

GOTTA HAVE IT

A deep dive into what's at stake with the regulator's proposed rule change requiring broadcasters to air sports events. **B2**

EXPLAINER

KOMSAN TORTERMVASANA

The ins and outs of the 'must have' rule

The NBTC is conducting a hearing at present concerning its draft to repeal the controversial broadcasting regulation

Though the initial goal of the "must have" rule was to ensure the Thai TV audience had access to popular global sporting events, the National Broadcasting and Telecommunications Commission (NBTC) has determined that the rule is causing more problems than benefits for the industry.

The NBTC opened a hearing on March 25, which continues through April 23, on its draft to repeal the rule, citing a need to prevent new conflicts stemming from the rule in the future. By cancelling the rule, the watchdog would also be able to disentangle itself from financial considerations regarding the broadcasting of such sporting events.

The must have and "must carry" rules became a flashpoint shortly before the start of the 2022 FIFA World Cup football tournament in Qatar, as the tournament is one of seven competitions that fall under the must have rule.

Q WHAT ARE THE RULES?

Effective since 2012, the must have rule requires companies holding the broadcast

rights for seven major sporting events — the FIFA World Cup, Southeast Asian Games, Asean Para Games, Asian Games, Asian Para Games, Olympic Games and Paralympic Games — to allow the programming to air on free television channels.

The must carry rule, which has been in place since 2013, requires the programmes aired on free TV to be broadcast on any platform without conditions, including satellite and internet protocol TV (IPTV) platforms.

The NBTC introduced the must have rule following auctions for digital television licences to ensure Thai audiences would be able to watch important sports events without restrictions.

In the past, the Television Pool of Thailand (TPT) which was jointly formed by channels 3, 5, 7 and 9 invested in broadcasting rights and spread the broadcasts and revenue equally among the founding members.

Many broadcasting veterans believe that investors aren't opposed to purchasing the broadcasting rights of major sports events, assuming they are worth investing in.

However, the must have rule discourages



Patrons watch a game during the 2022 FIFA World Cup at a bar in Bangkok.

NUTTHAWAT
WICHEANBUT

companies from purchasing broadcasting rights as they would have to allow all TV channels to share the broadcasting free of charge under the must have rule. Many broadcasting industry observers believe that this rule has interfered with the market mechanism.

In the case of the pay-TV operators, if they purchased the rights and would then have to allow all the channels to air the programmes as well as their own pay TV networks, this means the rights owners would ask for a higher payment for the broadcasting rights from the pay TV operators, in line with the larger audience groups.

Q WHAT WAS THE TURNING POINT?

In November last year, the NBTC contributed 600 million baht to help the Sports Authority of Thailand (SAT) come up with the 1.4 billion baht required to pay for the broadcasting rights for the 2022 Fifa World Cup soccer tournament.

Critics asked why NBTC's funds were being used to fund the broadcasting of a tournament which did not include the participation of the Thai national team.

The allocation of the matches also led to conflicts between the NBTC and the SAT. It also led to conflicts between True Corporation, a major sponsor supporting the acquisition of the broadcasting rights of the World Cup, and the Association of Digital Television Broadcasting (ADTEB) and IPTV operators.

SAT granted the exclusive rights for the tournament's broadcasting, including on its IPTV and over-the-top platforms, to True, which railed against other IPTV operators airing the matches, claiming encroachment upon its broadcasting rights.

On Nov 26, True won an injunction from the Central Intellectual Property and Interna-

tional Trade Court, and IPTV operators were blocked from broadcasting the games.

The conflict escalated when NBTC later sued SAT to request the return of its budget contribution as the IPTV channels were unable to broadcast all the World Cup matches live under the must carry rule. The NBTC case with SAT is now being considered by the Central Administrative Court.

Many broadcasting veterans agree that reviewing the must have rule would solve the problem at its root. The government should find an appropriate source for the budget to purchase the broadcasting rights of the seven sporting events, otherwise people would question the use of taxpayers' money for something that is not beneficial to them.

Last month, the NBTC board — through its special agenda meeting — agreed in principle to remove all conditions of the must have rule.

Acting NBTC secretary-general Trairat Viriyasirikul believes the cancellation would benefit the NBTC as it would no longer have to financially support the broadcasts of some international sports events. Such broadcasts would instead be handled by the private sector in future.

Mr Trairat said it is too early to predict public opinion during the hearing. The public might want to keep some sporting events under the must have rule, especially competitions in which Thai athletes are taking part. They might also want the NBTC to retain the World Cup event but only the semi-finals and final.

He added that the NBTC might have to determine remedy measures to compensate the public if it decides to cancel some sporting events from the must have rule.



The public might want to keep some sporting events under the must have rule.

TRAIRAT VIRIYASIRIKUL

Acting secretary-general, National Broadcasting and Telecommunications Commission