

2024 AVIA Regulating for Growth – Pay TV Matrix for Hong Kong

Questions	Pay TV	Foreshadowed changes?
1. How regulated? <i>Details of regulator/s</i>	<ul style="list-style-type: none"> A single, independent statutory body – the Communications Authority (CA) – oversees both broadcasting and telecommunications. The CA comprises of ten non-officials from various sectors of the community and two public officers. The CA regulates pay TV according to the Generic Code of Practice on Television Programme Standards (TV Programme Code), Broadcasting Ordinance (Cap. 562), Broadcasting (Miscellaneous Provisions) Ordinance (Cap. 391), Telecommunications Ordinance (Cap. 106), Communications Authority Ordinance (Cap. 616), Trade Descriptions Ordinance (Cap. 362) and Competition Ordinance (Cap. 619). 	None.
2. Copyright protection?	<ul style="list-style-type: none"> The Copyright Ordinance (Cap. 528) provides for a technology neutral "communication right" that restricts unauthorised communication of a copyrighted work to the public through electronic or other means. Copyright protection is technology-neutral in relation to both traditional TV platforms and programmes that are provided solely over the internet under the "communication right". Violation of the communication right (i.e. via broadcasting) may result in both civil and criminal liability. Commercial transactions involving unauthorised pay TV decoders are a criminal offence, but enforcement is lax for decoders for international satellite TV. Online piracy is rampant; there is no meaningful protection against online streaming of Pay TV channels. 	The Hong Kong Government conducted a consultation that ended in September 2024 to explore amendments to the Copyright Ordinance in light of rapid developments in AI technology.
3. Convergence and new technologies	<ul style="list-style-type: none"> The regulatory regime is technology-neutral in relation to traditional TV platforms (e.g. analogue, digital, etc.), but does not regulate any programmes that are provided solely over the internet (i.e. OTT/OCC and FAST TV). 	None.

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4. Licensing of foreign channels <i>Allowed, prohibited or unregulated?</i>	<ul style="list-style-type: none"> Any foreign television programme service operator or otherwise any television programme service operator that does not primarily target Hong Kong will require a non-domestic television programme service licence in order to provide such services in Hong Kong. The licensing requirements and standards imposed on non-domestic television programme service licensees are much less stringent as compared to domestic licensees. On the other hand, re-transmission of foreign programmes by domestic licensees is allowed, subject to compliance with certain requirements under the TV Programme Code (e.g. indirect advertising requirements). Re-transmission of programmes or channels from reputable Mainland China sources may be exempted from the TV Programme Code depending on whether the programme or channel meets certain specified criteria. No meaningful restrictions on downlinking: channels not subject to downlink licensing, but operators' bouquets must be notified. Special facilitation for "non-domestic" broadcast uplinks. 	None.
5. Licence fees and taxation	<ul style="list-style-type: none"> Broadcasting licence fees are set out in the Broadcasting (Licence Fees) Regulation (Cap. 562A): Annual fees for domestic Pay TV: fixed fee of HK \$1,533,000 plus variable fee of HK \$4 per subscriber (if any). Annual fees for non-domestic TV: as low as HK \$56,400. Intention is that the fee only covers all administrative costs. 	None.
6. Rate regulation <i>Including wholesale and retail rate regulation and whether there are any price controls on eg. basic tier</i>	<ul style="list-style-type: none"> There are no specific restrictions on retail rates or price controls. However, the determination of rates should generally not constitute anti-competitive conduct or otherwise violate any requirements under the Competition Ordinance. For example, a licensee with a substantial degree of market power would be restrained from engaging in predatory pricing. 	None.
7. Programme packaging <i>Including tiering, bundling, any mandatory a la carte</i>	<ul style="list-style-type: none"> There are no specific restrictions on tiering or bundling of programs. However, such tiering or bundling should generally not constitute anti-competitive conduct or otherwise violate any requirements under the Competition Ordinance. 	None.

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<p>8. Restrictions on advertising <i>Including localization rules, revenue and minutage restrictions</i></p>	<ul style="list-style-type: none"> • No minutage limit for pay TV. • For a free TV licensee, the aggregate advertising time shall not exceed 10 minutes per hour between 5:00PM to 11:00PM each day. At other times, the aggregate advertising time shall not exceed 18% of the total time the service is provided in that period. • Advertisements broadcast under pay TV services in Hong Kong are also subject to restrictions contained in advertising regulations such as the TV Programme Code, the Generic Code of Practice on TV Advertising Standards, the Undesirable Medical Advertisements Ordinance (Cap. 231), the Public Health and Municipal Services Ordinance (Cap. 132), the Gambling Ordinance (Cap. 148), the Banking Ordinance (Cap. 155), the Smoking (Public Health) Ordinance (Cap. 371), the Residential Properties (First-Hand Sales) Ordinance (Cap 621), the Non-local Higher and Professional Education (Regulation) Ordinance (Cap 493), the Education Ordinance (Cap. 279), the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W), and the Trade Descriptions Ordinance (Cap. 362). Advertisements should also not fall foul of the Control of Obscene and Indecent Articles Ordinance (Cap. 390) which regulates the circulation, etc., of any content considered indecent or obscene. • Advertisements deemed to "endanger national security" are prohibited under the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region and the Safeguarding National Security Ordinance under Article 23 of the Basic Law. 	<p>None.</p>
<p>9. (a) Content regulation <i>Including local content quotas, content control and insertion of classification and other content labels into international feeds,</i></p>	<ul style="list-style-type: none"> • No local content quotas. • Platform operators (and channels) required to adhere to broad guidelines set out under the TV Programme Code (e.g. restrictions on content relating to sex and nudity, violence, gambling, etc.). • The TV Programme Code also prescribes certain requirements to insert local classification labels into foreign channels (e.g. displaying label "PG" or "M" in relation to programmes with disturbing content or content unsuitable for children on foreign channels acquired for direct re-transmission for a stipulated duration and interval). 	<p>None.</p>

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	<ul style="list-style-type: none"> In addition to general TV content regulation, the Control of Obscene and Indecent Articles Ordinance (Cap. 390) regulates the publication and public display of obscene and indecent articles. Content that is deemed to "endanger national security" is prohibited under the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region and the Safeguarding National Security Ordinance under Article 23 of the Basic Law. 	
9. (b) Content regulation <i>Including languages, dubbing/subtitling and captioning</i>	<ul style="list-style-type: none"> There are no local language or subtitling / dubbing requirements. However, the TV Programme Code imposes certain restrictions on bad language (e.g. crude expressions, explicit adult jokes, etc.) under certain circumstances (e.g. in programmes targeting children). 	None.
10. Program supply restrictions <i>Including must provide rules and other restrictions on exclusivity and anti-siphoning rules</i>	<ul style="list-style-type: none"> There are no specific programme supply restrictions for pay TV. However, any supply of programmes should generally not constitute anti-competitive conduct or otherwise violate any requirements under the Competition Ordinance. 	None.
11. Restrictions on FDI <i>Including platforms and wholesale supply of programming and cross-media ownership restrictions</i>	<ul style="list-style-type: none"> No limits on foreign investment, though a majority of directors must be HK residents. Some constraints on control of multiple media outlets apply to both domestic and foreign investors. Cross media ownership: A broadcast licensee cannot have control of other licensees nor can a sound broadcasting licensee or a person who exercises control over the abovementioned categories of persons, or the associate of these persons have control over a licensee without prior government approval. 	
12. Retransmission arrangements <i>Including must carry and remuneration</i>	None.	None.
13. Consumer protection <i>Including cooling-off period, termination rights and payment mechanism</i>	<ul style="list-style-type: none"> There is no mandatory cooling-off period. Under the Trade Descriptions Ordinance: <ul style="list-style-type: none"> - Any false trade descriptions, false marks and misstatements in respect of services sold (i.e. pay TV services) are prohibited. 	None.

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	<ul style="list-style-type: none"> - All key information relating to the services should be provided to consumers (where the omission of such information would constitute a misleading omission). - The operator may not engage in aggressive commercial practices (e.g. where a customer intends to terminate a broadcasting service contract or exercise his rights under the contract, and the operator imposes non-contractual barriers that are onerous or disproportionate). • The Competition Ordinance also generally prohibits any anti-competitive conduct carried out by a broadcast licensee so as to ensure a healthy competitive rivalry in the broadcasting industry which will benefit consumers in the long run. • The CA has no statutory power or role in the settlement of monetary and contractual disputes or customer service quality issues between individual customers and the licensees concerned. 	
14. Entering a new market: FAST TV	N/A	N/A
15. Data handling	<ul style="list-style-type: none"> • There are currently no data localisation requirements in force that may be applicable to pay TV licensees. • All pay TV licensees who collect, use or transfer personal data in Hong Kong for their own purposes will be considered a “data user” and be subject to the requirements under the Personal Data (Privacy) Ordinance (Cap.486) (PDPO). In summary, all data users have to comply with the six data protection principles under the PDPO which relate to the following issues: <ul style="list-style-type: none"> - Purpose and manner of collection - Accuracy and duration of retention - Use of personal data - Data security - Openness and transparency - Access and correction <p>The PCPD recently issued the Artificial Intelligence: Model Personal Data Protection Framework (the Framework) in June 2024 to guide businesses on the use of AI in relation to personal data. While the Framework acts as a non-binding guideline for data users to practically comply with the PDPO, data users’ efforts to implement the Framework will be taken into consideration (vis-à-vis their compliance with the PDPO) in the event of an investigation.</p>	<p>Section 33 of the PDPO regulates the transfer of personal data outside of Hong Kong, though it has not yet come into effect since 1996. There is no announced timetable for its implementation at present, though the PCPD has stated that it will be undertaking a consultation in 2024 to propose revisions to the PDPO.</p>

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Other country-specific information not already covered	None.	None.