

MDA/PLD/2013/31/6-7 VOL 01

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**BY EMAIL**

**WITHOUT PREJUDICE**

Mr Sean Slattery (Vice President)  
Regulatory & Interconnect  
SingNet Pte Ltd  
31 Exeter Road, Comcentre #05-00  
Singapore 239732  
FAX: 6733 5597

Dear Mr Slattery,

**APPLICATION FOR EXEMPTION FROM OBLIGATION UNDER PARAGRAPHS 2.6.1.1 AND 2.7  
OF THE MEDIA MARKET CONDUCT CODE – WORLD CUP 2014**

1. We refer to the letters from SingNet Pte Ltd ("**SingNet**") to MDA dated 7 February 2014 and 20 February 2014 ("**Exemption Application**").

**Background**

2. On 7 February 2014, SingNet requested for exemptions from the Media Market Conduct Code ("**Code**") in relation to its proposed acquisition of the World Cup 2014 content ("**WC2014 Content**"), on an exclusive basis, from the Fédération Internationale de Football Association ("**FIFA**").
3. SingNet's Exemption Application relates to:
  - (a) an exemption from the prohibition under Paragraph 2.6.1.1 of the Code on nationwide subscription television providers not to obtain the exclusive live and delayed broadcast rights to certain programming/content, which includes the opening, semi-final and final matches of the World Cup 2014 ("**Key Matches**") and matches involving the Singapore national football team ("**WC2014 Singapore Team Matches**") (i.e. the "**Anti-Siphoning Obligation**"); and

- (b) an exemption of its obligation under Paragraph 2.7 of the Code from cross-carrying the Gold Packs that contain the WC2014 Content and other non-WC2014 Content such as the Barclays Premier League content (i.e. the “**Cross-Carriage Obligation**”), such that SingNet would only cross-carry the channel package containing solely the WC2014 Content (“**Standalone WC2014**”) and the mio Stadium+ Pack containing the WC2014 Content and Barclays Premier League content (“**Mio Stadium+ Pack**”) on every Receiving Qualified Licensee’s (“**RQL’s**”) Relevant Platform(s). SingNet’s proposed channel packages and the exemption requested are set out in **Annex A**.
4. SingNet submitted that an exemption from Paragraph 2.6.1.1 of the Code is justified on the following basis:
- (a) *“the agreement with FIFA is not one where they will segregate the rights in such a way that they would offer the live/delayed broadcast rights to the matches on the anti-siphoning list separately from the broadcast rights for the rest of the matches”;*
  - (b) *“FIFA wishes to contract with only one party, but states in its contract that the party must offer certain matches to free-to-air (“FTA”) providers”;* and
  - (c) *“on grounds that where SingNet obtains the exclusive live/delayed broadcast rights to the matches in the anti-siphoning list, SingNet would sub-licence the same rights to the FTA provider, MediaCorp Pte Ltd, at a mutually agreed rate”.*
5. SingNet further submitted that an exemption from Paragraph 2.7 of the Code is justified given that *“the World Cup is an event that occurs only once every four (4) years”* and therefore *“[t]here is no change to the construct of the Gold Pack”*. Further, SingNet argued that the exemption is *“in the public interest”*, having regard to the following factors:
- (a) *“it would be contrary to public interest to deliberately discriminate against the Gold Pack customers and deny these customers the opportunity to acquire the World Cup 2014 at no additional fee”* as compared to the relatively small number of Mio Stadium+ Pack customers who will be able to view the WC2014 Content at no additional fee if they renew their Mio Stadium+ Pack contract for 24 months. SingNet added that the Gold Pack customers would have to separately subscribe to the Standalone WC2014 *“despite being football fans like those customers who currently subscribe to the Mio Stadium+ Pack”;*
  - (b) *“it is in the public interest that the conditions applicable to Gold Pack customers who take up the World Cup 2014 are no different from those on the Mio Stadium+ Pack, ie the Gold Pack customers do not receive any*

*additional benefits compared to the Mio Stadium+ Pack customers – they will similarly need to renew their current contract period for another 24 months to enjoy the World Cup 2014 at no additional fee”;*

- (c) An exemption will provide SingNet with the “*opportunity to derive economies of scale in order to deliver the desired World Cup 2014 price points to the customers*”;
- (d) The “*public interest is also addressed in terms of the pricing of the World Cup 2014*” as proposed by SingNet (see **Annex A**); and
- (e) The public interest considerations identified by MDA in its 24 July 2013 decision granting SingNet an exemption from the obligations under Paragraph 2.7 of the Code with respect to the Barclays Premier League Seasons 2013/2016 content (“**BPL Content**”) are still applicable in this case, including:
  - (i) economies of scale resulting in lower prices for all BPL Content customers regardless of the access platform;
  - (ii) consumer confusion and dissatisfaction arising from the cross-carriage of a larger number of duplicate channels in the Gold Packs on the StarHub Cable Vision Ltd (“**SCV**”) platform;
  - (iii) consumer choice to purchase the relevant content on either the SingNet or SCV platform;
  - (iv) non-discriminatory pricing of the Standalone WC2014;
  - (v) application of the cost savings from the economies of scale from the Gold Packs to all WC2014 Content customers regardless of the platform of access, resulting in a lower subscription price for the WC2014 Content; and
  - (vi) the cross-carriage of the enhanced interactive features with the linear channels in relation to the BPL Content.

### **MDA’s Considerations**

#### **Anti-Siphoning Obligation**

6. Based on SingNet’s representations and other verifications obtained by MDA, MDA notes that FIFA’s content agreement with any broadcaster generally covers the broadcast rights to all the matches, i.e. that FIFA will not separately offer the broadcast rights for the Key Matches and the WC2014 Singapore Team Matches from the rest of the matches to any broadcaster. As such, for SingNet to be able to acquire the pay TV broadcast rights to the WC2014 Content, it would have to acquire all live and delayed broadcast rights (including the FTA broadcast rights).

7. MDA also notes that FIFA, as part of its agreement with any pay TV service provider, would require the Key Matches to be provided to FTA broadcasters.
8. Further, MDA notes that SingNet has undertaken, in its Exemption Application, to ensure that the broadcast rights to the Key Matches and WC2014 Singapore Team Matches are sub-licensed at a mutually agreeable rate to the FTA provider, MediaCorp Pte Ltd, in order that these matches are made available to the Singaporean public.

### **Cross-Carriage Obligation**

9. **Technical Constraints.** MDA notes that SingNet has not raised any technical constraints that would warrant an exemption.
10. **Relevant Broadcast Rights.** MDA notes that SingNet has not raised any issue with the channel or content provider not having the relevant broadcast rights that would warrant an exemption.
11. **Public Interest.** In respect of SingNet's representation that the exemption is in the public interest, MDA considered that:
  - (a) The exemption would benefit existing subscribers of the Gold Packs and existing subscribers of the Mio Stadium+ Pack (on both the SingNet and SCV platforms) by providing them with the choice of taking up a new 24-month contract to have free access to the WC2014 Content as part of their Gold Pack/Mio Stadium+ Pack subscription ("**Free Access Option**"), without which they would only have the option to subscribe to the Standalone WC2014 for an additional fee;
  - (b) Without the exemption, SingNet would have to cross-carry a high number of duplicative channels in the Gold Packs if it wished to offer the Free Access Option, which is likely to result in consumer confusion and dissatisfaction given the overlapping content;
  - (c) The subscribers on the RQL's Relevant Platform(s) would have the Free Access Option should they subscribe to the Mio Stadium+ Pack on the RQL's Relevant Platform(s), and the exemption would ensure that there is no discrimination between subscribers to the BPL Content and the WC2014 Content on the SingNet platform and the SCV platform;
  - (d) The Standalone WC2014 pricing and the Mio Stadium+ Pack pricing are not discriminatory to subscribers on the RQL's Relevant Platform(s), in that there is no cross subsidy from the Standalone WC2014/Mio Stadium+ Pack to the Gold Packs as the direct cost of providing the WC2014 Content to WC2014

Content subscribers would not be fully recovered from the revenue derived from retailing the Standalone WC2014/Mio Stadium+ Pack; and

- (e) It would be in consumers' interest to have the option to subscribe to the Standalone WC2014/Mio Stadium+ Pack on either the SingNet platform or the RQL's Relevant Platform(s).

### **MDA's Decision**

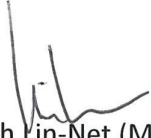
12. **Anti-Siphoning Obligation.** Having assessed SingNet's Exemption Application, MDA is satisfied that SingNet has shown that there is good cause in granting an exemption from the obligations under Paragraph 2.6.1.1 of the Code. MDA hereby grants an exemption under Paragraph 1.8.1 of the Code for SingNet to acquire the live and delayed broadcast rights to the WC2014 Content, on an exclusive basis, subject to the condition that SingNet is required to sub-license the live and delayed broadcast rights to Key Matches as well as the WC2014 Singapore Team Matches to MediaCorp Pte Ltd, and such sub-license to MediaCorp Pte Ltd shall be at a mutually agreeable rate.
13. **Cross-Carriage Obligation.** Having assessed SingNet's Exemption Application, MDA is satisfied, based on the facts and information expressly provided in SingNet's Exemption Application, that SingNet has established that an exemption from the obligations under Paragraph 2.7 of the Code will benefit the public and the media industry. MDA hereby exempts SingNet from making available the channel packages listed in paragraph 14 for transmission and reception to consumer customers on every RQL's Relevant Platform(s) under Paragraph 2.7.4(a)(i) of the Code (read with Paragraph 1.8.1 of the Code) ("**Cross-Carriage Exemption**"), subject to the following conditions:
  - (a) the Cross-Carriage Exemption shall be effective only upon execution of a written agreement with FIFA (and/or its representative) for the acquisition of the exclusive live and delayed rights to broadcast the WC2014 Content in Singapore. In this regard, SingNet is required to submit a copy of such written agreement to MDA within three (3) calendar days from the execution of the agreement;
  - (b) all of the circumstances surrounding SingNet's acquisition of the WC2014 Content, including the terms upon which SingNet acquires the WC2014 Content pursuant to the written agreement between SingNet and FIFA (and/or its representative) referred to in sub-paragraph 13(a) above, must be materially identical, in form and substance, to the circumstances set out in SingNet's Exemption Application (for example, without limitation, the retail pricing of Gold Packs, Mio Stadium+ Pack and the Standalone WC2014 must not be increased and the conditions attached to the subscription of the WC2014 Content on these packs must not be modified, regardless of whether

SingNet is able to secure the projected fees for the sub-license to MediaCorp Pte Ltd);

- (c) SingNet must ensure that the viewing experience for the WC2014 Content subscribers over the RQL's Relevant Platform(s) is non-discriminatory and similar to that over the SingNet platform, including with regard to any enhanced interactive features as may be offered by SingNet in relation to the WC2014 Content;
  - (d) SingNet is not to offer any free previews of the WC2014 Content which is available only on the SingNet platform, but which is not available on the SCV platform as well;
  - (e) SingNet is to waive any early termination charges due from any subscriber arising from early re-contracting of the Gold Packs and/or Mio Stadium+ Pack in relation to the Free Access Option;
  - (f) SingNet is not to commence sales of the Standalone WC2014, the Gold Packs including the WC2014 Content and the Mio Stadium+ Pack including the WC2014 Content, nor commence re-contracting of the existing Gold Packs including the WC2014 Content and the Mio Stadium+ Pack including the WC2014 Content before such date agreed by MDA; and
  - (g) MDA reserves the right to review the Cross-Carriage Exemption, including the right to vary and/or withdraw the Cross-Carriage Exemption, as well as to vary and/or impose additional conditions in relation to the Cross-Carriage Exemption at any time as MDA deems fit.
14. The channel packages to which the exemption set out in paragraph 13 above applies are the Jingxuan Gold Pack, the Inspirasi Gold Pack, the Kondattam Gold Pack and the Action Gold Pack, each including the WC2014 Content.
15. This Decision is strictly without prejudice to any action that MDA may take, including but not limited to the circumstances where MDA becomes aware of any new fact or matter that is relevant for the purposes of this Decision. Further, nothing in this Decision shall create any legitimate expectation for, or be construed as a precedent by, any parties in respect of MDA's assessment of any future applications in respect of the subject matter herein. All of MDA's rights are expressly reserved.
16. For your information, MDA intends to publish this Decision at an appropriate time.
17. Any clarification required on this Decision must be made in writing addressed to Ms Lee Ee Jia and emailed to [lee\\_ee\\_jia@mda.gov.sg](mailto:lee_ee_jia@mda.gov.sg). Please note that any query or clarification from SingNet shall not affect SingNet's obligation to comply fully with this Decision.

18. Please email the attached acknowledgement reply to [lee\\_ee\\_jia@mda.gov.sg](mailto:lee_ee_jia@mda.gov.sg) upon receipt of this letter.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Koh Lin-Net', with a stylized flourish at the end.

Koh Lin-Net (Ms)  
Chief Executive Officer  
Media Development Authority of Singapore

## Acknowledgement Reply

To: Media Development Authority of Singapore

Attn: Lee Ee Jia (Ms)

Email: [lee\\_ee\\_jia@mda.gov.sg](mailto:lee_ee_jia@mda.gov.sg)

Date: \_\_\_\_\_

### **APPLICATION FOR EXEMPTION FROM OBLIGATION UNDER PARAGRAPHS 2.6.1.1 AND 2.7 OF THE MEDIA MARKET CONDUCT CODE – WORLD CUP 2014**

We hereby acknowledge receipt of your letter dated 10 March 2014.

\_\_\_\_\_  
Name & Designation

For and on behalf of SingNet Pte Ltd

**ANNEX A**

<b>Channel package</b>	<b>Price for World Cup 2014</b>	<b>Conditions</b>	<b>Exemption Requested</b>
Gold Packs at \$64.90 to \$69.90 (i.e. the Jingxuan Gold, Inspirasi Gold, Kondattam Gold, Action Gold Packs)	Nil	Customers on these packs who take up the World Cup 2014 must renew the Gold Pack contract for 24 months	Yes
Mio Stadium+ Pack on SingNet and SCV platforms at \$59.90	Nil	Customers on these packs who take up the World Cup 2014 must renew the Mio Stadium+ Pack contract for 24 months	No
Standalone FIFA World Cup 2014	Subscription at \$105 (\$112.35 with GST) with a one-time activation fee of \$10.70 (with GST) for any customer who does not already have mio TV service – this fee is applicable regardless whether the customer is on the SingNet or SCV platform	For the duration of the World Cup 2014	No