



2024 AVIA Regulating for Growth – OCC TV Matrix for Taiwan

Questions	OCC TV	Foreshadowed changes?
<p>1. How regulated? <i>Details of regulator/s</i></p>	<ul style="list-style-type: none"> <input type="checkbox"/> Not yet formally regulated. <input type="checkbox"/> On July 15 2020, the National Communications Commission (NCC) passed the draft of "Internet Audiovisual Service Management Act" (the draft Act), which the Taiwanese media often refers to as the "special OTT act." On July 22 of the same year, NCC announced the draft Act and sought to collect public opinions. On May 25 2022, NCC passed the framework of the draft Act. <input type="checkbox"/> The draft Act authorises the NCC to be the formal regulator of the OCC sector. The draft Act initially emphasised a low level of regulation of the OCC TV industry as a whole, and only regulated large-scale operators. That is, only operators with a certain number of subscribers or a certain amount of capital were required to assume considerable obligations, including registration, regular reporting of usage, turnover, click-through rate and traffic, etc. Though well-intentioned, the draft Act immediately sparked controversies upon its announcement. Both domestic and foreign OCC TV operators expressed doubts as the items to be declared involve a high degree of business secrets. <input type="checkbox"/> Given the diverse views on the draft Act, the OCC TV-related regulations have not been formally implemented since the draft Act was first proposed in 2020. However, due to the rapid growth of OCC TV in Taiwan in recent years, the NCC has indicated that it will amend the draft Act in 2024 to prioritise the protection of consumer rights. 	<ul style="list-style-type: none"> <input type="checkbox"/> The Ministry of Digital Affairs (MODA) may also regulate OCC TV, as set and announced by the President on January 19, 2022. <input type="checkbox"/> The MODA’s main missions are to promote the development of the digital economy and guide and manage digital economy-related industries. As per its organisational act, the MODA is the authority responsible for digital economy development. This includes policy planning and regulation drafting for digital economy-related industries, promoting digital technology applications, such as artificial intelligence, big data, platform technology, system integration and field applications, software products and digital services, digital content and data economy, and cultivating talent for digital economy-related industries. Due to this mission, the MODA is also in charge to some extent for overseeing OCC TV and internet media. However, it remains to be seen how the NCC and the MODA will divide supervision of OCC TV-related business between them. <input type="checkbox"/> The draft Act refers to the draft of “Internet Audiovisual Service Management Act” passed by NCC on July 15, 2020, which is the IAMSA. The NCC has included the IAMSA in the 2024 amendment plan, and it is expected to be submitted to the Executive

Questions	OCC TV	Foreshadowed changes?
		Yuan for review in June 2025. However, no further action has been taken at the current stage.
2. Copyright protection?	<ul style="list-style-type: none"> <li data-bbox="562 323 1382 531">❑ The Taiwan Network Information Centre (TWNIC), the official referral entity under the Ministry of Digital Affairs (MODA) (NCC), has initiated an administrative site blocking mechanism through Mutually Agreed Norms for Internet Intermediaries (MANII) to handle copyright infringement disputes between right owners and ISPs. <li data-bbox="562 539 1382 675">❑ Taiwan copyright law includes protection for online television broadcasts and programmes broadcast online. However, in practice there is no enforcement possible against overseas websites. <li data-bbox="562 683 1382 1217">❑ As a result of concern about the effectiveness of the copyright Act, in 2022 the NCC proposed an updated version that puts more emphasis on copyright protection and involves a higher level of supervision and penalty. Compared with the 2020 draft Act, the 2022 version changed the approach to regulation from voluntary registration to "behavior management"; a hierarchical obligation mechanism was also adopted. To address the controversy over the 2020 version's insufficient piracy control, the IAMSAs draft Act introduced a new mechanism: if a court determines that an OTT service provider is offering video content that violates the Copyright Act, the NCC may demand such provider to correct its behaviour. This can include asking telecom businesses and ISPs to block the provision of services if the provider has engaged in multiple acts of infringement. <li data-bbox="562 1225 1382 1289">❑ Lack of any clear provisions allowing rights holders to apply to the government or courts for orders to block pirate sites. 	No changes.
3. Convergence and new technologies	Not yet regulated.	No changes.

Questions	OCC TV	Foreshadowed changes?
<p>4. Licensing of foreign channels <i>Allowed, prohibited or unregulated?</i></p>	<p><input type="checkbox"/> Currently, there is no law that specifically regulates online video programme distribution services. Therefore, the provision of pure OCC services in Taiwan would not trigger any licence requirements such as those under the Radio and Television Act (RTA), Cable Radio and Television Act (CRTA) or Satellite Broadcasting Act (SBA). Nonetheless, if an OCC service is provided in the name of a fixed network telecom operator (e.g., Chunghwa Telecom) by using the PSTN rather than the internet, and the content therein is linear programming, this service would still be deemed a value-added telecom service, and a telecom licence would be required.</p>	<p>The term "internet audiovisual service" defined in the draft Act refers to the service where the edited and filtered video content is provided by service operator in its name to local viewers through the internet for the operator's profits. According to the last version of the draft Act, User Generated Content (UGC) and shared information on social media platforms, such as Facebook, YouTube, or Instagram, are not subject to the draft Act, since the aforesaid contents are mainly edited and uploaded by the users themselves, rather than by the service operator. Under the draft Act, an OCC operator, regardless of whether it has a local presence or not, onshore or offshore, would be required to register with the NCC, if its number of subscribers, annual revenue, or traffic volume conveyed meet the criteria as announced by the NCC, and hence be subject to the draft Act. Among others, the draft Act would require applicable OCC operators to report their fee schemes and other business information to the NCC. In addition, they may be required to take certain measures to foster local-produced contents. As noted above, the draft Act remains under discussion at the time of writing.</p>
<p>5. Licence fees and taxation</p>	<p><input type="checkbox"/> Article 6 of the Value-added and Non-value-added Business Tax Act states that foreign enterprise, institution, group, or organisation having no fixed place of business within the territory of the R.O.C., but that sells electronic services over the internet or other digital network to an individual in the territory of the R.O.C, is also known as "taxpayer" under Taiwanese laws.</p>	<p>No changes.</p>

Questions	OCC TV	Foreshadowed changes?
	<input type="checkbox"/> Pursuant to the Regulations Governing the Levying of Income Tax on Cross-border Electronic Services by a Foreign Profit-seeking Enterprise in 2018, OCC TV and other e-commerce service providers will need to file taxes if their annual sales revenue in the nation exceeds NT \$480,000.	
6. Rate regulation <i>Including wholesale and retail rate regulation and whether there are any price controls on eg. basic tier</i>	Not regulated.	No changes.
7. Programme packaging <i>Including tiering, bundling, any mandatory a la carte</i>	Not regulated.	No changes.
8. Restrictions on advertising <i>Including localisation rules, revenue and minutage restrictions</i>	Not regulated.	No changes.
9. (a) Content regulation <i>Including local content quotas, content control and insertion of classification and other content labels into international feeds</i>	<input type="checkbox"/> Under the current regulatory regime, while no mandatory content code is imposed on internet platform providers for internet content, internet platform providers are required to comply with some laws and regulations, such as the Protection of Children and Youth Welfare and Rights Act, Taiwan Criminal Code and the relevant competition laws and regulations.	<input type="checkbox"/> According to the IAMSA draft Act as orally informed by the NCC official in charge, there would be no specific content censorship imposed on OCC operators, provided that OCC operators shall ensure the contents of video programmes provided would not violate the current applicable laws (e.g., the Criminal Code).
9. (b) Content regulation <i>Including languages, dubbing/subtitling and captioning</i>	<input type="checkbox"/> None.	No changes.
10. Programme supply restrictions <i>Including must provide rules and other restrictions on</i>	<input type="checkbox"/> No restrictions.	No changes.

Questions	OCC TV	Foreshadowed changes?
<i>exclusivity and anti-siphoning rules</i>		
11. Restrictions on FDI <i>Including platforms and wholesale supply of programming and cross-media ownership restrictions</i>	<input type="checkbox"/> No restrictions.	No changes.
12. Retransmission arrangements <i>Including must carry and remuneration</i>	<input type="checkbox"/> Not yet regulated.	No changes.
13. Consumer protection Including cooling-off period, termination rights and payment mechanism	<input type="checkbox"/> According to Article 19 of the Consumer Protection Act, if a consumer purchased a certain product/service online, such consumers have the right to return the product or notify the seller in writing of his/her intention to rescind the contract within seven days (i.e., cooling-off period) of receipt of the product/service without cause or having to pay any part of the purchase price or additional expenses.	No changes.
14. Entering a new market: FAST TV	<input type="checkbox"/> No restrictions.	No changes.
15. Data handling	<input type="checkbox"/> The Personal Data Protection Act (PDPA), a general law regulating the collection, processing and use of personal data in Taiwan, requires data controllers to have in place appropriate measures to prevent personal data from being stolen, altered, damaged, destroyed, lost or disclosed. The Enforcement Rules of the PDPA further provide certain technical and organisational measures that data controllers may consider adopting based on the principle of proportionality (i.e., based on the quality and quantity of the personal data involved). Moreover, pursuant to Article 21 of the PDPA, the central competent authority has the power, in its discretion, to prohibit cross-border transfers of personal data if, <i>inter alia</i> , it will prejudice any material national interest. After the PDPA amendment in 2023, the competent	No changes.

Questions	OCC TV	Foreshadowed changes?
	<p>authority of the PDPA is the Personal Data Protection Commission.</p>	
<p>Other country-specific information not already covered</p>	<p><input type="checkbox"/> The Jing Shang Zi No. 10902423740 Announcement by the Ministry of Economic Affairs (MOEA) imposed a new ban on Chinese OTT platforms to prevent Chinese OTT platforms from operating in Taiwan through local agents. Since September 2020, Taiwanese citizens have been prohibited from acting as agents or distributors of OTT TV for persons, legal entities, organisations or other entities in China, as well as from providing intermediary input services or related commercial services.</p>	<p>No changes.</p>