摘要

數位匯流時代的逐步成熟引導著數位經濟正向發展,惟在視聽傳播產業格局翻轉之當下,政府應有必要忖度時勢與趨勢,持續追蹤數位經濟的發展,並關切產業變革脈絡下,視聽傳播業者之間競爭、以及服務商與消費者之間的互動變化,並進一步積極調整法制政策,創造視聽傳播產業之友善法規環境,建立現代化、科學化管制之策略框架,促進視聽傳播產業加速融入數位經濟的脈動,以完備全方位的數位經濟環境,以解決視聽傳播產業在進化上所遇到的需求與困難,促進視聽傳播產業加速數位轉型。

本研究依據各委託辦理工作項目,採用文獻分析法、個案研究法及比較分析法,以及規劃舉辦小型座談會之專家訪談法,最終整合各研究方法與工作項目的產出,提出我國數位經濟下傳播匯流法制前瞻革新規劃之具體研析建議。在數位經濟浪潮下,網際網路無遠弗屆的傳輸特性,使得視聽傳播產業經營思考及政府機關於監理上的思維,都必須以重新納入更大的時間與空間跨度;但面對如此迅速且繁複多面向的變化調和,以重塑治理架構的同時之際,本研究認為仍宜應就傳播政策之思考與形塑,先提出與整體憲政架構、基本人權與自由價值與社會文化意涵間相互扣連的基本核心價值,以作為整體思維架構論述和與社會各界對話之基礎。

本研究提出傳播法制政策之四項核心價值:自由、公平、多元及效率;並依此四項核心價值,延伸出四項策略思考:「鼓勵傳播市場參進與競爭」、「健全傳播環境與交易秩序」、「促進內容產製誘因與治理」、「振興無線廣電產業發展」;而每項策略思考皆再依據現況與挑戰之盤點,研議對策、並提出徵詢之議題,供委託單位參考、亦供各界討論。

本研究之重大發現有四。關於有線電視產業,在寬頻連網技術以及智慧裝置普及與不斷革新的進展下,IPTV服務中華電信 MOD 近來也不斷成長外;透過開放式的網際網路服務提供多元琳瑯滿目的OTT TV 視聽內容服務已日漸成為許多民眾、尤其年輕族群使用視聽媒體內容服務的主要方式之一。而有線電視產業如何在日益蓬勃發展的OTT TV 服務競爭下發展,為匯流時代下,有線電視產業發展所面對的挑戰。

而內容產業部分,目前的困境則為電視劇題材類型雖走向多元嘗試,但長期缺乏資金資源,題材掌握經驗略顯不足;我國綜藝綜合節目產製人才長期製作斷層,加上電視頻道投資保守,面對綜藝綜合節目強大的國際競爭,處境更趨艱難;製作成本增加,單一出資方能提供的金額有限;我國普遍的製作經費難以支撐優質製作,難以提昇內容品質,多元內容發展也易受限;電視節目製作事業營運困難,且頻

道業者內容選擇與製作決策保守,不利創新嘗試。

至於無線廣電產業部分,因該產業使用國家頻譜資源,擔負有促進多元、維護本國文化以及保障兒少等弱勢權益的社會責任,皆受有本國自製率的規範。然而,無線廣播電視在有線電視及各類新興視訊傳播事業的崛起下,不僅被收視的機會減少,故發展受限,而呈式微趨勢;加諸內容產製人才流失與不易培養的環境下,優質內容產出逐漸困難,收視聽率恐亦難以提升。

最後,關於新興傳播產業,則在有線電視近全面數位化、及OTT TV 的蓬勃發展下,國內 IPTV 產業監理環境是否因應數位匯流革新需要調整,包括固網管理規則中的多媒體內容傳輸平臺服務,未來應維持完全的開放平臺、抑或配合廣電法制為相應整備;而對於經由網際網路蓬勃發展的OTT TV 產業,則應梳理OTT TV 在數位匯流下的治理法制政策,以促進競爭、活絡數位經濟發展。

本研究提出之建議事項分為立即可行之建議、與中長期性建議兩 大類。關於前者,包括:

1、對於網際網路的治理,立法機關應儘速通過「數位通訊傳播 法」之立法,並採低度規範的治理模式;OTT TV 平臺服務之 治理,應遵循此大原則。對境外 OTT TV 平臺服務業者,應依 同草案第 27 條之精神,在立法通過後,鼓勵境外數位通訊傳播服務提供者於我國設立分公司或代理商,並依法於我國設立稅籍等方向為之。

- 2、針對有線電視費率管制,在有線電視市場未達「有效競爭」之前,費率管制不宜撤廢。
- 3、結構管制的水平訂戶數上限方面,可思考以拉齊兩者管制的方向而為規劃,並可考慮將 IPTV 納入水平訂戶數上限之計算中。
- 4、可思考將各廣電事業的評鑑朝向自辦自評作業化。
- 5、可思考對經營衛星頻道節目供應事業的境外衛星廣播電視事業,課與一定程度的本國節目自製率義務。
- 6、廣播事業部分,可鼓勵該事業與生活形態產業結合,連結地區發展、文化以及在地價值;同時鼓勵廣播事業運用資料數位化技術,保留在地的廣播節目,扮演文化傳承角色。可思考透過適當的法規開放,例如放寬聯播的認定與比例等,以朝增加經營的彈性方向規劃;也可思考鼓勵廣播事業整併之規劃,以減少業者家數過多的情形。

7、立法機關應儘速通過「電信管理法」之立法。嗣後,則應活用該草案中的誘因拍賣機制等方法,積極規劃退場機制,以回收有價值之頻率,供其他更有效率之使用。

中長期性建議如下:

- 關於廣電事業之執照與評鑑換照期間,應修法拉齊各廣電事業之執照效期年限及評鑑期間。
- 2、針對 IPTV,只有在系統經營者依通傳會所訂定公平、無差別 待遇之上下架原則辦理排頻,實施由訂戶自行選擇基本頻道之 措施,並容許頻道服務事業及頻道代理商自行組合頻道者,始 得例外允許放寬政府投資、經營之限制。黨政軍條款規範改採 「實質控制理論」,限縮管制範圍,以及規範及裁罰對象改為 政黨及政府機關(構)等。
- 3、在結合或整合規範方面,應參考美國FCC或德國之KEK等工具,衡量經濟市場與媒體影響力、並資訊來源及意見管道之多元程度等,進一步建立符合我國媒體市場全面性、多元化指標。
- 4、修法賦予通傳會更廣泛的事業資訊調取權;應參考美國有線電視法中的「節目取得規則」制度、或英國的「頻道批發強制授權」管制措施,透過不對稱管制。頻道載送、也即上下架或

排頻之管制,轉向以差別待遇為核心的監理模式。同時創設強制性爭端解決機制。

- 5、針對一定條件下經營 OTT TV 之事業,課與本國節目內容的比例要求。調修廣電三法之規定,重新設計類似舊「有線電視法」之「商業頻道空間租賃」的規範。
- 6、對於不實訊息因應,政府除設重大資訊發布窗口及即時新聞澄清專區外,以自律以及共管機制為政策因應,鼓勵業者自律機制,建立不實新聞查證機制外;鼓勵公民團體評鑑;並由第三方查證單位受理不實訊息檢舉以及定期公布檢測結果;政府各機關並廣設問答集以及加強媒體識讀。
- 7、應建立公共媒體財源獨立之機制;或擴大華視所採取的「播放 廣告的公共服務廣電」模式。
- 8、財政部、文化部等機關,應針對我國關鍵自製影視內容(如偶像劇等)為置入性行銷等廣告投入之廣告主,給予一定之租稅優惠。

本研究認為,整體政府對視聽傳播媒體上的任務與角色,就是 在於掌握快速變遷的通訊傳播技術環境,適時反映並調整治理架構, 以確保國人得以盡可能廣泛地接取多樣多元的內容,以及對高品質 的視聽服務與內容,擁有最大的選擇空間;同時,透過閱聽眾最大 程度的接取,也構成視聽傳播產業傳輸技術升級、製播創新內容、 與發展新興商業模式的誘因,並進而形成與運用智慧財產,將源自 創意或文化的積累,轉化成創造財富、價值與就業的機會,以開創 產業的新榮景,而對我國的數位經濟有長足、穩定的貢獻。

本研究建議以網路治理的觀點出發,不僅直面匯流的需要而欲 調和規範,更需要與其他政府有關機關如文化部、經濟部、教育部 等政策相互呼應:一方面對於網際網路環境下,已能自行迎刃而解 的事務,在規範限制上予以鬆綁;另一方面,則檢視網際網路帶來 的新興問題,針對有必要的事務,以全新的方法加以治理。而治理 視聽傳播的手段,最重要的是在確保廣電自由與言論自由的前提下, 以民事先行、自律共管、多方參與等原則,加以擘劃。

視聽傳播產業最大的特色就在於,民眾並不介意透過什麼管道或什麼技術收視,民眾只在乎所收視的內容是否吸引人,以及整體收視的經驗是否愉快。所以,我國視聽傳播產業發展所面臨挑戰的本質,仍是振興影視內容的產製、及應用服務的創新。為此,本研究認為,我國視聽傳播產業一方面亟需順應新興科技的趨勢、與視聽傳播跨域提供服務的演變;另一方面,本研究也主張,整體政府機關也應共同合作,為收視平臺事業暨影視內容產業轉型做最好準備,同時引入產業活水,促使業者能夠針對視聽傳播產業的核心價

值,永續產製節目,也思索開創各種新形態應用服務的可能,營造出在地展現與多元包容、發揮創意與凝聚認同、跨域融合與帶動發展、培育人才與正向循環的產業環境。

關鍵字:視聽媒體、廣電監理、市場競爭、傳播政策、數位匯流

Abstract

The gradual maturity of the digital convergence era has led to the positive development of the digital economy. However, in the current situation of the audio-visual communication industry flipping, the government should reproduce the trend, continue to track the development of the digital economy, and be concerned on the competition between industrial transformation and the audiovisual communication industry. Based on the various entrusted work items, this study adopts literature, case study, and comparative analysis method as well as planning expert interviews for small symposiums, and this research integrates the output of each research method and work item, proposing the digital economy in R.O.C. Specific research and development recommendations for the forward-looking innovation plan of the communication of the legal system. This study proposes four main values of the communication legal system: freedom, fairness, diversity and efficiency, and further extends four strategies: "encourage communication market participate in the market and competition", "sound the communication environment and trading order", "promote the incentive and governance of program content production" and "revitalizing the development of wireless broadcasting industry". This research focuses on various strategies by current situation of inventory, not only develop corresponding tactics, but also propose issues for operator consultation.

The recommendations proposed in this study are divided into two categories: immediate and feasible recommendations, and medium and long term recommendations. The recommendations for immediate and feasible are: 1. For the governance of the Internet, the legislature should pass the legislation of the Digital Communication Law as soon as possible, and adopt a low-standard governance model; 2. Rate control should not be withdrawn before the cable TV market achieve "effective competition"; 3. Regarding the level of structural regulation and the maximum number of subscribers, it is possible to plan the same direction for control and consider IPTV to be included in the calculation of maximum number limit of horizontal subscribers;4. The evaluation of each radio and television business towards self-assessment; 5. Cause Obligation to overseas satellite radio and television operators, who to operating satellite channel program supply business, a certain degree of domestic programming rate; 6.

Encourage the combination of broadcasting and lifestyle industries to connect regional development, culture and local value; 7. Pass the draft of Telecommunications Management Law as soon as possible to improve spectrum efficiency.

For the medium and long term recommendations, the research list eight points: 1. The law should be amended to make the license period of each radio and television business consistent with the evaluation period; 2. For IPTV service, only when the subscribers choose the basic channel on the premise of fair and non-discriminatory treatment, and allow the channel service business and the channel agent to combine the channels themselves, could release the restriction of government investment and operation; 3. In terms of regulation of the combination, the government should refer to the US FCC or Germany's KEK to establish a comprehensive and diversified indicator in line with R.O.C media market; 4. Amending the law to strengthen NCC's power to require information from the industries; 5. To establish obligation who operate OTT TV under certain conditions, requiring a certain percentage of the content of the national program; 6. Government and industry respond to false information; 7. Government should establish a financial source independent mechanism for public media; 8. The Ministry of Finance, the Ministry of Culture and other agencies should provide certain tax incentives for placing the advertisement of R.O.C. key self-made film and television content.

This study believes that the government's overall mission and role in the audiovisual communication media is to grasp the rapidly changing of communication and communication technology environment, and timely reflect and adjust the governance regulation structure to ensure that the R.O.C. citizen can receive diverse and sundry content as widely as possible. At the same time, through the audience's maximum access the services, it also constitutes upgrading the transmission technology for the audio-visual communication industry, the production of innovative content, and the development of new business models, and the formation and use of intellectual property, promoting the long-term contribution of the national economy and stability.

This study suggests that from the view point of network governance, it needs to reconcile norms in the face of the needs of the convergence, it also needs to assist the policies of other government agencies, such as the Ministry of Culture, the Ministry of Economy, and the Ministry of Education. On the one hand, for the internet environment, the affairs that

can be solved by themselves can be loosened on the regulate restrictions; on the other hand, for the necessary affairs, the emerging problems brought by the internet are examined and managed in a whole new way. In addition, the most important means of controlling audiovisual communication, is to ensure the freedom of radio and television and the freedom of speech, to make a plans based on the principle of advancement of civil, self - management, and multi-participation. Finally, the overall government agencies should also work together to make the best preparations for the transformation of the viewing platform business and film and television content industry, and promote market operations.

Keywords: Audiovisual Media, Broadcast Regulation, Market Competition, Communications Policy, Digital Convergence