



2024 AVIA Regulating for Growth – OCC TV Matrix for Sri Lanka

Questions	OCC TV	Foreshadowed changes?
1. How regulated? <i>Details of regulator/s</i>	<ul style="list-style-type: none"> There are no specific regulations in place for OCC TV content. OCC TV content is accessed by users in Sri Lanka through connections provided by Internet Service Providers (ISPs) in Sri Lanka. There are restrictions placed on such ISPs in their licence relating to providing access to certain content that is objectionable, obscene and unauthorised. Therefore, in certain instances, the Telecommunication Regulatory Commission of Sri Lanka (TRCSL) may issue directions prohibiting ISPs from providing access to certain content. 	We do not anticipate any changes in relation to the applicable regulatory structure.
2. Copyright protection?	<ul style="list-style-type: none"> Intellectual property rights, including copyright, are protected under the Intellectual Property Act No. 36 of 2003 (IP Act). The copyright owner may seek an injunction, damages and such other remedies as the Court deems fit against any person who infringes, or is about to infringe, their copyright. Provisions for injunctive relief is specified in Section 22 of the IP Act. There will be difficulty in exercising such an injunction if the infringed content is not streamed from within the territory of Sri Lanka. However, the ISPs may be requested to block certain websites which infringe on copyrights by obtaining an injunction on the ISPs. The ISP licence also usually states that the ISP must comply with any directions from the TRC to block access to websites. Broadcasting is defined in the IP Act as the communication of a work, a performance or a sound recording to the public by wireless transmission, including transmission by satellite and therefore includes both pay TV and OCC TV. 	We do not anticipate any changes in relation to the applicable copyright protections.
3. Convergence and new technologies	<ul style="list-style-type: none"> There are no new technologies relevant to OCC TV in Sri Lanka. 	We do not anticipate any changes in relation to the technologies utilized in Sri Lanka.
4. Licensing of foreign channels <i>Allowed, prohibited or unregulated?</i>	<ul style="list-style-type: none"> There are no regulations for foreign OCC TV content/channels and no prohibition on broadcasting foreign OCC TV content. However, as stated above, access to foreign OCC TV content/channels may be regulated and restricted by the conditions in the licence of ISPs. However, there has not been any instance where foreign OCC TV content/channels have been regulated in this manner. 	We do not anticipate any changes in relation to the licensing of foreign channels in Sri Lanka.

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5. Licence fees and taxation	<ul style="list-style-type: none"> No licensing requirement. If the OCC TV service provider does not have a permanent establishment in Sri Lanka, their income will not be subject income tax in Sri Lanka. Further, there are no other taxes that are payable by OCC TV service providers. 	We do not anticipate any changes in relation to the applicable regulatory structure.
6. Rate regulation <i>Including wholesale and retail rate regulation and whether there are any price controls on e.g. basic tier</i>	<ul style="list-style-type: none"> OCC TV service providers are not regulated in Sri Lanka. Therefore, they are not subject to any rate regulation. 	We do not anticipate any changes in relation to the applicable regulatory structure.
7. Programme packaging <i>Including tiering, bundling, any mandatory a la carte</i>	<ul style="list-style-type: none"> There are no regulations on programme packaging including tiering, bundling or a la carte programming for OCC TV. 	We do not anticipate any changes in relation to the applicable regulatory structure.
8. Restrictions on advertising <i>Including localisation rules, revenue and minutage restrictions</i>	<ul style="list-style-type: none"> Subject to the comments in the Advertising Matrix there are no restrictions in advertising on OCC TV. 	We do not anticipate any changes in relation to the applicable regulatory structure.
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"> There are no local content quotas, content control or insertion of classification and other content labels into international feeds for OCC TV. The TRC does not restrict access to the internet unless in specific circumstances as provided in the conditions of the ISP licence issued under Section 17 of the Telecom Act. The ISP licence usually states that the ISP must undertake not to carry objectionable, obscene, unauthorised content, messages or communications through the licensed telecommunications system. The ISP licence also states that the ISP must comply with any directions from the TRC to block access to websites. 	We do not anticipate any changes in relation to the applicable regulatory structure.
9. (b) Content regulation <i>Including languages, dubbing/subtitling and captioning</i>	<ul style="list-style-type: none"> There are no requirements for broadcasting in a specific language, dubbing, subtitling or captioning. 	We do not anticipate any changes in relation to the applicable regulatory structure.

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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"> There are no programme supply restrictions applicable to OCC TV service providers in Sri Lanka. 	We do not anticipate any changes in relation to the applicable regulatory structure.
11. Restrictions on FDI <i>Including platforms and wholesale supply of programming and cross-media ownership restrictions</i>	<ul style="list-style-type: none"> FDI is limited to 40% in mass communication companies, although approval can be sought from the Board of Investment of Sri Lanka for a higher percentage of FDI in a particular company. These restrictions will be applicable only if an OCC TV provider sets up a company in Sri Lanka. There are no restrictions on cross-media ownership or vertical integration unless otherwise provided in the ISP licence under section 17 of the Telecom Act. 	We do not anticipate any changes in relation to the applicable regulatory structure.
12. Retransmission arrangements <i>Including must carry and remuneration</i>	<ul style="list-style-type: none"> There is no general requirement for OCC TV platforms to carry FTA programmes. There are no specific copyright exemptions that will apply to OCC TV platforms in the retransmission of the content. 	We do not anticipate any changes in relation to the applicable regulatory structure.
13. Consumer protection Including cooling-off period, termination rights and payment mechanism	<ul style="list-style-type: none"> There are no specific consumer protection laws applicable to OCC TV subscribers. However, if customers of ISPs face issues, ISP licence conditions under the Telecom Act usually include conditions for consumer protection including a mechanism for resolving customer complaints. 	We do not anticipate any changes in relation to the applicable regulatory structure.
14. Entering a new market: FAST TV	<ul style="list-style-type: none"> No regulations. 	We do not anticipate any changes in relation to the applicable regulatory structure.
15. Data handling	<ul style="list-style-type: none"> Following inspiration from the European Union's General Data Protection Regulations (GDPR), Sri Lanka has enacted the local equivalent being the Personal Data Protection Act, No. 9 of 2022 (PDPA), which is still in the transitional stage to allow time for compliance mechanisms to be put in place. If the personal data or information of any person is processed, all obligations of a controller under the PDPA would be applicable. In this regard, please also note that GDPR-equivalent cross border data transfer requirements are imposed in the PDPA in relation to any cross-border data transfer. However, the PDPA does not recognise binding corporate rules as a basis for intra group transfer of any personal data. 	We do not anticipate any changes in relation to the applicable regulatory structure.

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	<ul style="list-style-type: none"> Moreover, the conditions of the ISP licence issued under the Telecom Act will usually include conditions on the confidentiality of customer information. The ISP licence will usually include the condition that the ISP must not disclose the information of a customer without the customer's consent, except in relation to the services provided under the licence or in the circumstances provided in the licence. 	
Other country-specific information not already covered	<ul style="list-style-type: none"> Sri Lanka recently enacted the Online Safety Act, No. 9 of 2024 (OSA) which applies where: <ul style="list-style-type: none"> (a) a person commits an offence under the OSA in respect of a citizen of Sri Lanka, while being present in Sri Lanka or outside Sri Lanka; (b) a loss, damage or harm is caused within or outside Sri Lanka by the commission of an offence under this Act, to the State or to a person resident in Sri Lanka; or (c) an offence under this Act, wherever committed, is committed by a person who is a citizen of Sri Lanka. The OSA provides <i>inter alia</i> that a natural or legal person who makes a prohibited statement or impersonation commits an offence thereunder. If such offence is committed by a legal person, the directors and principal officers will also be held liable for the offence. The OSA also states that attempting to commit an offence, abetment of an offence and conspiring to commit an offence are also offences under the OSA. The provisions of the OSA are relevant to a broadcaster where content thereon amounts to a prohibited statement and has been communicated to end users in Sri Lanka on an online location in terms of section 28(1)(a) and (b) of the OSA. In this event, the Online Safety Commission can declare such online location as a "declared online location" following which the owner or operator of such online platform is bound to publish the notice provided by the said Commission and failure to do so may result in a Magistrate declaring <i>inter alia</i> that access to such online location be disabled to end users in Sri Lanka. The owner or operator can also appear before the Magistrate and show cause as to why the order should not be made absolute. 	<p>The draft Anti-Terrorism Bill published in the Gazette on 15th September 2023 states <i>inter alia</i> that, where reasonable grounds of suspicion exists against any person in the commission of an offence thereunder, the officer in charge of the relevant police station shall be entitled to apply for an order from a Magistrate to require any telecommunication, satellite or digital service or data service provider to provide information including:</p> <ul style="list-style-type: none"> (a) information pertaining to services provided or being provided by such service provider to any person; (b) information pertaining to services enjoyed by any person to whom such services have been made available; (c) any information, data or document or record that may be stored, archived or otherwise kept, by such service provider; and (d) information pertaining to the uploading or downloading of data or information, to or from any instrument through the service provided by such service provider. <p>Hence, a pay TV provider may be required to comply with such an order from the Magistrate.</p>

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	<ul style="list-style-type: none"> Where the owner or operator of the declared online location fails to comply with the order made by the Magistrate, the owner or operator thereof will have committed an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 6 years or to a fine not exceeding LKR 10,000,000 and order the Commission to take steps to disable access by the end users in Sri Lanka to the declared online location. Although the OSA has extra-territorial jurisdiction, there may be issues with enforcement against a provider who has no presence in Sri Lanka. 	Non-compliance with such an order (being a judicial order) may amount to a contempt of court. However, although this aspect of the Bill has extra-territorial jurisdiction, there may be issues with enforcement against a provider who has no presence in Sri Lanka.