



**SINGNET PTE LTD**

**SUBMISSION TO THE MEDIA DEVELOPMENT AUTHORITY OF SINGAPORE**

**IN RESPONSE TO THE**

**CONSULTATION ON PROPOSED REVISIONS TO THE ANTI-SIPHONING LIST  
AND DEFINITION OF “DELAYED BROADCAST”**

**DATE OF SUBMISSION: 18 OCTOBER 2012**



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**SINGNET PTE LTD**

**SUBMISSION TO THE MEDIA DEVELOPMENT AUTHORITY OF SINGAPORE  
IN RESPONSE TO ITS PUBLIC CONSULTATION ON PROPOSED  
REVISIONS TO THE ANTI-SIPHONING LIST AND DEFINITION OF  
“DELAYED BROADCAST” ISSUED ON 20 SEPTEMBER 2012**

**1 BACKGROUND**

- 1.1 SingNet Pte Ltd (**SingNet**) refers to the Media Development Authority of Singapore’s (**MDA**) and the Singapore Sports Council’s (**SSC**) phase two public consultation on “Proposed Revisions to the Anti-Siphoning List and Definition of Delayed Broadcast” (**Consultation**) dated 20 September 2012.
- 1.2 SingNet welcomes the opportunity to make a submission on the proposed revisions to the Anti-Siphoning List (**List**). SingNet has a strong interest in the development of a List that balances the interests of Singapore viewers and the industry.
- 1.3 SingNet owns and operates Mio TV, an internet protocol television service. SingNet’s Mio TV service currently has approximately 380,000 subscribers<sup>1</sup>.
- 1.4 In this submission, SingNet has sought to comment on:
- (a) the key objectives and considerations for including a programme on the List;
  - (b) the proposed revisions to the programmes listed in Cat A and Cat B of the List as they are set out in the Consultation; and
  - (c) the definition of “delayed broadcast” as it applies to Cat B programmes.

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<sup>1</sup> Management discussion & Analysis of Financial Condition for First Quarter ended 30 June 2012.

## 2 EXECUTIVE SUMMARY

2.1 SingNet offers the following comments on the considerations that the MDA should take into account when deciding whether to include a programme in the List:

- (a) the Code 2010 currently does not provide objective criteria or measurement for determining what programmes should be included on the List;
- (b) the programmes proposed in the Consultation appear to cater more for the commercial appetite of the viewers rather than for national significance;
- (c) there is an over-emphasis on sports throughout the Consultation;
- (d) unnecessarily expanding the List is likely to further reduce competition in the Singapore broadcast market;
- (e) the Consultation does not adequately highlight the inability of the anti-siphoning scheme to guarantee programme coverage by FTA providers;
- (f) the MDA should give more consideration to measures for de-listing and measures against hoarding;
- (g) the MDA should give greater weight to the commercial considerations for listing a programme on the List;
- (h) the platforms to which the anti-siphoning obligations apply to subscription television service providers should follow a similar approach to the approach taken in relation to cross-carriage, ie it should be limited to those subscription television service(s) that are carried over platforms like the hybrid fibre-coaxial, optical fibre and /or ADSL only; and
- (i) the MDA should consider the potential implications of new technology, including multi-channelling of sporting events in the near future.

2.2 The MDA should consider whether to amend Cat A in such a way that it covers only exclusive live rights and not exclusive delayed rights.

2.3 The MDA should also consider whether a Cat B list is still required.

2.4 SingNet provides specific comments on the MDA proposed programmes in the List.

- 2.5 In relation to the definition of “Delayed Broadcast:
- (a) SingNet is seeking an extended time lag for “delayed broadcast” of up to 72 hours if not 48 hours;
  - (b) SingNet believes that a “delayed broadcast” should only begin after the event is completed, even if the event extends beyond its scheduled end time; and
  - (c) SingNet provides its views on the definition of “delayed broadcast”.

### 3 GENERAL COMMENTS

#### No specific objective criteria

- 3.1 Section 2.6.1.3 of the Media Market Conduct Code 2010 (**Code 2010**) states that in determining whether certain programming should be placed on the List, MDA will consider all relevant issues which include, but are not limited to:<sup>2</sup>

*(a) whether imposing the proposed restrictions will increase the likelihood that viewers in Singapore will be able to access the programming over free-to-air television;*

*(b) whether viewers in Singapore have a reasonable expectation of being able to access the programme over free-to-air television;*

*(c) whether a significant portion of the viewers in Singapore would be likely to watch the programme if it was made available on free-to-air television;*

*(d) whether the programme involves major international sporting events, international sporting events in which a Singapore team or personality is participating, or significant local sporting events; and*

*(e) the extent, if any, to which restricting the ability of Subscription Television Licensees from obtaining certain exclusive rights would be likely to adversely affect the ability of Subscription Television Licensees to provide a commercially viable service.*

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<sup>2</sup> Code 2010, s 2.6.1.3(a) - (e).

- 3.2 SingNet notes that in its Consultation, the MDA has not sought to review or amend Section 2.6.1.3 of the Code 2010. Rather, the MDA indicates that any programme that meets these criteria or any other relevant consideration can be considered and an integral consideration is the concept of “national significance” or national importance.
- 3.3 SingNet agrees that Section 2.6.1.3 of the Code 2010 remains relevant and agrees with the MDA position in relation to national significance.
- 3.4 SingNet’s concerns lie with the fact that in giving consideration to “whether a significant portion of the viewers in Singapore would be likely to watch a programme if it was made available on free-to-air TV”<sup>3</sup>, the MDA has not proposed an objective measurement by which to assess this particular criteria. It is therefore still not clear what the MDA review process is in determining whether a significant portion of the Singapore population would be likely to watch a programme on FTA.
- 3.5 SingNet is concerned that without a proper framework to consider how a programme meets the criteria in Section 2.6.1.3, there is a tendency for the population and the MDA to rely on factors like popularity or ratings to determine whether a programme fits this specific criterion when evaluating its potential inclusion on the List.<sup>4</sup>
- 3.6 Whilst it does not appear that the MDA has sought to use ratings or popularity as a measure to determine programme inclusion for the purpose of the Consultation, SingNet believes that it is worthwhile to discuss the risk of using popularity or ratings as a means to define whether a programme is of national significance.
- 3.7 Ratings and demand can be an outcome of many factors, including advertising and promotions. It can also be a function of prevailing sentiment at a particular point in time. For example, if games are played between teams from Asia and out of Asia in a world-wide event/tournament, there may be a lot of interest in a particular game, but this should not necessarily be the reason for placing the entire event/tournament in either Cat A or Cat B.

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<sup>3</sup> Code 2010, s 2.6.1.3(c).

<sup>4</sup> MDA and SSC, ‘Proposed Revisions to the Anti-Siphoning List and Definition of Delayed Broadcast – Public Consultation’ (20 September 2012), paragraph 2.5.

- 3.8 SingNet notes that there will often be programmes for which ratings or demand may be low, but for which the MDA could still have good reasons for placing them on the List. For example, the Summer Youth Olympics may not attract the same level of demand as other international events, such as the finals of a popular cricket game, but the former should still be included on the List due to its national significance.
- 3.9 If the MDA uses ratings or popular demand as a factor, SingNet notes that this may actually dampen innovation by providers. For example, subscription television service providers today may invest in and promote programmes to create their own subsidiary content to the programme (e.g. create their own commentary programmes, lucky draws for a sports programme, etc.). As a result, the programme may end up being highly rated or in high demand. To then place that same programme on the List would mean that the subscription television service provider is being penalised for its own effort.
- 3.10 SingNet requests that the MDA consider putting in place specific objective measurements by which to assess the criteria listed in section 2.1.6.3 of the Code 2010. SingNet also requests that the MDA provide sufficient time for these objective measurements to be reviewed by the industry before they are implemented.

#### **“National significance” vs commercial appetite of viewers**

- 3.11 SingNet agrees that a key objective of the anti-siphoning obligations should be to protect the interests of Singapore viewers in watching events that are of national significance. SingNet supports this as a core objective of the anti-siphoning obligations.
- 3.12 SingNet notes that this is also the approach that is currently applied in other jurisdictions, such as Australia and the United Kingdom, where the national significance or the level of national interest in a programme is considered a key factor for deciding whether to list a programme. For example, section 97(1) of the Broadcasting Act 1996 states that Ofcom may only list an event if it is of “national interest.”<sup>5</sup>

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<sup>5</sup> Broadcasting Act 1996, s 97(1).

- 3.13 Consequently, SingNet is concerned that in “curating” the List, the programmes that the MDA have proposed for inclusion on the List appear to cater for the commercial appetite of viewers rather than to meet the specific objective of national significance. For example, SingNet notes that the proposed list includes a number of single sport events instead of multi-sport events with football making up the bulk of the new proposals.
- 3.14 Apart from questions over whether a single sports event can carry the objective of binding the community, SingNet is concerned that the proposed additions to the List are geared towards football fans, which represents only one specific segment of the population. Instead of binding the community, the MDA’s present proposal could have the opposite effect of indulging football fans at the expense of the broader non-football watching Singapore population. A similar argument could also be made for the MDA’s proposed addition of F1 Singapore to the List, which has little mass appeal beyond a small group of local motoring enthusiasts.

#### **Over-emphasis on sports as a criteria for listing**

- 3.15 Related to our views above, SingNet considers that there is presently an over-emphasis on sports as a criteria for including a programme on the List. While we agree with the MDA’s view that sports can play an important role in bringing Singapore viewers together as a community, SingNet considers that many of the events proposed for inclusion on the List in the Consultation are not likely to be of national significance or to have communal benefits for most Singapore viewers. For example, as noted above, the MDA and SSC are currently proposing to add F1 Singapore to Cat A, even though only a small proportion of Singapore viewers are motoring fans.
- 3.16 Similarly, SingNet also notes that expanding the List to include additional sports events may have undesired commercial consequences for subscription television service providers. Sports programmes tend to make up a significant proportion of subscription television service offerings as there is usually the demand for and the willingness to bear a premium for such content. To skew the Consultation and the List towards sports sends the wrong signal to the population that they are able to obtain sports content free of charge over the FTA network.



### **Reduction of competition in the Singapore broadcast market**

- 3.17 SingNet understands the need for a basic anti-siphoning list that ensures all Singapore viewers are able to gain access to a select list of nationally significant programmes. However, SingNet cautions against expanding the List unnecessarily in an effort to include “possible” programmes on the grounds that the current List may not be sufficiently large. SingNet notes that this is likely to reduce competition in the Singapore broadcast market.
- 3.18 The anti-competitive effects of anti-siphoning laws have been discussed extensively in Australia. The Australian Competition and Consumer Commission (ACCC) has argued that anti-siphoning provisions can harm competition in the broadcast market and can lead to barriers to entry for subscription television service providers:

*While acknowledging that restrictions on competition in the media sector have been implemented to achieve various social policy objectives, the Commission believes that they may be inhibiting consumer choice, competition, economic growth and innovation in this sector.<sup>6</sup>*

- 3.19 Access to premium content is central to the take-up of subscription television services, so the inability to compete for listed content and provide the content exclusively, at a premium, can harm existing subscription television service operators. It will also tend to discourage new entry to a subscription television service market that is subject to extensive anti-siphoning regulations.<sup>7</sup>
- 3.20 Following its independent review of the Australian broadcasting regime, the Productivity Commission found that the anti-competitive effects of having an extensive anti-siphoning list tended to outweigh the benefits of having the list:<sup>8</sup>

*The Commission finds that the anti-siphoning rules are anti-competitive and that the costs of the current scheme to sporting organisations, the broadcasting industry and the community as a whole, exceed their benefits.*

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<sup>6</sup> ACCC, ‘Emerging Market Structures in the Communications Sector’ (June 2003) 62.

<sup>7</sup> Ibid, 73.

<sup>8</sup> Productivity Commission, ‘Broadcasting: Inquiry Report No. 11’ (3 March 2000) 444.

3.21 The Commission found that rather than improving access to sports content, in many cases the anti-siphoning list actually led to reduced consumer access to broadcast sport.<sup>9</sup> This ultimately led the Commission to recommend that “new provisions be adopted with a narrower list that includes only sporting events of major national significance.”<sup>10</sup>

3.22 In a more recent review of the regulatory burden on the Australian media sector, the Productivity Commission came to the same conclusions as its earlier inquiry:<sup>11</sup>

*The anti-siphoning list was introduced with the objective of ensuring broad access to television coverage of major sporting events. However, it appears to be a blunt, burdensome instrument that is unnecessary to meet the objective of ensuring wide community access to sporting broadcasts.*

#### **Inability to guarantee programme coverage**

3.23 SingNet considers that there is insufficient weight given in the Consultation to the risk that including a programme on the List could lead to the programme or event not being broadcast at all.

3.24 SingNet is concerned that the general population may not be aware that the presence of programmes on the List will not necessarily guarantee that these programmes will be made available to FTA viewers (i.e. the general population). The Consultation should make it clear that the Code 2010 simply prevents subscription television service providers from acquiring the exclusive rights, but it does not oblige the FTA provider to acquire the rights to and broadcast the listed content.

3.25 Consequently, SingNet cautions that adding programmes or expanding the List:

- (a) can increase the risk of important content not being broadcast at all if FTA providers opt against acquiring particular programmes or “hoard” programmes by acquiring them but not broadcasting them (or broadcasting them weeks or months after the

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<sup>9</sup> Ibid, 29.

<sup>10</sup> Ibid, 30.

<sup>11</sup> Productivity Commission, ‘Annual Review of Regulatory Burdens on Business: Social and Economic Infrastructure Services’ (August 2009) 155.

event has been completed); and

- (b) can distort the market and give rise to a situation where subscription television end-users who would have wanted to watch and pay a premium for listed content are not given the opportunity to do so as subscription television providers are prohibited from acquiring the exclusive rights for the purpose of broadcasting the content.

3.26 The MDA has recognised the fact that content that is set aside for FTA providers may not be broadcast for the benefit of the FTA public. In paragraph 3.1.4.5 of the Consultation, the MDA provides an example from the recent Summer Olympics when FTA providers did not have the necessary capacity to carry and broadcast all available content (approximately 3,000 hours of “live” content).<sup>12</sup> During the London Olympics, MediaCorp was permitted to enter into an agreement with the Olympics Broadcast Committee to acquire broadcast content and was able to broadcast it on its own capacity. SingNet notes that the remaining hours were then made available to subscription television service providers.

3.27 In other words, placing a programme on the List does not guarantee that the FTA provider will acquire the rights to broadcast the programme. SingNet notes that the Code 2010 does not place a requirement on the FTA provider to show the programme.

3.28 By way of comparison, SingNet refers to the Australian anti-siphoning and anti-hoarding regimes. Cat A in Singapore is far more prohibitive than its equivalent category in Australia. In Australia, the right is a first right provided in favour of FTA providers to acquire, not an absolute prohibition against parties acquiring exclusive rights, and is supplemented with provisions dealing with anti-hoarding.

3.29 In Australia, an event will automatically be removed from the anti-siphoning list if the rights to the event have not been acquired by a FTA broadcaster within 12 weeks prior to the event’s commencement.<sup>13</sup> Furthermore, a Bill is currently under consideration that would extend the automatic de-listing period to 26 weeks to give content producers as much time as possible to negotiate broadcast rights to prevent

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<sup>12</sup> MDA and SSC, ‘Proposed Revisions to the Anti-Siphoning List and Definition of Delayed Broadcast – Public Consultation’ (20 September 2012), paragraph 3.1.4.5.

<sup>13</sup> Broadcasting Services Act 1992, s 115(1AA).

listed content from going unaired.<sup>14</sup> Listed content will also be de-listed 168 hours following the completion of the live event.<sup>15</sup>

- 3.30 To illustrate, the MDA has proposed to list on Cat B the Malaysian Cup. This means that if the subscription television service provider is allowed to only acquire the exclusive live rights to the game but not on a delayed basis, subscription television end-users who may miss the live broadcast may also not be able to see the delayed broadcast if the FTA provider does not acquire or broadcast the games on a delayed basis.
- 3.31 A bloated List will also mean that Singapore viewers may also lose access to content where the FTA provider “hoards” programmes.
- 3.32 SingNet also notes that, in addition to the anti-siphoning scheme, there is already a prevailing market practice in place to ensure that programmes are made available to the FTA public. For some of the events on the List, the original content provider already carves out rights for FTA networks. For example, this has typically been the case for the broadcast of the Summer Olympics in Singapore. This means that subscription television service providers will not be able to exclude the FTA provider from obtaining and broadcasting the programme over FTA networks. Hence, placing these programmes on the List in the way that has been proposed by the MDA and SSC may be unnecessary and may instead have possible undesirable effects.
- 3.33 In summary, SingNet cautions against unnecessarily expanding the List, which can harm competition and may actually prevent access to content in some cases to the detriment of consumers.

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<sup>14</sup> Broadcasting Services Amendment (Anti-Siphoning) Bill 2012, s 145E(6)(a).

<sup>15</sup> Broadcasting Services Act 1992, 115(1B).

### Measures against “hoarding” and for de-listing

3.34 SingNet notes that Sections 2.6.2.1 and 2.6.2.2 of the Code 2010 place restrictions on FTA providers “hoarding” programmes. These anti-hoarding provisions require an FTA provider to broadcast a “reasonable portion” of a listed programme where the FTA provider has acquired the exclusive broadcast rights in connection with a Cat A or Cat B programme.

3.35 However, the MDA does not set out how to determine whether “hoarding” has occurred. The Code 2010 simply states that an FTA licensee will have failed to broadcast a “reasonable portion” of the programme:

*(a) if the Free-to-Air Television Licensee fails to broadcast a substantial portion of the programme, including “live” excerpts, for which it purchased the exclusive broadcast rights without a reasonable business justification; and*

*(b) if the Free-to-Air Television Licensee had shown a greater portion of the programme, a significant number of viewers would have been likely to watch the programme*

3.36 SingNet is concerned that the current anti-hoarding provisions in the Code 2010 are vague and difficult to enforce. SingNet notes that the above provisions are not likely to stop a FTA provider from acquiring rights to a listed programme then broadcasting that programme weeks or months after the event has been completed. In such a scenario, the FTA provider could argue this was its original business case or that it has already broadcast a reasonable amount of the programme involved and there was no reason for it to then offer the rights to another provider.

3.37 SingNet therefore submits that additional protection measures should be included to tighten the anti-hoarding provisions and include measures for the automatic removal of programmes from the List if they have not been broadcast by FTA providers in the previous year or are currently not being sufficiently broadcast.

- 3.38 One way to tighten Singapore’s anti-hoarding provisions may be to apply a similar approach to that currently practiced in Australia. Under section 146E(2) of the *Broadcasting Services Act 1992*, an FTA provider must televise live “the whole of an event,” which effectively requires listed events to be broadcast in their entirety minus only an “insubstantial proportion of the event”. An “insubstantial proportion of the event” is narrowly defined (e.g. news breaks or program promotions) to further tighten the FTA provider’s obligation to show the whole of an event. In addition, a Bill is currently before the Australian Parliament that would place “must offer” obligations on FTA operators to encourage them to only acquire the live rights to events that they can actually use.<sup>16</sup>
- 3.39 SingNet notes that there are general provisions for de-listing in Section 2.6.1.4 of the Code 2010. However, SingNet is of the view that an automatic de-listing period and new, strengthened anti-hoarding rules could be implemented to ensure that Singapore viewers are not penalised for a FTA provider’s decision not to broadcast content or their inability to acquire and broadcast listed content.

#### **Commercial considerations for listing**

- 3.40 SingNet considers it important that the MDA take account of commercial considerations involved when assessing whether a programme should be included in the List.
- 3.41 Section 2.6.1.3(e) of the Code 2010 currently states that a programme should not be listed if doing so would “adversely affect the ability of Subscription TV Licensees to provide a commercially viable service.”<sup>17</sup> SingNet believes an additional consideration should be whether the general community is better off accessing the programme on subscription television service.
- 3.42 To use the illustration of the various sports programmes that the MDA has proposed for the List, SingNet is of the opinion that the general population is better off if some of the programmes are left for accessing via the subscription television service platforms for the following reasons:

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<sup>16</sup> Australian Broadcast Authority, ‘Investigation into the implementation of the anti-hoarding rules’ (June 2000) 8.

<sup>17</sup> Code 2010, s 2.6.1.3(e).

- (a) the value of the content rights under consideration for a listed programme may be high, making them unaffordable for FTA providers; including them in the List means that the programme is not acquired for broadcast on FTA whilst the subscription television service provider is also prohibited from acquiring the exclusive rights; and
- (b) in many cases, the subscription television service provider not only wishes to acquire the rights to broadcast the programme, but also to value add to the programme (e.g. create commentary programmes to accompany the listed programme). Placing the entire programme on the List takes away any incentive for this.

3.43 SingNet notes however that a key principle that the MDA must keep in mind is that the List must not be expanded such as to provide the subscription television service providers with little or no business viability to showcase premium programmes for which there could be associated gains in the form of advertising revenues.

3.44 SingNet also believes that any changes to the List should not affect the principle of commercial negotiations between FTA and subscription television service providers. This happens when, for example, the nature of the content rights agreements are written in such a way that the content provider wishes to contract with only one party, but states in its contract that certain programmes in the contract must be offered to FTA providers as well.

3.45 Where such programmes are on the List, subscription television service providers have no issues offering these to the FTA providers. However, the nature of the contract arrangement is such that the subscription television service provider would have had to pay a premium upfront for all of the content, even those to be offered to the FTA provider. SingNet considers that FTA providers should not, on account of their refusal to pay commercial rates, be given access to programmes free-of-charge.

#### **Nature of subscription television service**

3.46 The MDA has not made it clear in its Consultation that the acquisition of exclusive rights to Cat A and Cat B by subscription television service providers should only cover the rights for delivery of the programmes on the List on subscription television services that are carried on the Relevant Platforms (as defined in the Code 2010).

3.47 SingNet notes that for the purpose of the cross-carriage obligation applicable to subscription television service providers in the Code 2010, the MDA has specifically defined the Relevant Platforms as:

*a managed network over or using any one or any combination of the following:*

*(i) hybrid fibre-coaxial;*

*(ii) optical fibre;*

*(iii) Asymmetric Digital Subscriber Line (ADSL).*

3.48 SingNet believes that the anti-siphoning obligations should follow a similar approach and hence should be limited to those subscription television service(s) that are carried over Relevant Platforms (ie hybrid fibre-coaxial, optical fibre and /or ADSL only). This removes any doubt in relation to the platforms over which rights to programmes can be obtained by subscription television service providers without being subject to the anti-siphoning obligations.

### **Consideration of new technology and multi-channelling**

3.49 SingNet is concerned that the List does not fully consider new technology implications, particularly the multi-channelling of sporting events in the near future. Singapore risks lagging behind other jurisdictions if it does not take steps to encourage multi-channelling across FTA and subscription television service platforms. For example, the 2012 Olympics were said to be the last Olympics where a single channel will broadcast the events. SingNet considers that the List should cater for multi-channelling of sporting events across both FTA and subscription television service platforms.

3.50 In paragraph 3.1.4.5 of the Consultation, the MDA acknowledges that during the recent Summer Olympics FTA providers did not have the necessary capacity to carry and broadcast all available content (approximately 3,000 hours of “live” content).<sup>18</sup> SingNet notes that multi-channelling would allow FTA and subscription television

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<sup>18</sup> MDA and SSC, ‘Proposed Revisions to the Anti-Siphoning List and Definition of Delayed Broadcast – Public Consultation’ (20 September 2012), paragraph 3.1.4.5.



service providers to negotiate joint exclusive rights deals with content providers so that listed events, such as the Summer Olympics, could be shown on both platforms. This would lower broadcast acquisition costs for both FTA and subscription television service providers. It would also provide more choice to Singapore viewers by enabling multi-channel broadcasting over several platforms for multi-event sports.

#### 4 CAT A VS CAT B PROGRAMMES

- 4.1 SingNet also asks that the MDA take the opportunity to review the requirements for a Cat A programme. Currently, Section 2.6.1.1 of the Code 2010 states the following:

*Cat A will consist of programmes in respect of which a Subscription Television Licensee may not obtain for its own use any exclusive right to broadcast the programme, or any part thereof, whether including either or both “live” and “delayed” broadcasts, as MDA considers appropriate.*

- 4.2 SingNet questions whether this is still relevant. SingNet considers there is no need for Cat A programmes to cover exclusive delayed rights in addition to exclusive live rights. Removing exclusive delayed rights would still allow nationally significant events to be broadcast over FTA but would also enable subscription television service providers to maximise the commercial gains associated with Cat A programmes on a delayed basis.

- 4.3 SingNet notes that access to premium content is central to the take-up of subscription television services and the ability of subscription television service providers to offer “commercially viable services” as outlined in Section 2.6.1.3 (e) of the Code 2010:

*...extent, if any, to which restricting the ability of Subscription Television Licensees from obtaining certain exclusive rights would be likely to adversely affect the ability of Subscription Television Licensees to provide a commercially viable service.*

- 4.4 A subscription television service provider’s inability to offer, exclusively, both live and delayed broadcasts of Cat A programmes (which tend to be the most highly sought after programmes) contradicts the key consideration in section 2.6.1.3(e) of the Code 2010.

- 4.5 SingNet also notes that there has been little demand for Cat B programmes to date, which is evidenced by the fact that there are currently no programmes in Cat B. SingNet believes that if such changes were made to Cat A, then the MDA could also consider doing away with Cat B entirely. SingNet notes that if the list of programmes in Cat B is too long then there will be a disincentive for industry to acquire programmes.

## 5 VIEWS ON THE PROPOSED LIST

- 5.1 SingNet has examined the MDA specific proposals for the List and outlines its comments on the MDA's and SSC's proposed revisions to the List in Tables 5.1 and 5.2. Proposed additions to the List are in ***bold italics***. Changes to existing programmes in the List are in *italics*.

**Table 5.1: Proposed Cat A programmes in the List**

No.	Topic	Proposed Cat A programmes	Comments
1.	Multi-sports event	<ul style="list-style-type: none"> <li>▪ Asian Games</li> <li>▪ Commonwealth Games</li> <li>▪ Southeast Asian Games</li> <li>▪ Summer Olympic Games</li> </ul>	<ul style="list-style-type: none"> <li>▪ SingNet acknowledges the nation-building characteristics of these programmes and accepts their proposed retention in Cat A.</li> </ul>
2.	Football	<ul style="list-style-type: none"> <li>▪ <b><i>FIFA World Cup:</i></b> <ul style="list-style-type: none"> <li>○ <b><i>Key matches (opening, semi-finals and finals)</i></b></li> <li>○ <b><i>Matches involving Singapore team, including qualifiers</i></b></li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>▪ Generally speaking, SingNet believes that Cat A programmes should be limited to multi-sports events that appeal to all segments of the population.</li> <li>▪ SingNet would accept the inclusion of 'key matches', but only as long as this term remains narrowly defined to include the opening ceremony and game, semi-finals and finals of the World Cup.</li> </ul>
3.	International events held in Singapore	<ul style="list-style-type: none"> <li>▪ <b><i>F1 Singapore</i></b></li> </ul>	<ul style="list-style-type: none"> <li>▪ SingNet disagrees with the inclusion of F1 Singapore on the List. This event tends not to have any</li> </ul>

No.	Topic	Proposed Cat A programmes	Comments
			<p>Singapore participants and it has little mass appeal beyond a small group of local motoring enthusiasts. The fact that it is hosted in Singapore and it has previously been broadcast over FTA TV should not justify its inclusion in Cat A as it does not have a sufficient nation-building element to it.</p> <ul style="list-style-type: none"> <li>▪ SingNet believes that F1 Singapore should be left for commercial negotiations between FTA providers, subscription television service providers and the organisers of the event.</li> </ul>

**Table 5.2: Proposed Cat B programmes in the List**

	Topic	Proposed Cat B programmes	Comments
1.	Multi-sports event	<ul style="list-style-type: none"> <li>▪ <i>Summer Youth Olympics</i></li> <li>▪ <i>Winter Olympics</i></li> </ul>	<ul style="list-style-type: none"> <li>▪ SingNet acknowledges the nation-building characteristics of the Summer Youth Olympics and accepts their proposed addition to Cat B.</li> <li>▪ However, SingNet does not support the inclusion of the Winter Olympics on the List. Singapore viewers have typically had very little interest in the Winter Olympics, so their inclusion in Cat B is not justified.</li> </ul>
2.	Football	<ul style="list-style-type: none"> <li>▪ <i>AFF Suzuki Cup</i></li> <li>▪ <i>Malaysia Super League*</i></li> <li>▪ <i>Malaysia Football Association Cup*</i></li> <li>▪ <i>Malaysia Cup*</i></li> </ul> <p><i>*Matches involving Singapore Club teams</i></p>	<ul style="list-style-type: none"> <li>▪ SingNet disagrees with the proposed inclusion of football programmes in Cat B. SingNet believes that Cat B programmes should be limited to multi-sports events that appeal to all segments of the population. The proposed Cat B football programmes have little mass appeal beyond a small group of football fans, so they do not have a sufficient nation-building element to warrant their inclusion in Cat B.</li> </ul>
3.	International events held in Singapore	<ul style="list-style-type: none"> <li>▪ N/A</li> </ul>	<ul style="list-style-type: none"> <li>▪ N/A</li> </ul>

### **Other Programmes for consideration**

- 5.2 The MDA and the SSC have also put forward International Table Tennis Federation (ITTF) table tennis events and the Summer Paralympic Games for consideration as events to be added to the List.
- 5.3 SingNet does not support the unnecessary expansion of the List. SingNet recognises that these table tennis and Paralympic events have seen increasing support from Singapore viewers in recent years; however, this support is still short of the level of viewing that would be required for these events to be considered nationally significant.
- 5.4 If the MDA and SSC opt to add these programmes to the List, SingNet would advocate their inclusion in Cat B and not Cat A. The nation-building element associated with these events is not great enough to outweigh the lack of public interest in these events. The inclusion of these ITTF and Paralympic events in Cat A would not be warranted under section 2.6.1.3 of the Code 2010.

## **6 DEFINITION OF “DELAYED BROADCAST”**

### **Extended definition of “delayed broadcast”**

- 6.1 SingNet notes that in paragraph 4.3 of its Consultation, the MDA seeks views on Options 1 and 2, where Option 1 introduces a maximum time lag of 24 hours and Option 2 introduces the maximum time lag of 48 hours as a way to define “delayed broadcast” for the purpose of Cat B programmes.
- 6.2 SingNet believes that a longer time lag is preferable. In practice, this would mean that a subscription television service provider could acquire the exclusive rights to broadcast a Cat B programme live and then could broadcast the programme live and delayed for up to the pre-determined number of hours, after which the FTA provider would be permitted to broadcast the programme.

- 6.3 SingNet considers that an extended time lag is needed to account for the 12 to 15 hour time difference between the time that a live event is played overseas and the appropriate time to broadcast it in Singapore. For example, an overseas game that is played at the equivalent of 4am local time may not be broadcast in Singapore until a more appropriate time later in the day. As such, SingNet believes that it may be necessary for the time lag to be as long as 72 hours, if not 48 hours.
- 6.4 SingNet also notes that subscription television service providers may need to schedule the broadcast of an event to capture a larger local audience. For example, it may only make commercial sense to broadcast the programme over the weekend when more subscribers are tuned-in. A window that is too short will impact the advertising sales potential given that subscription television service providers generally enter into agreements with advertisers for sales during live and multiple repeat broadcasts.
- 6.5 SingNet considers 72 hours to be an optimal window to ensure subscription television service providers are allowed to maximise the commercial advantages associated with securing the broadcast rights to a Cat B programme. At the very least, a “delayed broadcast” period should be no shorter than 48 hours.

#### **Measurement of “delayed broadcast”**

- 6.6 SingNet considers it important that the MDA and SSC regulate the precise time that the delay will initiate after a live event has completed. The Consultation states that the FTA Licensee’s delayed broadcast will commence no later than 24 hours to 48 hours after the scheduled end a Cat B programme. SingNet would like the FTA provider to begin broadcast only from the time of the actual end of the programme.
- 6.7 SingNet notes that there may be cases where a programme ends later than its scheduled end time and subscription television service providers should be provided with the necessary flexibility to maintain the full “delayed broadcast” rights that they have paid for. For example, if a football match goes into extra time then the delay should only be initiated at the end of the match.

### Clarify the definition of “delayed broadcast”

- 6.8 SingNet cautions against the possible misinterpretation of the definition of “delayed broadcast” as it is currently set out in the Consultation. To illustrate this issue, assume that a subscription television service provider acquires a piece of Cat B content and that “delayed broadcast” is defined as 48 hours. SingNet understands there could be different interpretations:
- (a) Interpretation A: the subscription television service provider would be able to show the event live and FTA networks would not be able to show the event until after the 48 hours had passed. This arrangement provides an incentive for the subscription television service provider to invest in the content. This definition would also be consistent with paragraph 4.5 of the Consultation where it states that subscription television service providers “may not acquire the ‘live rights’ for Cat B programmes that provide exclusivity beyond the maximum delay period [48 hours in this example];” or
  - (b) Interpretation B: the subscription television service provider would be able to show the event live. However, FTA networks would be able to show the event immediately after it has been broadcast on subscription television. FTA providers would be obliged to show that content within 48 hours of it being shown on subscription television channels.
- 6.9 SingNet considers that the interpretation in B would not be consistent with Clause 4.5 of the Consultation. It would also undermine any business case for a subscription television service provider to invest in Cat B content. SingNet believes that the industry would have strong concerns if the MDA was looking to apply the interpretation in B in its definition of “delayed broadcast.” SingNet would appreciate it if the MDA advised on which of the two above interpretations of “delayed broadcast” that it was planning to apply.
- 6.10 In short:
- (a) SingNet is seeking an extended time lag for “delayed broadcast” of up to 72 hours, if not 48 hours;
  - (b) SingNet believes that a “delayed broadcast” should only begin after the event is

- completed, even if the event extends beyond its scheduled end time; and
- (c) SingNet cautions against the possible misinterpretation of “delayed broadcast” as the Consultation seems to suggest that FTA providers are obliged to broadcast a Cat B programme within the “delayed” period.

## **7 CONCLUSION**

- 7.1 SingTel appreciates the opportunity to provide a submission to the MDA and we trust that the proposals and suggestions provided will assist with the further refinement of the anti-siphoning obligations.