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## **No. S 186**

### **MEDIA DEVELOPMENT AUTHORITY OF SINGAPORE ACT (CHAPTER 172)**

#### **VARIATION OF CODE OF PRACTICE FOR MARKET CONDUCT IN THE PROVISION OF MEDIA SERVICES**

In exercise of the powers conferred by section 17(3) of the Media Development Authority of Singapore Act, the Media Development Authority of Singapore varies the Code of Practice for Market Conduct in the Provision of Media Services (G.N. No. S 148/2010) as follows, with effect from 30 April 2016:

#### **Deletion and substitution of paragraph 3.1**

1. Paragraph 3.1 of the Code is deleted and the following paragraph substituted therefor:

##### **“3.1 Introduction**

All Regulated Persons must comply with the requirements in this Part, which are designed to ensure that they act fairly and reasonably in their dealings with Consumers, provide end-consumers with quality service and accurate and timely bills, and do not use subscriber information (referred to in this Part as “SSI”) for unauthorised purposes..

#### **New paragraphs 3.2A to 3.2F**

2. The Code is amended by inserting, immediately after paragraph 3.2, the following paragraphs:

##### **“3.2A Publication of Information on Subscription Service**

(a) A Regulated Person must, without charge, make available to the public up-to-date information about any Subscription Service offered by it, including:

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- (i) a description of and the subscription fee for the Subscription Service; and
  - (ii) the terms and conditions upon which the Subscription Service is offered, including:
    - (A) where the Subscription Service offered is or includes a broadcasting service, the channels in the Subscription Service;
    - (B) the specifications of any discount or other promotion offered, including the period(s) during which such discount or other promotion will be offered and the applicable charge(s) payable after such period(s); and
    - (C) whether any of the terms and conditions may be unilaterally varied by the Regulated Person.
- (b) A Regulated Person must publish the information referred to in paragraph 3.2A(a) of this Code:
- (i) within such time and in such form and manner as the Authority may direct; or
  - (ii) in the absence of any such direction, in a timely manner and in a form and manner that ensures that the information is current, accessible and easy to understand.

### **3.2B Duty to Offer Option of Short Term Agreements**

- (a) A Regulated Person must not offer to provide to any person a Subscription Television Service only on the basis of a term exceeding 12 months (referred to in paragraph 3.2B of this Code as a “Long Term Agreement”).
- (b) For the avoidance of doubt, the channels on a Subscription Television Service offered to a person for a term of 12 months or less (referred to in

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paragraph 3.2B of this Code as a “Short Term Agreement”) must be the same in all aspects as the channels on a Subscription Television Service offered to that person under a Long Term Agreement by the Regulated Person; and the Regulated Person must comply with all requirements contained in this Part, including in paragraphs 3.2C and 3.2D of this Code, whether the Regulated Person enters into a Long Term Agreement or a Short Term Agreement with the person.

### **3.2C Duty Not to Act Unreasonably in Contracting**

- (a) Subject to paragraphs 3.2C(b) and 3.2C(c) of this Code, a Regulated Person must not require a Subscriber to agree to amend the terms of or to terminate any existing agreement for the provision by the Regulated Person of any non-Subscription Television Service to the Subscriber, before the Regulated Person will:
- (i) enter into a new agreement with the Subscriber for the provision by the Regulated Person of any Subscription Television Service to the Subscriber; or
  - (ii) amend the terms of an existing agreement with the Subscriber for the provision by the Regulated Person of any Subscription Television Service to the Subscriber.
- (b) Paragraph 3.2C(a) of this Code applies only during the minimum service period which the Subscriber has committed to for the provision of the non-Subscription Television Service.
- (c) Paragraph 3.2C(a) of this Code does not apply if:
- (i) it is the Subscriber who requests for the amendment to the terms of the existing

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agreement for the provision of the Subscription Television Service; and

- (ii) the amendment requested for is an addition (comprising one or more channels or any content package) to the Subscription Television Service of the Subscriber, which is not already offered by the Regulated Person to Consumers as an addition to their existing Subscription Television Service.

### **3.2D Duty to Inform Subscriber of Certain Matters Before Contracting**

- (a) Without prejudice to paragraph 3.2A of this Code, prior to entering into an agreement with a Subscriber for the provision of any Subscription Television Service, a Regulated Person must provide and draw the Subscriber's attention to critical information about the agreement including all of the following information:
  - (i) the subscription fee payable under the agreement and the payment date;
  - (ii) where the agreement is for or includes a broadcasting service, the channels provided under the agreement;
  - (iii) the specifications of any of the following services provided by the Regulated Person under the agreement:
    - (A) any service provided on a continuous basis — being any service which the Subscriber elects or is deemed to elect for the Regulated Person to continue to provide after the expiry of the minimum service period specified by the Regulated Person for the service;

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- (B) any service provided on a promotional basis — being any service provided at a discounted rate for a period of time specified by the Regulated Person, after which the Regulated Person continues to provide the service at the applicable subscription fee without any election by the Subscriber;
  - (C) any service provided on a free trial basis — being any service provided without charge for a period of time specified by the Regulated Person, after which the Subscriber may elect to subscribe to the service;
  - (iv) the specification of any service provided by the Regulated Person on a complimentary basis — being any service which is not part of the agreement but is provided without consideration for a period of time specified by the Regulated Person, after which the Subscriber may elect to subscribe to the service;
  - (v) the terms and conditions which will apply upon the expiry of the minimum service period or period of time (as the case may be) referred to in paragraph 3.2D(a)(iii) of this Code, including:
    - (A) in the case of a service provided on a continuous basis:
      - (AA) the subscription fee for the service; and
      - (AB) whether, and the circumstances in which, the Subscriber will be deemed to have elected for the continued provision of the service upon the expiry of the minimum service period; and

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- (B) in the case of a service provided on a promotional basis or free trial basis, the subscription fee for the service;
- (vi) where the Regulated Person provides the Subscriber with a Subscription Television Service and some other Subscription Service as a bundle or package of services, and the Subscriber terminates the Subscription Television Service pursuant to paragraph 3.5A of this Code, the subscription fee payable for the other Subscription Service and the payment date;
- (vii) where the Regulated Person provides the Subscriber with a Subscription Television Service with or without any other Subscription Service, whether the Subscriber will be subject to any early termination charges permitted under paragraphs 3.5 and 3.5A of this Code in the event the Subscriber terminates the Subscription Television Service prior to the expiry of the minimum service period applicable to the Subscription Television Service;
- (viii) whether the agreement or any part of the agreement may be unilaterally varied by the Regulated Person.
- (b) All the critical information referred to in paragraph 3.2D(a) of this Code must be published in an accurate, clear and easy to understand summary (referred to in paragraphs 3.2D and 3.2E of this Code as “Critical Information Summary”). The Regulated Person must obtain and keep evidence of the Subscriber’s confirmation that the Subscriber has read and understood the Critical Information Summary. Within 14 days after the conclusion of the agreement, the Regulated Person

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must provide the Subscriber with a physical or an electronic copy of both the agreement and Critical Information Summary.

- (c) Paragraph 3.2D(b) of this Code applies in relation to agreements for the provision of any Subscription Television Service entered into on or after 30 April 2017.

### **3.2E Records of Marketing Materials, Agreement, etc.**

- (a) A Regulated Person must maintain a record of every marketing material it uses, for not less than 2 years after the Regulated Person ceases to use such material.
- (b) A Regulated Person must maintain a record of all the details of an agreement brought to the attention of a Subscriber in compliance with paragraph 3.2D of this Code, for not less than 2 years after the Regulated Person enters into the agreement with the Subscriber.
- (c) The record in paragraph 3.2E(b) of this Code must include:
- (i) a physical or electronic copy of the agreement;
  - (ii) the Critical Information Summary referred to in paragraph 3.2D(b) of this Code relating to the agreement; and
  - (iii) call centre recordings relating to the agreement.

### **3.2F Express Agreement Required for Continued Provision of Services Provided on Free Trial Basis or Complimentary Basis**

In the case of any service provided on a free trial basis (referred to in paragraph 3.2D(a)(iii)(C) of this Code) or complimentary basis (referred to in paragraph 3.2D(a)(iv) of this Code), a Regulated Person must not charge a Subscriber for the service

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upon the expiry of the period of time referred to in paragraph 3.2D(a)(iii)(C) or 3.2D(a)(iv) of this Code, as the case may be, unless the Subscriber expressly agrees to subscribe to the service at the subscription fee and on the terms and conditions, brought to the attention of the Subscriber under paragraph 3.2D of this Code.”

### **Deletion and substitution of paragraph 3.5**

3. Paragraph 3.5 of the Code is deleted and the following paragraphs substituted therefor:

#### **“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 discount or special consideration in return for the Subscriber’s agreement to commit to a minimum service period for a Subscription Service. Subject to paragraph 3.5A of this Code, such agreements may contain provisions providing for termination liability in the event that the said Subscriber terminates the agreement before the expiry of the minimum service period. However, the amount of any such early termination liability must be proportionate to:

- (a) the reasonable value of the discount or special consideration provided by the Regulated Person; and
- (b) the duration of the period for which the Subscriber had consumed the Subscription Service.

#### **3.5A Prohibition on Early Termination Charges in Certain Cases**

- (a) Subject to paragraph 3.5A(b) of this Code, a Regulated Person must not require a Subscriber to pay any amount for terminating a Subscription Television Service provided to a Subscriber before the expiry of any minimum service period referred to



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in paragraph 3.5 of this Code applicable to the Subscription Television Service, where:

- (i) the termination is consequent upon any one of the following events:
    - (A) the Regulated Person exercises or seeks to exercise its right to unilaterally increase the subscription fee, or to cease the provision of any material channel, under the agreement;
    - (B) the Regulated Person ceases to provide or removes 20% or more of the total channels in the Subscription Television Service;
    - (C) the Regulated Person ceases to provide or removes any material sports content in any channel from the Subscription Television Service, except where the cessation or removal satisfies all of the following:
      - (CA) the period of availability or available season for the material sports content comes to an end;
      - (CB) the Regulated Person notified the Subscriber of such period or season prior to the Subscriber contracting for the provision of the material sports content; and
  - (ii) the Subscriber terminates the Subscription Television Service or the agreement within 30 days after the occurrence of any one of the events referred to in paragraph 3.5A(a) of this Code.
- (b) The prohibition in paragraph 3.5A(a) of this Code applies only to the termination of a Subscription Television Service that is contracted for on or after 30 April 2016.

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- (c) A termination under paragraph 3.5A(a) of this Code does not permit the Regulated Person to require the Subscriber to pay any amount that pertains to equipment which was not necessary for the provision of the Subscription Television Service, but which was provided to the Subscriber in addition to and on account of the Subscription Television Service, unless:
- (i) prior to the Subscriber contracting for the Subscription Television Service, the Regulated Person:
    - (A) brought to the attention of the Subscriber the Subscriber's liability to pay such amount in the event of such a termination; and
    - (B) offered to provide to the Subscriber the same Subscription Television Service without the provision of the equipment; and
  - (ii) the amount satisfies the requirements of paragraph 3.5 of this Code for early termination liability.

### **3.5B Prohibition on Excessive Charges in Certain Cases**

- (a) Where a Regulated Person provides a Subscriber with a Subscription Television Service and one or more other Subscription Service(s) as a bundle or package of services, and the Subscriber terminates the Subscription Television Service in the bundle or package of services, the subscription fee payable for the other Subscription Service(s) must not exceed the subscription fee which the Subscriber paid for both the Subscription Television Service and the other Subscription Service(s) before the termination of the Subscription Television Service.

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- (b) Paragraph 3.5B(a) of this Code only applies where the termination by the Subscriber is pursuant to paragraph 3.5A of this Code.

### **3.5C Duty to Notify of Certain Events**

#### **3.5C.1 Cessation of channel, material content or business**

- (a) Subject to paragraph 3.5C.1(b) of this Code, where a Regulated Person intends to cease providing any channel or material sports content, the Regulated Person must give to all its Subscribers to whom the channel or material sports content of the channel is provided, notice in writing of its intention to do so not less than one month before the date on which the Regulated Person intends to cease the provision, as the case may be.
- (b) Where a Regulated Person intends to cease its operations, or cease providing any broadcasting service in respect of which it has (or is exempt from the requirement to have) a broadcasting licence under the Broadcasting Act (Cap. 28), the Regulated Person must give Consumers notice in writing of its intention to do so not less than 6 months before the date of the cessation.

#### **3.5C.2 Change in subscription fee**

- (a) Where a Regulated Person intends to increase any subscription fee for any service it provides (other than any service provided on an interactive basis), the Regulated Person must give all its Subscribers to whom it provides the service notice in writing of its intention to do so not less than one month before the date of the increase.
- (b) Before increasing the subscription fee for any service provided on an interactive basis, a

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Regulated Person must give all its Subscribers to whom it provides the service reasonable notice in writing of its intention to do so.”.

### **New paragraphs 3.7 and 3.8**

4. The Code is amended by inserting, immediately after paragraph 3.6, the following paragraphs:

#### **“3.7 Anti-avoidance**

A Regulated Person must not enter into any agreement or arrangement or a series of agreements or arrangements with the primary purpose of avoiding the application of any paragraph in this Part.

#### **3.8 Determining Material Channel and Material Sports Content**

- (a) For the purposes of this Part, the factors to be taken into consideration (except where irrelevant) in determining whether any channel is a material channel include, but are not limited to, the following:
- (i) the viewership of the channel;
  - (ii) the level of consumer interest in the channel;
  - (iii) the actual or potential value of the channel to the Regulated Person;
  - (iv) the degree to which the channel has been marketed and advertised.
- (b) For the purposes of this Part, the factors to be taken into consideration (except where irrelevant) in determining whether any sports content of a channel is material sports content include, but are not limited to, the following:
- (i) the viewership of the sports content;
  - (ii) the level of consumer interest in the sports content;

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- (iii) the actual or potential value of the sports content to the Regulated Person;
  - (iv) the degree to which the sports content has been marketed and advertised.
- (c) The Authority may issue advisory guidelines as to how the factors listed in paragraphs 3.8(a) and 3.8(b) of this Code should be applied.
- (d) In the event of any dispute between a Regulated Person and a Subscriber as to whether a channel or any sports content is material, either party may write to MDA to express its opinion on the same. Any position taken by the Regulated Person or the Subscriber and expressed to MDA under this sub-paragraph must specify the considerations on which the position is based.”.

Made on 22 April 2016.

NIAM CHIANG MENG  
*Chairman,*  
*Media Development Authority of*  
*Singapore.*

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