

30 March, 2023

The Asia Video Industry Association welcomes the opportunity to comment on the various Senate Bills (965, 1063, 1178, and 1940) as proposed by Senators Poe, Gatchalian, Tolentino and Padilla to amend the remit of the MTRCB. AVIA is the trade association for the video industry and ecosystem in Asia Pacific. It serves to make the video industry stronger and healthier through promoting the common interests of its members.

Our membership consists of a combination of local, regional and multi-national companies, many of which are substantial cross-border investors; creating and purchasing video content to meet rapidly expanding consumer demands and investing in the communications and creative industries across Asia. We represent the worlds of both pay TV and Online Curated Content.

We would like to offer the following initial observations. Firstly, the concept of “online content” covers a vast eco-system of widely available, popular content, both local and international. From the likes of user-generated content such as YouTube or TikTok to the curated part of the industry, with everything between, including pirated content accessed via a variety of different means. Secondly, we recognise there is a growing desire amongst regulators globally to introduce measures to protect their consumers. We note from the inclusion of language to expand the remit of the MTRCB to cover “online content”, this broadly seems to be coming from a position of wanting to protect Filipino consumers from content which is either illegal, such as pornography or gambling, or potentially harmful because of malware or inappropriate content for the audience.

Our members represent the responsible producers and licensors of content. Our members curate the content on their platforms and have relationships with the consumers who use their services. Curated content offers consumers access to videos on a pull- (selection basis), rather than push-basis, enabling consumers to choose whatever they want to watch, without being subject to content that they prefer not to view whenever they want to watch it and on whatever platform they choose. Consumers enjoy the confidence that the content they select is copyright-protected with relevant parental tools, allowing them to determine what is appropriate to watch for them and their families. Online curated content providers are responsible players and have a vested interest in ensuring they offer content which their consumers enjoy. They also recognise the importance of giving consumers the right tools to manage their own viewing, whether through clear ratings, program advisories or parental controls. All of these tools exist as a means for users to determine whether content is appropriate for them or their families. Beyond this, they also have clear complaints processes. And it is in our member’s interests to deliver the best possible experience for consumers.

This is vastly different to other parts of the “online content” industry. In the case of piracy, there is no ability to control the content on offer nor the risk of malware for consumers. Indeed, from our own surveys that AVIA has undertaken in partnership with YouGov, the rate of accessing pirated content in the Philippines is one of the highest across Asia, with 58% of surveyed consumers admitting to accessing pirated content online in 2023, only marginally lower from the highest figure across all the markets we surveyed (Malaysia, 60%). That part of the industry threatens not only consumers but also the legitimate part of the TV industry as they lose subscriptions and advertising “eyeballs” from consumers who choose to view “free” content on pirated services. Indeed, data from the YouGov survey showed that 42% of Filipino consumers cancelled subscriptions in the last 12 months; that is, subscribers to local and international streaming services, and/or cable TV services, cancelled those subscriptions.

Introducing overly rigid content regulation potentially risks delays and obstructions that Filipino consumers would find unacceptable. There would be a massive shift in consumer demand towards unregulated content viewed via the internet. Far from cultivating the values that form the core of Filipino society, excessive regulation will in fact spur shifts towards consumption of illegal content, which in turn brings greater exposure to dangers such as gambling, pornography, internet crime and so forth. And for online curated content providers, having increased regulatory burdens such as pre-censorship, the need for registration or licences, or the threat of being shut down at short notice, makes it even harder to compete against the easy, unregulated access to pirated content.

Globally, very few regulators have sought to attempt to introduce ex-ante controls across all of the responsible part of the industry. Rather, the vast majority of where governments in Asia permit or otherwise endorse self-regulation in some form. Self-regulation mechanisms, allow content providers to efficiently rate their content, taking into account local sensitivities, whilst in parallel, giving regulators named contacts for the content providers should there be concerns with the content shown.

Finally, we recognise that a wide range of content exists online, and the challenges posed by the global nature of the internet. With platforms and their users spread across nearly every jurisdiction in the world, and huge volumes of content posted every second, it is not simple to formulate a framework that is both effective and proportionate. However, we would respectfully suggest that self-regulation is the gold-standard approach. Curated online content providers have proven to be responsible players; and light-touch, self-regulation will continue to benefit the creative economy and consumers across the Philippines.