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COMPETITION ISSUES IN TELEVISION AND BROADCASTING

Contribution from Singapore

-- Session II --

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-- Singapore --

1. This paper summarises how the introduction of competition in Singapore's free-to-air ("FTA") and subscription TV markets has panned out, and ends with a discussion on our regulatory response to media convergence, one of the most significant challenges facing regulators today, and particularly pertinent to Singapore, given its advanced info-communications infrastructure and tech-savvy citizenry.

1. Introduction: Competition Regulation in Singapore's Media Industry

2. The Media Development Authority ("MDA") was set up in 2003 to promote and regulate the Singapore media industry, in face of the convergence of media, which demanded a consistent approach to regulating the different media to achieve social and economic development objectives. The formation of MDA enabled the various regulations and standards for TV, films, music, radio, publishing, video games and digital media to be handled by a single body in a holistic manner.

3. In April the same year, MDA released the Code of Practice for Market Conduct in the Provision of Mass Media Services ("the Media Competition Code")¹, which aims to fulfil the following objectives in Singapore's media industry:

- a) enable and maintain fair market conduct and effective competition;
- b) ensure the availability of a comprehensive range of quality media services ;
- c) encourage industry self-regulation;
- d) foster further investment in, and the development of the media industry; and
- e) safeguard public interest.

¹ The Media Competition Code can be found at <http://www.mda.gov.sg/Policies/PoliciesandContentGuidelines/Pages/Competition.aspx>.

2. State of Competition in the Singapore Broadcasting Sector

4. The broadcasting sector in Singapore comprises three main nationwide licensees – Media Corporation of Singapore (“MediaCorp”), StarHub Cable Vision (“SCV”) and SingNet mio TV (“SingNet”).

- a) Terrestrial FTA TV market. MediaCorp is Singapore’s first television service and only terrestrial FTA TV licensee. As the only nationwide FTA TV licensee reaching out to nearly 90% of the population (aged 15 years and above) on a weekly basis² through its seven FTA TV channels in the four official languages of Singapore, MediaCorp has been classified as a dominant licensee in the FTA TV services market³.
- b) Subscription TV market. In Singapore’s subscription TV market, two nationwide licensees and a handful of niche licensees compete for the attention of 1.15 million resident households⁴. SCV, which has been operating the only cable TV service in Singapore since 1995, is classified as a dominant licensee in the subscription TV market. The other nationwide subscription TV licensee is SingNet, which started its mio TV service over managed Internet Protocol TV (“IPTV”)⁵ in 2007. Collectively, the two nationwide licensees offer over 300 pay TV channels to more than 900,000 subscribers. Figure 1 and Figure 2 below show the number of subscribers and channels offered, by SCV and SingNet, as of September 2012.

Figure 1. SCV and SingNet Subscribers

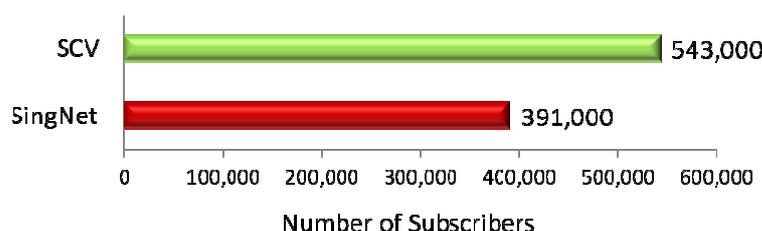
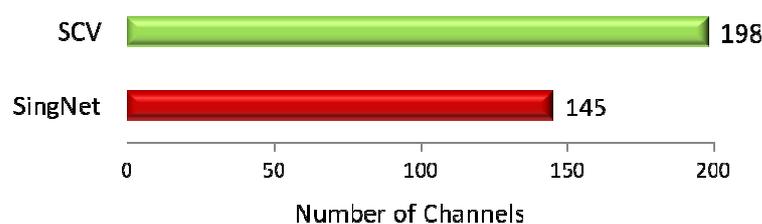


Figure 2. SCV and SingNet Channels



² Source: Nielsen Media Index 2012.

³ Under the Media Competition Code, a Regulated Person is considered to be dominant, when, in the opinion of MDA, it holds significant market power in a relevant media market. Further, the Code provides that it shall be a rebuttable presumption that a Regulated Person has Significant Market Power if it holds a market share exceeding 60 percent of the relevant media market.

⁴ Source: Department of Statistics, Singapore. Figures for non-resident households are not available.

⁵ Managed IPTV services are delivered over a dedicated network which enables the operators to have more control over the quality of their services.

5. To encourage growth and competition in the broadcasting sector, MDA introduced a tiered licensing framework in 2007, wherein niche TV licensees are subjected to a less stringent licensing framework compared to nationwide TV licensees (please see [Annex](#) for an overview of the key conditions for a niche licence versus a nationwide licence). This has helped to facilitate the growth of IP-based TV services⁶ in Singapore as licensees have greater flexibility to roll out services for different market segments. Today, there are nine niche TV licensees offering around 80 linear and on-demand channels in various languages.

3. Competition in the FTA TV Market: A Case Study

6. In 2000, Singapore announced the partial liberalisation of Singapore's FTA TV market. In March 2001, Singapore Press Holdings ("SPH"), the dominant licensee in Singapore's newspaper publishing services industry, was granted a FTA TV broadcasting licence through its newly formed subsidiary - SPH MediaWorks ("MediaWorks"), and started offering two FTA TV channels in English and Mandarin respectively⁷.

7. The competition between MediaCorp and MediaWorks resulted in a greater variety of programming options, fresh and innovative programming concepts, more niche content, and higher quality local productions and acquired programmes. However, while competition resulted in positive outcomes to consumers, it also created significant financial pressures on the licensees due to the small Singapore market and the shrinking advertising pie from the weak economy then. Intense competition between MediaCorp and MediaWorks also forced production and acquisition costs to go up, making the situation economically unsustainable. In September 2004, MediaCorp and SPH merged their mass-market television operations in a rationalisation move to stem losses and enhance shareholder value. The consolidation, which was approved by MDA as required under the Media Competition Code, resulted in a new holding company – MediaCorp TV Holdings Pte Ltd – 80% owned by MediaCorp and 20% owned by SPH respectively. With that, MediaCorp once again became a monopoly in the FTA TV market.

8. Despite the reach and impact of MediaCorp as the only FTA TV licensee, MediaCorp is faced with declining viewership as viewers move to other providers such as subscription TV and online content. In an attempt to curb this tide, MediaCorp has created an early online presence through its XinMSN portal in 2010 and most recently, completed its trial of its over-the-top ("OTT") interactive service, Toggle, which is expected to be available from 1 February 2013. The service will integrate online and traditional TV by delivering unique features and premium content to subscribers' preferred devices such as connected TVs, computers, tablet devices or mobile phones.

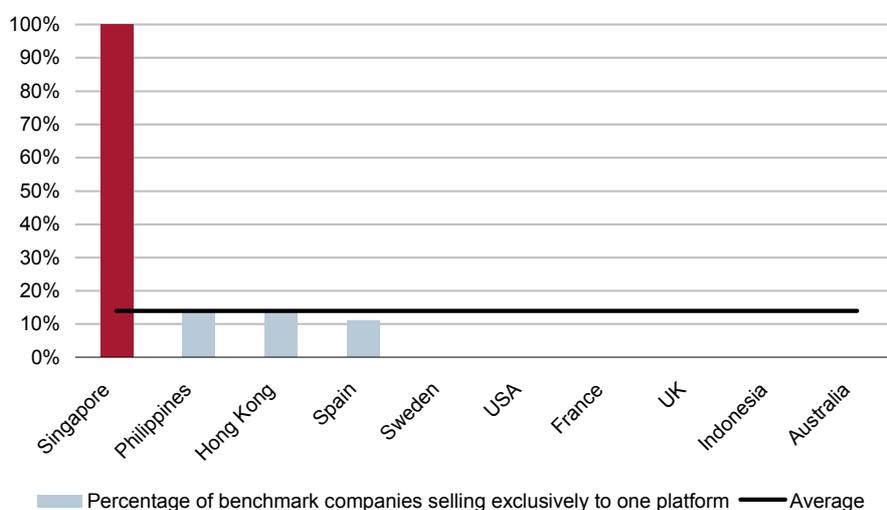
4. Competition in the Subscription TV Market: Addressing Content Fragmentation

9. In contrast to the limited competition in the FTA TV market, competition intensified with the entry of the second nationwide subscription TV licensee, SingNet, in 2007. Both nationwide licensees – SCV and SingNet – adopted an exclusive content strategy which resulted in a high degree of content fragmentation unique to Singapore. As shown in [Figure 3](#), all the top multi-national channel-producing companies⁸ sold their channels exclusively to subscription TV licensees in Singapore – by far the highest percentage compared to other benchmark countries.

⁶ Both managed IPTV and OTT TV services.

⁷ At the same time, MediaCorp Press Limited was granted a newspaper licence.

⁸ Walt Disney, Sony, Time Warner, News Corp., NBC Universal, Viacom, Vivendi, CBS Corp., Liberty Media Corp. and Bertelsmann.

Figure 3: Percentage of Top 10 Channel-producing Companies Selling Channels Exclusively

Source: Analysys Mason. (2010). Discussion of Market Inefficiencies in the Singapore Pay TV Market

10. Content fragmentation brought about increased inconvenience and attendant costs for consumers, as well as created significant barriers to entry for new entrants. Furthermore, the attention and resources of the subscription TV licensees were diverted from other aspects of competition, such as service and content innovation. Thus, the market failed to deliver the full benefits generally associated with a competitive market. MDA assessed that content fragmentation was unlikely to be addressed by market forces; regulatory intervention was therefore necessary to promote the interests of consumers and the industry as a whole, and to better align the local subscription TV market to the state of competitiveness observed in other competitive subscription TV markets overseas.

11. With these considerations, MDA introduced the Cross-Carriage Measure (“Measure”) on 12 March 2010. The Measure is aimed at enhancing competition in the local subscription TV market and to encourage the subscription TV licensees to re-focus competition to include other aspects such as service differentiation, thereby providing more choice and convenience for customers while enabling industry growth.

12. Under the Measure, a subscription TV licensee that has acquired exclusive content would need to ensure that the exclusive content is cross-carried on the other subscription TV licensee’s platform in its entirety and in an unmodified and unedited form, to be made available at the same price, terms and conditions to any subscriber. The Measure does not require the subscription TV licensees to share the content, and the contractual relationship remains between the subscription TV licensee with the exclusive rights and the consumer. The other subscription TV licensee is only required to provide its platform to cross-carry the content to the consumer.

13. Since implementation on 1 August 2011, the effects of the Measure have been unfolding. More channels are now available to consumers across multiple retailer platform⁹. There are also new subscription options from the subscription TV licensees. Both nationwide licensees are striving for service

⁹ There were only seven channels, mainly foreign public service channels, available on both SCV and SingNet prior to the introduction of the Measure. Today, there are over 50 common channels which include channels such as the FOX International Channels and ESPN Star Sports channels.

differentiation and innovation as more and more content are becoming non-exclusive. For instance, customers can now enjoy value-added services such as online and mobile viewing options. To ensure that the Measure continues to be relevant, MDA would be reviewing the Measure as part of the triennial review of the Media Competition Code scheduled in 2013.

5. Regulating in a Converged Media Environment

14. The integration of traditional broadcasting and online media is fast becoming prevalent in Singapore. The traditional FTA and the subscription TV licensees are delivering or planning to deliver their services through the Internet, in direct competition with the likes of online media providers.

15. To study the issues impacting consumers, industry and society in the converged media environment, the Singapore Government appointed a Media Convergence Review Panel (“Panel”) in 2012 to put forth recommendations to address such challenges. The Panel recently published their findings and recommendations in the Media Convergence Review Final Report¹⁰, which the Government is presently reviewing.

16. In the report, the Panel highlighted the increasing vulnerability of local media licensees to online competition from overseas media service providers who are not subject to local regulatory regimes, and the resultant unlevel playing field, as a key regulatory issue to be addressed. The Panel takes the view that Singapore’s broadcast licensing framework should cover both local and foreign broadcasting services delivered over the Internet and are receivable by the Singapore public. However, it also recognises that it would be impractical to seek to apply the framework 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 providers which (a) target the Singapore market; and/or (b) receive subscription fees and/or advertising revenue from the Singapore market¹¹, and such foreign broadcasters should be treated no differently from broadcasters that are based in Singapore and subject to licensing obligations.

17. In coming up with its recommendation, the Panel explained that it is guided by the principle that licensing continues to be necessary to protect the public interest through content regulatory and consumer protection obligations. However, it also recognises 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 is therefore to apply equitable obligations on local broadcasters vis-à-vis their foreign counterparts. Such obligations should then be tied to the scale and impact of the broadcaster, with the overall structure of the licensing framework supporting the entry of new players and industry growth.

6. Conclusion

18. In an era where it is commonplace for converged communications players to offer triple-play and quad-play service offerings, it is necessary for MDA to work closely with the infocomms regulator, the Infocomm Development Authority (“IDA”), which regulates the telecommunication markets. Both agencies come under the Ministry of Communications and Information, and have frequent exchanges to ensure alignment of the regulatory and competition frameworks in the respective markets. The two

¹⁰ The Media Convergence Review Final Report can be found at <http://www.mda.gov.sg/Reports/Documents/Media%20Convergence%20Review%20Final%20Report.pdf>.

¹¹ 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.

agencies also work together on joint projects and to address issues concerning converged players. Where issues are more complex and cross beyond the telecommunications and media markets to other markets, the Competition Commission of Singapore (“CCS”) would also be involved.

19. With media services transcending national boundaries, MDA would also look forward to collaborations with foreign regulators. International platforms such as the OECD forum on Competition offer an ideal platform to facilitate this process.

ANNEX

1. The table below provides an overview of the key conditions for a Niche TV Licence and a Nationwide TV Licence.

	Niche TV Licence	Nationwide TV Licence
Licence duration	5 years	10 years
Number of subscribers	(i) Daily reach of any single channel reaches up to 100,000 unique viewers; or (ii) Daily reach of broadcaster reaches up to 250,000 unique viewers. This Threshold applies to Related Corporations.	No limit to the number of subscribers and/or viewers in Singapore.
Licence fee	The licence fee will be 2.5% of total revenue. A minimum licence fee of \$5,000 per annum will be applicable throughout.	The licence fee will be 2.5% of total revenue. A minimum licence fee of \$50,000 per annum will be applicable throughout.
Performance bond	\$50,000, in the form of either banker's guarantee or cash.	\$200,000, in the form of either banker's guarantee or cash.
Ownership	No ownership conditions	Subject to the ownership conditions as stipulated in Part X of the Broadcasting Act.
Must carry	No must carry obligations	Must carry obligations for enabling access to local Free-to-Air channels are applicable for subscribers.
Advertising revenue	No cap on advertising revenue.	Advertising revenue not to exceed 25% of Total Revenue.
Advertising time limit	A 14-minute-per-hour advertising time limit applies for channels with scheduled programming. This time limit is not applicable for VOD (video-on-demand) content and interactive advertising services.	
Content guidelines	The Subscription TV Programme Code applies if scheduled programmes are offered, while the VOD Programme Code applies if on-demand programmes are offered.	