



2024 AVIA Regulating for Growth – OCC TV Matrix for Pakistan

Questions	OCC TV	Foreshadowed changes?
<p>1. How regulated? <i>Details of regulator/s</i></p>	<p>Currently unregulated</p>	<p>There are several separate, overlapping proposals that may potentially regulate OCC TV in Pakistan:</p> <p>1) PEMRA:</p> <p>The existing electronic media regulator Pakistan Electronic Media Regulatory Authority (PEMRA) is working on a draft regulation that would license “Web TV” and “OTT TV”. “OTT TV” in the draft regulation refers to video on demand delivered through the internet. This would include OCC TV. In January 2020, PEMRA issued a Consultation Paper on Regulating Web TV and Over the Top TV Content Services but there have been no further public developments.</p> <p>2) PTA:</p> <p>On 25 June 2024 the PTA issued the Consultation Paper on Over-the-Top (OTT) Regulatory Framework which mentioned regulatory mechanism for the stakeholders to enable the development and facilitation/management of OTT based services in Pakistan.</p> <p>3) E-Safety Bill</p> <p>In 2023, the Federal Cabinet approved the E-Safety Bill, 2023. The E-Safety Bill if passed by Parliament would establish a new regulatory body to regulate different online services, including OCC TV. The E-Safety Bill 2023 has not been made available to the public.</p> <p>Relevant drafts:</p>

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		<p>PEMRA Consultation on Regulating the Web TV & Over the Top TV (OTT) Content Services</p> <p>Consultation Paper on Over-the-Top (OTT) Regulatory Framework</p> <p>E-Safety Authority Bill [Copy not publicly available]</p>
<p>2. Copyright protection?</p>	<p>Pakistan is a party to the Berne Convention and offers copyright protections under the Copyright Ordinance, 1962. Content that is aired on pay TV would appear to be protected under Pakistan’s copyright laws. There are civil, criminal and administrative enforcement mechanisms available under the law. We are not aware of any action that has been taken by the government specifically to address online piracy.</p> <p>Copyright legislation in Pakistan has not been adequately enforced in Pakistan. DVDs, VCDs and audio CD with pirated content were openly available in dedicated markets. While recent enforcement action has addressed larger centralised distribution centres, smaller distribution centres for pirated content continue to operate throughout the country.</p> <p>Licensed distribution services (particularly cable TV distribution services) used to air pirated content on in-house distribution channels, with no apparent enforcement by the regulator or by law enforcement authorities. Due to recent restrictions on airing foreign (especially Indian) content on in-house distribution channels, the airing of pirated content has reduced significantly.</p>	<p>Pakistan's National Music Policy (referred to as the Policy) outlines various measures for protecting musical works and supporting stakeholders in the music industry. In terms of legal protection, the policy aims to establish and enforce copyright laws, including regulations for music licensing, royalties, and digital distribution. It proposes extending the assignment of copyright to at least 50 years, up from the previous 10 years, implementing anti-piracy measures, providing protection for works using modern AI and technology, and ensuring transparency and accountability within the music industry through regulations for music streaming platforms, collection societies, and other intermediaries.</p> <p>The Policy also addresses the protection of "International Music Digital Platforms" such as YouTube and Spotify from arbitrary government bans. Additionally, it envisions negotiations with digital platforms such as Google, Amazon, iTunes, Spotify, YouTube, Instagram, and SoundCloud to improve streaming revenue for Pakistani music.</p> <p>Furthermore, the policy draws inspiration from other countries and seeks to impose stricter penalties for piracy, including imprisonment and fines. Additionally, it envisions the creation of a regulatory body to oversee copyright issues and enforcement in the country.</p> <p>These policy measures have not been implemented yet, and there is no timeline for implementation.</p>

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<p>3. Convergence and new technologies</p>	<p>OCC is currently unregulated. Most OCC providers in Pakistan are foreign-based companies unlike traditional delivery platforms which are regulated, local companies.</p>	<p>Since 2020 PEMRA has been working on a draft regulation that would license OTT TV (which includes OCC services). Under the regulations, there is largely equal treatment of different delivery platforms. Dish-to-Home (DTH) delivery is currently prohibited though PEMRA is reportedly working on a licensing framework.</p> <p>PTA has issued the Consultation Paper on Over-the-Top (OTT) Regulatory Framework, which categorizes some kinds of OCC providers as OTT Non-Broadcasting Media Services and states that these providers do not need authorization or licensing from PTA but will be managed as applicable under the Prevention of Electronic Crimes Act, 2016 and other laws as applicable. The consultation paper also mentions certain obligations that will be binding on the OTT Non-Broadcasting Media Services.</p> <p>Separately, the E-Safety Bill if passed by parliament would establish a new regulatory body responsible for registering and monitoring OTT platforms and Web TV channels.</p> <p>In practice, some licensed large cable TV providers are also providing internet services under a separate licence, and thus have the technical capacity to impact the provision of OCC services in an anticompetitive manner.</p>
<p>4. Licensing of foreign channels <i>Allowed, prohibited or unregulated?</i></p>	<p>Currently unregulated</p>	<p>According to the draft framework of PEMRA, none of the foreign operators would be allowed to provide OCC Services unless they incorporate a company within Pakistan and obtain an exemption from PEMRA or they enter into a partnership with a local entity within Pakistan where the local entity would be applying for the licence.</p>

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		The PTA's Consultation Paper on Over-the-Top (OTT) Regulatory Framework does not require OCC network providers to obtain any authorisation or licensing from the PTA.
5. Licence fees and taxation	Currently unregulated	Proposed fees: Upfront licensing fee: PKR 5 million (approximately USD 18,000) Annual Fee: 20% of licence fee + 2% of Gross Annual Revenue These licensing fees are the same for domestic and international players.
6. Rate regulation <i>Including wholesale and retail rate regulation and whether there are any price controls on eg. basic tier</i>	Currently unregulated	The proposed regulations of PEMRA require all the licensees to notify both the PEMRA and the subscribers of any change in their tariff at least 1 month in advance.
7. Programme packaging <i>Including tiering, bundling, any mandatory a la carte</i>	Currently unregulated	We are not aware of any foreshadowed changes.
8. Restrictions on advertising <i>Including localisation rules, revenue and minutage restrictions</i>	Advertisement services provided by OCC are subject to sales tax under Pakistan's provincial sales tax laws. The rate of taxation ranges between 10 - 16%. These sales tax obligations technically extend to foreign services with no local presence, though there is no public information to suggest these have been successfully enforced against offshore entities. According to one report, a provincial tax authority served a notice to Facebook and Google (both do not have a local presence in Pakistan) to register for sales tax, but both companies did not accept the jurisdiction of the tax authority.	We are not aware of any foreshadowed changes.

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	<p>There is a parallel “income tax” charged at 5% on fees collected by offshore OCC for online advertising. This amount is withheld by local banks when remitting payments to offshore services. However, this is not being enforced in relation to payments made through credit cards and debit cards.</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>	<p>Pakistan has issued the <u>Removal and Blocking of Unlawful Online Content Rules, 2021</u>, which empowers the Pakistan Telecommunication Authority (PTA) to order any service provider (which may include a provider offering OCC TV) to remove any online content if it considers necessary in the interest of glory of Islam, security of Pakistan, public order, decency and morality or integrity or defence of Pakistan.</p>	<p>The proposed framework of PEMRA highlights that local content quota laws would not be applicable to OCC due to them being a non-linear platform. Moreover, it requires OCC to conform to the PEMRA Code of Conduct 2015 which places restriction on airing certain content which includes but is not limited to content that is against Islamic values, against the state, is indecent or obscene, is abusive etc.</p>
<p>9. (b) Content regulation <i>Including languages, dubbing/subtitling and captioning</i></p>	<p>There are existing requirements applicable to all foreign TV channels available through landing rights permission in Pakistan in relation to dubbing where only up to 50% of general entertainment content may be dubbed in Pakistani languages. Moreover, there is no general restriction on subtitling. Advertisements in the form of subtitles should not exceed more than one tenth of the screen.</p> <p>These regulations that are applicable to traditional delivery platforms will apply to OCC as well.</p>	<p>We are not aware of any foreshadowed changes.</p>
<p>10. Programme supply restrictions</p>	<p>Currently unregulated</p>	<p>Traditionally, to ensure fair competition, the maximum number of licences that may be issued to a company does not exceed a</p>

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<i>Including must provide rules and other restrictions on exclusivity and anti-siphoning rules</i>		certain number. Even in the draft regulation that PEMRA is working on, it is stated that it would be PEMRA's responsibility to provide a level playing field to all.
11. Restrictions on FDI <i>Including platforms and wholesale supply of programming and cross-media ownership restrictions</i>	Currently unregulated	<p>The proposed PEMRA framework will make it mandatory that the majority control of the entity providing OCC vests in local nationals. The regulator may in its discretion grant an exemption from this requirement to foreign companies or allow foreign companies to partner with local companies who will hold the licence.</p> <p>The proposed PEMRA framework further restricts the licensed entity providing OCC from having a broadcast media licence or landing rights permission.</p>
12. Retransmission arrangements <i>Including must carry and remuneration</i>	Currently unregulated	Generally, there are no requirements regarding retransmission arrangements specific to pay TV. As per the draft regulation that PEMRA has been working on since 2020, regulations that are applicable to traditional delivery platforms will apply to OCC as well.
13. Consumer protection Including cooling-off period, termination rights and payment mechanism	Currently unregulated	The proposed regulations of PEMRA requires all licensees to notify both the PEMRA and the subscribers of any change in their tariff at least 1 month in advance.
14. Entering a new market: FAST TV	Currently unregulated	Local incorporation will be mandatory under the proposed regulation. This will require a physical presence/local office. It will not be possible to get a licence without a local incorporation and local office. Theoretically, a small operating service operating from outside Pakistan could be subject to a domain-level block in Pakistan for operating without a licence if the draft regulations are approved. However, as it may be impractical for the regulator to block all such services, it is expected the focus of

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		regulatory enforcement to be on larger and more well-known services operating in Pakistan.
15. Data handling	Currently unregulated	Pakistan is currently considering a general personal data protection legislation that would impose various restrictions on the cross-border transfer of personal data. Latest public draft is available here .
Other country-specific information not already covered		