

INFORMATION CIRCULAR TO THE PAY TV INDUSTRY IN RESPECT OF THE CHANGES TO THE PROCESS FOR ASSESSMENT OF EXEMPTION APPLICATIONS WITH RESPECT TO ADDITION OF NEW CHANNELS AND OFFERING OF FREE PREVIEWS TO SUBSCRIBERS ON SUPPLYING QUALIFIED LICENSEE'S PLATFORM

7 February 2018

1. The processes for assessment of exemption applications with respect to the addition of new channels and offering of free previews to subscribers on the Supplying Qualified Licensee's ("**SQL**") platform were first introduced in 2014 to facilitate ease of administration and reduce regulatory burden. IMDA has reviewed and considered that there is merit in further streamlining the processes to ensure that they remain relevant and serve their objectives in an effective and efficient manner.
2. IMDA had earlier sought the industry's feedback with regard to the proposed changes to the processes, and has since completed the review, taking into consideration the comments received.
3. The finalised processes, as stated in paragraphs 4 and 5 below, will apply to channel packages containing Qualified Content ("**QC**") and other non-QC content (referred collectively as the "**QC Bundles**") that IMDA has exempted from making available for transmission and reception to customers on the Receiving Qualified Licensee's ("**RQL**") Relevant Platform under Paragraph 2.7.4 of the Media Market Conduct Code ("**Code**"). All capitalised terms herein are as defined under Paragraph 2 of the Code.

Process for Adding New Channels to QC Bundles

4. The following process and conditions will apply for the addition of new channels to QC Bundles:
 - a. The SQL is not required to notify IMDA of the specific new channel(s) which it intends to add to the QC Bundles before effecting any such changes to the channel line-up of the QC Bundles, if the new channel(s) is not acquired on an exclusive basis and/or would not be Qualified Content under Paragraph 2.3(d)(i) of the Code.
 - b. IMDA reserves the right at any time to raise queries or objections in respect of any new channel(s) added by the SQL, including but not limited to situations where IMDA considers that, based on the relevant facts and

circumstances, the addition of any of the new channel(s) to any of the QC Bundles may raise regulatory or policy concerns (i.e. the addition of the channel changes the bases for IMDA granting the exemption in relation to the addition of new channels as set out in the 2016 Exemption Decision). For the avoidance of doubt, IMDA's assessment of any new channel will be made on a case-by-case basis, and the fact that IMDA has not raised any objection in respect of any new channel previously notified to IMDA shall not be taken as precedence, or create any form of legitimate expectation, that IMDA would approve any other new channel that may be notified to IMDA subsequently.

- c. In the event that IMDA raises any queries or objections in relation to the new channel(s) added, IMDA will inform the SQL of its queries or objections in writing. The SQL shall, if required to do so by IMDA, remove the channel from the relevant QC Bundle or make available the relevant QC Bundle for transmission and reception to customers on the RQL's Relevant Platform under Paragraph 2.7.4 of the Code within such time as may be stipulated by IMDA. IMDA will take into consideration the impact on existing subscribers, and may not require the removal of the channel from subscribers who are already signed up to the QC Bundle. The SQL shall only reinstate the new channel into the QC Bundle if IMDA expressly gives its approval to do so after its assessment.
- d. The revised process shall not apply to the addition of any new sports channel(s) and/or channel(s) which contain sports content to a QC Bundle (even if such content would not on its own constitute QC). In the event that the SQL wishes to add such new channel(s) to a QC Bundle, the SQL must notify IMDA at least one month prior to the addition of the new channel(s), or such shorter time as may be agreed to by the IMDA. In such notification, the SQL is required to include a detailed self-assessment to show that the exemption will benefit the public and media industry, and that there will not be discrimination in favour of subscribers viewing the QC on the SQL platform versus the RQL's platform. The SQL should not add any new sports channel(s) to any bundle if IMDA responds to the SQL with queries or objections within 10 working days of receipt of the SQL's notification. In addition, the SQL may still choose to submit the notification to IMDA in cases where it is uncertain whether the proposed channel to be added into a QC Bundle will raise any regulatory or policy concern.
- e. Please note that the conditions set out in this paragraph are in addition, and without prejudice, to the SQL's regulatory obligations related to new

channel applications (i.e., submission of Form 1) and any other regulatory requirements on the submission of new channel notifications as may be required by IMDA from time to time.

Process for Offering Free Preview(s) of non-QC to Subscribers on the SQL Platform

5. The following process and conditions will apply for the offering of free previews of non-QC to subscribers on the SQL platform. The types of free previews include new channel launch previews, festive free previews, topical free previews, marketing free previews and service recovery free previews (referred collectively as “**Proposed Free Previews**”):
 - a. For any Proposed Free Preview(s) of up to 30 days’ duration, the SQL is not required to notify IMDA.
 - b. IMDA expressly reserves the right at any time (including after the SQL has commenced offering a Proposed Free Preview) to raise queries or objections in respect of any Proposed Free Preview(s) being offered or to be offered by the SQL, including but not limited to situations where IMDA considers that, based on the relevant facts and circumstances, the offer of any Proposed Free Preview(s) may raise regulatory or policy concerns.
 - c. In the event that IMDA raises any queries or objections in relation to a Proposed Free Preview(s) which is being offered or to be offered, IMDA will inform the SQL of its queries or objections in writing. In the case of a Proposed Free Preview(s) that the SQL has yet to commence offering, the SQL shall not commence offering the Proposed Free Preview(s), until such time that IMDA is satisfied with the SQL’s explanation. In the case of a Proposed Free Preview that the SQL has already commenced offering, the SQL shall, if required to do so by IMDA, cease offering the Proposed Free Preview(s) within such time as may be stipulated by IMDA. IMDA will take into consideration the impact on existing subscribers in any of such decision. The SQL shall only resume the Proposed Free Preview(s) if IMDA expressly gives its approval to do so after its assessment.
 - d. IMDA’s assessment of any Proposed Free Preview(s) will be made on a case-by-case basis, and the fact that IMDA has not raised any objection in respect of any Proposed Free Preview(s) previously notified to IMDA shall not be taken as precedence, or create any form of legitimate expectation, that IMDA would approve any other Proposed Free Preview(s) subsequently.

- e. For Proposed Free Preview(s) that are more than 30 days, the SQL is required to notify IMDA one month prior to the intended offer of any Proposed Free Preview(s). Similarly, the SQL is required to include its detailed self-assessment showing that the offer of the Proposed Free Preview(s) will benefit the public and media industry, and that there will not be discrimination in favour of subscribers viewing the QC on the SQL platform versus the RQL's platform. If IMDA does not respond to the SQL with any queries or raise any objections within 10 working days, the SQL may proceed to offer the Proposed Free Preview(s) to all subscribers of the SQL TV platform. In its notification to IMDA of a Proposed Free Preview(s), the SQL shall, in its notification to IMDA, additionally highlight whether the free preview channel(s) is(are) available on the RQL's platform.
- f. The revised process mentioned above shall not apply to a Proposed Free Preview that includes coverage of a whole or substantial portion of any sporting event, as it could potentially raise regulatory or policy concerns (even if such content would not on its own constitute Qualified Content). In the event that the SQL wishes to offer a Proposed Free Preview that includes a whole or substantial portion of the coverage for any sporting event, the Proposed Free Preview must be available to all subscribers of the SQL on the SQL's Relevant Platform and not limited to any specific class or subset of subscribers. The SQL must notify IMDA at least one month prior to the intended offer of the Proposed Free Preview, or such shorter time as may be agreed to by the IMDA. In addition, the SQL is required to include its detailed self-assessment showing that the offer of the Proposed Free Preview would not trigger any change to the bases of previous exemptions granted by IMDA in relation to the same QC content. If IMDA does not respond to the SQL with any queries or raise any objections to the SQL within 10 working days, the SQL may proceed to offer the Proposed Free Preview to all subscribers on the SQL platform for the duration specified in the SQL's notification.

Free Preview of QC to Subscribers on the SQL Platform

6. IMDA will allow the SQL to offer free preview of QC up to five days per calendar year, without the need to notify IMDA. IMDA reserves the right to take enforcement action if the SQL is subsequently found to have exceeded the stipulated quota.
7. The revised process and conditions will take immediate effect.

8. Any queries on this industry circular may be addressed to:

The Infocomm Media Development Authority

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Development)

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