Experts disagree with Casbaa’s finding

They say Cable and Satellite Broadcasting Association is looking at issue from purely profit perspective

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SINGAPORE — The recent ruling for exclusive content to be shared among pay-TV providers violates three international treaties, and will cause Singapore to lose its position as a media hub.

So says an influential regional pay-television group.

Industry experts and academics however, believe otherwise.

To lawyer Rajesh Sreenivasan, it is “superficial” to believe such cross-carriage undermines competition.

The Cable and Satellite Broadcasting Association of Asia’s (Casbaa) expectation of Singapore losing its position as a media hub is “purely looking at the issue from a monetary perspective”, said the partner specialising in technology, media and telecommunications law firm Rajah and Tann.


Then, it said the United States-Singapore Free Trade Agreement had also been breached.

It said the Media Development Authority (MDA) did not satisfy the conditions of Article 13 of Trips, which states that limitations or exceptions to exclusive rights should be

confined to certain special cases “which do not conflict with a normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the right holder”.

Casbaa said “in particular, the broad nature of the new rules, applying as they do to content supplied to the whole of the television industry, means that this is not a ‘certain special case’”.

It told MediaCorp the regulation would prevent content distributors from making “commercial use of valuable content” at the wholesale and retail level. This will, ultimately, lead to less content, subscription and technology options for consumers, it said.

MORE VALUE FOR CONTENT

But, Mr Sreenivasan said content here can still be value-added because Singapore has influencers and thought-shapers who can endorse it. Content is given more value when more people can access it and perhaps, discuss it online.

Cross-carriage compliments the Next Generation Nationwide Broadband Network and a single set-top box, he added. Without cross-carriage, consumers still have to switch service providers, even if they use the same set-top box.

One challenge that will have to be sorted out, however, is the technological difficulty involved in putting content on another cable operator’s channel.

Singapore Management University associate professor of Law, Henry Gao felt that Casbaa had “funny logic”.

Article 13 in WTO’s Trips only gives protection to content holders and does not apply to broadcasters, he said.

“(And) the only thing the rights holder will apparently have lost is the ability to charge the cable operator for a premium (for having monopoly on the content),” said Associate Professor Michael Ewing-Chow, from the National University of Singapore’s law faculty.

Content providers may still benefit from exclusive content agreements, and cable operators can gain through branding and advertising revenue, he said.

MDA head of competition and market access Eileen Ang said: “The measure is clearly in compliance with Singapore’s obligations under the international free trade agreements and intellectual property rights treaties.”

She reiterated MDA’s view that there is full freedom to for content owners and pay-TV retailers to negotiate fair contracts.

MDA and content providers have similar interests such as more content on more platforms, increased audiences, choices and revenue.

These goals can be reached with cross-carriage, she said. For instance, it encourages new retailer entrants.

MDA has received about 20 submis-

sions of feedback and welcomes “open and genuine feedback including that of Casbaa’s”, said Ms Ang.

MDA will be finalising its decisions over the next few months.