

# ASIA VIDEO PULSE

THE NEWSLETTER OF THE ASIA VIDEO INDUSTRY ASSOCIATION



## 2022 EVENTS

**OTT SUMMIT**  
**30 - 31 MARCH**

**PIRACY OVER THE TOP**  
**31 MARCH**

**FUTURE OF VIDEO INDIA**  
**29 APRIL**

**SATELLITE INDUSTRY FORUM**  
**31 MAY**

## 2022 and Counting

As we approach the end of the first quarter of 2022, other than wondering how we can already be this far into the year, we are heartened by the progress we have made on many fronts, especially with regards to policy and piracy matters in the region. These have been most notably with the recent submission to the US Trade Representative 301 Special Review with regard to Intellectual Property protection, and the successful site-blocking court order in Singapore on behalf of a number of our members. This is the largest block to date of illegal streaming sites and domains. On the membership front, it has also been gratifying to see not only a very high level of membership renewals but also a number of new members enquiring or committing to join.

Once again AVIA are involved in reaching out to member companies to help ensure business continuity. Hong Kong is grappling with an unprecedented wave of Covid-19 and while it remains far from clear what the SAR Government has in mind, we have to be prepared for lock downs and more restrictions.



# LIVE TIME

## 2022 EVENTS

### KOREA IN VIEW

1 SEPTEMBER

### INDONESIA IN VIEW

5 OCTOBER

### POLICY ROUNDTABLE

7 NOVEMBER

### STATE OF PIRACY SUMMIT

8 NOVEMBER

### ASIA VIDEO SUMMIT

9 - 10 NOVEMBER

So we are engaging with government to ensure that they understand that the TV and Streaming industry cannot operate without critical infrastructure and manpower. If you have critical infrastructure in Hong Kong and are not in touch with us, please get in touch. And in the meantime we are thinking about and hoping all is well with our friends and colleagues in Hong Kong.

The first quarter has seen a change in the leadership of the Coalition Against Piracy (CAP) with Aaron Herps stepping down to take on a new challenge in Singapore. In his place we have been lucky to hire Matt Cheetham. Matt was until quite recently the Asia Pacific Head of Business Affairs at the Premier League and has also spent many years with the Motion Picture Association. We are delighted to have Matt on board and it is good to know that such a crucial part of our infrastructure will be in his very capable hands. This does not diminish the sadness in losing Aaron who has played a crucial role in the development of our anti-piracy activities over the 3 years or so that he has been with us. To Aaron, a very big thank you from us at AVIA and I believe the industry.

It has been a busy first quarter and will be a busy year ahead of us. This edition of Asia Video Pulse will give you a comprehensive update of AVIA's activities and goals as well as details of our conferences and events for the year. The OTT Summit is almost upon us and we hope to see you virtually at the Summit. We had planned to host a physical gathering in Singapore as part of the Summit but sadly, and to our surprise, the current level of restrictions meant that anything we organised would have been severely sub-optimal. We remain optimistic things will change later in the year.

**avia**  
ASIA VIDEO INDUSTRY ASSOCIATION

**LOUIS BOSWELL**  
CEO

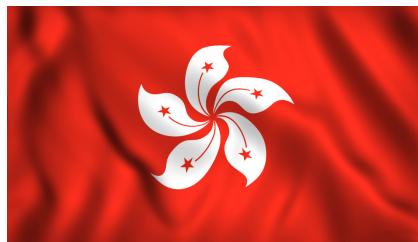
# POLICY MATTERS



## CELESTE CAMPBELL-PITT

CHIEF POLICY OFFICER

It is a surprise to find ourselves already at the end of the first quarter of 2022! That is in no small part due to the rather overwhelming amount of conversations and meetings which we have conducted with many of our members over the last few weeks in an attempt to provide a cohesive response on behalf of all of you to both the USTR and the Hong Kong government.



### COPYRIGHT LEGISLATION

In its review and update of its copyright regime, the **Hong Kong copyright consultation** generated some robust discussion. Clare Bloomfield and I were well aware that there was going to be fairly divergent opinions on matters such as copyright exemptions, safe harbour and site blocking but thankfully, we appear to have reached a comfortable consensus on the key issues.

I want to take this opportunity to thank all of you profusely for your prompt responses and especially for your willingness to collaborate with us and other members as we endeavoured to find solutions to some of the more thorny issues.

The Hong Kong Copyright consultation was a swift reminder of one of the greatest challenges to our industry – **piracy**. It has strengthened our resolve to lobby for copyright legislation that is **technology-neutral** and **nimble** in order to ensure complete flexibility in an era where technological advancement seems to be constantly on an upward growth trajectory! With the Hong Kong government having clearly expressed within its consultation document, its preference for the maintenance of a contract override exemption, conversations around the **principle of freedom of contract** and the potential dangers of unequal bargaining power, have again been re-ignited.

Safeguarding the **principle of freedom of contract** has always been our preferred starting position at AVIA with regulatory intervention and the imposition of restrictions only being employed where market conditions so require. Our position is premised on the fact that most jurisdictions tend to offer contract law remedies to parties seeking redress for the imposition of unfair contract terms and/or contract terms which are contrary to public policy.

*AVIA is the authoritative resource for the state of regulation across Asia*

As more jurisdictions start revisiting their copyright regimes to address the evolution in technology and seek to find a balance between copyright protection and reasonable use, we are witnessing much activity around the introduction of exemptions which address **online education**, one of the high-growth areas borne out of the COVID-19 pandemic. This is not an area on which we had specifically focused in the past, but the broad remit of the exemption contained within the draft Hong Kong consultation paper, has compelled us to review comfort levels with some of these newer copyright exemptions. It has also required that we address key areas such as whether or not the online education is provided on a non-profit basis and what security measures should be adopted to prevent onward, unauthorised dissemination.



Some markets are actively trying to ensure that the **infringement application process** is a smoother one. The new draft **Copyright Act in Thailand** seeks to offer rightsholders an opportunity to directly approach an ISP with a complaint of infringement, as opposed to using the laborious court process which is on offer, but gaps in the legislation need to be addressed, such as what evidence would be considered sufficient to give an ISP comfort in order to proceed with a provisional takedown pending notification to the alleged infringer.



**Ownership of copyright** is being examined through a slightly different lens in South Korea where there is ongoing academic debate about whether big broadcast platforms/online curated content players, in their acquisition of local intellectual property, should be compelled to either (i) share a certain portion of the earnings generated by such intellectual property with the relevant local producers or (ii) donate a portion of the profits to the local content industry.

As the demand for local content continues to grow across the globe, and international content platforms are seen to be securing substantial profits off their bets on local stories that may be a little too controversial for local broadcasters to support, we are witnessing a similar surge in demand from local producers that governments mandate some form of give-back to the community. As an industry body it is essential that we work with regulators to ensure they are aware of our members' efforts to voluntarily invest in content production across the region and to equip their local producers with the necessary digital skills to drive innovation and the growth of the digital economy in a particular market.

## MANDATED NETWORK USE FEES



The call for regulators to mandate payments, in stark contrast to the established industry practice of free commercial negotiation, is nowhere as apparent as within **South Korea** and the debate around **mandated network use fees**. There appears to be a slight domino effect with other countries across the globe, including Indonesia and Vietnam alluding to the fact that they are reviewing their policies as the sheer volume of traffic on the internet continues to surge.

The most visible impact of this Korean debate on a global stage, was seen last week at the **Mobile World Congress** when the Global Mobile Operators Association (GSMA), which is an industry association of telecommunication companies across countries, reached consensus to call on content providers to share in the network investment cost with telcos.

In other markets, where content providers have sought to implement their own solutions by shortening the last mile of delivery through the establishment of **content delivery networks** and internet exchange points, regulators, like **TRAI in India**, have called for stakeholder feedback on whether these solution-oriented mechanisms should be regulated in the same way as ISPs currently are. There does not appear to be any pre-determined solution and one can only wonder if the clearly defined roles traditionally attributed to content providers and ISPs will remain as they are in the future.

## EASE OF DOING BUSINESS



Lobbying for policies which encourage ease of doing business, continues to be a priority for AVIA as an industry body. In January this year, we made a **submission to TRAI** in India on its consultation paper on ease of doing business in that market. Having had both the Ministry of Information and Broadcasting and TRAI speak at our annual policy roundtable event, we know that there is a commitment on the part of Indian regulators to **drive foreign investment through simple, single-window processes**.

Unfortunately, at the same time, we are witnessing TRAI's inquiry into whether downlink licences granted to broadcasters, include the right of broadcasters to offer their content through other means of distribution such as owned or third party over the top services. These inquiries only serve to create business uncertainty in a content industry which has always operated on the understanding that its activities are not governed by TRAI.

India is of course not the only market where confusion abounds regarding the parameters of a regulator's oversight. Recent overtures by both the **Post and Telecommunications Ministry** (via draft regulations) and the **Ministry of Information and Broadcasting** (via a policy document) in **Bangladesh** suggest an inclination on the part of the regulators to regulate online content yet it remains to be seen which Ministry will be tasked with oversight of the industry.

In other markets, we have seen conflict between regulators actually positively hamper the passing of beneficial legislation. In **South Korea**, the **Self Rating Bill**, with its much more streamlined and effective processes, has been kept in abeyance for several months as a result of an ongoing battle between the **KCC and the MCST**.

## LEGISLATION IN ASIA

COVID-19 continues to have a long-lasting impact on the passing of legislation in certain markets. The **Cyber Media Law** in **Indonesia**, which was intended to compel big tech companies to negotiate with content providers for the payment of fair revenues (as per the Australian example) was put on hold at the end of last year and is yet to be re-ignited. In contrast, the **Omnibus Law**, which was passed in Indonesia with much fanfare, has had to be taken back to the drawing board with the Constitutional Court ruling it unconstitutional due to vagueness (it was not clear whether a new law or an amendment of an existing one) and the lack of public debate.

Similarly, in **Thailand**, we have been waiting for the new NBTC commissioners to be endorsed by royal assent but are now being told that the "old" commissioners will continue with their normal duties until otherwise notified. While the NBTC has made it abundantly clear that it wishes to address issues relating to competition, consumer and data protection, spectrum management and universal service obligations, it remains unclear as to whether the old - or the new guard - will be the ones to take these initiatives forward.

In contrast to markets where there exists a debate on which regulator should be tasked with video industry oversight and/or a stall in the passing of legislation as a result of a change of the guard/COVID, **Taiwan** is actively addressing the dawn of the digital era by putting into place a **Ministry of Digital Development**, possibly as soon as June 2022.



This Ministry will be tasked with promoting the development of digital industries, the overall planning of digital governance and digital infrastructure and will also assist in the digital transformation of the public and private sectors. Alongside the creation of this new Ministry, a **Digital Communications Act** is also being prepared and, we are told, it will have as its focus, online content and disputes. This is a slightly different approach to what we are seeing across the region and the globe where there have been efforts made in markets for different regulators to work together in an effort to ensure more business certainty and assist the growth of the creator economy by removing conflicting legislation and conflicting regulator objectives.

## CONTENT REGULATION



The escalating regulation of content continues to be of concern. On February 18, 2022, the government of Pakistan passed an ordinance amending the **Pakistan Electronic Crimes Act (PECA) 2016** to make online defamation of authorities, including the judiciary and the military, a criminal offence with harsh penalties.

While PECA already contained broad provisions criminalizing defamation of "natural persons," the **Pakistan Amendment Ordinance (2022)** expands those provisions to include criticism of government bodies and the military by inserting a new definition of "person" that includes "any company, association, or body of persons . . . institution, organization, authority or any other body established by the Government under any law or otherwise." The amendment makes defamation a nonbailable offense, and increases the maximum prison term, if convicted, from three to five years. It also expands the definition of those who can initiate criminal proceedings for defamation, allowing any person or institution to register the complaint. This is a significant amendment which will impact content production and definitely one to share with relevant employees within member organisations.



**Bangladesh Telecommunication Regulation Commission's** draft regulations suggest that all digital media providers, including online curated content providers, will need to comply with a Code Of Ethics and a complaint mechanism the establishment of which, guidance will be provided by the Ministry.

Takedown measures for content are deliberately widely drafted, with no opportunity to be heard given to the content provider. Pin/passwords will be mandatory. Our curated content providers already offer some of these protection mechanisms and it will fall on us again, as an industry body, to clearly distinguish the activities of our members from those conducted on social media.

## PERSONAL DATA PROTECTION



Finally, we are keeping a watchful eye on **India's Personal Data Protection Bill** which is being met with much resistance from multinational companies which claim that they are "united by the need to process, protect and transfer proprietary data" within the countries that they operate in, including India.

The inclusion within the bill of non-personal data, restrictions on cross-border data transfers and requirements for data localisation are therefore of particular concern and these same companies are urging the government to invite additional stakeholder comment.

In **Taiwan**, we understand that the Taipei City district government has proposed that users' explicit consent be sought every month (or payment period) prior to a charge being made for that payment period's digital subscription services with one lawmaker alluding to the fact that online curated content may be caught within the net.

## CONCLUSION

It has been a busy first quarter but hopefully one which has commenced with some semblance of a return to normality for most of our markets. We look forward to engaging with some of you at our Regulation and Anti-Piracy Committee meeting later this month and would ask that you reach out should you have any questions at all on developments in any of the markets. Of course, we always welcome suggestions and sharing of information as we try to build cohesive positions on the wide range of policy issues currently confronting the industry.



## MATTHEW CHEETHAM GENERAL MANAGER

The great Jack, not Joe, Welch, once said, ***"If the rate of change outside your organization is greater than the rate of change inside your organization, then your organization may not be alive much longer."*** CAP have certainly taken this to heart and risen to the challenges and changes wrought by Covid around the world in the last year with our third GM in twelve months. However, as Covid appears to be peaking around the world and hopefully leading us back to some form of normality, so too is CAP now settling back into the groove of what we do best.

The change in management has allowed us to review where CAP is, how we got here, and how we move forward. Fortunately, CAP is in a good place. Neil Gane and Aaron Herps have created a very smooth running, efficient and highly effective machine and it is an honour to follow in their footsteps. The mission they began for CAP hasn't really changed but it has now been defined as ***"leading the protection of AVIA member company content online in the Asia Pacific region"*** and this is built around the four pillars of: **Collaboration; Research & Technology; Enforcement & Disruption, and Engagement & Outreach.** CAP's work is also imbued with our values of being **collaborative, transparent, strategic, innovative and impactful.**

CAP's work in the first quarter of 2022 has been spread across each of the four pillars, with a particular focus on research, enforcement and outreach. As always, we are greatly appreciative of the continued support of the CAP Steering Committee.

### MALWARE REPORT: TIME TO COMPROMISE



In January CAP released the report ***"Time to Compromise"***. The report by Dr Paul Watters of Cyberstronomy replicates the user journey for consumers who access piracy apps and streaming websites, with a specific view to understanding the scale and risk for these consumers, as well as outline some strategies to reduce risk for consumers, and indicate regulatory measures which may assist in a large-scale reduction of malware infection, by reducing the accessibility of these sites, reducing the rewards, and making such sites more difficult to operate. The objective of the study was to see if consumer perceptions about malware risk and piracy were true (or not), by simulating a user who visited pirate sites to view streamed content, and then to examine what actual malware infections were encountered.

What was found was that a typical user visiting these sites would be infected by ransomware, several trojan horses and other **Advanced Persistent Threats (APTs)** within **42 seconds on a Windows machine, and 1:18 for an Android device.**

The results support the hypothesis that there is **a nexus between piracy and malware infections**, where site operators generate significant revenue from allowing malicious ads to be placed on their sites. Malware authors can in turn not only gain access to consumer PCs and mobile devices, and all of the data held in storage, but also access to banking login details and other sensitive logins. This malware could also spread laterally within a home or corporate network, potentially impacting critical business operations, or be used as the launchpad for identity theft and identity fraud. Consumers were also at legal risk from signing up to proxy servers which have allegedly been used to participate in DDoS and other attacks in the past. Dr Watters will be talking about the report in depth at the **Piracy Over The Top Summit** in March, including a demonstration of a user's computer being infected via accessing pirate sites .

## INDUSTRY LOSSES RESEARCH



**"What are the losses caused by online piracy?"** is almost the standard opening question by any journalist in an interview with CAP. It's a fair question but one we have never been able to give any kind of definitive answer to. However, starting late last year we have worked with PwC to combine the results of our YouGov consumer research with their market research and analysis to try and quantify what the estimated losses in fact are around the region. This research has not been without difficulties and required invaluable input from our member companies, extensive analysis and robust discussion. We are now approaching an end point and expect to have the report on the research finalised and released in the near future.

**Research is a key pillar in CAP's strategy** and the YouGov surveys are a crucial component. They help us identify where, how and why consumers are accessing illegal content as well as the impact of our enforcement actions, and so enable us to target and refine our strategy as necessary. CAP has now moved from a relatively ad hoc method of undertaking the YouGov surveys to a more regular approach of repeating them at the end of each year. This approach allows us to better understand how effective our strategy has been around the region and in any given market. We are finalising the latest YouGov surveys and we will send out a summary shortly, along with comments as to how they impact on CAP's strategy for the year.

## SITE BLOCKING

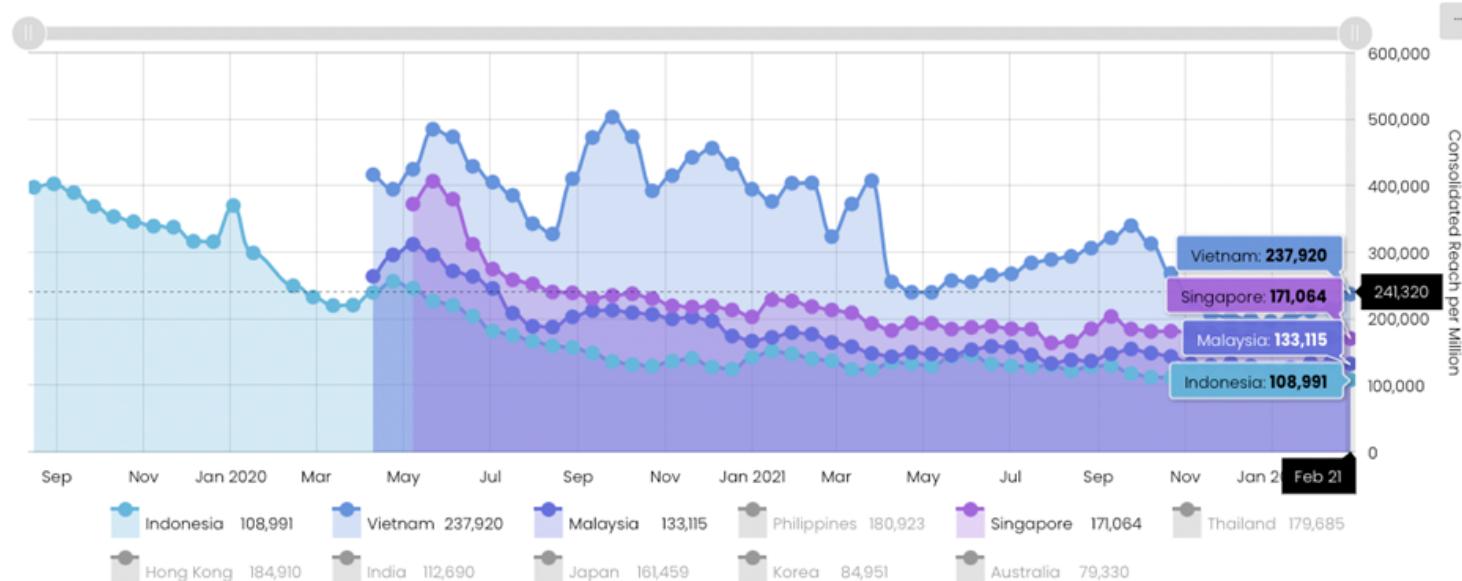


In February CAP members obtained a Singapore Court Order blocking 30 sites and almost 150 associated domains. This is the fourth Order obtained by CAP members and is **the largest number of sites and associated domains ever blocked** in one Order by CAP members. CAP will continue to monitor the impact of its latest block and assess with its members the merits of another block later in 2022.



CAP also referred just under 150 domains to Kominfo for blocking the same month. This brings **the total number of sites now blocked in Indonesia** via CAP referrals **to more than 3,500**. Our analysis shows a continuing drop of around 75% in traffic to pirate sites since late 2020. Encouragingly, traffic to legitimate sites is up by over 330% in the same time period.

Piracy - Consolidated 'Reach per Million' Collated reach of All Pirate Sites





In Vietnam we continue to work with K+ in providing them with the necessary traffic data they need in their site blocking work with ABEI, and have also liaised with K+ on media around site blocking. We are pleased to note that **traffic to pirate sites continues to drop in Vietnam**, with traffic around 45% down year on year.

There have been personnel changes in Malaysia at the MDTCA that have caused some delays in our program of blocking. However, we aim to resume activity in Q2. In the interim, we are encouraged to note a continuing downward trend in traffic to pirate sites over 2021.

In January, CAP provided an article to the Audiovisual Anti-Piracy Alliance (AAPA) in Europe that gave an overview of site blocking developments around the Asia-Pacific region.

## INTERMEDIARY ENGAGEMENT



The latest YouGov consumer surveys are clearly showing that **piracy is migrating to social media**. With this in mind we have re-energised our contact with Google and Facebook/Meta. Both have now agreed to regular calls with CAP every couple of months as well as to calls with a wider group of CAP Steering Committee members. Google have also agreed to participate in our POTT Summit in March with Facebook/Meta also indicating they may be willing to do so at our event later in the year. We are also continuing to explore our relationship with TikTok.

Telegram has begun to lead the pack in terms of sources of illegal online content over social media. In March CAP will release a study we commissioned into Telegram that analysed the **piracy landscape on Telegram** and illustrates the nature and huge scale of piracy on the platform. We intend sharing the report with Kominfo in Indonesia to try and leverage on the good relationship they have with Telegram and address the problems of online piracy of member company content on the platform. Later in the month we also worked with the authors of that report, Synamedia, to present the seminar, "**Telegram – The New Piracy Playground**".



In March CAP will be hosting its annual Piracy Over the Top Summit. The focus of the seminar will be on the **growing immigration of online piracy to social media** and we have an exciting line up of panels and speakers to discuss the issue, including on our technology vendor and sport panel, and we will also have a fireside chat with Google to discuss the issues with them. In addition, we will be talking with PwC on the piracy losses study, a Korean lawyer to discuss the Korean online piracy landscape and measures to address it, as well as have a demonstration from Dr Paul Watters on the inherent risks posed to users in accessing pirate streaming sites.

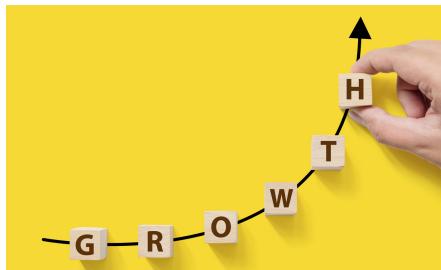
## CONCLUSION

There is no doubt that the world has been through a challenging few years. It has affected the businesses and personal lives of us all. But CAP has weathered the storm. 2022 has begun with a number of high-level successes and we are looking to continue on in this vein throughout the year.



AVIA is set to host its annual OTT Summit this month, as the video industry continues to go through a massive evolution.

With the global OTT market valued at over US\$100B in 2020 and expected to reach US\$220B by 2026 according to Mordor Intelligence, more and more media and content companies are revolutionising their businesses and attempting to become players in the streaming arena. And with growth starting to slow down in North America and Europe, Asia Pacific is now an ever-increasing priority for the industry.



This year's OTT Summit will look at the area of growth, the opportunities that abound, and the strategies to unlock it, as more international and local operators continue to launch services across the region. The discussions will explore three critical areas - **Growth in Streaming**, **OTT Advertising** and the role and development of the **Technology** that supports the OTT industry.

There will also be a wrap up session with some of the industry's leaders discussing their bold predictions for the future of streaming.

Other key sessions at the OTT Summit this year include:

**Is Video Still the Driver or  
is it Time to Look Beyond?**

**A Perfect Match  
Sports and Streaming**

**Maximising the Value of  
Premium Digital Video in Asia**

**The Road to CTV Revenue and  
the Future of FAST**

The OTT Summit will be taking place from **30 - 31 March**, with our companion event, **Piracy Over The Top**, closing off the Summit on **31 March, 2pm - 5pm SGT**.

The Summit is complimentary for all AVIA members, and US\$150 for non-members. Delegate ticket includes access to OTT Summit, Piracy Over The Top, delegate matching tool and the virtual networking platform.

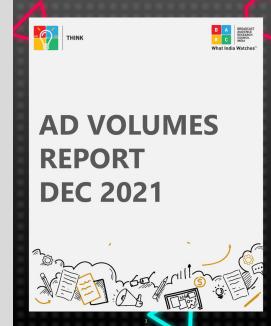
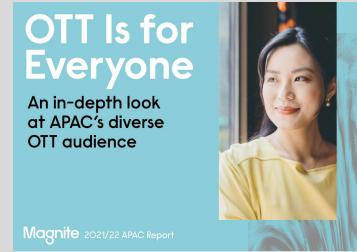
As the Summit is less than two weeks away, do register now and we hope to see you online soon!

**REGISTER NOW**

**VIEW AGENDA**

# Member Reports:

The following reports are now available at [avia.org](http://avia.org) for download and is accessible to all members. Please register at our website for access.



## New Members:

AVIA is only as strong as its members. We want to appeal to all parts of the video ecosystem and we are delighted that in the last quarter we have been joined by the following companies:



## 2022 Event Dates:

### UPCOMING EVENTS

<b>OTT Summit</b>	<b>30 - 31 March</b>
<b>Piracy Over The Top</b>	<b>31 March</b>
<b>Future of Video India</b>	<b>29 April</b>
<b>Satellite Industry Forum</b>	<b>31 May</b>

Save the date

## Contact Us:

We want to hear from you. Please get in touch and let us know what you think:

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