2024 AVIA Regulating for Growth – Pay TV Matrix for Indonesia

Questions	Pay TV	Foreshadowed changes?
1. How regulated? *Details of regulator/s*	• Pay TV is regulated by two main bodies, i.e.: ○ Ministry of Communication and Informatics (MOCI), now known as Ministry of Communication and Digital (*Kementerian Komunikasi dan Digital* – Komdigi)[1]. Komdigi is a government executive body that is responsible for the licensing of pay TV operators. ○ Indonesian Broadcasting Commission (*Komisi Penyiaran Indonesia* – KPI). KPI is an independent institution, which is responsible for the supervision of compliance with broadcast / program content requirements. • Currently, the two bodies have joint responsibility for evaluating licence applications.	• The government is currently planning to amend the Broadcasting Law. The latest draft of the Broadcasting Law amendment was issued in October 2023, but to date no further updated draft is available. • The amendment to the Broadcasting Law is included within Indonesia's 2024 priority legislation programme. That said, it is not unusual for the Indonesian government to delay the enactment of the law to the following year, particularly if the proposed bill still requires further discussion with various stakeholders. Note that, until the amendment is officially enacted, it remains subject to further amendment/adjustment.
2. Copyright protection?	• Under the Copyright Law[2], an original creation in the field of science, arts and literature is granted copyright protection for 50 years from the initial publication. • The Copyright Law also provides that broadcasting agencies own economic rights over their broadcast programme for a period of 20 years after the programme is first broadcast, which enables them to self-implement, licence, authorise or prohibit third parties to: ○ re-broadcast; ○ communicate; ○ fixate; and/or ○ reproduce, the broadcast for commercial purposes.	None.

1 Previously the Ministry of Communication and Informatics prior to 21 October 2024.
2 Law No. 28 of 2014 on Copyright (Copyright Law).

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	• The above economic rights may be exempted for the following purposes:
	  ○ Use of short clip of the broadcast for provision of actual information;
	  ○ reproduction for research;
	  ○ reproduction for use as teaching materials; and
	  ○ other use for educational and science development.
	• Taking of actual news (either in full or in part) from news agencies, other broadcasting agencies, newspapers or other sources is not considered a violation of copyright, provided the source is clearly stated.
	• Recently, we have seen Komdigi (as the regulator responsible for the supervision of electronic systems in general, including the internet) take a stricter approach in enforcing copyright protection, by blocking access to numerous web portals that contain or stream programmes without any licence.
	• Indonesia's Copyright Law allows for rights holders to file applications to the Minister of Law and Human Rights seeking to have web sites that infringe copyright, blocked. If satisfied that there is copyright infringement, the Minister of Law and Human Rights will issue a recommendation to Komdigi to take down all or part of the content of the website or block access it. Komdigi will take action based on the recommendation.	

3. Convergence and new technologies	• There are cable-based, satellite-based and terrestrial-based pay TV (along with radio) which all fall under broadcasting services and are subject to the same broadcasting business licence. In addition to obtaining a broadcasting business licence, satellite-based pay TV must use satellites licensed by Indonesia or foreign satellites with landing rights in Indonesia. • Indonesian regulation has since August 2009 recognised Internet Protocol Television (IPTV)[3], i.e. provision of radio and television, video, audio, text, graphics, and data convergent services which are distributed through an internet protocol network, and able to provide two-way or interactive	None.

3 MOCI Regulation No. 30/PER/M.KOMINFO/8/2009 of 2009.

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	communication services with the customers. However, IPTV has constituted part of the telecommunication services since 2018[4]. • There are around 15 national pay TV operators in Indonesia, plus several hundred local cable licensees.	
4. Licensing of foreign channels *Allowed, prohibited or unregulated?*	• Foreign channels do not require any permission from the government to be broadcast in Indonesia. Conversely, the pay TV operators are responsible for obtaining a broadcasting licence (*Izin Penyelenggara Penyiaran* – IPP) from Komdigi to broadcast local and foreign channels. • The applicable regulation requires a pay TV operator to replace foreign advertisements with local advertisements, subject to certain exemptions. However, to our knowledge, this prohibition is not being actively enforced. • Foreign programmes are allowed to be broadcast in Indonesia subject to content restraints stipulated by KPI. Foreign programmes may not broadcast programmes that contain: ○ nudity, sexual activity or any voice or content that implies such; and violent event in details, including the effect of such violent events (e.g. mutilated body parts). • For every 10 foreign channels broadcast by a pay TV operator, at least one domestic channel must be broadcast by the pay TV operator. If a pay TV operator broadcasts less than 10 channels, at least one domestic channel must be broadcast by the pay TV operator.	None.
5. Licence fees and taxation	• Pay TV operators must pay (in addition to standard income and VAT taxes): ○ a licensing fee for obtaining and renewing the IPP, rate of which is determined by Komdigi; and ○ for satellite-based pay TV, a licence concession fee (*biaya hak penggunaan*) for the use of the radio frequency spectrum. The fee rate will be calculated using the formula stipulated by Komdigi.	None.

[4] MOCI Regulation No. 7 of 2018.

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6. Rate regulation *Including wholesale and retail rate regulation and whether there are any price controls on eg. basic tier*	Not specifically regulated for pay TV.	None.
7. Programme packaging *Including tiering, bundling, any mandatory a la carte*	• Tiering/bundling is allowed. An "a la carte" offer of channels is not mandatory. • In practice, tiering arrangement is less popular compared to the bundling arrangement which most of the pay TV operators use.	None.
8. Restrictions on advertising *Including localisation rules, revenue and minutage restrictions*	• Advertisement is permitted subject to the following requirements: ○ the content of the advertisement must comply with the applicable laws and regulations, including (i) the Indonesian Advertising Code of Ethics (*Etika Pariwara Indonesia* – IAEC), and (ii) advertisement requirements issued by KPI; ○ the materials for the advertisement must use domestic resources (please refer further below); and ○ foreign advertisements broadcast during programmes transmitted from overseas shall be replaced with domestic advertisement subject to the exemptions below. ○ Note: While these matters are prescribed in regulations, there is currently no active enforcement of the provisions against foreign advertisements on pay TV channels • Foreign advertisements broadcast during programmes transmitted from overseas shall be replaced with domestic advertisement, except for: ○ tourism advertisements of a foreign country; ○ advertisement of property located outside Indonesia; ○ advertisement of international plays, competition, festivals, higher education, schools/studies and other activities located outside Indonesia; ○ advertisement of global brands or with brand images of certain persons where the advertisement will be the same throughout the world; or ○ advertisements with characters or flagships of a country.	None.

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	• In this regard, domestic advertisement is advertisement made using domestic resources, i.e. the actor/actress, personnel involved in the production process of the relevant advertisement and the background of such advertisement are of domestic origin.
	• Product placement is regulated under IACE. All provisions under the IACE regarding content of advertisement, types of advertised product, actor/actress in advertisement and advertisement media that apply to advertisement in general also apply to product placement.
	• There is no additional regulation regarding in-programme home shopping-type segment.
	• A pay TV operator is also required to follow the following schedule guideline for the display of certain advertisement;
	  ○ during broadcast of children programmes, pay TV operator can only display advertisement that complies with the standard of for children advertisement;
	  ○ cigarette advertisement can only be shown between 9:30PM until 5:00AM; and
	  ○ Pay TV operator must provide time for public service advertisement with special price between 5:00AM until 10:00PM – no minimum minutage requirements.	

9. (a) Content regulation
Including local content quotas, content control and insertion of classification and other content labels into international feeds
	• Pay TV operators must devote a minimum 10% of the channel capacity to public broadcasting agencies and private (FTA) broadcasting agencies plus an additional 10% for other domestic content.
	• Pay TV operators must carry out an internal censorship to meet KPI standards on all programmes broadcast by them, both domestic and foreign.
	• All local and international feeds must appropriately display the code of programme classification. However, in practice, we understand that this is not strictly enforced. The classifications set out by KPI are as follows:
	  ○ P Label (for 2 to 6-year-old audience);
	  ○ A Label (for 7 to 12-year-old audience);
	  ○ R Label (for 13 to 17-year-old audience);
	  ○ D Label (for 18-year-old above audience); and
		None.

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	○ SU Label (for 2-year old above audience). • In addition, according to KPI regulations[5], children must not be exposed to: graphic violence, inappropriate social behaviour, psychologically /physiologically disturbing content, advertisements promoting/depicting sex, sexual enhancement products/procedures, substance use, adult cinema, and partial/complete nudity. According to KPI policies, pay TV operators must provide parental controls. • Non-compliance with this requirement may result in with administrative sanction from KPI in the form of written warning.	
9. (b) Content regulation *Including languages, dubbing/subtitling and captioning*	• Broadcasting entities (including pay TV providers) shall facilitate dubbing or subtitling feature on foreign programmes. The subtitling or dubbing requirement for foreign programming is as follows: ○ all broadcast programmes (including films broadcasting on tv) must have Indonesian subtitles, **except for** foreign news, any programme teaching foreign languages, reading of religious scripture, sports broadcasting and live broadcasting; ○ Broadcasters may choose to replace subtitles with dubbing for up to 30% of their programming[6]. All foreign programmes available in bilingual programme are exempted from the translation requirement.	None.
10. Programme supply restrictions *Including must provide rules and other restrictions on exclusivity and anti-siphoning rules*	• IPTV must provide at least 10% of its channel capacity to carry domestic content. IPTV providers are also obliged to carry broadcasting programmes from public broadcasting agencies and educational programmes for at least 10% of the total content of its broadcasting (pushed) services. • Contracts for exclusive carriage of content are not restricted but there should be no monopolistic practices as a result. • Other than the Law No. 5 of 1999 on Prohibition on Monopolistic and Unfair Business Competition Practices (Anti-Competition Law) (which	None.

[5] Pursuant to: (i) KPI Regulation No.01/P/KPI/03/2012 on Broadcasting Code of Conduct; and (ii) KPI Regulation No. 03/KPI//12/2009 on Broadcast Program Standard.

[6] Article 39 (2) of the Broadcasting Law states that all broadcast programmes (with exceptions) must be translated into Bahasa with either sub-titles or dubbing. The maximum dubbing permitted is 30% of content

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	applies to all industries in general), there are no specific regulations regarding competition in pay TV industry. • Broadcasting Law is silent on exclusive content. However, Komdigi has taken a stance that "essential" content must be distributed through a transparent tender process. Anti-Monopoly Law[7] has also been interpreted to restrict some essential content from exclusive contracts. Meanwhile, non-essential programming may be exclusive. • The government does not set any specific form for contract between broadcasting agencies, and such contract is subject to the arrangement between the broadcasting agencies (i.e. 'freedom of contract' principle).	
11. Restrictions on FDI *Including platforms and wholesale supply of programming and cross-media ownership restrictions*	• At establishment, the initial capital of pay TV operators must be wholly owned by Indonesian citizens and/or Indonesian entities whose share are wholly owned by Indonesian citizens. • After establishment, foreign investment in pay TV operators is permitted up to 20% of the total subscribed and paid-up capital. The limitation on foreign shareholding applies both to direct and indirect investment. • In terms of content producers/distributors, there is no foreign investment limit. • A domestic company may, directly or indirectly, own no more than: ○ one pay TV operator and one private radio station with one newspaper media within the same region; ○ one pay TV operator and one free-to-air channel with one newspaper media within the same region; or ○ one pay TV operator and one free-to-air channel with one private radio station within the same region. • Vertical integration is not prohibited to the extent it does not trigger unfair competition as regulated under the Anti-Monopoly Law. • However, there are no known sanctions imposed by Komdigi on non-compliances, despite publicly documented holdings by Indonesian media companies which are in apparent contravention of the rules.	None.

[7] Law No. 5 of 1999 on Prohibition on Monopolistic and Unfair Business Competition Practices (Anti-Monopoly Law).

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12. Retransmission arrangements *Including must carry and remuneration*	• Pay TV operator shall provide: ○ at least 10% of its channel capacity to broadcast programmes from public and private broadcasting agencies; and ○ provide one domestic channel for every ten foreign channels. • There is no copyright exemption. The amount of payment for this right to broadcast is subject to the agreement between the parties.	None.
13. Consumer protection *Including cooling-off period, termination rights and payment mechanism*	• No specific regulation for pay TV. • That said, pay TV operators must still observe the provisions of the Consumer Protection Law[8], which applies to all industries in general.	None.
14. Entering a new market: FAST TV	• Not applicable – FAST TV (i.e. free ad-supported streaming television) would be more qualified as OCC TV rather than pay TV (considering the method of transmission – i.e. streaming).	N/A
15. Data handling	• Pay TV operators must comply with the general requirements on personal data protection in the PDP Law.[9] • The key principle under the applicable regulations is that the collection and use of personal data must be based on certain legal basis - this could be in the form of express consent, implementation of contractual obligation, vital interest, implementation of laws, performance of public duties, or other legitimate interest.	The PDP Law provides a 2-year transitional provision, i.e. at the latest by 16 October 2024, for its full enforcement. The PDP Law also contemplates certain implementing regulations. To date, no such implementing regulation has been issued. That said, in principle, these implementing regulations should be issued by 16 October 2024. • The PDP Law also envisages the creation of an independent personal data protection institution. However, such institution has not been established to date.
Other country-specific information not already covered		

8 Law No. 8 of 1999 on Consumer Protection.
9 Law No. 27 of 2022 on Personal Data Protection (PDP Law).