

2024 AVIA Regulating for Growth – OCC TV Matrix for Myanmar

Questions	OCC TV	Foreshadowed changes?
1. How regulated? <i>Details of regulator/s</i>	<ul style="list-style-type: none"> The Television and Radio Broadcasting Law (the Broadcasting Law) expressly excludes internet-based broadcasting from the activities governed thereunder. There are no other specific regulations relating to the broadcasting of Online Curated Content (OCC). Additionally, under the Television and Video Law (the Video Law), video content (including video content outside of Myanmar) being broadcast must first be certified with a Video Censor Certificate issued by the Video Censor Board (VCB), which is formed under the Ministry of Information with the mandate to review the suitability of video content for exhibition in Myanmar in accordance with its internal policies and directives, which are not publicly available. The members of the VCB consists of both government and non-government personnel. The extent of the real application for this requirement remains vague. 	<ul style="list-style-type: none"> Although there are no specific existing rules applicable to the broadcasting of online curated content, it is likely that such services will fall under the purview of the Ministry of Information (MOI) should the Myanmar Government undertake the regulation of OCC TV in the future. We note that several OCC players such as Netflix have already entered the Myanmar market.
2. Copyright protection?	<ul style="list-style-type: none"> In 2019, as part of a set of new laws which represent a new intellectual property protection framework, the new Copyright Law 2019 (the Copyright Law) was passed and enacted by Myanmar's Parliament. The Copyright Law has come into effect on 31 October 2023 in accordance with the State Administration Council (SAC) Notification No. 218/2023. To implement the Copyright Law, the Ministry of Commerce (MOC) issued the "Copyright Rules" under Notification No. 70/2023, which has come into effect on 31 October 2023. The Copyright Rules set out the procedures for the registration of copyright and related rights. The Copyright Law 2019 and the Copyright Rules (collectively, the New Copyright Regime) have replaced the previous Burma Copyright Act 1914. Under the Copyright Law, copyright infringements such as the unauthorised reproduction, transmission, or distribution of copyrighted works, possession 	<ul style="list-style-type: none"> We note that the Central Committee for IP Rights (CCIPR), was formed on 6 March 2020. The CCIPR is responsible for development of policies in relation to the protection of intellectual property rights. Its formation represents a further step towards the implementation of Myanmar's intellectual property protection framework, which includes the Copyright Law 2019 as one of a suite of four new intellectual property protection laws.

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	<p>of infringing goods for commercial purposes, and importation of infringing items into Myanmar, among others, are regarded as criminal offences.</p> <ul style="list-style-type: none"> • The Copyright Law also provides civil remedies to the owners of a copyright that has been infringed. Any disputes related to the registered copyrights or related rights can be settled through court proceedings or by arbitration under the Copyright Law. The Supreme Court is also given authority to establish intellectual property courts (through series of Notifications 961-965/2023). Copyrights or related rights owners may file both miscellaneous civil cases for provisional measures and criminal or civil cases with intellectual property courts. • The Copyright Law bolsters the current regime (copyright infringement is still a criminal offence under the Copyright Law) by granting copyright protections to foreign copyrights which are protected under international treaties relating to copyright protection to which Myanmar is a member state. Such international treaties include the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and the ASEAN Framework Agreement on Intellectual Property Cooperation. • Additionally, the Copyright Law provides for exemption that short extracts can be used from material as long as the use of such short extracts does not result in damage to the interests of the owner. • The New Copyright Regime is now deemed to be in full function. The official forms for copyright and related rights matters are available in Notification No. 73/2023 issued by the MOC. In February 2024, Myanmar's Intellectual Property Department (IPD) began accepting applications for copyright and related rights registration under the Copyright Law 2019. In addition, prospective copyright applicants can now rely on information of specific service fees for the registration of copyright and other related rights provided in the SAC's Notification issued on 13 February 2024. • We note that the Copyright Law does not expressly differentiate between broadcasting through traditional mediums and the internet and applies equally to both the pay TV and OCC TV sectors. 	
3. Convergence and new technologies	<ul style="list-style-type: none"> • None. 	<ul style="list-style-type: none"> • None.

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4. Licensing of foreign services <i>Allowed, prohibited or unregulated?</i>	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> None.
5. Licence fees and taxation	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> 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"> None. 	<ul style="list-style-type: none"> None.
7. Programme packaging <i>Including tiering, bundling, any mandatory a la carte</i>	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> None.
8. Restrictions on advertising <i>Including localisation rules, revenue and minutage restrictions</i>	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> None.
9. (a) Content regulation <i>Including local content quotas, content control and insertion of classification and other content labels into international feeds</i>	<ul style="list-style-type: none"> Content which is either (i) created locally in Myanmar; or (ii) created outside of Myanmar but curated, exhibited and distributed by a service provider (i.e. a Pay TV Operator) based locally in Myanmar must first be reviewed by the VCB and issued with a Video Censorship Certificate, in accordance with Section 32 of the Video Law. Publicly exhibiting video content which has not been issued with the requisite Video Censorship Certificate in contravention of Section 32 could attract criminal liability and be punishable with imprisonment and/or a fine. In practice, the requirement for a Video Censorship Certificate is not enforced against providers of foreign international OCC channels given that the entities responsible for the curation of the content shown on such channels are not based in Myanmar. The SAC amended the Penal Code to penalise any anti-military content or any criticism against the military and such actions are regarded as high treason or sedition, and any statement which undermines the morale of the military, or the government employees can be sentenced with imprisonment. 	<ul style="list-style-type: none"> None.

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	<ul style="list-style-type: none"> Since the state of emergency declaration was announced on 1 February 2021, the broadcasting channels and digital content providers have been practising internal self-censorship to avoid any penalty or potential revocation of their licences. 	
9. (b) Content regulation <i>Including languages, dubbing/subtitling and captioning</i>	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> None.
10. Programme supply restrictions <i>Including must provide rules and other restrictions on exclusivity and anti-siphoning rules</i>	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> 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"> None. 	<ul style="list-style-type: none"> None.
12. Retransmission arrangements <i>Including must carry and remuneration</i>	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> None.
13. Consumer protection <i>Including cooling-off period, termination rights and payment mechanism</i>	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> None.
14. Entering a new market: Fast TV	<ul style="list-style-type: none"> None 	<ul style="list-style-type: none"> None

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15. Data handling	<ul style="list-style-type: none"> In 2021, the Electronic Transaction Law (ETL) was amended to require that online content providers (including Pay TV) which provide services in Myanmar over the internet to appoint data protection officers. Section 27(a) of ETL imposes duties on the data protection officer such as to carry out systematic maintenance, protection and management of personal information based on its type and level of security, systematically destroy the personal information collected after a specified time, and not to use personal information that is inconsistent with the purpose of collection, etc. 	<ul style="list-style-type: none"> None
Other country-specific information not already covered	<ul style="list-style-type: none"> None. 	<ul style="list-style-type: none"> None.