MEDIA DEVELOPMENT AUTHORITY OF SINGAPORE

GUIDELINES ON MAXIMUM CONTRACT TERM AND EARLY TERMINATION CHARGES FOR PAY TV SERVICES OFFERED TO CONSUMERS

1 November 2011

PART I: INTRODUCTION

1.1. A key regulatory role of the Media Development Authority ("MDA") is to maintain fair market conduct and effective competition in the media market such that consumers are able to benefit from greater choice and value. To help achieve this, while balancing the commercial interest of pay TV retailers, MDA is issuing the "Guidelines On Maximum Contract Term And Early Termination Charges For Pay TV Services Offered To Consumers" ("Guidelines").

1.2. The Guidelines are advisory in nature and are intended to clarify the standards that MDA will generally apply and set out some of the factors and circumstances that MDA may consider in assessing whether the pay TV retailers have complied with their obligations set out in paragraph 3.5 ("Prohibition on Excessive Early Termination Liabilities")[1] of the Media Market Conduct Code ("MMCC"). The Guidelines are not exhaustive and do not set a limit on the investigation and enforcement activities of MDA. In applying these Guidelines, the facts and circumstances of each case will be considered.

1.3. Generally, MDA prefers not to interfere with commercial arrangements in the media market, including contractual terms between consumers and retailers. Currently, pay TV retailers are free to determine the contractual terms offered such that they could differentiate their service offers and compete in the market. Consumers are free to make their own decisions on whether the contracts offered by the pay TV retailers suit their needs.

1.4. However, with the intensified competition in the pay TV market today, MDA considers that the Guidelines would serve the purpose of providing more certainty to both consumers and the industry. In recent years, MDA has received feedback from Subscribers of pay TV services that they are unfairly disadvantaged by having to pay early termination charges ("ETCs") due to unilateral changes initiated by the pay TV retailers on the channel line-up or pricing of their subscription packages.

1.5. MDA is concerned that such consumer concerns will not go away, particularly since the roll-out of the Next Generation National Broadband Network ("NGNBN") is expected to facilitate the entry of even more pay TV retailers. Consumers who want to leverage on the increased switching opportunities in the market would not want to be unduly hindered by long contractual periods and excessively high ETCs.

1.6. The Guidelines cover (i) maximum contractual lock-in period; and (ii) ETCs.

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[1] **3.5 Prohibition on Excessive Early Termination Liabilities**

A Regulated Person may enter into an agreement pursuant to which it provides a Subscriber with a reasonable discount or special consideration in return for the said Subscriber's agreement to commit to a minimum service period for a Subscription Service. Such agreements may contain provisions providing for termination liability in the event that the said Subscriber terminates the agreement prior to the agreed-upon termination date. However, the amount of any such early termination liability must be reasonably related to the extent of the discount or special consideration that such Regulated Person has provided and the duration of the period during which the said Subscriber took the Subscription Service.

PART II: GUIDELINES ON MAXIMUM CONTRACT TERM AND EARLY TERMINATION CHARGES FOR PAY TV SERVICES OFFERED TO CONSUMERS

Overview

2.1. In issuing these Guidelines, MDA's objective is to safeguard Subscribers' welfare from excessively long contract terms and unreasonable ETCs that would prevent switching, while balancing the interests of pay TV retailers, so as to derive the full benefits generally expected of a competitive pay TV market.

2.2. In view of the increased convergence of media and telecommunications services in the form of triple- and quad-play bundles, MDA has also considered the "Advisory Guidelines on Contract Period and Early Termination Charges for Telecommunications Services Offered to End Users" issued by the Infocommunications Development Authority ("IDA") on 15 December 2009, and which took effect on 1 March 2010. Where practicable, MDA has aligned the Guidelines with IDA's so as to minimise any difficulty in compliance.

Maximum Contractual Lock-in Period

2.3. MDA considers that capping the contractual lock-in period to two years in the pay TV market will balance retailers' needs to differentiate themselves through different service plans and consumers' concern that they should not be tied to excessively long contracts and face hefty ETCs. A limit on the contractual lock-in period would also lower the entry barrier for new pay TV entrants in the NGNBN environment, thus helping to foster a more vibrant and competitive pay TV market. MDA has taken into consideration the fact that the current industry norm is that most pay TV contracts do not exceed two years.

Early Termination Charges

2.4. Paragraph 3.5 of the MMCC requires that pay TV retailers ensure that any ETCs, i.e. charges imposed on Subscribers for termination of contract terms before the end of their contract period, are reasonably related to:

(i) the extent of the discount or special consideration provided; and

(ii) the duration of the period during which the service was consumed.

2.5. MDA considers that:

(a) ETCs for contracts of more than 3 months should be graduated, at a minimum, on a month-by-month basis. In other words, ETCs should decrease monthly, taking into account the number of months that are left on a contract. Hence, a Subscriber who terminates his service close to the end of the contract term would not be made to pay the same penalty amount as another Subscriber who terminates the service near the start of his contract;

(b) ETCs for contracts of more than 3 months should not include costs that will be avoided by the pay TV retailer when a Subscriber terminates the service; and

(c) terms and conditions relating to ETCs should be explained to Subscribers and computations of ETCs at varying points (by month) of the contract should be provided to Subscribers at the point of sale and upon contract renewal.

2.6. Consequently, any ETCs imposed should be reasonably below that of the sum of the monthly fee[2] for the remaining months of the contract period. In all cases, the ETCs cannot be higher than the sum of the monthly fees for the remaining months.

2.7. The Guidelines are meant to ensure that ETCs payable by Subscribers are reasonable, rather than serve as a rigid formula for all ETCs. Pay TV retailers should determine the commercial proposition that would best serve their business models.

[2] The monthly fee refers to the actual subscription fee paid by the Subscriber. For illustration, if the Subscriber is already paying a discounted monthly fee under the contract, under MDA's proposed guidelines, the ETCs will be computed based on the discounted monthly fee, and not the list (i.e. undiscounted) price.

PART III: IMPLEMENTATION OF GUIDELINES

3.1. The Guidelines will be applied by the Authority on all new and renewed contracts concluded on and after 1 March 2012.

3.2. The Guidelines will apply only to residential pay TV contracts offered by pay TV licensees, i.e. Nationwide Subscription TV licensees and Niche Subscription TV licensees.