

計畫摘要

自 OTT 業者興起後媒體閱聽眾勢將進行重分配，對傳統媒體市場廣告收益亦產生了排擠效用，也引發境外 OTT 與本土如何公平規管的問題。其實不只 OTT 引發的各項衝擊，媒體市場其實亦面臨著許多問題及重重挑戰，例如：國內傳統廣播電視產業隨著通訊科技日新月異有營運模式轉型的聲浪；各競爭媒體間因應市場發展公平規管的問題；鼓勵本土內容產業發展的問題；黨政軍不得經營媒體是否有因時修正的問題，以及如何管制媒體水平集中與垂直整合的問題。此外有線電視已由以往的類比訊號全面轉換為數位訊號，搭配目前行動網路高度普及化，以及雲計算、物聯網 (IoT)、人工智能 (AI) 和大數據分析興起的趨勢，媒體勢將在數位生活時代扮演更全方位的角色，也將帶來更新的監理議題，特別是傳統上閱聽人被認為具有高度主動選擇能力的理性，但隨著大眾媒體主體的消失，閱聽人參與媒體製作也愈來愈盛行，過往的想像需要重新調整，閱聽人的典範也需要重新打造。

本研究以文件分析法針對已發布之綠皮書所揭櫫的各項議題，在各類型傳媒中爬梳各界意見，以側面的角度探知普羅大眾對國家通訊傳播委員會傳播政策的意向。此外，再藉由辦理公開說明會及座談會的機會，以正面的角度拋出各項議題就教專家學者及社會大眾。本研究已於綠皮書公告徵求意見期間(107 年 9 月 1 日至同年 10 月 31 日)，爬梳各媒體所載與綠皮書相關之討論意見，再如前述說明，舉辦一場公開說明會、兩場專家座談會，並彙整各界主動投書之意見，總計彙集 50 餘份各界意見，最後再將前揭意見按綠皮書各項議題，拆解意見基調別，共計整理約 700 餘項正反意見基調。

本研究重大發現有八項，針對「競爭平臺間的管制調和」之意見，於數位匯流下，不同技術、服務模式、及服務品質之平臺(包括

有線電視系統、IPTV 及 OTT TV 等)，多數意見均傾向監理機關應將各平臺規管機制一致化，特別是 OTT 應一併納入規管。同時，也有部分意見藉綠皮書徵詢意見，表達希望主管機關強化查緝盜版之意見。考量管制公平性，境外業者須就特定行為履行義務。而對於修改黨政軍條款，輿論有高度討論熱度及高度共識，論者更具體提出回歸政黨法規範、修改違規之處罰客體等調整方向。

而針對「媒體水平集中及垂直整合之管制」之意見，觀察目前輿情走向，對於因應科技技術及數位匯流發展，重新界定視聽媒體市場乙節，從業人員已有相當之共識，並多聚焦在未來應如何調整監管措施。對於建立建立媒體市場多元化指標，也有部分支持的聲音，同時也認同集中度應為其中一項衡量指標，但也有論者表示，回歸至現行反壟斷法及公平交易法即可，無須建立多元指標。而針對廣電媒體與 IPTV 垂直整合之議題，輿論則莫衷一是，且討論熱度相對不高，甚至有業者認為，IPTV 並無垂直整合之可能，無須納入規管。

另針對「廣電事業執照制度與評鑑換照」之意見，現行廣電三法以執照制度為管制基礎，並以定期評鑑與換照機制配套監理，業者多表達建議延長特許執照效期，同時降低換照門檻，另有業者表達期望規管衛星頻道與無線電視的強度能夠劃一。另外，有關評鑑制度設計合理之退場機制讓經營者得以進出市場乙節，鮮少有論者回應，僅一家業者表達評鑑制度甚難讓業者退出市場，同時，也有業者建議換照及評鑑制度之流程能再簡化，以利市場發展。

有關「頻道授權、上下架排頻及消費者選擇」之意見，當頻道授權發生爭議時，大多數業者不贊成主管機關介入，但稍微多數的業者卻建議主管機關應建立上下架的遊戲規則。另針對立法規範頻道代理商在我國頻道授權的議題，國內輿論則分為兩派意見，一派主張應立法規管，另一派則認為現行公平交易法以可解決可能的爭

議。有關針對因頻道授權之差別待遇導致市場限制競爭，多數論者建議通訊傳播主管機關與競爭法主管機關有無需要調整分工。最後，針對有線電視費率管制議題，多數業者皆支持放寬費率管制。

續就「影視產製振興與本國文化提振」之意見，境外衛星廣播電視事業經營之衛星頻道節目供應事業及 OTT 業者，多數業者認同境外業者應比照本國業者課以同等義務。多數的業者支持境外業者應課以本國節目播送比例義務。針對通訊傳播主管機關可寬列預算用於促進本土視聽內容產製，經費來源，有建議以租稅措施籌措、有建議自文化發展基金或國發基金籌措、或是自平台業者獲利中提撥一定比例成立基金推動。

另針對「內容監理與媒體識讀」之意見，視聽傳播服務可能延伸至網際網路，但多數意見不贊成訂定網路專法，希望針對特定議題訂定規範，現行廣電法規對於廣告規範及執行，建議放鬆管制以自律機制代之，在網際網路上的侵權行為、節目播放內容與銷售行為之規管，則建議與多方利害關係人進行討論後建立標準。目前討論較為熱烈的「假新聞」事件，有主張爭議新聞或假新聞不宜由行政機關認定者，也有主張行政機關應對假新聞有所防制，有論者主張媒體識讀可納入教育部的課綱中，並增加媒體識讀的預算。

關於「無線廣播之未來想像」之意見，針對廣播產業廣告額逐年衰退，多傾向於開放廣告管制，也有建議鼓勵電台整併、與在地文化等建議，甚至還出現開放外資 100% 持有廣播電台的建議。唯一稍微熱絡的，是關於指定用途電台有無存在必要的討論，很明顯可看出，有業者對指定用途電台負擔較輕的監理義務有不同的看法，而既有的指定用途電台，則表達了多項存在的價值與意義。後續監理主管機關制訂政策前，應再廣蒐廣播產業之意見。

最後就「無線電視與公共媒體之發展」之意見，建議政府增加

頻寬以因應未來互動應用需求、建議降低頻率使用費、公共性及商業性目的須分開考量，以及鼓勵自製節目境外銷售等。節目必載的規定，論者多傾向有必要以目前時空情境重新檢討。主管機關或可考慮將無線電視傳輸平台進行「台網分離」，現行公共媒體有資源重疊的情形，為利有效資源整合應推動公共媒體整併，再由政府逐年編列合理經費，穩定支持公共媒體的永續經營。

本研究之建議，原則上採取「最小幅度修法」途徑，亦即短期內冀希盡可能透過落實並強化執法、或行政部門修正法規命令等方式，達成有實效的法制政策環境轉換；中長期再以整全的法制革新，正本清源並釜底抽薪地完備傳播法體系。

有關立即可行之建議如下：

1. 競爭平臺間的管制調和：可思考透過法規命令之修正，將有廣法之相關權利義務規定，移植至固網管理規則，並以具獨立性管理部門之模式，為 IPTV 之黨政軍條款解套。
2. 頻道授權、上下架排頻及消費者選擇：透過既有民法、行政罰法或公司法，落實並強化廣電三法之執法。
3. 媒體水平集中及垂直整合之管制：，現行之媒體水平集中及垂直整合管制規範仍不宜貿然落日。
4. 影視產製振興與本國文化提振：持續鼓勵匯流與公平競爭，以發展 4K8K 播送。
5. 內容監理與媒體識讀：研析網際網路內容與線上視聽服務平臺（如 OTT 平臺）之相關規範，進行政策規劃。規劃增進檢測工具與人員能力，建立不實訊息即時預警系統，以及提升公眾媒體素養等政策方向。
6. 廣電事業執照制度與評鑑換照：朝向簡化評鑑換照流程，並拉齊、且拉長執照有效期間之方向思考。
7. 無線廣播之未來想像：與經濟部、交通部溝通協調，規劃包

含一般隨機型收音機、及內建於車用資訊娛樂系統之廣播接收機等產品之標準化。

8. 無線電視與公共媒體之發展：積極與文化部溝通協調。

有關中長期性建議如下：

1. 競爭平臺間的管制調和：通盤修正有廣法，徹底解決有線電視與 IPTV 匯流的問題、以及重塑黨政軍條款。另規劃 OTT TV 平臺之監理模式。
2. 頻道授權、上下架排頻及消費者選擇：建立以頻道業者申訴方啟動之以差別待遇為核心的頻道載送監理模式。
3. 媒體水平集中及垂直整合之管制：具體的法制革新，應與「反媒體壟斷」相關立法做整體思考與規劃。
4. 影視產製振興與本國文化提振：擴大獎勵補助措施或租稅優惠。
5. 內容監理與媒體識讀：建立完整的網際網路內容治理法制。
6. 廣電事業執照制度與評鑑換照：規劃具體的執照有效期間、以及降低管制密度後的公民團體參與、共管機制等。
7. 無線廣播之未來想像：考慮以技術中立的方式開放實驗執照。
8. 無線電視與公共媒體之發展：一致化「公共媒體法」草案與廣電三法之相關規範內容。

關鍵字：傳播政策、綠皮書、數位匯流

Abstract

I. Motivation

Since the rise of the OTT (Over-The-Top) industry, the audiences of media will be redistributed, resulting in the crowding-out effect on the advertising revenue of the traditional media market. It also raises the issue of how to regulate the local as well as the foreign OTT operators. In fact, not only the OTT is causing various impacts, but the media market is also facing many problems and challenges; for example, traditional broadcasting and television industry in Taiwan undergoing business model transformation due to the rapid development and advancement in communication technology; the issue of competing media in response to fair regulation of market development; the issue of encouraging the development of local content industry; the issue of political party or government involving in the operation of media, and the issue of regulating the centralization and vertical integration of media. In addition, cable TV has been fully converted from analog signals to digital signals. With the popularization of mobile networks, and the rise of cloud computing, Internet of Things (IoT), artificial intelligence (AI) and big data analysis, media will for sure play a comprehensive role in the digital era and also bring new issues on monitoring and management. This is particularly true because traditional audiences are considered to be highly rational in active selection. However, as the main body of mass media is disappearing, audiences involving in media production will become more popular. The thinking of the past should be re-adjusted and the model of audiences also needs to be re-created.

II. Research Method and Process

In this study, document analysis method was adopted to explore the opinions of the general public in various media about the issues revealed in the Green Paper and the opinions of the general public on the policies of the National Communications Commission were investigated. Moreover, public meetings and seminars were held to propose various issues openly, hoping to hear the opinions from experts and the general public. In this study, opinions and discussions about the Green Paper by various media during the opinion-requesting period of the Green Paper (September 1, 2018 to October 31 of the same year) have been reviewed. As mentioned previously, one public meeting and two expert seminars have been held to gather the comments and opinions submitted by the general public. A total of more than 50 opinions have been gathered. The gathered opinions were then divided according to the issue categories in the Green Paper. In the end, a total of more than 700 pros and cons of the opinions were organized.

III. Important Finding

(I) Opinion on the “Control and Harmony Between Competing Platforms”

With regard to various platforms with different technologies, service modes and service qualities (including cable TV systems, IPTV, and OTT TV, etc.) under digital convergence, most of the opinions are hoping to see that regulatory authorities should make the regulatory systems of all platforms consistent, especially the inclusion of OTT into the regulatory system. In addition, some opinions have been requesting advice via the Green Paper, expressing the hope that the competent authorities should strengthen their countermeasures and commitment in fighting against piracy. Considering the fairness of regulation, foreign operators must fulfill

their obligations for certain actions. As for the revision of the regulations for political party and the government involving in media operation, public opinions have made a lot of discussions and have reach a consensus. The opinions have suggested that the issue should be regulated by provisions of the Political Party Act as before and the penalties for violating the provisions should be amended.

(II) Opinions on the “Control of Media Centralization and Vertical Integration”

Observing the current trend of public opinions, with regard to the redefining of media market in response to the development of technology and digital convergence, the practitioners have reached considerable consensus, and focused on how to adjust the regulatory measures in the future. As for establishing a diverse index for the media market, there were some supporters, who also believed that centralization should be one of the assessment indexes. However, some opinions also suggested that going back to the current anti-monopoly law and fair trade law can solve the problem without establishing a diverse index. Regarding the issue of vertically integrating broadcasting media and IPTV, the public opinions were not consistent, and the degree of discussions was relatively low. Some operators even believed that vertical integration of IPTV is not possible and does not need to be included for regulation.

(III) Opinions on the “Broadcasting Business Licensing System and License Renewal Assessment”

The regulation of the current Broadcasting Act is based on the licensing system, in which regular assessment is implemented for license renewal and supervision. The business operators have expressed their

opinions, hoping to extend the effective period of the license, and at the same time reduce the threshold for license renewal. Some other business operators have expressed the hope that the regulation on satellite channels and wireless TVs can be uniform. Regarding the design of the assessment system which includes the withdrawal mechanism for business operators to exit the market, there were only few opinions. There was only one business operator expressing their concern about the assessment system which has made the business operator difficult to exit the market. Some business operators suggested the license renewal process and its assessment system should be simplified in order to benefit market development.

(IV) Opinions on the “Channel Authorization, Online, Offline, Arrangement and Consumer’s Selection”

When there is a dispute over the channel authorization, most of the business operators are against the intervention of the competent authorities. However, small majority of the business operators suggested that the competent authority should establish rules for regulating channel online and offline. Regarding to the issue of regulating channel agents by legislation to receive channel authorization in Taiwan, domestic opinions are divided into two parties; one party suggested the authorization of channel agent should be regulated by legislation, while the other party believed that the current Fair Trade Act can resolve possible disputes. Regarding the discrimination in channel authorization leading to limited market competition, most opinions suggested that the competent authorities of communication & broadcasting and the competent authorities of Competition Act may need to adjust their duties and responsibilities. Finally, regarding the regulation of cable television rate,

most business operators supported the relaxation of rate control.

(V) Opinions on the “Revitalization of Film & Television Industry and Domestic Culture Boost”

Regarding to foreign satellite channel providers and OTT operators, most of the business operators agreed that the foreign operators should have the same obligations as the domestic operators. Most of the business operators supported that foreign business operators should have the obligations to broadcasting certain proportion of domestic program. Opinions have suggested that the competent authorities of communication & broadcasting should plan budget to promote the production of local audiovisual contents. As for the source of the budget, some opinions suggested that rental tax can be implemented. Other opinions suggested that the funding can be gathered from the Cultural Development Fund or the National Development Fund or from a certain percentage of the profit from the platform operators, serving as the promotion fund.

(VI) Opinions on the “Content Management and Media Literacy”

Audiovisual communication services may extend to the internet. However, most of the opinions are against stipulating internet-designated laws, hoping to set standards for specific issues instead. The current provisions of the Broadcasting Act for advertising specifications and implementation suggest relaxing the control system and replace it by the self-discipline system. Regarding the regulation of the infringements, the program content and the sale behaviors on the internet, the opinions suggested to establish standards after discussing with various stakeholders. As for the “Fake News” incident which has gain tremendous attention recently, some opinions suggested that controversial news or fake news

should not be recognized by administrative agencies, and some opinions suggested that administrative agencies should guard against fake news. Some opinions suggested that media literacy can be included in the school curriculum of the Ministry of Education; therefore, the budget for media literacy can be increased.

(VII) Opinions on the “Outlook of Wireless Broadcasting”

Regarding to the decline of the advertising volume of the broadcasting industry year by year, the opinions have a tendency to open up advertising controls. There are also suggestions for radio station consolidation and integration with local culture. Some opinions suggested that radio stations can be hold 100% by foreign investors. The opinion that had slightly more discussion is about whether there is a need for a designated-purpose radio station to exist. It is obvious that some business operators have a different point of view on the more relaxed management obligation for designated-purpose radio stations. On the other hand, the existing designated-purpose radio stations have expressed their values and significance for existences. Before establishing further policies, the regulatory authority should gather more opinions from the broadcasting industry.

(VIII) Opinions on the “Development of Wireless Television and Public Media”

The opinions have recommended that the government should increase the bandwidth to meet the needs of future interactive applications, and lower the frequency usage fees. It is also recommended that public and commercial purpose media should be separated. Some opinions encouraged the selling of locally made TV programs to overseas market. As for the “must-carry” regulation, the opinions suggested to re-examine

rules according to the current circumstances. The competent authority may consider conducting the "platform and network separation" for the wireless TV transmission platform. Moreover, the resources of current public media are overlapped. In order to facilitate the integration of resources, public media consolidation should be promoted. In addition, the government should plan appropriate budget year by year to support public media, achieving sustainable operation.

IV. Major Suggestions

The suggestions proposed by this study basically followed the "minimum revision" approach; that is to achieve an effective legal policy environment transformation in short term through the implementation and strengthening of law enforcement, or the amending of rules and regulations by the administrative offices, etc. In medium or long term, a comprehensive legal system change can be carried out to complete the system of the Broadcasting Act.

(I) Suggestions that can be carried out immediately

1. **Control and Harmony between Competing Platforms:** It can be considered that through the amendment of rules and regulations, the relevant rights and obligations of the Cable Broadcasting Act can be transferred to the management rules for landline. The regulations for political party, government and military based IPTV can be solved by implementing the model with independent management department.
2. **Channel Authorization, Online, Offline, Arrangement and Consumer's Selection:** Implement and strengthen the enforcement

of the Broadcasting Act through the existing Civil Code, the administrative sanction or the Company Act.

3. Control of Media Centralization and Vertical Integration: The current control regulations for media centralization and vertical integration should not be easily removed.
4. Revitalization of Film & Television Industry and Domestic Culture Boost: Continue to encourage convergence and fair competition to develop 4K8K broadcast.
5. Content Management and Media Literacy: Study and analyze the relevant specifications of internet content and online audio-visual service platforms (such as OTT platform) for policy planning. Plan to improve the testing tools and the capabilities of personnel, establish real-time warning system for false information, and enhance public media literacy.
6. Broadcasting Business Licensing System and License Renewal Assessment: Working towards the direction of simplifying the assessment process for license renewal and extending the effective period of the license.
7. Outlook of Wireless Broadcasting: Coordinating with the Ministry of Economic Affairs and the Ministry of Transportation and Communications to plan the standardization of products including general-purpose radios and the broadcast receivers built into car infotainment systems.
8. Development of Wireless Television and Public Media: Actively communicate and coordinate with the Ministry of Culture.

(II) Medium and long term suggestions

1. Control and Harmony between Competing Platforms:

Comprehensively amend the Cable Broadcasting Act to completely solve the problem of cable TV and IPTV convergence, and reshape the provisions to regulate political party, government and military involved in media business. Also plan the supervision and management model for the OTT TV platform.

2. Channel Authorization, Online, Offline, Arrangement and Consumer's Selection: Establish a discrimination-based channel carrying supervision and management model which is triggered by the complaint of channel operators.
3. Control of Media Centralization and Vertical Integration: Specific legal reform which should be planned and carried out taking into consideration the legislations for "anti-media monopoly".
4. Revitalization of Film & Television Industry and Domestic Culture Boost: Expand relevant subsidies or rental tax incentives.
5. Content Management and Media Literacy: Establish a complete internet content governance legal system.
6. Broadcasting Business Licensing System and License Renewal Assessment: Plan specific license effective period, participation of citizen after reducing the regulatory density, and co-management mechanisms, etc.
7. Outlook of Wireless Broadcasting: Consider to open the access of trial license in a technology-neutral manner.
8. Development of Wireless Television and Public Media: To make the relevant contents of the draft of the "Public Media Act" and the Broadcasting Act consistent.

Keywords: Communication Policy, Green Paper, Digital Convergence