

**Communications Policy White Paper
(Abridged Version)**

National Communications Commission

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Abstract

1. NCC is committed to ensuring that its work is undertaken in line with four core values: freedom of speech and expression, fair and effective competition, diverse and national culture, and democratic and civic participation.
2. On the basis of these four core values, NCC strives to realize the following six governing objectives: infrastructure that effectively facilitates digital convergence transformation and smart connectivity; audio-visual platforms that effectively facilitate fair and effective competition and innovation; audio-visual contents in high quality and quantity that effectively facilitate the identity of our national culture; speech and expressions that effectively facilitate freedom of expression and effective self-discipline; communications literacy that effectively facilitates digital literacy and professional ethics; and public rights and interests that effectively facilitate the protection of consumers and the disadvantaged.
3. With respect to current industry conditions, despite facing significant challenges from varying kinds of online and mobile video platforms, cable television remains the primary source for audio-video content in Taiwan. Nonetheless, MSOs (multiple-system operators) play an important role as they affect the carrying and removal of cable television channels. For content, the industry generally observes the reduction of production costs, making it increasingly difficult to produce quality contents and maintain supply of talents. It has been noted that as viewing (listening) rates and advertising revenue of both terrestrial television and radio continue to shrink, both industries are struggling to retain their position as the mainstream media. Meanwhile, emerging IPTV models and their supervision needs to be adjusted to optimize operational flexibility, while an appropriate management mechanism needs to be determined for the already prosperous and developed OTT TV industry.
4. Concerning supervision and regulatory consistency among competing platforms, NCC has undertaken a light-touch approach when drafting the

Internet Audio-visual Services Act for the management of OTT TV platform. In order to effectively facilitate the IPTV platform, NCC has also planned policy and revised regulations. As for certain clauses pertaining to preventing political, government and military involvement in the media, these shall also be adjusted accordingly. Investments and media business behavior are regulated in accordance with the Budget Act and the Political Parties Act, whereas the three broadcasting acts (namely the Radio and Television Act, Cable Radio and Television Act and Satellite Broadcasting Act) regulate corrective measures.

5. As for media concentration, Taiwan currently lacks a regulatory framework that encompasses horizontal/vertical media and transmedia integration. Therefore, NCC intends to promote the promulgation of the Media Diversity Protection and Monopolization Prevention Act in order to effectively improve media industry structure and market order and to maintain media diversity.
6. With respect to the broadcasting licensing, including assessment and renewal, the NCC has introduced a self-assessment mechanism and promotes simple and convenient measures, such as e-assessment, to reduce business operators' operating costs and to enhance supervision.
7. For channel authorization, carrying or removal of channels, channel allocation and choice, NCC intends to reform a new mechanism for mediation and establish an arbitration mechanism to ensure compliance in line with the fair, reasonable, and non-discriminatory (FRAND) principle. Through multiple payment schemes, NCC has succeeded in establishing a system for cable television fees that balances choice for the consumer with reasonable business methods for the operator. Besides collaborating with Fair Trade Commission (FTC) to redefine principles of supervision between broadcasting businesses and channel agents, NCC intends that channel agents shall be regulated through the promulgation of the Media Diversity Protection and Monopolization Prevention Act.
8. With view to enhancing the audio-visual industry and maintaining the identity of our national culture, the NCC currently imposes rules on

broadcasting businesses with respect to the ratio of domestically-produced programs and newly-released programs. However, NCC has relaxed restrictions on product placement marketing and sponsorship to maximize operational flexibility; budgets have been prepared by means of the Cable Television Business Development Funds, creating triggers and momentum for the industry to produce and broadcast programs with quality contents and in greater quantity.

9. Concerning contents supervision and media literacy, NCC has adopted the three-way supervision model of self-discipline by enterprises, supervision by others, and legal regulations and seeks participation of non-governmental organizations and experts from various fields and the private sector. On one hand, laws and regulations can enhance the implementation of fact-checking (produced and/or broadcasted programs) and the fairness principle (news and political discussion programs), while on the other hand, NCC can promote media literacy education to the public and enhance professional literacy of media personnel by means of workshops and training activities. Cross-ministry cooperation and collaboration will also be considered to construct a network governance mechanism, enabling all citizens to fight against disinformation, further shaping an ideal digital public domain.
10. With respect to the outlook for terrestrial radio, NCC encourages terrestrial radio businesses to adopt new technologies and innovative and collaborative strategies to revitalize operations. Diverse policy approaches shall be considered to enhance operation scale and flexibility of terrestrial broadcasting operators with the aim of achieving sustainable operations.
11. As for the development of terrestrial television and public media, NCC intends to ensure that terrestrial television operators fulfill their public responsibilities, undertake digital transformation, protect rights and access to media, and contribute to disaster prevention. NCC also intends to coordinate with the legal reform being undertaken by the Ministry of Culture and to establish a partnership with public media, which shall assume the aforementioned responsibilities and adopt technologies to

produce and broadcast communications contents that satisfy diverse social needs and facilitate the sound development of communications in Taiwan.

Chapter 1 Introduction

Established in February 2006, the National Communications Commission (NCC) is now well into its second decade. Looking back at the communications environment at the time of its establishment provides a snapshot of the significant changes and developments have taken place since then:

In February 2006,

- *Apple Daily* had been published in Taiwan for less than three years;
- Facebook was just two years old;
- The multimedia on demand (MOD) platform of Chunghwa Telecom had been launched just two years previously;
- YouTube was just one year old;
- Netflix still operated as a DVD-by-mail rental company;
- Steve Jobs would not announce the first-generation iPhone until one year later;
- Twitter had not yet been created, not to mention Line, Weibo and WeChat, all of which would launch years later;
- Youku, QIY and V.QQ.COM were also yet to be created.

In view of the rapid progress of digital convergence of communications technology and increasing expectations for quality communications services and contents, NCC has continuously strived to promote amendments to regulations and policy guidelines. On August 29, 2018 NCC published the consultation paper on convergence of communications policy (so-called *Green Paper on Communications Policy*) to encourage public feedback that served as a valuable reference drawing up this *Communications Policy White Paper* and the subsequent promulgation of regulations that cover communications convergence.

With respect to policy objectives for the coming five to ten years, NCC remains committed to ensuring that its work is undertaken in line with the following four core values, founded on public opinions and preliminary consensus¹ compiled over numerous public consultations (more details in Chapter II):

- **Freedom of speech and expression**
- **Fair and effective competition**

¹ The communications system for digital convergence shall be equipped for freedom, equality, diversity and efficiency.

- **Diverse and national culture**
- **Democratic and civic participation**

On the basis of these four core values, NCC has also determined the following six **governing objectives** (more details in Chapter III):

- **Infrastructure** that effectively facilitates digital convergence transformation and smart connectivity;
- **Audio-visual platforms** that effectively facilitate fair and effective competition and innovation;
- **Audio-visual contents** that effectively facilitate the identity of our national culture and the ones in high quality and quantity;
- **Speech and expressions** that effectively facilitate freedom of expression and effective self-discipline;
- **Communications literacy** that effectively facilitates digital literacy and professional ethics;
- **Public rights and interests** that effectively facilitate the protection of consumers and the disadvantaged.

Nevertheless, such visions are not that easily realized. The road towards their implementation remains fraught with barriers and challenges, such as certain structural issues that have been identified within the communications industry, some of which are deeply embedded. One by one, each challenge needs to be faced and solved (more details in Chapter IV).

It is NCC's obligation to solve areas that remain problematic and uphold the integrity of policy. However, communications policy is becoming increasingly complex, especially considering the numerous internet applications that have entered the market. Consequently, collaborative efforts among the Executive Yuan and relevant government departments are necessary, as well as participation and support of multi-stakeholders among industry players, academia, citizen groups, and consumers.

With respect to these challenges and the issues that digital convergence raises, this *Communications Policy White Paper* proposes reasonable and

appropriate solutions and provides strategic direction that can facilitate progress. Over the next five to ten years, NCC shall remain steadfastly committed to its four core values (freedom of speech, fair competition, cultural diversity and democratic participation) and six governing objectives, specifically with view to managing the following eight **policy issues** (more details in Chapter V):

1. Regulatory reconciliation among competitive platforms;
2. Prevention of media concentration through an enhanced regulatory framework;
3. Broadcasting business licensing system, including assessment and renewal;
4. Channel authorization, carrying or the removal of channels, channel allocation and consumers' choice;
5. Promotion of domestic productions and national culture;
6. Content supervision and media literacy;
7. Outlook for terrestrial radio;
8. Development of terrestrial television and public media.

Thus, the framework of this *Communications Policy White Paper* can be illustrated as such:

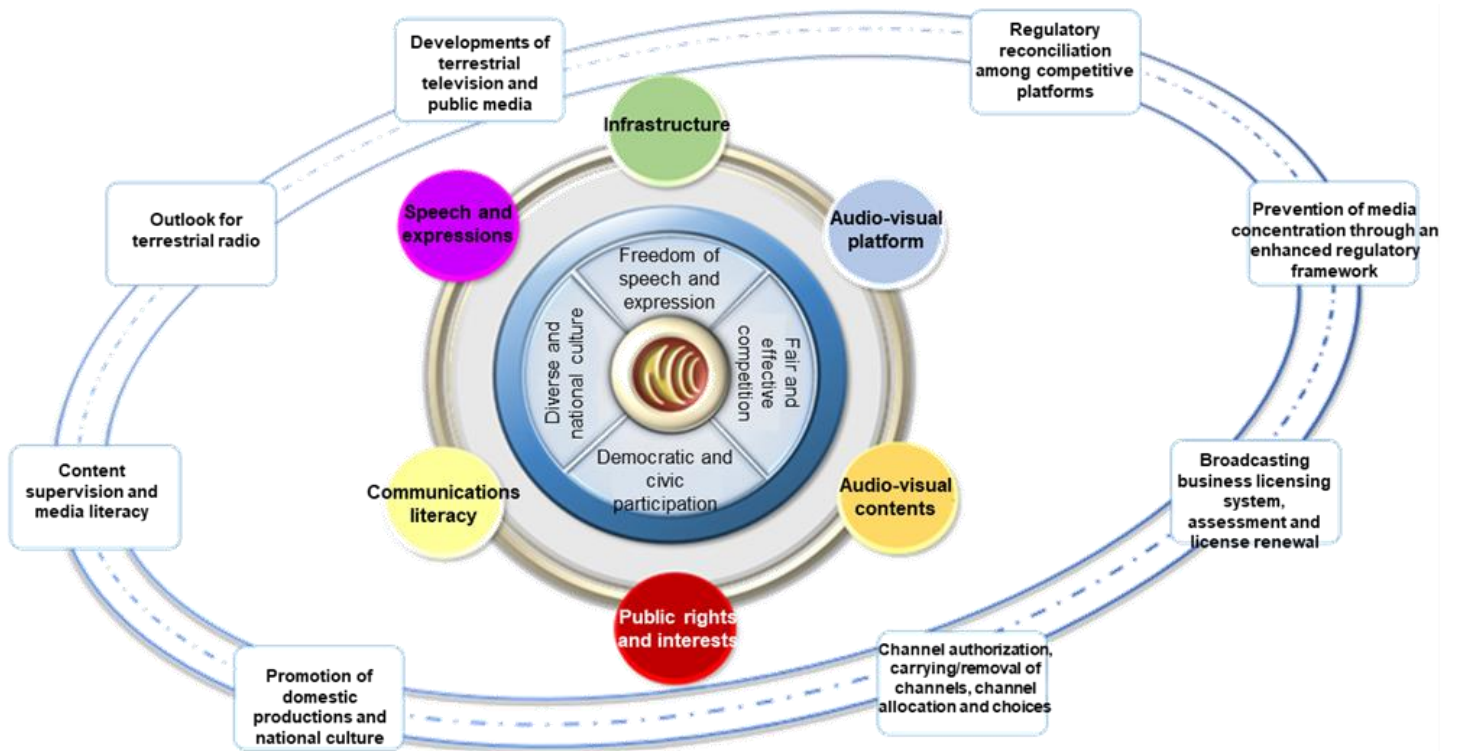


Figure 1: Framework of Communications Policy White Paper

Chapter 2 Core Values

Based on the legislative spirit of the Fundamental Communications Act and the National Communications Commission Organization Act, NCC was established to promote the healthy development of communications, maintain the professional autonomy of the media, safeguard the effectiveness of communications management, ensure fair and effective competition in the communications market, protect consumers and respect the rights of the disadvantaged, facilitate the balanced developments of diverse cultures, and strengthen national competitiveness.

“This Act is enacted to accommodate the convergence of technologies, encourage the sound development of communications, safeguard citizens' rights, protect consumers' interests, improve cultural diversity, and reduce the digital divide between urban and rural areas.”

--- Article 1, Fundamental Communications Act

“To realize the constitutional guarantee of freedom of speech; abide by the spirit of media independence from political party, government or military interference; promote healthy development of communications; maintain the professional independence of the media; safeguard the effectiveness of communications management; ensure fair and effective competition in the communications market; protect consumers and respect the rights of the disadvantaged; stimulate balanced development of diverse cultures, and enhance national competitiveness.” --

-- Article 1, National Communications Commission Organization Act

Founded in February 2006, NCC was the first independent agency established in accordance with the Basic Code Governing Central Administrative Agencies Organizations. In order to ensure the appropriate application of authority, NCC abides by its objective, neutral and professional position, and considers the aforementioned spirit as its primary goals.

In accordance with the basic rights of people addressed in the Constitution of the Republic of China (Taiwan), the principles and values stipulated in both the Fundamental Communications Act and National Communications Commission Organization Act, as well as the four characteristics of freedom, equality, diversity and efficiency of digital convergence laws, as summarized and extended from the *Communications Policy Green Paper*, NCC is hereby taking this opportunity of publishing this *Communications Policy White Paper*

to reiterate its four core values for the planning and implementation of communications policy both in the past and the future.

- **Freedom of speech and expression:** Protect freedom of speech and facilitate the free flow of opinions, viewpoints and information (according to facts and on a rational basis), with view to building and maintaining a public domain with equality, sincerity and social mutual trust.
- **Fair and effective competition:** Maintain fair and effective competition in the communications market; prevent media over-concentration deemed unfavorable to fair and effective competition and innovative applications of technology; and promote a diverse media environment.
- **Diverse and national culture:** Promote balanced cultural diversity; maintain the production of national and local contents, ensuring that the language and culture of different ethnic groups, genders and regions of this nation can be recognized, fairly treated and appreciated by each other/others.
- **Democratic and civic participation:** Increase the penetration of and access to communications services and products; encourage and empower the public to better participate in democratic public life on the basis of well-informed judgements, including the process of formulating communications policy.

The concepts of these four core values (illustrated in Figure 3) are employed to ensure NCC remains vigilant and are used as a guideline for the planning and implementation of communications policy. It is worth noting that these are not only the values that NCC desires to guard through the implementation of communications policy, but also the goals that it aims to achieve.

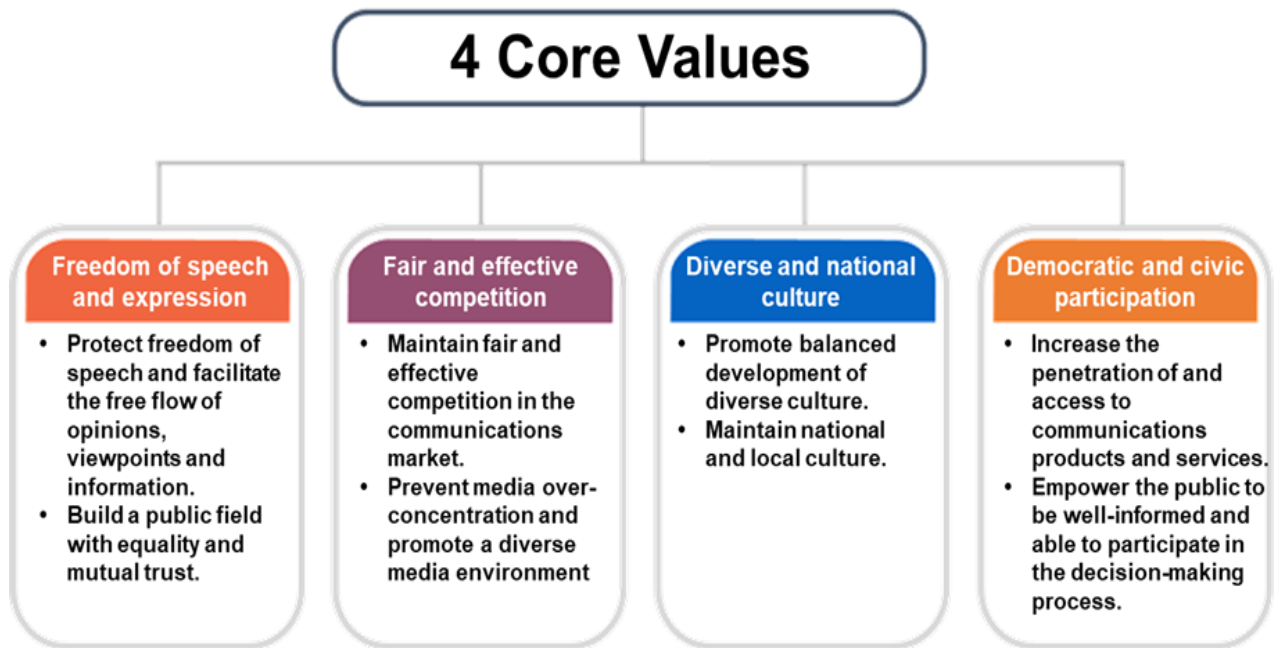


Figure 2: Four core values of this White Paper

Chapter 3 Governing Objectives

Naturally, the evolution of communications is a continuous and dynamic process; the internet, the digital world, smartphones, and other mobile devices have reached all levels of society and have all brought about dramatic changes in how we communicate. Although predicting future developments over the coming decade is not easy, clearly, communications ecology will be greatly affected by technology, industry and policy which will continue to overlap and influence each other.

An ideal communications ecology is unlikely to form naturally as it requires multi-stakeholders to fulfill their social roles and public responsibilities. Hence, by means of appropriate communication and supervision, NCC aims to facilitate multi-stakeholders to demonstrate their capabilities and fulfill their responsibilities in order to shape a sound ecology, while protecting, as well as enhancing, communications rights and interests. In other words, the positioning and actions of the communication supervision agency are based on the vision of achieving a communication ecology in line with public interests.

The term “public interests” is not an empty expression: the Fundamental Communications Act stipulates its legislative objectives as “*safeguard citizens' rights, protect consumers' interests, improve cultural diversity, and reduce the divide between urban and rural areas*”; and that “*Communications shall safeguard human dignity, respect minorities' rights and interests, and promote the balanced development of cultural diversity.*”

Likewise, the National Communications Commission Organization Act also emphasizes this principle clearly stipulating the mission of NCC as “*realize the constitutional guarantee of freedom of speech; abide by the spirit of media independence from political party, government or military interference; promote healthy development of communications; maintain the professional independence of the media; safeguard the effectiveness of communications management; ensure fair and effective competition in the communications market; protect consumers; respect the rights of the disadvantaged; stimulate*

balanced development of diverse cultures, and enhance national competitiveness.” Therefore, a communications ecology that realizes all citizens’ interests is a vision that NCC strives wholeheartedly to achieve.

As communications continue to rapidly evolve, NCC is required to adjust policy appropriately in order to facilitate further developments, rather than remaining stubbornly focused on current conditions. Thus, NCC believes that although the fundamental values of communications policy are constant and vision building is a long-term process, policy should be continually improved and adjusted in order to effectively align with changes in communications and tackle the issues at hand.

After conducting a thorough analysis of current market conditions and compiling and considering feedback from various stakeholders, NCC is committed to adhering to its four core values: freedom of speech and expression, fair and effective competition, diverse and national culture, and democratic and civic participation and shall strive to realize public interests and its six governing objectives concerning infrastructure, audio-visual platform, audio-visual contents, speech and expressions, communications literacy, and public rights and interests, which are illustrated below with their respective core goals.

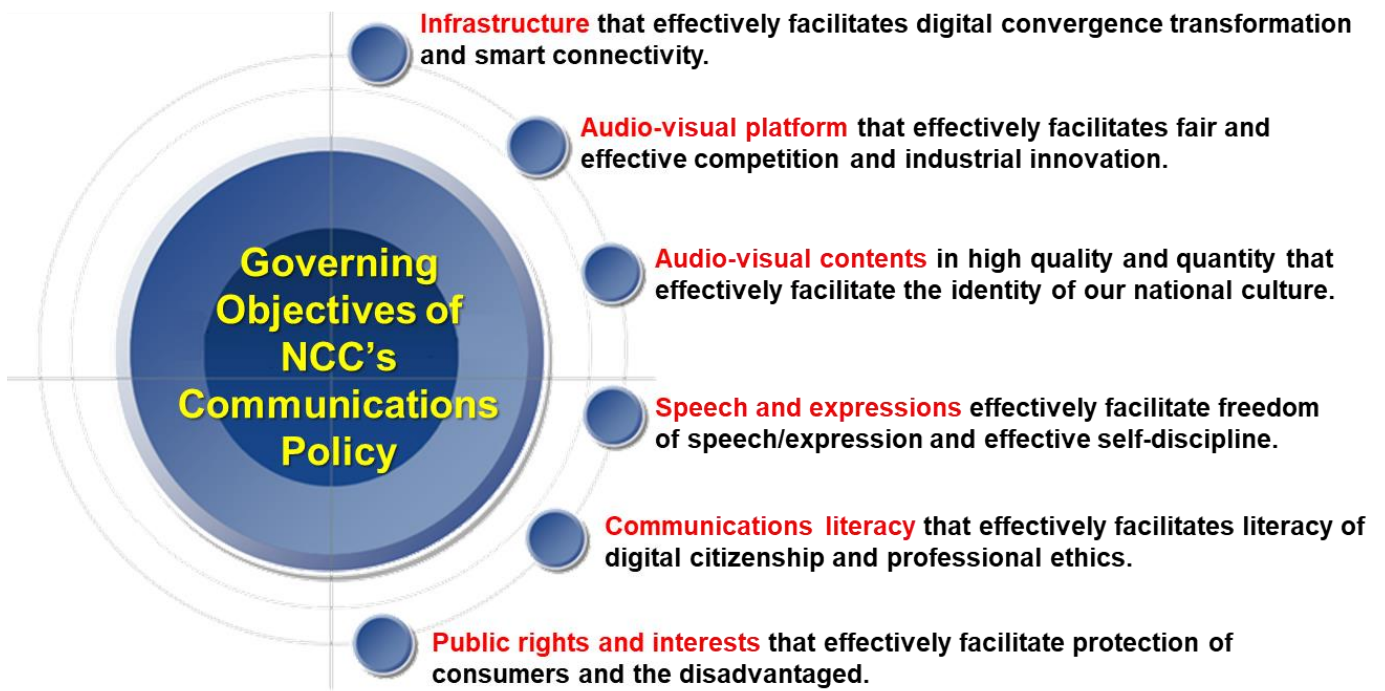


Figure 3: Governing visions of communications policy

Chapter 4 Market Conditions and Challenges of the Communications Industry

1. Cable television

As cable television industry generally features economies of scale and even a natural monopoly, a horizontal-vertical integration of the industry can result in market concentration. Although increased diversity in multi-channel pay television platforms and the changes in viewing habits break down this structure, it also facilitates the development of MSOs (multiple-system operators) that can also result in market consolidation.

Despite certain stipulations of the Cable Radio and Television Act dealing with media concentration being enacted, their nature is insufficient to respond to the vertical integration of cable television market and transmedia concentration. Consequently, a more complete and new legal framework is urgently required to respond and handle issues like loss of diversity.

2. The channel agent system and channel agents

With respect to disputes arising from channel authorization and carrying, the main provisions are specified in Paragraph 2 of Article 25 of the Satellite Broadcasting Act; and Paragraph 1 of Article 37 and Paragraphs 1 and 3 of Article 29 of the Cable Radio and Television Act. Nevertheless, according to Article 55 of the Cable Radio and Television Act, NCC merely has the authority for mediation between the disputing parties. As this obviously lacks efficacy, there is an urgent need for the Legislative Yuan to amend relevant laws in order to provide NCC with legal means that is more effective than mediation rights.

Furthermore, when adjusting the current fee mechanism, NCC shall consider whether the upper limit for the viewing fee should be removed to rationalize the profit-sharing mechanism between system operators and channel suppliers, and whether a group-payment mechanism should be proposed.

With respect to channel agents formed or controlled (shares or de facto control) by MSOs, joint selling and bundling, as well as other circumstances that damage fair competition and reduce the viewing choices of the audience. Since the three broadcasting acts do not impose any restrictions on channel agents,

NCC is looking into the possibility of handling this issue through legislation (promulgation of the drafted Media Diversity Protection and Monopolization Prevention Act).

3. Content industry

The broadcasting industry is facing significant challenges both from the domestic audio-visual content industry and changes in viewing behavior, as well as overseas challenges (high-quality content from overseas that gains primary advertising or product placement marketing revenue and/or resources). In recent years, the audio-visual industry has suffered from a number of bottlenecks in monetary resources, manpower or marketing channels, such as foreign satellite broadcasting businesses and OTT TV operators that have grown rapidly and penetrated the market in Taiwan.

The relevant competent authorities should continuously plan the audio-visual talent and introduce funds to activate the industry. In this light, NCC plans to conduct market evaluation with view to establishing effective supervision.

4. Terrestrial radio and television

With access to spectrum resources in Taiwan, terrestrial radio and television industries assume important social responsibilities, such as ensuring diverse and national culture, public safety, and public welfare, among others. Consequently, related regulations generally impose more restrictions when compared with those for other industries. For example, the ratio of domestically-produced programs must reach a specific level to enhance content quality so as to strengthen the domestic audio-visual industry.

However, it is a significant challenge for terrestrial radio and television businesses to maintain their operations or transform with digital convergence and online audio-visual platforms when production talents and advertising revenue continue to be drained away

5. Emerging media industry

The development of digital convergence means that the multi-channel pay television platform is no longer limited to the traditional cable television system as both IPTV and OTT TV provide viable alternatives.

As both domestic and foreign OTT TV providers have gradually become important platforms of audio-visual and media services, their impact on domestic terrestrial and cable television industry has been significant to the extent that it has become necessary to respond to this situation through legislation. In addition, the Ministry of Transportation and Communications holds shares of Chunghwa Telecom, the MOD service that Chunghwa Telecom provides through its IPTV service platform is subject to clauses that stipulate non-involvement of political parties, government and military; and shall be operated in an open platform in accordance with Article 60-1 of Regulations for Administration on Fixed Network Telecommunications Business. This results in unnecessary restrictions on the nature of media that it serves, making it difficult to increase market competitiveness.

Chapter 5 Solutions and Strategic Directions

1. Regulatory reconciliation among competitive platforms

With respect to the supervision of OTT TV, NCC plans to draft the Online Audio-visual Services Act, based on a light-touch approach, where the business's rights and obligations are regulated by a registration system that has a low level of supervision. This act covers issues of copyright infringement, localization and taxation.

At the same time, NCC will adopt an approach of progressive regulatory reconciliation by drawing up policies and amending regulations to stimulate operations of IPTV platforms. This will highlight the strengths and weaknesses of legal business models and further develop the strengths of IPTV and cable TV to ensure more effective and fair competition.

In addition, NCC believes that although the legislative purpose of clauses pertaining to the non-involvement of political parties, government and military is legitimate, further adjustments are required. Hence, NCC plans to do so in five areas: (1) restricting media engagement of the government and foundations established with endowments and a third party commissioned thereby, (2) government investments shall comply with the Budget Act, (3) political parties shall be prohibited from investing in media as prescribed in the Political Parties Act and three broadcasting acts shall specify the rectification obligations, (4) clearly defining political party staff, political appointees and elected public officials, and (5) changing the party of liability to ensure compliance, thereby providing a solution for unreasonable situations while facilitating continued operations.

2. Prevention of media concentration through an enhanced regulatory framework

With respect to media concentration resulting from horizontal concentration and vertical integration, when considering certain factors, such as digital convergence and business mergers and acquisitions, existing broadcasting laws are insufficient to respond. Therefore, NCC intends to actively promote the draft

and legislation of the Media Diversity Protection and Monopolization Prevention Act. This ensures that the legal framework can align with developments in technology and market conditions so as to improve the market order and structure of the cable television industry.

3. Broadcasting business licensing, assessment and renewal

Licensing issuance, assessment and renewal systems are in place for terrestrial radio, terrestrial television, cable television and satellite television businesses in Taiwan. In principle, NCC reconciles the regulatory gap in the overall broadcasting and introduces a system for submitting e-applications. In addition, NCC has strengthened the standards of assessment reviews, such as increasing the weight of assessment criteria and the passing score to better supervise business operators, lower business operation costs and strengthen the enforcement of assessment and license renewal.

4. Channel authorization, carrying or the removal of channels, channel allocation and consumers' choices

As mediation rights for cable television have not been effectively applied, NCC plans to introduce an innovative model that can accelerate negotiations on authorization agreements among upstream and downstream business operators. Before the legal system is implemented, NCC also intends to stipulate referential principles to ensure the compliance of channel carrying or removal process with the FRAND (fair, reasonable, and non-discriminatory) principle.

Furthermore, NCC believes that the regulation of cable television subscription fees is still a necessary policy tool. In order to facilitate the development of multi-channel pay television platform and market towards fair competition and improvement, a new multiple payment solution shall be implemented to improve profit-sharing conditions and to create an industrial environment that is beneficial to both operators and consumers.

NCC has also consulted with FTC in regard to jurisdictions. Consequently, anti-competitive practice engaged by channel agents, system operators and satellite channel suppliers shall be governed by NCC, as they shall fall under the

draft Media Diversity Protection and Monopolization Prevention Act, as well as the three broadcasting acts. The other circumstances that are not stated in the said acts shall be governed by FTC.

5. Promotion of domestic productions and national culture

In response to the current status of the overall audio-visual industry, NCC has adopted relevant legal supervision and audio-visual industry incentive measures, such as determining ratios for domestically-produced terrestrial/satellite television programs and new programs; extending time slots that prohibit title sponsorship for foreign-produced programs; offering subsidies for 4K trial zone video service, and so on. By activating the resources for producing and broadcasting audio-visual contents, we can expect the number of domestically produced programs to increase as a result. Meanwhile, NCC has been proactive in collaborating with government ministries to establish an effective regulatory framework with the aim of facilitating an audio-visual industrial environment of higher quality.

6. Content supervision and media literacy

With regards to the supervision of broadcasting media contents, NCC has adopted the three-way management model of self-discipline by enterprises, supervision by others, and legal regulations and intends to protect freedom of expression and to realize public interests by maintaining the accuracy and fairness of audio-visual contents, protect the physical and psychological health of children and youths, safeguard the audio-visual rights of the disadvantaged, and facilitate the development of cultural diversity.

As for medial literacy, NCC has been cooperating with civic groups and academic institutions to promote activities enhancing media and professional literacy for both the public and those in the industry, utilizing limited resources and optimizing momentum so as to enable all to tackle disinformation, which is a key issue that must be faced proactively with government-ministries.

7. Outlook for terrestrial radio

Due to certain characteristics, terrestrial radio services are often considered as the best sources of information for people during their commute or when driving. With the implementation of relevant policy, NCC intends to continue to encourage the development of radio industry and offers assistance, such as guidance on industrial transformation or adaptation to the internet environment, accordingly. NCC also acknowledges the efforts of radio broadcasting operators in integrating an app or online platform and allows them to adopt strategic alliances – all of which should help them to increase listenership, reduce costs and build sustainable business operations.

8. Developments of terrestrial television and public media

Due to the characteristics of the terrestrial television industry, over recent years, although NCC has generally relaxed limitations, such as advertising rules, product placement marketing and license renewal deadlines, the industry has taken on new public responsibilities, such as offering broadcasting service access to economically or geographically disadvantaged groups, imparting information concerning disaster prevention, and promoting domestically-produced programs.

In addition, NCC has established partnerships with public media. Based on the principles of perfecting public media services as prescribed in the draft Public Media Act of the Ministry of Culture, NCC, within its legal framework, has managed to facilitate the development of public media, enhanced the production of contents and strengthened the operations of the industry.

Chapter VI Conclusion

Communications ecology can determine the rise and fall of democratic politics and cultural powers. Communications that is sound requires a forward-looking policy that satisfies requirements, hence, the publication of this *Communications Policy White Paper*.

This paper has clearly outlined the four core values, six governing objectives and eight specific policy issues of communications policy. Despite the ever-changing characteristics of communications, the commission expects that complex digital communications systems and networks can be effectively governed and specific issues and challenges can be managed in line with principles that take public interests at their core.

Such issues and challenges require consultations and discussions among multi-stakeholders; this *Communications Policy White Paper*, thus, reflects the desires of all stakeholders in their pursuit of the common good. Because of the collective wisdom and contributions of the public, our society can, therefore, continue to move forward on the same basis of consensus.

At the same time, this paper can act as the basis as a new beginning for the next conversation. NCC believes that, only through continuous communication, reflection, review and foresight, the communications ecology in Taiwan can become more complete under the dynamic guidance of communications policy, acting as a foundation stone to continuously enhance democratic values and our digital economy.