve a similar outcome. We note that MDA plans to use existing licensing mechanisms and existing codes of practice to regulate mobile broadcasting. We believe that in the context of MDA's processes, which are efficient when compared to many other regulators, the proposed licensing approach will not represent an undue burden to development of content for mobile platforms.

However, we also believe that there is scope for lightening the regulatory burden across all types of platforms. The requirement for *ex ante* approval of channels (and "significant" changes in channel content) is an anachronism in the internet age; we would suggest that it be replaced with a system of filing of proposed channel lineups for public scrutiny which would be implemented 14 days later unless there was some objection from MDA or the public.

(If the present system of requiring *ex ante* approval is retained, we would question why such a long approval time (60 days) is required for minority language content. A 30-day period, as is required for "sensitive" news and information channels, should be adequate for full MDA review.)

On other points:

- We support MDA's proposal not to impose public service broadcasting (PSB) or must-carry requirements on mobile broadcasting. Imposition of such

requirements would burden the nascent industry, and MDA wisely notes that minimizing such burdens will improve the likelihood of development of viable business models.

- We do not object to MDA's proposal to require advertisements on mobile services to meet existing requirements (voluntary SCAP codes and MDA codes).

In conclusion, we wish to thank MDA for its trend-setting and open-minded approach to these regulatory issues, which starts from the very logical base that if private investment is desired, to stimulate the development and commercialization of new technologies and business models, the regulatory framework must be pro-enterprise and "light touch." Singapore, with its small market size, needs such an approach if it is to assume a leading role in these convergent industries. MDA is to be congratulated for the vision and flexibility it has applied to these issues. Our Association remains ready to support this vision with further exchanges of views and information, if that is judged desirable.