

2024 AVIA Regulating for Growth – Advertising Matrix for Myanmar

	Pay TV	OCC TV	Foreshadowed changes
GENERAL			
<i>Overview of regulation</i>	<p><u>Advertising Policy</u></p> <ul style="list-style-type: none"> □ The Media’s Advertising Policy (Advertising Policy) which was issued by the Ministry of Information (the MOI) in Notification No. 1/2014, sets out guidelines for advertisers to comply with in connection with the content of advertisements which are published or broadcast on radio, print media, TV and internet media. □ We understand that the Advertising Policy serves as a guideline to advertisers by the MOI and does not expressly set out any sanctions to be imposed in the event of non-compliance by advertisers. Nonetheless, based on our informal consultation with the MOI on a no-names basis, we have confirmed that the Advertising Policy has been in force since 1 April 2015. <p><u>Media Code of Conduct</u></p> <ul style="list-style-type: none"> □ The Media Code of Conduct (MCC), published by the Myanmar Press Council (MPC), sets out non-binding standards and guidelines for media outlet operators, which includes pay TV, in moderating the content of their broadcasts, including advertisements. The MCC does not expressly set out any sanctions to be imposed in the event of non-compliance by media outlets. <p><u>TV and Broadcasting Law</u></p> <ul style="list-style-type: none"> □ The TV and Broadcasting Law (the Broadcasting Law) also empowers the National Broadcasting Council (one of the main regulatory bodies appointed to administer the licensing and enforcement under the Broadcasting Law, the Council) to issue regulations with respect to 	<ul style="list-style-type: none"> □ While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. However, we understand that the focus of the MOI is to regulate print and TV, as opposed to online advertising. □ Furthermore, no distinction has been made between OCC TV broadcasters based either onshore or offshore. It is thus unclear whether the Advertising Policy has extra-territorial application. □ The MCC applies to online content providers on an opt-in basis. □ The Broadcasting Law explicitly excludes internet-based broadcasting from the forms of broadcasting that it regulates. Advertising activities in relation to or in connection with OCC TVs or using OCC TVs as a medium would therefore be outside of the purview of the Broadcasting Law and its accompanying regulations and notifications. 	<ul style="list-style-type: none"> □ Under the Broadcasting Law, the Council is tasked with the responsibility of issuing a Code of Conduct in relation to broadcasting activities conducted by licensed broadcasting service providers. □ The Council is also empowered to ensure that licensed broadcasting service providers comply with this code and has the power to suspend, terminate or refuse the renewal of an existing licence or impose other administrative sanctions against such licence holders. This would expand on the powers of enforcement that the responsible regulatory body has, as compared to the current regime in place under the Advertising Policy, which does not provide for any consequences arising from non-compliance. □ It remains to be seen whether there will be any legislative and regulatory developments to include online media under the scope of the Code of Conduct.

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	<p>broadcast licensing. The Broadcast Development Council has recently published the “Broadcast Code of Conduct” which sets out broad requirements relating to the content being broadcast, based on moral and ethical values and other standards widely accepted by media industries.</p>		
<i>Regulatory Bodies</i>	<ul style="list-style-type: none"> <input type="checkbox"/> MOI. <input type="checkbox"/> The National Broadcasting Council is responsible for the development of a Code of Conduct to which licensed broadcasting services such as pay TV operators will be subject to. <input type="checkbox"/> Under the Broadcasting Law, the Council is also responsible for ensuring compliance and taking action on complaints against licensed operators in relation to their conduct of broadcasting operations. Non-compliance may be met with administrative sanctions such as the suspension, termination or refusal to renew licences or financial penalties. <input type="checkbox"/> The MPC is the body which conducts self-regulation of the media industry. The MPC receives and investigates complaints against media outlet operators which allege that such operators have broadcast content in breach of the MCC. The MPC is not empowered to impose any administrative sanctions or penalties on media operators but may make public statements censuring media outlet operators which they have assessed to be in breach of the MCC. 	<ul style="list-style-type: none"> <input type="checkbox"/> To date, there has not been an appointment of a specific regulatory body overseeing the OCC TV sector, although it is likely that the Council will oversee the OCC TV sector in Myanmar. 	<ul style="list-style-type: none"> <input type="checkbox"/> None
<i>Advertising per hour</i>	<ul style="list-style-type: none"> <input type="checkbox"/> Commercial broadcasting services such as pay TV operators are required to limit the broadcasting of commercial advertisements to a maximum duration of 12 minutes for every one hour of daily broadcasting and allocate at least 5% of their airtime to public service advertisements to be recommended by the Council for free, as part of their corporate social responsibility requirements under Section 72 of the Broadcasting Law. 	<ul style="list-style-type: none"> <input type="checkbox"/> There are no express requirements or restrictions to the number of hours that advertisements can be broadcast on OCC TV platforms. 	<ul style="list-style-type: none"> <input type="checkbox"/> None
<i>Revenue Restrictions</i>	<ul style="list-style-type: none"> <input type="checkbox"/> No express regulations. 	<ul style="list-style-type: none"> <input type="checkbox"/> No express regulations. 	<ul style="list-style-type: none"> <input type="checkbox"/> None

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<i>Product Placement</i>	<input type="checkbox"/> The MCC sets out that advertisements should be distinguished from other media content and that product placement should be confined to commercial breaks. Where commercial products and services are otherwise referenced in broadcast media, they should not be given greater prominence than otherwise justified by editorial considerations.	<input type="checkbox"/> No express regulations.	<input type="checkbox"/> None
<i>Foreign Commercials</i>	<input type="checkbox"/> No express regulations.	<input type="checkbox"/> No express regulations.	<input type="checkbox"/> None
<i>Govt Levy</i>	<input type="checkbox"/> None	<input type="checkbox"/> None	<input type="checkbox"/> None
<i>PSAs</i>	<input type="checkbox"/> Commercial broadcasting services such as pay TV operators are required to allocate at least 5% of their airtime to broadcast public service advertisements prescribed by the Council for free, as part of their corporate social responsibility requirements under Section 72 of the Broadcasting Law.	<input type="checkbox"/> No express regulations.	<input type="checkbox"/> None
PRODUCT-SPECIFIC			
<i>Alcohol</i>	<input type="checkbox"/> Advertisements which promote alcohol are extensively restricted under the Advertising Policy. <input type="checkbox"/> Advertisements for alcohol are only permitted to contain references to the brand of the alcohol, but references to the type of product and the product itself are prohibited (for example, for brand “XYZ”, reference to the brand “XYZ” may be made in an advertisement, but the advertisement must not make reference to the fact that the product being advertised is “Vodka”, or “XYZ Vodka”).	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None
<i>Pharmaceutical</i>	<input type="checkbox"/> Under the Advertising Policy, advertisements relating to the following medical procedures would require prior approval from the Ministry of Health: <ol style="list-style-type: none"> i. Unusual treatments; ii. Organ transplants or blood transplants; iii. Medical services and courses provided by medical organisations; and iv. Importation, manufacturing, sale or export of medicines, medical equipment or pharmaceutical products. 	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None

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<i>Gambling</i>	<input type="checkbox"/> Advertisements that encourage and promote activities which may result in prohibited gambling and addiction are prohibited under the Advertising Policy.	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None
<i>Claims</i>	<input type="checkbox"/> Advertisements promoting any goods and services must: <ul style="list-style-type: none"> i. be genuine and truthful; ii. not exaggerate the quality of such goods and services; iii. not contain any misrepresentations; and iv. be clearly distinguished from any news articles, commentaries or reports. <input type="checkbox"/> There are certain types of advertisements prohibited under Section 63 of the Consumer Protection Law 2019 (CPL), such as advertisements that deceive consumers on the quantity, ingredients, mode of use, price of goods and warranty of the goods and services. <input type="checkbox"/> If an advertisement contains statistics, such statistics must be verified from a reliable source. <input type="checkbox"/> If an advertisement promotes or highlights the activities of charitable organisations, the advertisements must comply with the standards of accuracy set out and required under the Advertisement Policy. <input type="checkbox"/> Under Section 23 of the Competition Law 2015 (Competition Law), advertisements must not, for the purposes of unfair competition <ul style="list-style-type: none"> i. directly compare goods or services of a business with those of the same type of other business; or ii. mislead consumers by imitative advertising. 	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None

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	<input type="checkbox"/> Under the Myanmar Competition Commission Directive No. 2/2020 <ul style="list-style-type: none"> i. advertising that may damage, put at disadvantage or disrupt operations of other businesses is prohibited; and ii. businesses may only claim to the public that they have the support, recognition or affiliation from an organisation if they can provide evidence of the alleged relationship with the relevant organisation. 		
<i>Food & Beverages – general</i>	<input type="checkbox"/> Advertisements promoting F&B products and lifestyle choices which are detrimental to the health of children and youth are prohibited under the Advertising Policy.	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None
<i>Food & Beverages – sugar levels</i>	<input type="checkbox"/> None	<input type="checkbox"/> None	<input type="checkbox"/> None
<i>Personal hygiene/ Sanitary (including condoms)</i>	<input type="checkbox"/> There are no specific regulations applicable to such advertisements. <input type="checkbox"/> In practice, inappropriate contents and advertisements which suggest or instigate sexual behaviour are internally censored by pay TV operators, unless such advertisements are broadcast with <i>bona fide</i> medical, scientific, cultural or religious purposes.	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None
<i>Tobacco</i>	<input type="checkbox"/> Advertisements which promote cigarettes and tobacco and directly or indirectly encourage the sale and/or consumption of such tobacco products are prohibited under the Advertising Policy.	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms.	<input type="checkbox"/> None

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<i>Children</i>	<input type="checkbox"/> The following advertisements are prohibited under the Advertising Policy: <ol style="list-style-type: none"> i. advertisements that provide bad health examples to, or encourage, children and youths to engage in inappropriate behaviour; ii. advertisements which instigate speech, behaviour and language that are detrimental to the children’s and youth’s education/learning; iii. advertisements which promote food and beverage products and lifestyles which are detrimental to the health and well-being of children and youths; and/or iv. advertisements promoting baby milk powder intended for babies aged six months or below without including the relevant notifications from the Ministry of Health which seeks to promote breastfeeding. <input type="checkbox"/> In addition to the above, the MCC sets out that children should not be interviewed without the consent or supervision of a responsible adult (e.g. parent, guardian, schoolteachers).	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None
<i>Women</i>	<input type="checkbox"/> Advertisements containing words, visual cues and speech which discriminate against women are prohibited under the Advertising Policy. <input type="checkbox"/> Except advertisements which are made for bona fide medical, scientific, cultural and/or religious reasons, the following are prohibited under the Advertising Policy: <ol style="list-style-type: none"> i. advertisements promoting products and acts that directly or indirectly portray sex-related issues; and/or ii. advertisements which display or portray acts and attire that instigate deviant sexual behaviour. 	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None

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<i>Property</i>	<input type="checkbox"/> Any advertisements which insult sacred religious buildings or places of worship are prohibited under the Advertising Policy.	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None
COUNTRY-SPECIFIC INFORMATION	<input type="checkbox"/> Official permission must be obtained before military/police images can be used in advertisements. <input type="checkbox"/> Statements, references and any symbols which are disrespectful to the sovereignty and solidarity of the State are not permitted under the Advertising Policy. <input type="checkbox"/> Statements or references which could disrupt the existing authority, order and stability of the State are also not permitted. <input type="checkbox"/> Advertisements relating to political parties or politicians must comply with existing laws and regulations, including those on political campaigning under the Advertising Policy.	<input type="checkbox"/> While the Advertising Policy does not explicitly make reference to OCC TV, its scope is wide enough to cover any advertisements published on the internet. This means that, in theory, advertising on OCC TV platforms would be subject to the same restrictions as advertising on pay TV platforms. <input type="checkbox"/> The MCC only applies to online content providers on an opt-in basis.	<input type="checkbox"/> None
Useful Links	<input type="checkbox"/> The Consumer Protection Law 2019 < https://mlis.gov.mm/mLsView.do;jsessionid=9276759C42ACB398CC0A4E78CDDB88A8?lawordSn=18385 > <input type="checkbox"/> The Competition Law 2015 < https://www.mlis.gov.mm/lsScPop.do?lawordListId=727 > <input type="checkbox"/> Myanmar Competition Commission Directive No. 2/2020 < https://mmcc.gov.mm/documents/Order%20(2-2020)-eng-final%20(2).pdf >		