

**MEDIA CONVERGENCE REVIEW
FINAL REPORT**

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1 EXECUTIVE SUMMARY

- 1.1 Media convergence – a phenomenon enabled by the digitisation of media content, widespread availability of high-speed broadband connections, and proliferation of Internet-enabled devices – has fundamentally transformed the way media content is distributed and consumed. Consumers can now access media content across geographic boundaries, anytime, anywhere and however they want it.
- 1.2 Such developments pose both opportunities and challenges for Singapore. While industry players are responding to convergence opportunities with the introduction of new multi-platform and interactive services, our policy and regulatory frameworks – designed for traditional media platforms and industry structures – are no longer able to cope with the emerging characteristics of the converged media environment.
- 1.3 In March 2012, the Government appointed a Media Convergence Review Panel (“Panel”) – chaired by Mr Koh Boon Hwee, Chairman, Board of Trustees, Nanyang Technological University, and comprising distinguished individuals representing a diversity of expertise – to study the issues impacting consumers, industry and society in the converged media environment, and to put forth recommendations on how to address such challenges. The underpinning objectives of the Review are to support industry growth, empower and protect consumers, and foster a cohesive and inclusive society.
- 1.4 This report sets out the recommendations of the Panel for the Government’s consideration. The structure of the report is as follows:
 - a) **Chapter 2: Introduction – Regulatory Challenges in a Converged Media Environment** introduces the Panel composition and provides an overview of the Panel’s terms of reference :
 - i) Update framework for regulating content to encourage industry development, empower consumers and safeguard interests of society;
 - ii) Enhance the vibrancy of local content to build shared experiences and strengthen communities;
 - iii) Develop policy and regulatory response to copyright and digital piracy challenges; and
 - iv) Update licensing framework to provide greater clarity and consistency,in a converged media environment. Chapter 2 also sets out the values and guiding principles underpinning the Panel’s discussions and recommendations.

- b) **Chapter 3: Update Framework for Regulating Content to Encourage Industry Development, Empower Consumers and Safeguard Interests of Society** discusses why content classification frameworks should be harmonised for application across different media, whereby a consistent classification requirement should be applied to all content targeting the Singapore market regardless of reach or origin. Recognising the need to adopt a pragmatic approach given the growing volume and borderless nature of content in the converged media environment, Chapter 3 also discusses why user-generated content (“UGC”) would not be subject to *ex ante* classification rules; encourages greater content co-regulation between the regulator, industry and the community; and stresses the importance of public education and outreach to empower consumers to make informed choices.
- c) **Chapter 4: Enhance Vibrancy of Local Content to Build Shared Experiences and Strengthen Communities** reaffirms the importance of local content to the preservation of national identity, strengthening of social cohesion and values, and the development of cultural industries. Chapter 4 discusses measures to incentivise greater local content creation and delivery, such as requiring content providers of a certain scale to invest a minimum percentage of their content expenditure / revenue to produce local audio-visual (“AV”) content, complemented by tax incentives; and imposing minimum local content distribution quotas. Recognising the rising penetration of Connected TV in Singapore, Chapter 4 also discusses why relevant parties in the Connected TV content delivery value chain should play a role to provide access to identified online local content on the landing pages / electronic programme guides of Connected TV sets.
- d) **Chapter 5: Develop Policy and Regulatory Response to Copyright and Digital Piracy Challenges** debates the views from different stakeholders and recommends that a three-pronged approach – comprising public education, legitimate digital content sources and regulation – should be taken to holistically address copyright challenges, which – if not addressed – could undermine the economic viability of the media industry, and the effectiveness of media in forging social cohesion. Chapter 5 also discusses the different implementation models of site blocking that could be adopted to combat digital piracy.
- e) **Chapter 6: Update Licensing Framework to Provide Greater Clarity and Consistency** examines how best to rationalise existing legislation and licensing frameworks to put in place a level playing field for local versus foreign players, and online versus traditional players. Chapter 6 explains why all broadcast and online content services (except for UGC and private communications) should be licensed under the Broadcasting Act, and provides clarity on what licensable AV services are. Chapter 6 also discusses why licensing frameworks should cover overseas broadcasters targeting the Singapore market and/or collecting subscription / advertising revenue from the Singapore market, and examines

how existing broadcast licensing obligations could be rationalised and applied on a more equitable basis on local and overseas broadcasters based on their scale and impact.

- f) **Chapter 7: Conclusion** offers the Panel's views on how the recommendations should be taken forward.

2 INTRODUCTION – REGULATORY CHALLENGES IN A CONVERGED MEDIA ENVIRONMENT

2.1 Media Convergence

2.1.1 The digitisation of media content, widespread availability of high-speed broadband connections, and proliferation of internet-enabled devices have transformed the way content is distributed and consumed globally. Known as “media convergence”, such a phenomenon has led to fundamental shifts in the way people consume media content and services – they can now easily access a wide array of content across geographic boundaries, anytime, anywhere and however they want it.

2.1.2 In Singapore, the effects of media convergence are increasingly pronounced with our advanced info-communications infrastructure and tech-savvy citizenry. Today, more than 80% of households in Singapore have broadband access. With the deployment of the Next Generation Nationwide Broadband Network, Singaporeans will be able to access content and media services over the Internet at even faster speeds. Already, Singapore is the top adopter of Internet-enabled TV (i.e. Connected TV) within Southeast Asia, with sales of Connected TV likely to exceed 30% of all TV sales in 2012.¹ Singapore has the highest smartphone penetration rate in the world at 74%, followed by Hong Kong and United Arab Emirates at 73% and 64%, respectively. Tablet ownership stands at 31%, and is expected to grow to 60% by the end of the year.²

2.1.3 Such developments pose both opportunities and challenges for Singapore. On the one hand, our industry players are responding to convergence opportunities with the introduction of new services that are multi-platform in nature, and exploit the interactive and distributive potential of the new technological platforms. On the other hand, we find that our policy and regulatory frameworks, which were designed for traditional media platforms and industry structures, are no longer able to cope with the characteristics of the converged media environment. It is thus timely to embark on a review of the policy and regulatory frameworks to ensure that we can support the growth of the media sector, while protecting consumer and societal interests in this new media landscape.

2.2 Media Convergence Review Panel

2.2.1 In March 2012, the Government appointed a Media Convergence Review Panel (“Panel”) to study the issues impacting consumers, industry and society in the converged media environment and to put forth recommendations on how to address such challenges. The underpinning objectives of the Review are to support industry growth, empower and protect consumers, and foster a cohesive and

¹ Source: GfK retail audit data.

² Source: Ericsson ConsumerLab 2012.

inclusive society.

2.2.2 The Panel comprised the following distinguished individuals representing a diversity of expertise, views and interests:

- a) Mr Koh Boon Hwee, Chairman, Board of Trustees, Nanyang Technological University – Chairman of Media Convergence Review Panel;
- b) Mr Chang Long Jong, Deputy CEO, MediaCorp Pte Ltd;
- c) Mr Patrick Daniel, Editor-in-Chief, English & Malay Newspapers, Singapore Press Holdings Ltd;
- d) Mr Goh Seow Eng, Managing Director, NextGen TV, Singapore Telecommunications Ltd;
- e) Dr Bruno Lanvin, Executive Director, INSEAD eLab;
- f) Ms Ann Lavin, Head, Policy & Government Affairs, Google Southeast Asia;
- g) Mr Gregory Lee, President & CEO, Samsung Asia Pte Ltd;
- h) Mr Gilbert Leong, Partner, Intellectual Property & Technology, Rodyk & Davidson LLP;
- i) Mr Charles Lim Aeng Cheng, Parliamentary Counsel, Legislation and Law Reform Division, Attorney-General's Chambers;
- j) Mr Ganesh Rajaram, Senior Vice President, Asia, International Distribution and Home Entertainment, FremantleMedia Enterprises;
- k) Mr Viswa Sadasivan, CEO, Strategic Moves Pte Ltd; and
- l) Mr Tan Tong Hai, COO, StarHub Ltd.

2.2.3 The biographies of the Panel Chairman and members are found in **Annex 2-A**.

2.3 Scope of the Media Convergence Review

2.3.1 To focus its deliberation, the Panel reviewed available information to identify the most pressing challenges that would need to be addressed through the Review. The Panel made the following observations:

2.3.2 **Regulatory frameworks need to be updated to respond to media convergence.** The existing licensing and content regulatory approaches were designed for a

traditional industry structure which clearly differentiates between broadcast, films and publications. The emergence of new online business models has led to the following key issues – (a) How should online content businesses – which may mesh together elements of broadcast, films and text – be regulated in a way that facilitates industry growth and innovation, while ensuring that community expectations on content standards continue to be met? (b) Should online businesses be licensed differently from those which operate in the traditional realm? (c) Local players are now increasingly exposed to overseas competitors who deliver content over the Internet, but are not subject to local regulatory obligations; how do we rebalance the playing field?

- 2.3.3 **Content regulation requires an entirely different approach** in a world of infinite choice, and where content transcends platform and geographic boundaries. The current content regulatory approach is platform-specific – MDA maintains 16 content codes spelling out the guidelines for different types of media services ranging from broadcast to online services, films, games, publications and the arts. (a) To enable consumers to more easily navigate content choices across different platforms, how should these guidelines be updated and harmonised? (b) Furthermore, as consumers turn to content services available over the Internet, is there a role for the regulator to ensure that baseline protections are in place to safeguard community values and public interest? (c) It would be untenable to expect the Government to directly regulate the ever-expanding universe of content; what is the role of the industry and community?
- 2.3.4 **More needs to be done to promote quality local content** in an environment where consumption of local media is on the decline. The Panel recognised the critical role of local content in bonding the community and fostering a shared sense of identity. Yet, media convergence has fragmented eyeballs, resulting in a decline in the reach of traditional mass media and the local content they carry. The younger generations, in particular, favour the Internet over other mass media; and it is instructive to note that in the month of September 2012, only two out of the top 20 video websites were local – XinMSN and STOMP.³ The key concerns are therefore: (a) How do we ensure that Singapore continues to generate quality local content that appeals to local audiences? (b) In a multi-channel digital environment, how can we ensure local content continues to be prominently featured so that they can better meet their socio-cultural objectives?
- 2.3.5 **Split views over the extent of copyright and digital piracy challenges, and how they should be addressed.** Consumers now expect to access their desired content quickly, conveniently and at reasonable prices. In the absence of legitimate content services that meet their needs, they may turn to illegal content sources that are readily available online. Content rights owners are concerned that the perceived high levels of digital piracy in Singapore will threaten the viability of legitimate businesses and future content investments; whereas online technology

³ Source: ComScore VideoMetrix September 2012.

companies and consumers tend to take the view that content rights owners need to update their content distribution models to address the changing demands of consumers in the digital age. The key issues to be addressed are as follows: (a) What are the impediments to legal use? (b) What should be done to promote awareness and adoption of legal use? (c) Are existing regulatory measures sufficient in addressing copyright and online piracy challenges; if not, what else should be done?

2.3.6 The Panel thus agreed on the following terms of reference with the view of proposing recommendations to:

- a) Update framework for regulating content to encourage industry development, empower consumers and safeguard interests of society;
- b) Enhance the vibrancy of local content to build shared experiences and strengthen communities;
- c) Develop policy and regulatory response to copyright and digital piracy challenges; and
- d) Update licensing frameworks to provide greater clarity and consistency

in a converged media environment.

2.4 Values and Guiding Principles

2.4.1 In its deliberations, the Panel was guided by certain values:

- a) Reflecting societal values and community standards – media regulation must continue to uphold the values that the community holds dear. In instances where the absolute effectiveness or enforceability of regulations may be called into question, the Panel will review whether it is important to put in place regulation that serves as a symbolic statement of what the society values.
- b) Strengthening national identity – local content embodies the stories of Singapore and its people, and should be encouraged and promoted in recognition of its crucial role in bonding the community while enhancing the cohesiveness and resilience of the society; and
- c) Balancing commercial and public interests – a careful balance must be struck to ensure that industry interests are not unduly compromised against the regulatory objectives of safeguarding consumer and public interests.

2.4.2 At the same time, the design and substance of the Panel’s recommendations were informed by the following guiding principles:

- a) Parity – regulation should be applied in a consistent, even-handed and fair manner to provide a level playing field for industry players;
- b) Pragmatic application – a flexible approach should be adopted to allow industry players to meet desired policy outcomes without the Government being overly prescriptive in how compliance would be achieved; and
- c) Partnerships – with the burgeoning volume of content available in the converged media landscape, it is not feasible for the Government to directly regulate all content; partnerships with the private and people sectors must be forged and strengthened.

2.4.3 While this Panel was set up to review the need for regulatory responses to the challenges posed by media convergence, the Panel is equally cognisant that regulation should not be the default solution. Rather, regulation should be used insofar as to set up a *de minimis* framework to uphold prevailing mores and values that society holds dear. Furthermore, the Panel is aware that an over reliance on regulation might stifle creativity and innovation from content producers, especially among the younger generation who are increasingly making use of the opportunities that new media platforms offer in producing their own content. Therefore, it is the Panel's belief that regulation should not and cannot be the panacea to all the challenges posed by media convergence; nonetheless, it remains useful to signal the principles and values that society deems integral as well as engender certain critical outcomes expediently.

2.5 Consultation Process

2.5.1 Following an intensive deliberation process from March to July 2012, the Panel issued an Interim Report containing its preliminary recommendations, which provided the basis for the Panel to consult representatives from a wide range of industry and community stakeholders from August to September 2012. Apart from dialogue sessions, stakeholders were also invited to provide written feedback. The list of consulted parties is enclosed in **Annex 2-B**. The Panel made further refinements to the Interim Report to incorporate the feedback from stakeholders and consulted international experts (**Annex 2-C**) in early October 2012.

2.6 Final Report

2.6.1 This final report sets out the recommendations of the Panel for the Government's consideration.

3 UPDATE FRAMEWORK FOR REGULATING CONTENT TO ENCOURAGE INDUSTRY DEVELOPMENT, EMPOWER CONSUMERS AND SAFEGUARD INTERESTS OF SOCIETY

3.1 Existing Approach to Content Regulation

3.1.1 MDA's content regulatory approach aims to reflect community standards while providing more choices for adults and protecting the young. The general principle is that services with higher reach and impact should be subject to more stringent content regulatory requirements. Today, MDA's guidance for the industry is captured in 16 sets of medium-specific content codes and classification guidelines (listed in *Annex 3-A*).

3.2 Platform-Neutrality in Content Classification

3.2.1 Content classification serves to define for the consumer the age-suitability of media content through a consistent rating system, accompanied by appropriate access-control requirements for mature content, as well as the provision of sufficient consumer advice to facilitate informed choice. The effectiveness of classification as a content regulatory tool would thus depend on how intuitive the classification categories are to the public, as well as the scope of applicability of these ratings.

3.2.2 In a converged media environment where content travels across different media platforms, Singapore's existing medium-specific approach to content regulation with disparate classification on different media (*Annex 3-B*) is likely to negatively impact the intuitiveness of the ratings categories, ultimately affecting the effectiveness of the classification framework as a whole. To illustrate this, it is not clear what age-suitability is being conveyed by a publication that is shrink-wrapped and carries a consumer advisory "Unsuitable for the Young". Singapore has begun to harmonise classification frameworks for films and broadcast content; however, more can be done.

3.2.3 Thus, the Panel recommends that a consistent age-based classification system should be adopted across different media,⁴ but flexibility can be accorded to each platform with regard to the number of ratings adopted, whereby the necessity of having the full spectrum of ratings for each medium will need to be assessed. This recommendation translates to the following adjustments for the existing frameworks:

- a) Publications should adopt the M18 rating to signal the presence of mature content, where accessibility should be restricted through age-verification upon purchase;

⁴ The Panel decided that arts classification should be excluded from the scope of this review as the impact of convergence on the medium was limited.

- b) Video games should replace the current Age Advisory rating with NC16 to be consistent with Film classification standards as a restricted rating; and
- c) The same piece of content should be given the same age-based rating across different delivery platforms.

3.3 Defining “Classifiable” Content

- 3.3.1 With convergence, many traditional media services have been emulated online, and a key question is whether the online equivalent of such services ought to be subjected to the same regulatory requirements like classification and access control, and if so, who should be the ones doing it. Embedded within this issue is also the understanding that some of the online services come from foreign sources, hence creating a challenge in terms of compliance with local regulatory requirements.
- 3.3.2 In thinking about the options for this question, the following practical considerations should be taken into account:
 - a) Enforceability of regulations – In deciding what to regulate, it is important to assess whether it is possible to apply classification requirements on players in the online space outside one’s regulatory jurisdiction; and
 - b) Volume – Given the enormous amount of content available in the online space (e.g. about 72 hours of videos per minute are uploaded onto YouTube every day), it is probably not possible for all of them to be classified.
- 3.3.3 The following five criteria were distilled for consideration in determining if classification should be applied to content both offline and online:
 - a) By audience reach – Should content with higher reach be classified due to higher potential impact?
 - b) By potential impact – Should the AV medium be regulated more strictly than text due to higher impact?
 - c) By target audience – Should content specifically targeted at local audiences be classified?
 - d) By nature of content provider – Should classification requirements be limited to content made and/or distributed on a commercial basis vis-à-vis UGC?
 - e) By degree of control available to the consumer – Is there a greater imperative to classify content on services with scheduled programming versus those with on-demand programming?

- 3.3.4 The Panel feels that content classification should be applied equally and independent of the reach of the content, in order to avoid penalising the larger players with higher reach that may in turn run the risk of discouraging innovation. In practice, it may be less likely for services with a sizeable reach to be lax in their regulations, since organisations would often become more sensitive to community standards as they grow larger in scope and have an image to uphold. Therefore, the Panel is of the opinion that content regulations should not be differentiated by reach, such that a particular piece of content would be classified similarly whether it is carried by a larger or smaller player.
- 3.3.5 The Panel is agreeable that AV content generally has a higher impact than pure text-based content, and hence should be subjected to classification to accord more information on the age-suitability of the content to consumers. However, the Panel also recognises that content with a hybrid of visuals and text (e.g. magazines) could have significant impact due to the graphic depictions in the visuals, and hence should not be precluded from classification requirements.
- 3.3.6 On the subject of regulatory parity between local services and foreign media equally accessible in Singapore, the Panel feels that if a foreign content provider were to target the Singapore market (e.g. setting up a .SG site) or receive subscription fees and/or advertising revenue from the Singapore market, then the Media Development Authority (“MDA”) would have justification to require that it complies with local standards (see Chapter 6 on Licensing Frameworks).
- 3.3.7 Regarding the criteria differentiating UGC from content which was provided commercially as curated programming, the Panel is of the view that classification requirements should not be imposed on UGC since the volume and nature of such content makes it impracticable. While classification need not be imposed on UGC, the Panel would like to point out that UGC is subject to the relevant laws of Singapore governing Internet content, including but not limited to laws relating to defamation, inciting racial or religious hatred, as well as the Internet Code of Practice.
- 3.3.8 There should also be a distinction between private and public space. From this perspective, online content can be thought of more as a pull than push medium; users would not be automatically offered adult content unless they actively search for it.
- 3.3.9 Taking the above factors into consideration, the Panel recommends the following approaches:
- a) Scope – Tighter regulation of AV services compared to text-based services while excluding any UGC from classification requirements;
 - b) Reach – Avoid applying differential content regulatory requirements on larger

players with higher reach;

- c) Push vs Pull – Differentiate between content offered on a scheduled versus on-demand basis, with higher regulatory requirements imposed on the former, given the lesser degree of control consumers have over scheduled programming;
- d) Adopt "green lane / red lane" approach to regulation of online content – Service providers would not need to actively monitor the content, but need to comply when a breach is flagged out to them; and
- e) Parity – The same set of rules should apply for (i) both local players as well as foreign players targeting the Singapore market; and (ii) for both traditional and online players offering the same content.

3.3.10 However, going back to the practical considerations expressed in paragraph 3.3.2, if there are services whose content is classifiable, but face challenges due to the volume of content available, a short term solution could be to apply a “deeming concept”, whereby service providers could adopt the classification ratings inherent in the content from source, but educate their viewers on how those ratings correspond to our local classification ratings. In the long run, the ultimate goal should still be to rely on the local harmonised ratings that local viewers trust most to best reflect local community standards.

3.4 Regulatory Approach for Connected TV Services

3.4.1 The Panel noted that the Office of Communications (“Ofcom”) in the United Kingdom had found that the public expected greater government regulation of Connected TV services as they offered lean-back⁵ viewing experiences in the living room, and are perceived as a platform more akin to cable or broadcast TV than to the Internet. In addition, Connected TV was also more likely to be used as a shared device for the family than as a personal one, thereby increasing the chance of exposing young members of the family to adult content originating from the Internet through the Connected TV.

3.4.2 As a result, the Panel feels that it is fair to impose some baseline regulations on content concerns like race and religion in order to ensure that objectionable content would not be readily made available on the electronic programme guides (“EPGs”) of such TV sets. Such regulations could be imposed on all relevant parties involved in the value chain of content delivery to Connected TV – including value-added service providers of landing pages / EPGs within the Connected TV sets, as

⁵ The lean-back and lean-forward distinction is typically used to differentiate between the viewing experience on TV vis-à-vis a personal computer. TV is considered a lean-back platform as the viewer is often in a passive consumption mode, whereas the personal computer is considered a lean-forward platform as the viewer has to be actively engaged in searching for content.

well as importers or manufacturers of Connected TV.

- 3.4.3 Furthermore, the Panel notes that there are currently devices capable of emulating a “Connected TV” experience. In line with the intent of ensuring that objectionable content is not offered in a “lean back” experience, the Panel recognises that baseline content regulations could be similarly applied to devices enabling the “Connected TV” experience. Nonetheless, given the diverse range of devices providing the “Connected TV” experience, the Panel suggests that the Government may wish to determine the range of such devices that should be subject to baseline content regulations.

3.5 Fostering Greater Co-Regulation

- 3.5.1 In the age of the Internet and digital multi-channel services, the volume of content that is made available to consumers across physical and geographical boundaries has increased by leaps and bounds. It is increasingly difficult for the regulator to be responsible for classifying available content, even on the traditional platforms.
- 3.5.2 The Panel thus feels that content regulation should be a shared responsibility between the regulator, industry and community. In particular, industry and community stakeholders like parents must play a larger role in protecting children against content not suitable for them.
- 3.5.3 In adopting a co-regulatory approach, the industry could take the initiative in ensuring compliance with content regulatory requirements and addressing public feedback. Where feasible, the industry could also take on a bigger role in developing codes of practice, for instance, in the area of advertising and sponsorship guidelines for the broadcast sector. However, the Government should continue to be involved in the process to ensure that the interests of consumers and stakeholders are not compromised.
- 3.5.4 Even with stronger industry co-regulation, MDA’s role remains significant in ensuring (a) the continued relevance and efficacy of content regulatory frameworks through regular reviews; and (b) compliance with content regulatory frameworks through enforcement efforts. To balance the interests of the community and industry, MDA should regularly consult with relevant citizen committees and industry stakeholders while maintaining a keen oversight on feedback from the public.
- 3.5.5 The Panel is cognisant that regulation needs to be complemented with outreach efforts to stakeholders within the community. For instance, parents would need to be aware of how the classification ratings and access controls apply on different platforms so that they would be able to properly guide their children in their media choices. Such outreach efforts are also instrumental in developing a more literate populace able to astutely and confidently navigate the growing plethora of media

choices. The Panel therefore feels that MDA should continue to reach out to critical stakeholders (e.g. non-government organisations and civic groups) within the community. In addition, MDA should facilitate dialogues between the industry and critical stakeholder groups in the community.

3.6 Summary of Recommendations

3.6.1 In summary, the key recommendations are:

- a) Harmonisation of Classification Frameworks. A consistent age-based classification system should be adopted across different media, and higher ratings that signal the presence of mature content should be consistently applied across different platforms. Flexibility can be accorded to each platform with regard to the number of ratings adopted.
- b) Consistent Impact Assessment of Content. Content should be assessed in a consistent manner based on age-suitability across different delivery platforms. Given the higher impact of AV content as compared to text-based content, more age ratings should be applied. The impact assessment should also take into account whether the content is consumed in a lean-forward or lean-back manner. As Connected TV and devices providing “Connected TV”-like experiences are considered lean-back platforms, some baseline regulations should be imposed.
- c) Pragmatic Considerations. In recognising the borderless nature of content, the recommendation in (b) should be tempered with pragmatic considerations on jurisdictional properties and volume of content. On that basis, UGC need not be classified and online content need not be actively monitored, but service providers should comply when a breach is flagged out. It should also be noted that UGC remains subject to the relevant laws of Singapore governing Internet content. Where content is classifiable, but service providers face challenges due to the volume, such providers may consider adopting a short term solution – “deeming concept”, i.e. adopt the classification ratings inherent in the content from source, but educate their viewers on how those ratings correspond to our local classification ratings. In the long run, the ultimate goal should still be to rely on the local harmonised ratings that local viewers trust most to best reflect local community standards.
- d) Greater Co-Regulation, complemented by community outreach. Content regulation should be a shared responsibility between the regulator, industry and community. In particular, industry and community stakeholders like parents must play a larger role in protecting children against content not suitable for them. Co-regulation should also be complemented by public education and outreach to the community at large.

4 ENHANCE VIBRANCY OF LOCAL CONTENT TO BUILD SHARED EXPERIENCES AND STRENGTHEN COMMUNITIES

4.1 Reaffirming the Importance of Local Content in the Converged Environment

4.1.1 Like many countries around the world, Singapore recognises that local content is critical to the preservation of national identity, strengthening of social cohesion and values, and the development of cultural industries. Singapore has maintained extremely open markets for media content, and as a result, the role of local content in shaping and strengthening local culture and national identity is even more vital. A converged media environment further amplifies these challenges as Singaporeans increasingly have access to content from all around the world through “Over-The-Top” (“OTT”) video services.

4.1.2 Local content has traditionally been featured most prominently in the AV form on free-to-air (“FTA”) TV and in the print form on local newspapers. Yet, both FTA TV and newspapers have seen their reach wane over the years – the daily reach of FTA TV has declined rapidly from a high of 91.6% in 2005 to 75.2% in 2011, while the daily reach of newspaper fell from 79.8% in 2005 to 70.7% in 2011.⁶ At the same time, the reach of the Internet has increased from 41.8% in 2005 to 62.3% in 2011.

4.1.3 The implications to Singapore are two-fold:

- a) Economic Impact – Local industry is grappling with declining or stagnating reach on traditional mass media platforms, which in turn constrains the growth of advertising and subscription revenues. Bottom lines are further affected as these platforms have to contend with increasing acquisition costs of foreign-sourced content, which is becoming increasingly available over online platforms.
- b) Socio-Cultural Impact – Commercial pressures faced by the local media industry in turn limit investments in production of original local content, which serves as cultural ballast for the nation.

4.1.4 Despite a challenging environment, the success of locally produced TV programmes, such as MediaCorp’s “The Noose” and “Vettai 2.0”, demonstrates that there is demand among local audiences for content of cultural relevance. The innate attractiveness of quality local content also demonstrates the potential for such content to be an important differentiating factor for the local media industry, which could leverage original programming to draw audiences back to local platforms. Such an outcome would not only boost the economic viability of the local industry, but provide an important channel of cultural expression to strengthen the community and foster a sense of shared identity.

⁶ Source: Nielsen Media Index.

4.2 Existing Production and Distribution Measures for Local Content

- 4.2.1 MediaCorp is the largest commissioner, producer and broadcaster of local professional AV content, with close to 90% of its total programming budget in a year spent on original local content. A significant proportion of MediaCorp's investment in local content creation is driven through Public Service Broadcasting ("PSB")⁷ quotas as well as local content quotas. Funding is also provided through MDA for MediaCorp to produce some PSB programming.
- 4.2.2 Other than MediaCorp, investment in the creation of professional AV content creation is low. Pay TV broadcasters are currently not subject to local content nor PSB obligations. Thus, an overwhelming proportion of the content offered on pay TV platforms is acquired from foreign content providers. Nonetheless, pay TV broadcasters have begun to commission some original programming as part of their overall content strategy to differentiate their services. This was in part a response to the introduction of the cross-carriage measure on 12 March 2010, which requires pay TV broadcasters to make available their exclusive content to their subscribers over other qualified pay TV platforms.
- 4.2.3 The digital environment has also fuelled the rise of independent content producers, who have leveraged largely online platforms to gain audiences. While the content produced by these individuals may not necessarily match the standards of that produced by the professional media industry, the strong local flavour within such content has also enabled it to appeal to locals. Therefore, even as the Panel discusses regulatory initiatives to incentivise the production of professional AV content, it wishes to acknowledge that independent content producers play an important role in the production of local content.
- 4.2.4 The Panel also notes that the PSB Review Panel set up in October 2010 to review the performance of PSB programmes had made recommendations to enhance the quality and maximise the reach of such programmes. These recommendations were accepted by the Ministry of Information, Communication and the Arts ("MICA") and MDA had announced the implementation details of the improved PSB model on 25 July 2012.⁸ Furthermore, MDA had also streamlined and improved the administration of its industry development grant schemes to help the media

⁷ PSB programmes must meet one or more of the following national and social interest objectives:

- a) Promote social values (e.g. family togetherness, social inclusiveness);
- b) Celebrate our culture and heritage;
- c) Promote racial and religious harmony;
- d) Promote the Singapore identity;
- e) Stimulate knowledge and learning; and
- f) Foster an informed society (including news, information and analysis of current affairs that increase understanding of the world).

⁸ The MDA press release on the enhanced PSB model can be found at:

<http://www.mda.gov.sg/NewsAndEvents/PressRelease/2012/Pages/25072012p.aspx>.

industry develop quality content, as well as to support the training and up-skilling of media professionals.⁹

- 4.2.5 The Panel acknowledges these existing efforts to improve the quality of local productions. It also believes that there is potential for both FTA and pay TV broadcasters to develop more professional AV content, which may go beyond PSB programming to include a wider range of genres and subject matters. Hence, the review that follows represents the Panel's attempt at examining how the existing regulatory frameworks can be strengthened to complement these existing initiatives.

4.3 Reviewing the Definition of Local Content

- 4.3.1 Internationally, definitions of professional local content have been drawn along the lines of material that is of local relevance as well as creative control:

- a) Canada – Among the criteria used to define local content are (i) the producer is Canadian, controls and is the central decision-maker of the production from beginning to end; (ii) at least 60% of the key creative functions are being performed by Canadians; and (iii) at least 75% of the production cost is paid to Canadians.
- b) Australia – Local content is defined as material that is of local significance, including material (i) which focuses on the interests of people in the area; (ii) about an individual associated with the area; and (iii) about market conditions that affect a major business activity in the area.

- 4.3.2 The Panel considered that in order for a programme to be considered local content, the content must be of thematic relevance to Singaporeans. In this regard, there is no definitive formula that will ensure that a local programme will resonate with the local community. However, this is often subject to the twin elements of cast and creative control. Therefore, for a start, the Panel proposes to adopt a clear and simple rule to require at least 50% of the creative control and cast (i.e. scripting, directing, pre-production, production, editing and post-production) to be locals (i.e. Singapore citizens or permanent residents). In addition, the Panel would encourage content producers to ensure that key creative positions are helmed by locals in order to enhance the local relevance of the content.

4.4 Examining the Need for Production Measures

- 4.4.1 To spur local content creation, many countries have implemented measures that require broadcasters to invest in the production of local content. Some examples

⁹ More information on MDA's industry development grant schemes can be found at: <http://www.mda.gov.sg/Schemes/Pages/GrantSchemes.aspx>.

include:

- a) Canada – Pay TV operators are required to contribute at least 1.5% of their gross revenues derived from broadcasting activities in the previous broadcast year to the Local Programming Improvement Fund.
- b) Australia – Pay TV licensees that broadcast drama channels are expected to set aside at least 10% of total programme expenditure on new local drama programmes.
- c) France – On-demand services must devote as much as 26% of their net turnover to local content production; while all other broadcasters are expected to contribute at least 12% of their turnover to original French works.

4.4.2 There are no similar production measures imposed on broadcasters in Singapore today. Instead, production of local content is driven through funding of PSB programmes on MediaCorp, with original programming comprising about 35% of total broadcast hours. Pay TV broadcasters rarely invest in producing local content, and even if they do, these tend to be limited to sports programming where sponsorship is more forthcoming. Without the appropriate levers, the pace of original content creation among broadcasters is likely to remain low. To incentivise local AV content creation in Singapore, the Panel is of the opinion that the following regulatory initiatives should be introduced:

- a) Investment – Content providers (whether FTA, pay or on-demand) are to invest a minimum percentage of either their content expenditure or revenue in local content creation.
- b) Contribution – Alternatively, content providers may contribute that amount (or part thereof not used on local content creation) to a converged content production fund, which could be used to fund content across multiple platforms like TV, music, video games and the Internet.

4.4.3 In time, the investment option is likely to be more attractive, given that it also allows the industry to develop and own original intellectual property which can be monetised. Nonetheless, the two options are not mutually exclusive, and broadcasters can invest part of the requisite amount in the creation of their own content, and contribute the remainder to the converged content production fund.

4.4.4 Such regulatory obligations, however, may prove overly onerous on smaller players in the industry. Furthermore, it is not the intention of the Panel to require content providers in the business of UGC to invest in professional local AV content creation. Therefore, the requirements on local AV content creation should be imposed on nationwide TV broadcasters meeting the threshold of more than 100,000 unique viewers per day per channel or 250,000 unique viewers per day per service.

4.4.5 In addition to the regulatory initiatives outlined in paragraph 4.4.2 above, further production in local content creation could be encouraged through the introduction of tax incentives. Such incentives would be complementary to either the investment or contribution option by stimulating greater private investment in the production of local content.

4.5 Reviewing the Relevance of Distribution Quotas

4.5.1 Singapore is not unique in using distribution quotas to safeguard the broadcast space for local content. Countries like Canada, France, Australia and South Korea also enforce minimum quotas on the percentage of local content to be broadcast on FTA TV. In addition, such quotas are also enforced on pay TV broadcasters and on-demand services in Canada, France and South Korea.

4.5.2 The Panel considered if quotas would still be necessary to ensure that local content is guaranteed a place within broadcast platforms. Once broadcasters invest in the production of local content, it is reasonable to expect that such content would eventually be broadcast on their own platforms. Nonetheless, the Panel is of the opinion that some quotas may still be necessary to ensure investment in certain genres of programming, which may not be as profitable as others, e.g. minority programmes. However, as far as possible, the production of local content should be driven by investment in the industry rather than the imposition of artificial quotas which may sacrifice quality for quantity.

4.5.3 Yet, it will be some time before the regulatory initiatives for local content production are in place. In the meantime, existing quotas on FTA TV continue to remain necessary.

4.5.4 The Panel had also considered if quotas should be introduced on pay TV platforms. However, the view of the Panel is that if pay TV platforms are incentivised through production obligations to invest in local content, distribution quotas will not only be redundant, but also be an unnecessary additional obligation to be imposed.

4.6 Updating the “Must-carry” Framework for a Converged Environment

4.6.1 To ensure the prominence of local content on pay TV platforms, nationwide pay TV broadcasters are currently required to “must-carry” FTA TV channels and give these channels priority in their channel line-up. As the viewing habits and platforms by which audiences engage with media evolve, the Panel considered if the “must-carry” framework should also be updated to widen the distribution of local content on these new platforms.

4.6.2 The Panel agreed that, for a start, the “must-carry” framework should be expanded to cover Connected TV because the “lean-back” experience that Connected TV

offers in the living room is no different from that currently afforded by conventional TV sets. By the same argument, the “must-carry” framework would not be applied to second and third screens, such as tablets and smart phones, as these devices tend to be for personal use rather than shared family viewing experiences.

4.6.3 The Panel acknowledged that regulations on Connected TV are still being debated by authorities in countries like the United Kingdom and France. Nonetheless, in the United Kingdom, there is public expectation for Connected TV to be regulated given their position as being intermediate between traditional broadcast and OTT services. Any obligations on the medium should be adapted to its specific technological environment. Thus, in the context of OTT services, a more meaningful method of ensuring the prominence of local content is to ensure a link to such content via OTT means, which may be dubbed the “must-link” obligation.

4.6.4 Under the “must-link” framework, all relevant parties involved in the value chain of content delivery to Connected TV sets are expected to maintain a link to designated online local content:

a) The relevant parties involved in the value chain of content delivery to Connected TV sets will include the value-added service providers of Connected TV landing pages / EPGs, as well as importers or manufacturers of these devices. MDA should be given regulatory powers under appropriate legislation to license and impose requirements on importers or manufacturers of Connected TV. Costs incurred to ensure “must-link” should be worked out among the parties on a commercial basis, as is the existing arrangement for “must-carry”. As Connected TV is relatively new and evolving, this measure will have to be monitored and reviewed in light of technological developments.

b) Designated online content will be content that MDA identifies as qualifying for “must-link”. As “must-link” is a logical extension of the current “must-carry” obligation, the Panel envisages that only content that needs to be “must-carried” will need to be “must-linked”.

4.6.5 The Panel had also considered if “must-link” should be applied to devices that offer a Connected TV-like experience. The Panel noted that certain technical and logistical challenges may make it impractical to impose “must-link” on all devices offering Connected TV-like experiences. Thus, the Panel is of the view that “must-link” could be selectively applied to devices, such as those with higher reach. This would be in line with the intent to ensure the prominence of local content among the more prevalently used devices.

4.7 Summary of Recommendations

4.7.1 In summary, the key recommendations are:

- a) Production measures. To encourage greater local AV content creation, broadcasters of a certain scale (i.e. nationwide broadcasters) are to either invest a minimum percentage of their content expenditure / revenue in the production of local content or contribute that amount (or part thereof not spent on local content creation) to a converged content production fund. This could be complemented by a tax incentive that serves to encourage additional local AV content creation.
- b) Distribution measures. Some minimum quotas on local content are still necessary in the long run to ensure investment in certain programming genres. In the meantime, existing quotas are to be retained.
- c) “Must-link”. Relevant parties involved in the value chain of content delivery to Connected TV and devices enabling a “Connected TV”-like experience are expected to ensure the maintenance of a link to designated online local content on the landing page / EPG of the Connected TV and devices.

5 DEVELOP POLICY AND REGULATORY RESPONSE TO COPYRIGHT AND DIGITAL PIRACY CHALLENGES

5.1 Copyright Challenges in Singapore

5.1.1 With digital technology becoming a norm of life globally and with the Internet enabling speedy borderless distribution of digitised content, consumption patterns of media content and services across the world have changed. Increasingly, consumers expect to consume digitised media content and services anytime and anywhere. These developments have sparked a new debate amongst various stakeholders over the copyright challenges that the world faces today:

- a) Consumers' perspective. Today's consumers expect to be able to access desired content within a short window period from launch, on multiple fixed and mobile devices according to their lifestyle, and at prices they deem to be fair and reasonable. These expectations are increasingly heightened as the Internet affords consumers information about the latest and best content around the world. Where consumers find it difficult to legitimately access content within these expectations of timeliness, convenience and acceptable price, they may turn to sources available on the Internet. These can sometimes include pirated content.
- b) Content rights owners' perspective. Content rights owners are concerned about the lack of respect that consumers, especially the "digital natives" (i.e. the younger generation who grew up with digital technology), have for copyright; as well as the ease with which consumers can pirate content for distribution or consumption. These rights owners believe online piracy would impact on the economic viability of their businesses, hamper future investments in content creation and acquisition, and ultimately affect the range, quality and innovativeness of content that consumers can get to enjoy. Thus, whilst undertaking efforts to educate consumers on the importance of respecting copyright, content rights owners have also been asking governments around the world to take action against digital piracy.
- c) Online technology players' perspective. There are online technology players, such as Google and Yahoo, who are of the view that there is no conclusive evidence that digital piracy has hampered demand for legitimate content. This is because some content providers have found success and strong consumer take-up of new online content distribution formats to complement their traditional content distribution format. HBO Go, a mobile and online app launched in the United States in 2010 and offered to only HBO subscribers, is an example. Online technology companies are of the view that content providers are asking governments around the world to take regulatory action to protect existing pricing models and content distribution strategies, rather than update these business models and strategies to address the changing

demands of consumers in the digital age.

- 5.1.2 The above debate has been taking place in Singapore too. Based on their own investigations, content rights owners have pointed out that with tech-savvy Singapore residents and a high level of broadband connectivity, digital piracy in Singapore is considerable. Minister for Law, K. Shanmugam, in his Committee of Supply speech on 6 March 2012 had noted the industry feedback that the “consumption of online pirated material is not insignificant here”, and “concerns have been raised that online piracy has contributed to providers of legitimate online content staying away from Singapore”.

5.2 Need for Singapore to Respond to Copyright Challenges?

- 5.2.1 The Panel had a vigorous debate over the varying viewpoints surrounding copyright challenges in Singapore. The Panel noted content rights owners’ concern that consumers globally are increasingly blasé about respecting copyright, as well as the data provided by content rights owners about online patterns of digital consumption in Singapore. At the same time, the Panel also noted the consumers’ perspective about the insufficient legitimate sources in Singapore to access digital content anytime and anywhere, quickly enough after overseas premieres, and at prices the consumers deem reasonable. This could be due to commercial considerations of Singapore’s limited market size, complicated rights licensing issues (in part due to the existing content distribution models of content rights owners), and rising content costs.
- 5.2.2 The Panel is concerned that if the copyright challenges, i.e. (a) consumer’s understanding of and respect for copyright; (b) lack of attractive legitimate digital content sources; and (c) perceived high online piracy rates, are left unaddressed, they may undermine the economic viability of the media industry, and the effectiveness of the role of media in forging social cohesion since licensed broadcasters will be weakened.
- 5.2.3 Thus, the Panel proposes that the Government and other stakeholders consider a multi-pronged approach comprising public education, promotion of legitimate digital content sources, and regulatory measures, to address the copyright challenges.

5.3 Public Education

- 5.3.1 The Panel suggests that the relevant stakeholders, including Government agencies and industry players, could:
- a) Review the effectiveness of existing public education campaigns with an aim to further improve the impact of such programmes to reinforce the public’s

understanding of and respect for online copyright and copyright in general. For instance, educational efforts could be focused on educating the public why copyright is in the public interest, why the public should care because of the consequences caused by piracy, and the many ways in which they could access content legally.

- b) Augment efforts to carry out high impact public education campaigns to address copyright challenges. This may include identification of key messages to be delivered to different key target groups, e.g. adults with spending power and the digitally savvy young.
- c) Strengthen collaboration between industry players and the Government to implement the public education campaigns; in particular, the Panel encourages industry players to play a stronger role in public education efforts, including the provision of creative input, production support and airtime to create high impact public education campaigns.

5.4 Legitimate Digital Content Sources

5.4.1 The Panel observed that digital piracy rates have gone down in countries, where legitimate digital media services that met consumers' needs were offered. For example, in Norway, copyright infringement cases declined year on year from the time Spotify was introduced in 2008 – there was a 40% reduction in copyright infringement cases in 2009 from 2008 and a 13% reduction in 2010 from 2009.¹⁰ The Panel notes that some content rights owners have already moved towards the provision of online media offerings. The Panel is of the view that it would be important for such content rights owners to continue with their efforts, whilst those who have not done so should rethink their rights licensing models, and distribute their new and archived content on platforms in an easily accessible and timely manner to meet the demands of changing consumption patterns. The Panel also observed that perceived value and reasonable price were key factors in consumers' decisions to purchase legitimate content. It is a positive sign that the Apple iTunes store has recently launched their services locally to sell movies and music, but we should seek to encourage a greater variety of legitimate digital media service providers in Singapore.

5.4.2 The Panel also notes that content rights owners could have stronger grounds to request the Government to step up its regulatory / enforcement measures to

¹⁰ In Norway, Spotify – a Swedish music streaming service offering copyrighted music from a range of major and independent record labels, including Sony, EMI, Warner Music Group, and Universal – was launched in October 2008. Initially, most customers preferred the “free” service. Over time, the number of subscribers increased. The number of copyright infringing cases decreased from 22,239 cases in 2008 to 11,793 cases in 2010. A similar trend was observed in Sweden. Given that both these countries do not have any regulatory measures in place, they are examples that illustrate that reasonably priced legitimate services can combat digital piracy successfully on their own.

address perceived digital piracy challenges if they are able to prove that they have already made their content easily accessible in the local market and at reasonable prices.

5.5 Reviewing the Need for Enhanced Regulatory Measures

5.5.1 Industry Concerns with Existing Remedies

5.5.1.1 The Panel understands that content rights owners have found the current avenues available to them – as provided under the Copyright Act (Cap. 63) – to be limited:

- a) Legal action. Content rights owners can initiate civil proceedings in the courts against copyright infringement. This process has proven to be effective in dealing with physical copyright piracy (such as through digital discs), but seems less effective in an online context because it is more difficult (i) to investigate and compile evidence; (ii) for content rights owners to stop the activities of overseas illegitimate digital content sources from afar; and (iii) to plug the supply of pirated content from illegitimate digital content sources which can easily set up other supply sites.
- b) Notice and take down regime. Internet Service Providers (“ISPs”) in Singapore are required to remove copyright infringing material on the ISPs’ networks, or disable access to such material on other networks, upon receiving evidence of infringement from content rights owners, in order to be entitled to a “limitation in remedies” for copyright infringement under the Copyright Act. However, this is not a statutory requirement.

5.5.2 Potential Regulatory Measures

5.5.2.1 Internationally, countries have not reached a consensus on the need for regulatory measures to address digital piracy challenges or the appropriate approach to such regulation. However, some countries are exploring regulatory measures, of which the more common are:

- a) Graduated response system (a.k.a. “Three Strikes”). This system requires ISPs to warn end-users if they are suspected of copyright infringement. Repeat copyright infringement(s), for instance after three times, could attract penalties like reduction in bandwidth, suspension of Internet access, etc., for the copyright infringing Internet account holder. Countries which have implemented this system include France and New Zealand. Countries which had discussed and may implement this system include the United Kingdom¹¹ and the United States.

¹¹ Ofcom is currently conducting a public consultation and expects implementation to take place in early 2014.

- b) Site blocking. This involves blocking access to copyright infringing sites. The mechanics of blocking could range from being based on court orders to being administered by government agencies. Countries which have implemented this measure include Ireland (via court orders), Malaysia (fixed list) and South Korea (unlimited list administered by government agencies).

5.5.2.2 More information on how the above two measures are being implemented or considered in selected countries can be found in **Annex 5-A**.

5.5.2.3 The Panel reviewed the potential of adopting the above two regulatory measures and others in Singapore:

- a) Graduated response system. This system could be costly; privacy-intrusive; and difficult to enforce effectively as copyright infringing end-users could switch between different ISPs easily.
- b) Site blocking. Given ISPs' experience in implementing the symbolic blocking of 100 high-impact sites,¹² this measure – although circumventable by Internet-savvy users – was identified as viable and cost-effective.
- c) Traffic management. This involves ISPs slowing down the speed of web traffic for identified copyright infringing sites. There could be implementation issues for industry players, and also the risk of inadvertently affecting legitimate users.
- d) Site pop-up / redirect. This involves the activation of a pop-up webpage to inform the end-user that the site he is accessing is a copyright infringing site, and suggest that he use alternative legitimate services instead. This measure may be ineffective as end-users could ignore the pop-ups / redirect suggestions.

5.5.3 Co-regulatory Approach to Discourage Online Piracy

5.5.3.1 The Panel is of the view that emphasis should be placed on strengthening public education efforts and introducing more legitimate digital content sources. The Government could also consider implementing site blocking, which may be the most feasible and cost-effective regulatory option. However, the Panel notes that site blocking may not be the most effective regulatory measure as shown by the United Kingdom's recent experience, where data suggested that peer-to-peer activity returned to just below normal levels a week after the blocking of *The Pirate Bay* was enforced.¹³

¹² Started in 1996, the blocking of 100 high impact sites is meant as a symbolic statement of the type of content that the Singapore community is opposed to. Singapore had made a conscious decision to limit the number of blocked sites to 100 as it would be impossible to limit access to all illegal or harmful content on the Internet.

¹³ Source: *Pirate Bay block effectiveness short-lived, data suggests*, BBC News (16 July 2012), <http://www.bbc.co.uk/news/technology-18833060>, accessed on 24 July 2012.

5.5.3.2 The Panel discussed the following two potential implementation approaches for site blocking:

- a) Fixed list. A fixed number (say 10-20) of the most egregious copyright infringing sites would be blocked by Government mandate. This approach is adopted by Malaysia. The list of copyright infringing sites could be proposed by content rights owners for the appropriate Government agency or neutral Government-appointed entity for endorsement, and reviewed on a periodic basis to reflect changing consumption patterns of copyright infringing sites. In this approach, the content rights owners have to ensure that they are able to provide objective verifiable information on how and why sites were identified as copyright infringing and proposed for site blocking.
- b) Co-regulatory. Under this approach, industry players would play a larger role in identifying copyright infringing sites and maintaining the list of sites to be blocked, supported by legislative provisions and/or other appropriate regulatory measures imposed by the Government on ISPs to effect site blocking. The advantage of this approach is that it enables industry stakeholders to react more nimbly and comprehensively to online piracy challenges. There are different permutations on how the co-regulatory approach could be implemented. One potential approach is as follows:
 - i) Relevant stakeholders could form an industry group, which could include consumer interest groups.
 - ii) The industry group could draw up a code of practice, supported by licensing conditions by the relevant Government agency to ensure compliance with the code of practice.
 - iii) The code of practice could include a list of criteria that evaluates which sites were infringing copyright, the impact of the sites (i.e. factors such as traffic) and specify the level to which copyright infringing sites should be blocked, e.g. IP address, URL or DNS. Such criteria should be able to stand up to public scrutiny.
 - iv) ISPs would block such identified copyright infringing sites. Content rights owners should be prepared to indemnify the ISPs for any erroneous blocking of sites, so that due caution would be exercised in applying the criteria for selection of sites for blocking.
 - v) The code of practice could provide quick and effective avenues for other parties to appeal the list of identified copyright infringing sites. Should it be proven that certain sites are not / no longer infringing copyright, such sites should be unblocked expeditiously. Examples of these other parties include providers of blocked sites, open Internet access advocates, consumer advocates and/or public interest advocates.

5.5.4 The Panel does not rule out the possibility that the above two approaches could be combined. The Panel also notes that the effectiveness of either approach depends on how their implementation is designed. Most importantly, regardless of which approach is adopted, the rules and process should be transparent and open to public scrutiny. In addition, the relevant decision makers / implementers must not overlook the impact of any adopted measure / approach on the public. Care must be taken so that any measure does not end up censoring or restricting the freedom of the public's access to information on the Internet. It would be important for appropriate public communications measures to be put in place, to ensure that both domestic and international stakeholders understand clearly the intention and rationale of the measures taken.

5.6 Summary of Recommendations

5.6.1 In summary, the key recommendations are to adopt a three-pronged approach comprising:

- a) Public education. Relevant stakeholders, including Government agencies and industry players, could strengthen their collaborative efforts to carry out more high impact public education campaigns to address copyright challenges, and to reinforce the public's understanding of and respect for online copyright and copyright in general.
- b) Legitimate digital content sources. Content rights owners should rethink their rights licensing models, and distribute their new and archived content on platforms in an easily accessible and timely manner to meet the demands of changing consumption patterns.
- c) Regulatory measures. Of the potential regulatory measures, site blocking was deemed to be the most feasible regulatory measure to combat digital piracy. Site blocking could be undertaken as a fixed list, co-regulatory, or combined approach. Regardless of the specific approach, its implementation should be transparent and ensure that (i) appropriate criteria – that can stand up to scrutiny – are drawn up for identification of copyright infringing sites; (ii) ISPs and the Government are indemnified from blocking of any wrongly identified copyright infringing site; and (iii) quick and effective appeal and reinstatement avenues are provided.

6 UPDATE LICENSING FRAMEWORK TO PROVIDE GREATER CLARITY AND CONSISTENCY

6.1 Media Licensing Frameworks in Singapore

6.1.1 MDA administers legislation specific to broadcast and films (**Annex 6-A**) which empower MDA to license qualifying entities. The Broadcasting Act (Cap. 28) covers three main categories of broadcast licensees – (a) Nationwide licensees with more than 100,000 daily unique viewers per channel or 250,000 daily unique viewers per service; (b) Niche licensees which do not exceed the nationwide viewership thresholds; and (c) Class licensees which include Internet Content Providers (“ICPs”)¹⁴ and Internet Service Providers (“ISPs”)¹⁵. The Films Act (Cap. 107) covers the licensing of film distributors and exhibitors of physical and/or digital films. More details on the licensing frameworks and corresponding licensing obligations are summarised in **Annex 6-B**.

6.2 The Impact of Media Convergence

6.2.1 Media convergence has given rise to challenges in the licensing of media services in Singapore. In particular:

- a) Inconsistencies arising from licensing of new media services. New media services have emerged that do not fall neatly within existing regulatory frameworks, and have given rise to regulatory inconsistencies. For instance, an online provider of TV streaming content and film video-on-demand (“VOD”) would theoretically require licences issued under both the Broadcasting and Films Acts. There is a need to rationalise the licensing frameworks to provide more clarity on how online services would be licensed.
- b) Unlevel playing field. Local media players are increasingly vulnerable to online competition from overseas media service providers who are not subject to local regulatory regimes. These disparities will be further accentuated over time, especially if new requirements like investment in / contribution to local production are introduced.

¹⁴ ICPs include any individual, corporation or group of individuals, who provides any programme – for business, political or religious purposes – on the Internet; and any web publisher / server administrator.

¹⁵ ISPs refer to persons who are an Internet Access Service Provider licensed under Section 5 of the Telecommunications Act (Cap. 323); a Localised Internet Service Reseller; or a Non-Localised Internet Service Reseller. (For more details on the definitions, please refer to <http://www.mda.gov.sg/Documents/PDF/licences/mobj.487.ClassLicence.pdf>.)

6.3 International Case Studies

6.3.1 Such regulatory challenges are not unique to Singapore:

- a) Australia: The Australian Government established an independent Convergence Review Committee to examine the policy and regulatory frameworks that apply to the converged media and communications landscape in Australia. In its final report released in April 2012, the Committee recommended that:
 - i) Regulatory focus should be on “influential players” – defined as (A) having control over content supplied; (B) distributing content services to more than 500,000 Australian users; and (C) receiving more than A\$50 million revenue from their supply of content to Australian users.
 - ii) Any enterprise with a significant presence in Australia should be accountable in Australia.

The Panel understands that the Australian Government would be responding formally to the Committee’s final report in due course.

- b) European Union (“EU”): The Audiovisual Media Services Directive (“AVMSD”) introduced by the EU in 2007 provides learning points on how regulation could be calibrated for AV services. In particular, the AVMSD provided a clear definition of AV media services, i.e. (i) programmes that are “comparable to the form and content of TV broadcasting”; (ii) having effective control over the selection of programmes; and (iii) making a significant impact on and reaching a general public. The 2007 AVMSD also articulated the principle of imposing more conditions on linear / “live” content than on on-demand content in recognition of the difference in reach and impact of the content and the nascent nature of the on-demand content industry then. The EU recently conducted a review, which culminated in a report in May 2012, recommending that the EU look into the potential regulation of Connected TV, and the provision of a level playing field for local versus foreign AV media service providers.

6.4 Key Considerations of the Panel

6.4.1 The Panel was guided by the following principles in reviewing the media licensing frameworks and approach:

- a) Licensing continues to be necessary – (i) to protect the public interest through content regulatory and consumer protection obligations imposed on licensees; (ii) to effect local content requirements; and (iii) where scarce resources such as radio frequency spectrum are utilised, as a means of allocation.

- b) However, the licensing frameworks should be updated to facilitate industry growth and sustainability by providing (i) clarity on the scope on what needs to be licensed; and (ii) greater consistency in the application of licensing rules and obligations across platforms.

6.5 Licensing of Online Content Services

6.5.1 Singapore's Broadcasting Act is based on the platform- and technology-neutral principle (i.e. broadcast services encompass the transmission of programmes via any technology over any platform to anyone with the relevant equipment to receive the service).¹⁶ This enabled MDA to introduce the Class Licence in 1996 to provide a light-touch approach towards licensing and regulating online content. Under the Class Licence, ICPs and ISPs are deemed automatically licensed. Likewise, MDA was able to introduce the niche licensing framework in 2007 to facilitate the growth of Internet Protocol TV ("IPTV") services by offering interested players greater flexibility to roll out services for different market segments.

6.5.2 Since the Broadcasting Act already covers all broadcast and online content, the Panel felt that the Government could consider taking a conscious decision to license all online content services under the Broadcasting Act. For licensing purposes, such a decision will provide clarity on the relevant Act and also clearly remove the possibility of overlapping regulation on the same issue. The Panel also felt that online content services should not include UGC and any communications that take place in the private space – this would be in line with the definition of "programme" provided in the Broadcasting Act (see footnote 3).

¹⁶ Singapore's Broadcasting Act provides the definitions of "programme" and "broadcasting service" as follows:

- "programme", in relation to a broadcasting service, means ---
 - (a) any matter the primary purpose of which is to entertain, educate or inform all or part of the public; or
 - (b) any advertising or sponsorship matter, whether or not of a commercial kind, but does not include any matter that is wholly related to or connected with any private communication, that is to say ---
 - (i) any communication between 2 or more persons that is of a private or domestic nature;
 - (ii) any internal communication of a business, Government agency or other organisation for the purpose of the operation of the business, agency or organisation; and
 - (iii) communications in such other circumstances as may be prescribed.
- "broadcasting service" means a service whereby signs or signals transmitted, whether or not encrypted, comprise ---
 - (a) any programme capable of being received, or received and displayed, as visual images, whether moving or still;
 - (b) any sound programme for reception; or
 - (c) any programme, being a combination of both visual image (whether moving or still) and sound for reception or reception and display, by persons having equipment appropriate for receiving, or receiving and displaying, as the case may be, that service, irrespective of the means of delivery of that service.

6.6 Improving Clarity: Defining “Licensable AV Services”

- 6.6.1 Even as online content services are covered under the Broadcasting Act, there is a need to calibrate licensing obligations according to their scale and impact. Singapore’s approach thus far has been to individually license AV services since the AV medium is considered to have higher impact than text-only services; the latter are automatically licensed under the class licensing regime.
- 6.6.2 Given the proliferation of different forms of AV content, including UGC and mixed media services, it is necessary to have a clear definition of what types of AV services need to be individually licensed. The Panel referenced the examples from the EU and Australia, and suggest that licensable AV services should have all the following characteristics:
- a) Professionally produced AV content; UGC would be excluded.
 - b) Distributed to the public, where anyone in the general public is able to access the service freely or upon request via any device or applications for access over any platform.
 - c) Distributed for commercial interest, whereby the providers are for-profit entities monetising their offerings through the collection of revenues, such as advertising, sponsorship and subscription fees.
 - d) Provider has editorial control in curating the selection of programmes being made available over any platform.

6.7 Greater Consistency in Application and Obligations Across Platforms

- 6.7.1 The Broadcasting Act currently applies to any person providing any licensable broadcasting service “in or from Singapore”. For greater consistency, the Panel takes the view that the broadcast licensing framework should cover both local and foreign broadcasting services delivered over the Internet and are receivable by the Singapore public. However, it would be impractical to seek to apply the Broadcasting Act to all foreign broadcasters whose content is accessed by users in Singapore. Hence, the Panel recommends that licensing of foreign broadcasters be imposed only on those players which (a) target the Singapore market; and/or (b) receive subscription fees and/or advertising revenue from the Singapore market.¹⁷ Such foreign broadcasters should be treated no differently from broadcasters that are based in Singapore and subject to licensing obligations.

¹⁷ As a guiding principle, the Panel suggests that foreign broadcasting services “targeting the Singapore market” should include those players actively addressing the Singapore market, such as via setting up .SG sites or offices in Singapore; and should not include foreign broadcasting services that consumers had to actively seek out and / or circumvent geo-blocks.

- 6.7.2 The Panel discussed the enforceability of a licensing regime involving foreign broadcasters. Well-established overseas players have every incentive to ensure that as they expand their offerings globally, they comply with relevant domestic regulations, so long as these regulations are clear, transparent and not burdensome. However, should any qualifying foreign broadcaster choose to avoid licensing, the Government should ensure that it has credible remedies to back up the licensing regime. The Government could consider providing every reasonable opportunity to contact qualifying foreign broadcasters and license them; should reasonable measures fail, considerations of equity vis-à-vis other licensed local and foreign broadcasters would dictate that measures be taken to deny delivery of such unlicensed services to the Singapore market.
- 6.7.3 The Panel stressed the importance of creating a regulatory framework that promotes the growth of broadcasters already licensed here, while not deterring the entry of foreign broadcasters. An underpinning principle should be to apply equitable obligations on local broadcasters vis-à-vis their foreign counterparts. Such obligations should be tied to the scale and impact of the broadcaster, and the overall structure of the licensing framework should support the entry of new players and industry growth.
- 6.7.4 Today, the broadcast licensing framework imposes lighter obligations on niche broadcasters as compared to nationwide broadcasters, who meet the viewership thresholds of more than 100,000 unique viewers per day per channel or 250,000 unique viewers per day per service. The Panel feels that the viewership threshold separating niche and nationwide licensees should be maintained.
- 6.7.5 The Panel agrees that all broadcast licensees, whether local- or foreign-based, should be subject to content regulatory requirements, such as classification and access control requirements.
- 6.7.6 However, the Government may wish to consider options in applying other licensing obligations, such as licence fee and performance bond. Currently, all licensed broadcasters are subject to a licence fee of 2.5% of total income, or a minimum sum, which varies depending on the scale and impact of the broadcaster (i.e. \$5,000 for niche broadcasters; \$50,000 for nationwide pay TV broadcasters; and \$250,000 for nationwide free-to-air (“FTA”) broadcasters). Similarly, the performance bond varies for niche broadcasters (\$50,000) versus nationwide broadcasters (\$200,000).
- 6.7.7 One argument is that the licence fee and performance bond should be removed to level the playing field between local and overseas players. However, such an option is not tenable as it would limit Singapore’s regulatory model to *ex post* enforcement; furthermore, the collection of licence fee is necessary to offset the

costs incurred by MDA in regulating the media market.¹⁸

- 6.7.8 The alternative is then to impose licensing and performance bond conditions on all qualifying broadcasters, including overseas players. Such a licensing framework should still make a distinction between niche and nationwide broadcasters; and the quanta of licence fee and performance bond could be reviewed to better reflect the costs of regulating each category of broadcasters.
- 6.7.9 The Panel further observed that in deriving a reasonable regulatory cost to be charged to licensable broadcasters, MDA should take into account not just broadcast-related, but other related content regulatory functions of MDA. For instance, if broadcasters are able to reference the classification ratings compiled through the classification of film and video content, they should be expected to offset part of the costs of film and video classification.
- 6.7.10 The Panel also recommends that the Government consider providing nationwide pay TV licensees more flexibility to provide full infomercial and sponsored channels since they are not constrained by broadcast capacity.

6.8 Moving into the Future

- 6.8.1 In the longer term, when there is more clarity on the evolution of digital media services and their (borderless) distribution methods, the Government may wish to explore the idea of putting in place new legislation that regulates and promotes the new digital norms better, as well as foster cross-border collaboration to ensure mutual respect of content norms.

6.9 Summary of Recommendations

- 6.9.1 In summary, the key recommendations are:
- a) Provide regulatory certainty that the licensing of all broadcast and online content services (excluding UGC and private communications) will fall under the Broadcasting Act.
 - b) Formally define licensable AV services as being (i) professional AV content; (ii) distributed to the public; (iii) for commercial interest; and (iv) services which the provider has editorial control over.
 - c) Apply broadcast licensing framework on overseas broadcasters targeting the Singapore market and/or collecting subscription / advertising revenue from the

¹⁸ Collection of licence fees to offset regulatory costs is a common practice worldwide. The media (or communications) regulators in Australia, Canada, Hong Kong, Malaysia, the United Kingdom and the United States, typically charge licence fees on a cost-recovery basis.

Singapore market.

- d) Impose more equitable obligations on local and overseas broadcasters tied to their scale and impact.

7 CONCLUSION

- 7.1 The challenges posed by convergence are manifold, and through the recommendations in the preceding chapters, the Panel has attempted to address what they consider to be the most significant and pressing regulatory issues affecting Singapore.
- 7.2 The nature of convergence means that these trends continue to be evolving, and the challenge of ensuring that Singapore's media regulation remains fair, balanced and relevant is a continuous one. Therefore, in applying the recommendations, the Panel is of the view that a literal application would not be sufficient; rather, the spirit, intent and principles of the recommendations should also be taken into consideration to guide their implementation.
- 7.3 Furthermore, the complexity of the issues raised by convergence means that there is often no neat answer. Instead, the Panel had considered the views of different stakeholders within the industry and the community, and the recommendations represent the Panel's best efforts at arriving at the most rational and reasonable solution that balances the needs and demands of these groups.
- 7.4 The Panel is also of the view that it will grow increasingly untenable for MDA to continue to apply the same regulatory approach as it did in the past. Co-regulation is therefore an inevitable approach with the advent of convergence, such that regulation becomes a shared responsibility between the Government / MDA, industry and community. To this end, there should be regular exchanges of views and feedback from the community to the industry and vice versa, with the Government / MDA ensuring that neither party's interests are compromised.
- 7.5 Finally, the Panel is cognisant that regulation alone is not the "magic bullet". To complement the co-regulatory process, the Government / MDA should, in collaboration with partners from the industry and community, continue to persevere in its outreach efforts to educate the public on ethical usage of content rights, as well as how to make informed choices and protect the young. With the judicious exercise of individual, parental and social responsibility, Singapore would be in a much better position to address the challenges posed by convergence.

1 BIOGRAPHY OF PANEL CHAIRMAN



KOH BOON HWEE
Chairman
Sunningdale Tech Ltd
Yeo Hiap Seng Limited & Yeo Hiap Seng (Malaysia) Berhad
AAC Technologies Holdings Inc
Rippledot Capital

Mr Koh Boon Hwee is the Chairman of **Sunningdale Tech** Ltd (wef 22 April 2003), **Yeo Hiap Seng Limited** (wef 26 April 2010), **Yeo Hiap Seng (Malaysia) Berhad** (wef 22 April 2010) and **AAC Technologies Holdings Inc** (wef 9 November 2004). He is also the Chairman of Rippledot Capital Advisers Pte Ltd and Director of Rippledot Capital Management Pte Ltd (wef 22 February 2011).

He started his career in 1977 at **Hewlett Packard** and rose to become its Managing Director in Singapore, a post he held from 1985 to 1990. From 1991 to 2000, he was Executive Chairman of the **Wuthelam Group**.

Boon Hwee was also the Chairman of the **Singapore Telecom Group (SingTel)** and its predecessor organisations from 1986 to 2001. During his 15-year term as Chairman of SingTel, he successfully led the Singapore telecommunications company through its transformation from a statutory board to a publicly-listed company, and from a domestic operator in Singapore to one of Asia Pacific's leading integrated communication service providers. He was appointed Chairman of **Singapore Airlines Limited** in July 2001, a post which he held until 31 December 2005. During this period, he led the airline through the September 11 incident in 2001, Bali bomb attack in 2002, SARS epidemic in 2003 and record fuel prices in 2005. Despite these challenges, the airline remained profitable on an annual basis throughout, culminating in a historical record profit in fiscal 2005. He joined **DBS Bank** as a Director on 15 June 2005 and was appointed Chairman on 1 January 2006. Boon Hwee stepped down from DBS on 30 April 2010, after leading the bank through the financial crisis of 2008-2009, and registering record revenues for fiscal 2009. Boon Hwee served on the Board of **Temasek Holdings Pte Ltd** from November 1996 to September 2010, and was a member of the Executive Committee from January 1997 to September 2010.

Boon Hwee was named the Outstanding Manager of the Year in 1991 by Business Times and DHL Worldwide, and was conferred The International Herald Tribune Visionary and Leader Honour in January 2003.

A distinguished corporate leader and entrepreneur, Boon Hwee currently also serves on the board of **Agilent Technologies, Inc.** in the United States. Boon Hwee contributes actively to

non-profit organisations, and is the current Chairman of the Board of Trustees of **Nanyang Technological University** and a director of the **Hewlett Foundation** in the United States.

Boon Hwee received his Bachelor's Degree (First Class Honours) in Mechanical Engineering from the Imperial College of Science and Technology, University of London, and his MBA (Distinction) from the Harvard Business School.

2 BIOGRAPHIES OF PANEL MEMBERS



CHANG LONG JONG
Deputy CEO
MediaCorp Pte Ltd

Mr Chang Long Jong is the Deputy CEO of MediaCorp responsible for its key business units, including television, radio, newspaper, magazines, studio productions and event management. Long Jong joined Singapore Broadcasting Corporation, MediaCorp's predecessor, in 1985. Over the years, he had taken on various responsibilities in channel management, content development, production management, programme licensing and distribution, and talent management. Some major initiatives he spearheaded included launches of new MediaCorp channels, including Singapore's first free-to-air HD channel, and a free-to-air channel in Vietnam. He also started MediaCorp's first online VOD service and established MediaCorp's production partnerships in Malaysia and China. He is presently leading MediaCorp's many strategic initiatives to develop future growth engines in the digital world.

Long Jong is a Board Director of PT Global Mediacom Tbk. He is also a member of the Promote Mandarin Council and a Panelist of Asia Pacific Broadcasting Magazine.



PATRICK DANIEL
Editor-in-Chief, English & Malay Newspapers
Singapore Press Holdings Ltd

Mr Patrick Daniel was appointed Editor-in-Chief of the English & Malay Newspapers Division of SPH in January 2007. Prior to this, he was Managing Editor of the division from September 2002, and Editor of The Business Times from May 1992. He joined the media in October 1986 from the Singapore Government's Administrative Service where his last position was Director in the Ministry of Trade and Industry.

Patrick is a director of SPH Magazines, SPH UnionWorks and Tamil Murasu Ltd, and also chairs two SPH subsidiaries - Straits Times Press and Shareinvestor.com Holdings. He serves on the boards of the Casino Regulatory Authority, the Singapore University of Technology and Design and Esplanade Pte Ltd.

Patrick graduated from University College, Oxford in 1976 with a Bachelor of Arts with Honours in Engineering Sciences and Economics. He also has a Masters in Public Administration from the Kennedy School of Government, Harvard University.



GOH SEOW ENG
Managing Director, NextGen TV
Singapore Telecommunications Ltd

Goh Seow Eng is Managing Director, NextGen TV, at SingTel. As Managing Director of NextGen TV, Seow Eng runs SingTel's TV businesses in the region and leads the team that spearheads SingTel's next generation TV and video ambitions.

Prior to joining SingTel in November 2010, Seow Eng was CEO of the Entertainment Division of Tanjong PLC in Malaysia, where he ran the gaming and cinema businesses. Before that, he was the COO, Consumer Business at Astro, Tanjong's sister company. Seow Eng was a key contributor to Astro's growth during his six years there. He played substantial roles in formulating and executing strategy, brand positioning and pricing and packaging of content services. He had also previously worked at Citigroup Inc. in various regional and global positions based in London, Tokyo, Taipei, Singapore and Kuala Lumpur. In the early part of his career, Seow Eng worked for several years in the United States primarily in the credit card and consumer lending sectors. He started and ran a credit card company that eventually grew to become the sixth largest credit card issuer in the United States.

Seow Eng is a graduate of the University of Pennsylvania's elite Management and Technology Dual-Degree Programme. He holds a Bachelor of Science in Economics *cum laude* from the Wharton School and a Bachelor of Applied Science (Computer Science) *cum laude* from the Moore School of Electrical Engineering. He obtained his Master of Business Administration from the University of California, Berkeley, and also attended Harvard Business School's Advanced Management Program.



DR BRUNO LANVIN
Executive Director
INSEAD eLab

Since September 2007, Dr Bruno Lanvin has been the Executive Director of INSEAD's eLab, managing INSEAD's teams in Paris, Singapore and Abu Dhabi. From 2000 to 2007, Bruno worked for the World Bank, where he was inter alia Senior Advisor for E-strategies, and Regional Coordinator (Europe and Central Asia) for ICT and e-government issues. He was also heading the Capacity Building Practice of the World Bank's Global ICT Department, and Chairman of the Bank's e-Thematic Group.

From June 2001 to December 2003, he was the Manager of the Information for Development Program (*infoDev*). In 2000, Bruno was appointed Executive Secretary of the G-8 DOT Force. Until then, he was Head of Electronic Commerce in the United Nations Conference on Trade and Development (UNCTAD) in Geneva, and occupied various senior positions including Chief of Cabinet of the Director General of the United Nations in New-York, Head of Strategic Planning and later Chief of the SME Trade Competitiveness Unit of UNCTAD/SITE. He was the main drafter, team leader and editor of '*Building Confidence: electronic commerce and development*', published in January 2000.

Since 2002, he has been co-authoring the *Global Information Technology Report*, (INSEAD - World Economic Forum). He holds a BA in Mathematics and Physics from the University of Valenciennes (France), an MBA from Ecole des Hautes Etudes Commerciales (HEC) in Paris, and a PhD in Economics from the University of Paris I (La Sorbonne) in France. A frequent speaker in high-level meetings, he advises a number of global companies and governments, and is a member of numerous boards, including that of the Tallinn E-government Academy.



ANN LAVIN
Head, Policy & Government Affairs
Google Southeast Asia

Since April 2010, Ms Ann Lavin has been the Head of Policy & Government Affairs of Google Southeast Asia. She is responsible for managing a regional government affairs team focusing on Southeast Asia and nearly 30 other emerging or small nation markets. The policy focus of the team includes economic empowerment, accelerating Internet access, open Internet policy, innovation, privacy, security, content regulation, investment policy, and general technology policy.

From September 2008 to April 2010, Ann was the Senior Advisor of McLarty Associates (Washington, DC and Hong Kong), where she worked with governments and businesses in Southeast Asia to solve problems including market access and regulatory issues; and advised corporations on government relations, risk management, and public positioning as they build their businesses. Her notable achievements with McLarty Associates included carrying out comprehensive sensitive legal and political risk assessment for a leading digital company and a strategic planning study for top-50 MNC evaluating market expansion strategies in Southeast Asia.

Ann worked for the US-ASEAN Business Council from November 2005 to June 2008; and the United States Department of Energy from December 1989 to December 1996. Her achievements with the two organisations were outstanding. Under Ann's leadership, the US-ASEAN Business Council's fundraising goals were exceeded during 2006, 2007 and 2008. At the United States Department of Energy, Ann was awarded the Secretary's Silver Medal for Meritorious Service, and an EEO Award in recognition of achievement in the professional development of women and minorities.

Ann also contributes actively to various non-profit organisations. Since October 2011, she has been a member of the National Library Board; and co-chair of Women@google, Southeast Asia. Before this, Ann had been participating actively in various community service and volunteer activities, including being Honorary Chair of the American Women's Association of Singapore from 2001 to 2005; and a weekly tutor from 2003 to 2005 at Canossaville Children's Home (which offers residential care to girls aged between 6 to 12 years who come from family situations that may put them at risk).

Ann holds a Bachelor of Arts (AB, Government) from Georgetown University.



GREGORY LEE
President & CEO
Samsung Asia Pte Ltd

Mr Gregory Lee was appointed President & CEO of Samsung Asia Pte Ltd in January 2010. He heads the regional headquarters for all Samsung Electronics' businesses in Southeast Asia, Oceania and Taiwan.

Gregory was promoted to Corporate Executive Vice President in 2010 and prior to assuming his current designation, Gregory was Senior Vice President and Chief Marketing Officer for Samsung Electronics. As CMO, Gregory was responsible for corporate marketing strategy and execution, including corporate brand management and market driven product strategies.

Before joining Samsung, Gregory worked for Johnson & Johnson, Kellogg's and Procter & Gamble in general management and marketing fields. Gregory started his career in the US. He has worked extensively in the US and also in Asia.



GILBERT LEONG
Partner
Intellectual Property & Technology
Rodyk & Davidson LLP

Mr Gilbert Leong is a partner in Rodyk & Davidson LLP's Intellectual Property & Technology Practice Group.

Gilbert has extensive experience in negotiating and drafting commercial agreements in relation to distribution of goods/services, procurement and tenders, manufacturing arrangements, acquisition of hardware, software development, licensing, maintenance, acquisition of intellectual property such as trademark and patents, computer turnkey projects, consultancy services, IP structuring, Internet related transactions and employee handbooks. Gilbert also provides advice on aspects of joint ventures, alliances and mergers & acquisitions.

He has also been counsel to parties involved in the telecommunication industry. In particular, he has advised on disputes arising as between telecommunication licensees, application for licences, market access and infrastructural issues. Gilbert has also been very active in the field of data privacy/protection matters, having written and spoken widely on the area. As a member of the Legal Sub-Committee of the National Internet Advisory Committee, Gilbert participated in the drafting to the "Model Data Protection Code for the Private Sector".

Gilbert's IP litigation experience includes copyright (software) suits, patent infringements as well as obtaining and executing search & seizure warrants. Additionally, he has prosecuted parties under a fiat from the Attorney General for offences under both the Trade Marks Act and Copyright Act. Gilbert also attends to hearings before the Trade Mark registry.

In addition to his legal qualifications, Gilbert also holds a Certificate in Computer Programming and Information Processing from the City & Guilds of London Institute. Gilbert has authored numerous articles and given speeches on a variety of intellectual property rights, technology issues and electronic commerce.

Gilbert was featured in Who's Who Legal: Singapore 2008 for his work in regulatory compliance, was listed in Asian Legal Business "Legal Who's Who Singapore 2003" for Information Technology and recognised as the Asialaw Leading Lawyer 2010 and 2011 for IT, Telecommunications & Media. He was a member of several technology-focused think tanks in Singapore.



CHARLES LIM AENG CHENG
Parliamentary Counsel
Legislation and Law Reform Division
Attorney-General's Chambers

Mr Charles Lim Aeng Cheng is the Parliamentary Counsel in charge of the Legislation and Law Reform Division of the Attorney-General's Chambers. He is also a Law Revision Commissioner and has served as a member of the Bioethics Advisory Committee, National Medical Ethics Committee, Advisory Council on Impact of New Media on Society (AIMS), National Internet Advisory Committee (NIAC) and the Commonwealth Expert Working Group on Legal Aspects of IT and the Related Law of Evidence (London, 2000 and 2002).

Charles read law at Cambridge University from 1976-1979 and was called to the English Bar in 1980 (Middle Temple). He completed the Executive Program at the Graduate School of Business at Stanford University in 1996. He has written several law books and numerous articles on tax law and cyber-law. He was awarded the IT Leader Award by the Singapore Computer Society in 1999. In 2010, he was conferred the Public Administration Medal (Gold).



GANESH RAJARAM
Senior Vice President, Asia
International Distribution and Home Entertainment
FremantleMedia Enterprises

Mr Ganesh Rajaram is Senior Vice President, International Distribution and Home Entertainment for FremantleMedia in Asia. Since starting FremantleMedia's Asian office in March 2005, Ganesh has increased the sales budget in Asia by more than fivefold, and achieved more than 100% growth in China, India and new emerging markets like Sri Lanka and Vietnam. Ganesh was also instrumental in setting up a joint venture in China creating slots in local stations for FremantleMedia content. This joint venture was the first of its kind in China involving a foreign distributor that saw FremantleMedia content syndicated in programming blocks across Chinese stations.

Before joining FremantleMedia, Ganesh worked for SPH MediaWorks as the Vice President of Programming from 2000 to 2005, where he was part of a pioneer team that built and operated two Free-To-Air channels from scratch.

Highly seasoned in cross-cultural negotiations and relationship building, and possessing multilingual abilities in English, French, Tamil, Malay and Bahasa Indonesia, and basic Chinese and Cantonese, Ganesh is acknowledged nationally and regionally for his ground breaking efforts in channel programming and doubling network ratings in a difficult competitive environment. Ganesh is also a regular speaker / moderator at the Asian Television Forum, Content Asia Summit and other such forums.

Besides serving on the Boards of the Media Development Authority and Vision Ventures Ltd, Ganesh also contributes actively to various non-profit organisations. Ganesh has guest-lectured at Ngee Ann Polytechnic's School of Film and Media Studies, and was an advisor to Nanyang Polytechnic's Diploma in Media Studies & Management.

Ganesh received his Bachelor of Arts in Political Science (International Relations) from the University of Calgary, and Master of Arts (International Communication) from Macquarie University.



VISWA SADASIVAN
CEO
Strategic Moves Pte Ltd

Mr Viswa Sadasivan is the CEO of **STRATEGIC MOVES PTE LTD** (formerly known as The Right Angle Communications). As CEO, he oversees the strategic development and provides much of the company's vision and drive. Viswa is also personally involved in providing corporate strategic consultancy and master class coaching sessions for key decision makers from both the private and public sectors in Singapore and around the region. The company has been in the business of strategic and crisis communication training and consultancy since its inception in 1997.

With over 29 years of television experience, Viswa is best known to the public as the face of the (then) Singapore Broadcasting Corporation's breakthrough news and current affairs programmes such as *Talking Point*, *Feedback* and *Today in Parliament*. As Senior Controller, he also planned and directed coverage of Parliamentary reports and General Elections, and has interviewed business and political leaders such as Singapore's (then) Prime Minister Lee Kuan Yew and the first Prime Minister of Malaysia, the late Tunjku Abdul Rahman.

With his wide network and deep understanding of policy and decision making in both the public and private sectors especially in Singapore, Viswa is increasingly engaged as a strategic consultant. He played a key role as Strategic Advisor in helping Las Vegas Sands Corp win the Marina Bay Integrated Resort bid in Singapore, providing strategic counsel for the entire duration of the bidding process spanning 15 months. This is deemed one of the largest Integrated Resort and Casino developments in the world to be constructed at a cost of over SGD 6 billion. In 2007, Viswa consulted for SingaporeGold, one of three consortia shortlisted to participate in the Singapore's Sports Hub tender exercise.

Given his proficiency, experience and professional reputation in the corporate and media circuit, it was natural for Viswa to provide the impetus and concept for **STRATEGIC MOVES'** media training and consultancy programmes, including its flagship Strategic Communication and Crisis Management courses.

To date, Viswa has conducted strategic communication training for the senior management of more than 150 organisations and close to 6,000 CEOs / Directors, from the regional operations of Fortune 500 companies to government and quasi-government agencies in Singapore.

Viswa also regularly conducts crisis management training and consultancy for MNCs and government bodies in Singapore and has been a key speaker at overseas conferences on the subject.

He was engaged by SIA in the aftermath of the SilkAir MI185 crash in 1997 to provide counsel on its positioning and messaging strategies; and by the Ministry of Transport in 2002 to develop its strategy and coach its top level officials in their roles as panellists in the SQ 006 Final Report press conference.

Prior to founding The Right Angle, Viswa was CEO of UTV International and was responsible for developing its operations in Singapore. Before this, he held the position of Senior Manager, Corporate Planning and Business Development at Singapore Press Holdings, and was instrumental in laying the groundwork for SPH's venture into the television industry.

Given his experience and appreciation of public policy and ground sentiment, Viswa has been invited to be on several public sector Boards, such as SPRING Singapore, Media Development Authority, Feedback Unit's Supervisory Panel, Government Parliamentary Committee for Defence and Foreign Affairs (as Resource Panel member) and the Singapore Indian Development Association (SINDA). He has also served on several major national committees, such as *Singapore 21* Committee, *Economic Review* Committee and the *Remaking Singapore* Committee. Trained as an elite Guardsman, he was Commanding Officer of a national service army battalion which won the coveted "*Best Unit Award*" three times. He holds the rank of Colonel.

Viswa was conferred the coveted "*Distinguished Alumni Service Award*" by the National University of Singapore (NUS) in 2011.

Viswa was appointed *Nominated Member of Parliament (NMP)* on 18 July 2009. With the dissolution of Parliament, he stepped down as NMP in April 2011.

Viswa was conferred the "*Spirit of Enterprise Award*" in September 2003, an award given in recognition of an individual's perseverance in the face of adversity and his triumph through a spirit of enterprise.

After graduating from the National University of Singapore with a Bachelor of Arts and Social Sciences (Political Science), Viswa proceeded to undertake a Master's degree in Public Administration (MPA) in the Kennedy School of Government and Administration, Harvard University. Viswa topped his class in Negotiation and Conflict Resolution, and was awarded top honours in the same field upon graduation in 1992.



TAN TONG HAI
Chief Operating Officer
StarHub Ltd

As StarHub's Chief Operating Officer, Mr Tan Tong Hai oversees the day-to-day operations of the company and has direct responsibility of the company's Consumer Business Group, Enterprise Business Group, Customer Service, Network Engineering & Information Services, Wholesale & International Services and Government & Strategic Affairs divisions.

Tong Hai has over 20 years of experience in the regional information technology (IT), Internet and e-commerce industries and has had broad experience at top management levels. Tong Hai was previously the President and the CEO of Singapore Computer Systems since August 2005, and the President and the CEO of Pacific Internet (PacNet) from March 2001. He was instrumental in turning both companies around when he was at their helms.

Tong Hai is currently the Deputy Chairman of Nanyang Polytechnic's Board of Governors. In addition, he serves a Chairman of its NYP Ventures Pte Ltd, and its School of Information Technology Advisory Committee.

An Honours graduate in Electrical Engineering from the National University of Singapore, Tong Hai is married with two children.

1 Full Listing of Industry Stakeholders

- Asia Internet Coalition
- Association of Independent Producers of Singapore
- Centre for Content Protection
- Composers and Authors Society of Singapore
- eBay
- Electronic Arts
- Gain City Best-Electric
- Golden Village
- M1
- Microsoft
- Motion Picture Association
- News Corporation
- Ochre Pictures
- PayPal
- Philips
- Recording Industry Association of Singapore
- SAFRA Radio
- Shaw
- Singapore Games Central
- SingTel
- Sitting in Pictures
- Skype
- SPH
- Soft Source
- StarHub
- The Moving Visuals Company
- Upton
- Walt Disney Company South East Asia
- Yahoo! Asia Pacific

2 Full Listing of Community Stakeholders

- Advisory Committee for Chinese Programmes
- Arts Consultative Panel
- Consumers Association of Singapore
- Films Consultative Panel
- Indian Programmes Advisory Committee
- Magazine Publishers Association of Singapore
- Malay Programmes Advisory Committee
- Media Literacy Council

- Programme Advisory Committee for English Programmes
- Publications Consultative Panel

International Experts Consulted by Media Convergence Review Panel

1. Mr Richard Bean, Deputy Chairman, Australian Communications and Media Authority
2. Ms Yuan-Ling Chen, Commissioner, National Communications Commission (Taiwan)
3. Ms Mignon Clyburn, Commissioner, Federal Communications Commission (USA)
4. Professor Terry Flew, Media and Communications, Queensland University (Australia) (formerly Commissioner in charge of the Australian Law Reform Commission's National Classification Scheme Review from 2011 to 2012)
5. Mr Jean-Francois Furnémont, Director General, Conseil supérieur de l'audiovisuel
6. Dato' Mohamed Sharil Tarmizi, Chairman, Malaysian Communications and Multimedia Commission
7. Mr Stephen Simpson, Regional Commissioner, Canadian Radio TV Commission

MDA's Existing Content Codes & Classification Guidelines

1. Free-To-Air TV Programme Code
2. Free-To-Air Radio Programme Code
3. Subscription TV Programme Code
4. VOD Programme Code
5. Content Code for Niche Services
6. Internet Code of Practice
7. Film Classification Guidelines
8. Video Games Classification Guidelines
9. Content Guidelines for Imported Publications
10. Content Guidelines for Local Lifestyle Publications
11. Arts Classification Guidelines
12. Audiotext Code of Practice
13. Guidelines for Audio Materials
14. TV Advertising Code
15. TV Programme Sponsorship Code
16. Radio Advertising & Sponsorship Code

MDA's Existing Classification Frameworks on Different Media

Type of classification	Medium	Classification Categories					
<i>Age-based</i>	FTA TV	G	PG	PG13			
	Subscription TV, Videos	G	PG	PG13	NC16	M18	
	Films, VOD	G	PG	PG13	NC16	M18	R21
	Video Games				Age Advisory (Suitable for 16 & above)	M18	
	Arts	G		Advisory	Advisory-16	R18	
<i>Type-based</i>	Publications	Teen Magazines	General Interest Lifestyle Magazines	Adult-interest magazines, Sex manuals, Erotic Fiction			

1 France – Graduated Response System

- 1.1 The HADOPI law (aka three strikes law) came into effect in France on 1 January 2010. HADOPI originated as a political initiative of former French President Nicolas Sarkozy, and is now a public agency which implements the HADOPI law.
- 1.2 How the graduated response system works. Copyright infringing accounts are notified via email for the “first strike”. Notifications for the “second strike” would include an email and a registered delivery letter. Third strike cases would be sent to the Prosecutor’s office. As of end-December 2011, 165 repeat offenders had been placed under investigation, entering the penal phase. HADOPI has sent the first batch of cases to the courts in February 2012. The outcome is unknown yet. The French courts are authorised to impose a fine of €1,500 (~\$2,500) and suspend the copyright infringing individual’s Internet account for up to a month.

2 USA

2.1 Digital Millennium Copyright Act

- 2.1.1 Copyright infringement is handled through the Digital Millennium Copyright Act (“DMCA”), which allows rights holders to request website administrators of websites like YouTube, Vimeo and Facebook to take down the copyright infringing content within a specific period of time without penalty.

2.2 Protect IP Act and Stop Online Piracy Act

- 2.2.1 The Protect IP Act (“PIPA”) and the Stop Online Piracy Act (“SOPA”) were considered and tabled by the United States Senate and House of Representatives. PIPA and SOPA were aimed at foreign websites that infringe copyrighted material.
- 2.2.2 Proponents of PIPA and SOPA were mostly media companies, including record labels, TV networks, movie studios, and book publishers, and some companies with an interest in fighting sales of other counterfeit goods, such as beauty-product maker Revlon and pharmaceutical company Pfizer. Opponents included companies like eBay, Google, Mozilla, Twitter, and Wikipedia; public interest groups, including the American Civil Liberties Union, the American Library Association, Freedom House and the Internet Society; as well as more than 4.5 million people who signed an online petition. Opponents of PIPA and SOPA were worried that the language in SOPA was so broad that it would allow content owners to target United States websites that were not knowingly hosting pirated content. In an extreme case,

opponents said that media companies could get a court order blocking payments to an innocent site with the effect of shutting it down and stripping it of its right to free speech.

2.3 Voluntary Graduated Response System

2.3.1 The US Copyright Alert System is one of the few instances of a voluntary form of graduated response system initiated by industry players. Industry players comprised ISPs, such as AT&T, Cablevision, Verizon; and organisations, such as the Motion Picture Association of America and the Recording Industry Association of America.

2.3.2 Under this voluntary system, content rights owners would notify a participating ISP when they believe their copyrights are being misused online by a specific computer. The ISP would send an alert to the subscriber, whose account has been identified. The alert would notify the subscriber that his account may have been misused for potentially illegal file sharing, explain why the action is illegal and a violation of the ISP's policies, and provide advice about how to avoid receiving further alerts; as well as how to locate film, TV and music content legally. After six alerts, the ISP may take the following actions against the subscriber:

- a) Temporary reduction of Internet speeds;
- b) Redirection to a landing page with information about copyright infringement; and/or
- c) Display pop-ups with copyright infringement alerts.

2.3.3 Subscribers, who believe that they have been wronged, may seek an "independent review" at a cost of US\$35 to determine the validity of a copyright infringement claim. However, they may only initiate this process only after they have received their 6th notice.

2.3.4 This copyright alert system was scheduled to launch in July 2012. However, this has been pushed back to end-2012. This may have been due to concerns about the independent review process and the overall cost of the programme, which would be absorbed by the ISP's customers, the vast majority of which do not illegally download material.

3 Malaysia – Site Blocking

3.1 In May 2011, the Malaysian Communications and Multimedia Commission ("MCMC") had ordered all ISPs to block 10 file sharing websites. These websites were among the most visited sites by Malaysians to illegally download movies. The

websites are:

- a) www.warez-bb.org
- b) www.thepiratebay.org
- c) www.movie2k.to
- d) www.megavideo.com
- e) www.putlocker.com
- f) www.depositfiles.com
- g) www.duckload.com
- h) www.fileserve.com
- i) www.filestube.com
- j) www.megaupload.com

- 3.2 In June 2011, MCMC indicated that 51 government websites were hacked in protest against the site blocking decision.

1 Existing Media-Related Legislation

1.1 MDA administers the following legislations for the purpose of regulating the media sector:

- a. Broadcasting Act (Cap. 28). The Broadcasting Act is an Act to regulate dealing in, the operation of and ownership in broadcasting services and broadcasting apparatus, and for matters connected therewith. The Broadcasting Act provides MDA with the power and discretion to license any person providing any licensable broadcasting service in or from Singapore. “Licensable broadcasting services” include AV and online content, including online newspapers.
- b. Films Act (Cap. 107). The Films Act is an Act relating to the possession, importation, making, distribution and exhibition of films. The Films Act provides MDA with the power and discretion to license any person in the business of distributing or exhibiting (physical / electronic) films. “Films” include any cinematograph film; any video recording; and any other material record or storage device that is capable of reproducing / displaying a film or a copy of a film in whole or in part.

1 Licensing Frameworks for Media Services

1.1 There are three major categories of broadcasting licences:

- a) Nationwide. Given the reach and impact of nationwide TV services (more than 100,000 unique viewers per day per channel or 250,000 unique viewers per day per service), nationwide TV licensees are required to comply with the most stringent licence conditions, such as payment of a 2.5% (of service-related revenue) or \$50,000 (pay TV) / \$250,000 (FTA TV) licence fees; lodgement of a \$200,000 performance bond; and compliance with ownership rules provided under Part X of the Broadcasting Act.
- b) Niche. Industry players, who do not exceed the viewership thresholds outlined above, are licensed under the niche category. MDA introduced the niche licensing framework in 2007 to facilitate the growth of Internet Protocol TV (“IPTV”) services in Singapore by offering interested players greater flexibility to roll out services for different market segments. Niche TV licensees are subject to less stringent licence conditions than nationwide TV licensees, such as payment of a 2.5% (of service-related revenue) or \$5,000 licence fees; and lodgement of a \$50,000 performance bond. Niche TV licensees do not need to comply with ownership rules.
- c) Class. In recognition of the global and borderless nature of the Internet, MDA introduced the Class Licence Scheme in 1996. Under this Scheme, Internet Content Providers (which includes the activity of providing online newspapers for a subscription fee or other consideration) and Internet Service Providers are deemed automatically licensed, and only need to observe and comply with the Class Licence Conditions and the Internet Code of Practice. The Internet Code of Practice outlines what the community regards as offensive or harmful to Singapore’s racial and religious harmony.

Comparison of Broadcasting Licensing Conditions

	Class Licence	Niche TV Licence	Nationwide Pay TV Licence	Nationwide FTA TV Licence
Licence Duration		5 years	10 years	10 years
Number of Subscribers / Viewers	Not applicable	<ul style="list-style-type: none"> ▪ Daily reach of any single channel up to 100,000 unique viewers; or ▪ Daily reach of broadcaster up to 250,000 unique viewers 	No limit	No limit
Annual Licence Fee	<ul style="list-style-type: none"> ▪ No fee ▪ Annual fee of \$1,000 for ISPs 	2.5% of total income or \$5,000, whichever is higher	2.5% of total income or \$50,000, whichever is higher	2.5% of total income or \$250,000, whichever is higher
Performance Bond		\$50,000	\$200,000	\$200,000
Ownership			Part X of the Broadcasting Act	
Must Carry			Must-carry FTA TV channels to subscribers	Must-Supply FTA TV channels
PSB Obligation	Not applicable	Not applicable	Not applicable	<ul style="list-style-type: none"> ▪ Mandatory PSB ▪ Additional PSB ▪ Local Content Requirements
Advertising Revenue Cap			No more than 25% of total income	Not applicable
Advertising Time Limit		<ul style="list-style-type: none"> ▪ 14 minutes per hour ▪ Not applicable for VOD 		14 minute per hour
Content Guidelines	<ul style="list-style-type: none"> ▪ Class Licence conditions ▪ Internet code of practice 	<ul style="list-style-type: none"> ▪ Subscription TV Programme Code ▪ VOD Programme Code applies 		FTA TV Programme Code

1.2 There are two major categories of film licensees:

- a) Film Distribution. There are three categories of film distribution licences, i.e. general, restricted, and temporary. The categories are differentiated based on the ratings of the films being distributed; and the time period over which the films are being distributed. Currently, R21 films are not allowed under the film distribution licensing framework.
- b) Film Exhibition. There are two categories of film exhibition licences, i.e. term or temporary. The categories are differentiated based on the time period over which the films are being exhibited. Currently, the film exhibition licensing framework is only applied to exhibitors showing films with ratings of NC16 and above.

1.3 More information on the above-mentioned licensing frameworks can be found at:
<http://www.mda.gov.sg/Licences/Pages/FilmDistLicence.aspx> and
<http://www.mda.gov.sg/Licences/Pages/FilmExLicence.aspx>.