

**Public Consultation**

**“Proposed Revisions to the  
Anti-Siphoning List  
and  
Definition of Delayed Broadcast”**

**Comments of StarHub Cable Vision Ltd**



**18 October 2012**

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## **1. SUMMARY OF MAJOR POINTS:**

StarHub Cable Vision Ltd (“StarHub”) supports the review of the Anti-Siphoning list, which we believe is both timely and appropriate. We have carefully reviewed the proposed list, and our comments are set out below. In summary:

### **1.1 StarHub submits that the Authority should**

- (i) Limit the Category A and B lists to those programmes that involve Singapore teams or participants, and which have not appeared previously on Subscription Television services;
- (ii) Publish information on the proportion of the programmes listed in the existing anti-siphoning list that were being shown on FTA TV. This would provide a good indication of whether the Anti-Siphoning list has met its original objectives;
- (iii) Establish procedures and penalties to address the hoarding of Category A and B programmes by the FTA broadcasters; and
- (iv) Establish procedures for removing events from the Anti-Siphoning list if the FTA broadcasters fail to broadcast events over 2 consecutive years/seasons.

1.2 StarHub agrees with the inclusion of (i) the Asian Games; (ii) the Commonwealth Games; and (iii) the Southeast Asian Games in the proposed Anti-Siphoning list.

1.3 However, we believe that the S-League, the Summer Olympics, and the FIFA World Cup’s key matches (and matches involving Singapore team) should be removed from the Anti-Siphoning list.

1.4 StarHub supports the proposed inclusion of the AFF Suzuki Cup in the Anti-Siphoning list; but we would not agree with inclusion of the Malaysia Super League, Malaysia Football Association Cup, and Malaysia Cup in that list.

1.5 StarHub has no objection to including the International Table Tennis Federation Table Tennis Events and the Summer Paralympic Games in Category B of the Anti-Siphoning list. However we do believe that measures are needed to ensure that events listed in the Anti-Siphoning list are actually carried by the FTA broadcasters.

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## **2. STATEMENT OF INTEREST:**

- 2.1 StarHub Cable Vision Ltd (“StarHub”), a wholly-owned subsidiary of StarHub Ltd, is a media and infocomms company with a \$600 million nationwide broadband network built in Singapore. As a testament to the strategic importance of this network, which was completed in September 1999, the company was designated a public telecommunications licensee by IDA in April 2000. StarHub is also the first in Singapore to be awarded the ISO 9001:2000 certification for both its media and infocomms operations.
- 2.2 Currently, StarHub offers StarHub TV, the multi-channel pay TV services (including Digital Cable and High Definition Television) launched in June 1995, broadband services and also offers pay TV through a wireless delivery via Digital Terrestrial Television (DTTV) system.
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## **3. PROPOSED ANTI-SIPHONING LISTING**

### **3.1 Criteria for Imposing Anti-Siphoning Restrictions:**

- 3.1.1 Section 2.6.1.3 of the Media Market Conduct Code sets out the criteria the Authority will use in determining the Anti-Siphoning list. These criteria include:
- (a) Whether imposing the proposed restrictions will increase the likelihood that viewers in Singapore will be able to access the programming over FTA television;
  - (b) Whether viewers in Singapore have a reasonable expectation of being able to access the programme over FTA television;
  - (c) Whether a significant portion of the viewers within Singapore would be likely to watch the programme if it were made available on FTA 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
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affect the ability of Subscription Television Licensees to provide a commercially viable service.

- 3.1.2 We would note that the Code defines “Subscription Television Licensee” as any person licensed under the Broadcasting Act to provide a Subscription Television Service. Given the limited frequencies available on mobile and wireless platforms to broadcast the full suite of events listed in the Anti-Siphoning List, we submit that the Anti-Siphoning list is only applicable to the traditional television platforms and confined to the “Relevant Platforms” as defined in the Code.
- 3.1.3 We would also note that considerable care is needed in preparing the Anti-Siphoning list. This is because the FTA broadcasters (unlike the Subscription Television Licensees) have very limited airtime. The “mass” nature of FTA broadcasting means that FTA broadcasters are very restricted in their ability to carry significant amounts of Category A and B content.
- 3.1.4 In addition, it is beyond question that including content in the Anti-Siphoning list creates a strong disincentive for the Subscription Television licensees to acquire that content. This is because customers will be unwilling to pay the Subscription Television licensees for content that may well be appearing on FTA TV. Furthermore, if content is included in an Anti-Siphoning list, the FTA broadcasters may well let the Subscription Television licensees promote and advertise that content, and only carry it once it becomes popular (thereby “free-riding” on the work of Subscription Television licensees).
- 3.1.5 Therefore, if events are to be included in the Anti-Siphoning list, it is necessary to ensure that they are actually carried by the FTA broadcasters. A review of the Australian experience has shown that, out of the 1,300 listed events, only 16% were shown live (and only 25% were shown at all) by the FTA broadcasters<sup>1</sup>. If FTA broadcasters are unable (or unwilling) to carry events on the Anti-Siphoning list, a mechanism, with clear criteria and definite timelines, must be established to remove those events from the list.
- 3.1.6 In the longer term, the convergence of broadcasting media does call into question the rationale for having an Anti-Siphoning list. Convergence is giving consumers an ever-increasing choice in platforms, services and providers through which they can access and view content. Convergence is also reducing the number of viewers actually watching FTA TV services. In such an environment, there is a diminishing public policy justification for continuing to reserve preferential access to the traditional FTA TV service platform.

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<sup>1</sup> <http://www.astra.org.au/Menu/Policy/Anti-Siphoning/Anti-Siphoning>

3.1.7 StarHub would respectfully submit that the Authority should:

- i) Limit the Anti-Siphoning list to those international programmes that involve only Singapore teams or participants, and which have not appeared previously on Subscription Television;
  - ii) Publish information on the proportion of the programmes listed in the existing Anti-Siphoning list that were being shown on FTA TV, since the list was first issued. This would provide a clear indication of whether the listing of the designated events has achieved its objectives of: (i) ensuring the FTA broadcasters have carried a significant proportion of the listed events; and (ii) leading to an increased and significant public viewership of these events on FTA TV;
  - iii) Establish procedures and penalties for addressing the hoarding of programmes by the FTA broadcasters; and
  - iv) Establish clear procedures for removing events from the Anti-Siphoning list if the FTA broadcasters have failed to broadcast a significant portion of these events over 2 consecutive years/seasons.
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## 3.2 Review of Existing Programmes:

3.2.1 StarHub supports the inclusion of (i) the Asian Games; (ii) the Commonwealth Games; and (iii) the Southeast Asian Games in the proposed Anti-Siphoning list. However, for the reasons set out below, we submit that the S-League and the Summer Olympics should be removed from the Anti-Siphoning list.

### 3.2.2 S-League

3.2.2.1 The inclusion of the S-League in the Category A list since 2003 has not resulted in the FTA broadcaster telecasting the channels or a high viewership of the event. As noted in paragraph 3.1.5.1 of the Consultation Paper, *"the S-League did not enjoy high viewership ratings on FTA TV. From 2011, the live matches of the S League were shown only on Subscription TV, with **selected delay matches broadcast on FTA TV.**"* It is therefore reasonable to state that the inclusion of S-League in Category A has not achieved the objective of Section 2.6.1.3(c) of the Media Code where *"...a significant portion of the viewers within Singapore would be likely to watch the programme if it were made available on free-to-air television"*. Removing the S-League from the Anti-Siphoning list would not have a significant impact on FTA viewers, but it could potentially allow a Subscription Television licensee to invest in that event.

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3.2.2.2 StarHub would therefore propose removing the S-League from the proposed Anti-Siphoning list.

### 3.2.3 *The Olympic Games*

3.2.3.1 The Consultation Paper is proposing to list the Summer Olympic Games in Category A and the Winter Olympic Games in Category B of the Anti-Siphoning list. Unfortunately, the Olympic Games (comprising both the Summer and Winter Olympics) is generally sold as a package; and it is rare for the International Olympic Council to separately sell the games ala-carte.

3.2.3.2 In addition, it is important to note that the volume of content being generated from the Olympic Games makes it increasingly inappropriate as a Category A event. For example, in the 2008 Olympic Games, StarHub offered viewers 1,500 hours of “live” and delayed coverage, across 6 dedicated cable TV channels. This works out to an average of 15 hours of ‘live’ Olympic programming daily on each channel, something a FTA broadcaster could never deliver.

3.2.3.3 Therefore, in limiting the ability of Subscription Television licensees to acquire exclusive “live” and “delayed” rights of the Olympic Games, the Anti-Siphoning list could actually limit the amount of Olympics content that viewers can access. StarHub would therefore propose removing the Olympic Games (Summer and Winter) from the proposed Anti-Siphoning list.

## **3.3 Proposed Inclusion of New Programmes in Category A:**

### 3.3.1 *The FIFA World Cup*

3.3.1.1 The Consultation Paper has proposed that the “key matches” (opening match, semi-finals and final) and matches involving Singapore team (including qualifiers) be listed under Category A of the Anti-Siphoning List.

3.3.1.2 However, the rights to this event are usually sold as a total package, rather than on an ala-carte basis. In addition, the agreement between FIFA and the Subscription Television licensee will generally require that the key matches are made available to the public. While we understand the Authority’s objective of including the key matches in the proposed Category A list, such a measure could complicate negotiations with FIFA. In addition, there may be alternative ways of making the key matches available to the public (such as via StarHub’s universal preview channel), and so including the World Cup key matches as a Category A event would appear to be unnecessarily restrictive.

3.3.1.3 We would also note that a prohibition on Subscription Television licensees acquiring exclusive rights to matches involving the Singapore team is impractical. This is



because, at the time the contract is entered into, the Subscription Television licensee will not know whether the Singapore team will make it through to the key matches. As the rights to this event are not sold on an ala carte basis, should a Subscription Television licensee acquire the World Cup rights on an exclusive basis, and should the Singapore team participate in a key match, that Subscription Television licensee would automatically find itself in breach of the Media Code.

3.3.1.4 StarHub would therefore propose to remove the FIFA World Cup's key matches and matches involving Singapore team from the proposed Anti-Siphoning list.

### **3.4 Proposed Inclusion of New Programmes in Category B:**

3.4.1 StarHub supports the proposed inclusion of the AFF Suzuki Cup and the Summer Youth Olympic Games in the proposed Category B list. However, we would disagree with any move to include the Malaysia Super League, the Malaysia Football Association Cup, or the Malaysia Cup in the Anti-Siphoning list. We would respectfully note that:

- (i) These events do not involve a Singapore national team;
- (ii) These events have not been recently shown on FTA television, and so viewers in Singapore would not have a reasonable expectation of being able to access them via FTA; and
- (iii) StarHub is a sponsor of the Malaysia Cup, and including the event in the Anti-Siphoning list would adversely affect our ability to provide a commercially viable service and discourage further investment to promote the event.

3.4.2 We therefore submit that the Malaysia Super League, the Malaysia Football Association Cup, and the Malaysia Cup should be removed from the proposed Anti-Siphoning list.

### **3.5 Programmes for Consideration:**

3.5.1 StarHub has no objection to including the International Table Tennis Federation Table Tennis Events and the Summer Paralympic Games in Category B list. However, we would caution against the creation of a lengthy list Anti-Siphoning list, if the FTA broadcasters are unwilling or unable to carry all of the content on that list. The creation of a lengthy Anti-Siphoning list, without an obligation on the FTA broadcasters to carry the content on that list, will simply discourage those events from being shown in Singapore.

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## **4. PROPOSED DEFINITION OF DELAYED BROADCAST FOR CATEGORY B:**



- 4.1 StarHub agrees with the Consultation Paper that the inclusion of content in the Category B list makes it necessary to define “*delayed broadcast*”. We also agree with paragraph 4.1 of the Consultation Paper that it is necessary for this definition to “*ensure the commercial viability of the ‘live broadcast’ rights for Subscription TV Licensees*”.
- 4.2 Based on international precedent, and taking into account the needs of the market, we believe that Subscription Television licensees should be given a period of at least 48 hours to exploit content on the Category B list. If a shorter timeframe was used in the definition “*delayed broadcast*” this would:
- Largely remove the difference between Category A and Category B content (making the distinction between Category A and Category B almost irrelevant); and
  - Undermine the commercial viability of showing the content on Subscription Television.
- 4.3 We understand that where the definition of “*Delayed Broadcast*” was set at 48 hours, a Subscription Television licensee would be able to acquire the exclusive rights for (say) 47 hours, allowing the FTA broadcaster to broadcast the event in the 47<sup>th</sup>- 48<sup>th</sup> hour. This is consistent with existing practice in the United Kingdom. To avoid confusion on this matter, we would respectfully request the Authority’s confirmation of our understanding.
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## 5. CONCLUSION:

- 5.1 StarHub appreciates the opportunity to comment on the Anti-Siphoning list.
- 5.2 While we understand the objectives of that list, it is important to keep in mind: (a) the limited airtime available to the FTA broadcasters; and (b) that including content in the Anti-Siphoning list does discourage Subscription Television licensees from acquiring it. Unless the Anti-Siphoning list is carefully prepared, it may actually reduce the range of content available to viewers in Singapore.
- 5.3 We would highlight that events included in the previous Anti-Siphoning list (such as the Asian Games; the Commonwealth Games; the Southeast Asian Games, and the S-League) have not enjoyed either high visibility or high ratings on FTA television. We respectfully submit that this should be taken into account in preparing the revised Anti-Siphoning list.
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StarHub Cable Vision Ltd  
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