Sessions IV & V

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Is it too early to establish a regulatory framework for OTT services since Internet penetration is still evolving, access speeds are generally low, and geographically there is limited coverage of high-speed broadband Internet across ASEAN?
When is Regulation Necessary?

Regulations are necessary to address inefficiencies from market failures which may result in economic and social costs.

Three fundamental questions to ask before considering regulating:

(i) What market failures is the regulation trying to address?

(ii) Will regulation deter new entrants and discourage innovation?

(iii) How practical and enforceable is the regulation?

Given the broad-based nature of OTT enablement, have the potential for unintended consequences been comprehensively addressed before regulating?
Summary Conclusions

• OTT services should be regarded as the outcome of technological progression and market forces generating innovative and creative services and products.
• These will (inevitably) be ‘disruptive’ of the existing business models of incumbents.
• There is absolutely nothing unusual about this
• With the exception that the sectors being disrupted are those that traditionally have been regulated.
Summary Conclusions

• Any service associated with the communications media has the potential to have a social impact, and for that reason cultural as well as political pressures are never far away.

• Nor can these pressures be lightly dismissed: Societies have the need and the right to protect themselves against harm. This is true in media as in any other realm.

• These pressures are primarily the concern of policy makers, not regulators as such, but the responsibility of regulators to implement policy inevitably brings regulators into proximity to policy-makers as advisors with specialist expertise.

• Arguably, policy based upon expertise is likely to be better policy than policy based upon political or cultural consideration alone.
Suggestions

- **Policies should encourage effective competition and consumer choice;** regulators should identify commercial behaviour that is considered anti-competitive, and the means to identify it and deal with it.

- **Policies should encourage investment in the innovation of networks and services;** regulators should explore opportunities for non-traditional networks, such as CDNs, meshed wireless networks, TV White Space networks, ultra-wideband networks, non-terrestrial networks, to fill the gaps in the digital economy, and authorise them to carry any type of legal traffic.

- Policies should be formulated based upon clarity of services and markets; where traditionally regulated and non-regulated sectors are merging because of OTT services, **regulators should show preference for regulatory-lite approaches** that focus on the least competitive sectors.
Suggestions

• Policies should be based upon **objective assessments of the social and economic impacts** of various categories of OTT services; regulators should accumulate data from regulated markets for policy assessments, clearly articulating both the objectives and the data sources so as to avoid unintended consequences of poor policy and to maximize social welfare.

• Policies should recognise that **public services offered by state-invested companies should be separately funded and regulated from the commercial services offered by the same**; regulators should focus in on these separations, such as universal service obligations and ‘must-carry’ rules.

• Policies should, in light of the rise of smart city environments and artificial intelligence (AI), encourage **interoperability of platforms for OTT services**; regulators should examine specific ways in which interoperability can be achieved.
Questions: Financial Implications and Regulation

• What are some of the ways in which OTTs are already contributing domestically?
• Will regulating OTTs stifle local start-up innovation and entrepreneurship?
  • Does it risk doing so?
  • Will it increase compliance costs?
• Will regulating OTTs risk having a chilling effect on Internet adoption
  • What about socioeconomic services such as e-health, e-education, and e-government?
• Are there options for lessening the regulations on traditional providers rather than increasing the regulations on OTTs?
• Are there international best practises that ASEAN should learn from?
Questions: Consumer for Discussion

• In terms of consumer protection, are Terms of Service agreements sufficient?
  • If not, what else needs to be considered?
• What are the minimum privacy and security requirements that should be required to protect users?
• How can OTT providers provide consumers assurances that their data will remain private and managed responsibly in terms of what users provide permissions for?
• How do personal data protection regulations and cyber security frameworks help protect consumers?
• Can voluntary codes of conducts be used as a substitute for regulations on OTTs?
• What are the other concerns of recourse, protection and provision that need to be considered and established or protected?
Thank you