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Regulating for Growth 2011

A Regulatory Regime Index for Asia Pacific Multichannel Television

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The electronic version of “Regulatory Regime Summary” is available at www.casbaa.com/rfg2011

About CASBAA

Established in 1991, CASBAA is the Association for digital multichannel TV, content, platforms, advertising and video delivery across Asia for the past two decades. Spanning 16 geographic markets, CASBAA and its Members reach over 365 million pay-TV homes through a footprint ranging from China to Australasia, Japan to Pakistan. The CASBAA mission is to promote the growth of multichannel TV and video content through industry information, networking exchanges and events while promoting global best practices.
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Executive Summary

For 2011-2012 CASBAA has revised its "Regulating for Growth" study of pay-TV regulation in the Asia-Pacific region. This analysis closely examines policies and practices of governments with respect to the many ways in which they regulate the business of delivering video content over multiple networks to paying consumers. It evaluates the effectiveness and market-friendliness of the regulatory environments in the jurisdictions examined.

This is the third edition of this study and it is now possible to discern trends: policies in some markets are improving: more market-friendly, more pro-competition, more pro-growth. In other jurisdictions, policies are stagnant, and in a few they are, unfortunately, less favorable. Asia by now has some clear examples of regulation-induced pay-TV market distortions and regulatory failure.

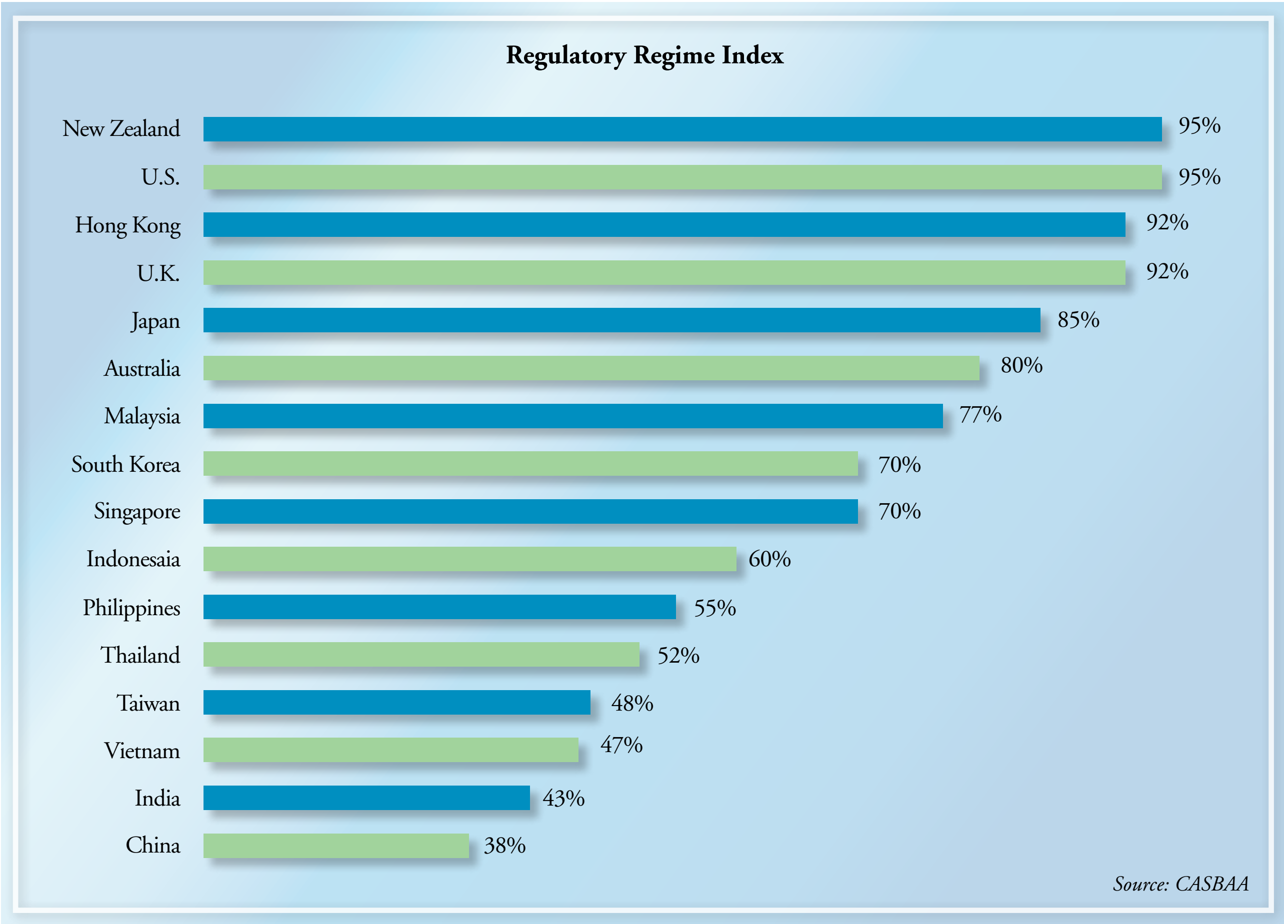
In this analysis industry revenue and investment data is presented, and evaluated on a "per pay-TV household" basis to make possible working comparisons across markets of vastly different sizes. The data shows that markets where the regulatory environment is more market-friendly and neutral have higher levels of economic activity. Effective regulation of the pay-TV industry without outdated and unnecessary constraints produces a higher level of economic activity. This benefits ancillary industries, local creators and content producers, and tax collections.

Effective regulation also produces benefits for consumers, who – in the best-regulated markets – have access to new forms of content (HD television has grown markedly in the three years covered by this study), new technologies (rollout of digital distribution systems in a growing number of markets), and more choice in what they view on what device and when. Huge investments are necessary to create these consumer benefits, and investments flow where regulation permits predictable, economically sensible returns.

Effective regulation in the digital economy must be even-handed. Television today is delivered to consumers in many forms and over many different networks – cable, satellite, mobile, telco "walled gardens," and broadband internet. The best regulatory systems recognize that the industry is rapidly changing, converging, and developing new multifaceted business models.

The best practice, then, is to create a level playing field, applying identical or at least similar rules to players using different technologies and different business models.

Effective Regulation of the Pay-TV Industry – The CASBAA 2011 Index



This assessment by CASBAA examines 15 markets in Asia and Australasia, plus two international "benchmarks" (UK and US), chosen for their active and successful pay-TV industries and generally well-regarded regulatory systems. However, across Asian markets, there are profound differences in regulatory philosophy and specific policy approaches.

The most favorable regulatory environments were found in New Zealand and Hong Kong, with Japan, Australia and Malaysia running closely behind. The best-regulated markets use a "light touch," creating an open environment that fosters active competition. They, leave decisions to market players on program distribution, content choice, packaging, retail and wholesale rates, and reliance on advertising. The best regulators recognize that pay-TV distribution is an international industry, and calibrate policy choices with that in mind, avoiding single-market rules (e.g. across-the-board content labeling regulations) that make efficient international operation impossible.

Of course, every market has strong points and weak points. While the leading jurisdictions generally maintain "light touch" regulation, they also feature weaknesses such as extensive interference in sports program decisions (Australia), insufficient protection for intellectual property in broadcasting (Hong Kong), a playing field tilted in favor of domestic players (Japan) and trade barriers confronting advertising (Malaysia).

At the bottom of the CASBAA rankings come systems which are basically closed to outside participation (China), or suffer from over-regulation, where bureaucratic fiat substitutes for market forces in setting rates or determining program packages (India and Taiwan). Lax protection of intellectual property in broadcasting is also a common weakness, including markets as diverse as Thailand and the Philippines (where cable operators pirate entire program streams with impunity), and Taiwan (where the government treats signal theft by line tappers as a minor misdemeanor, resulting in mass piracy).

Markets whose regulatory environments fall in the mid-range of our rankings have undergone interesting mutations since our previous study was conducted in 2007:

- South Korea has begun to emerge from decades of over-regulation, with an easing of rate regulation on the cable industry. Competition from IPTV delivery systems has galvanized development of cable networks. Also in Korea a new regulator has modernized some practices. However, to achieve a fully 21st-century system it must work to improve transparency and rule-based decision-making.
- Singapore has suffered in the rankings because of its controversial decision to implement a "cross-carriage" system mandating restrictions on content owners' use of their programming. This measure – and the way it was implemented – impacted perceptions of regulatory neutrality, decisions on program packaging, and control of intellectual property. The most pernicious aspect of the new regime was its extension to cover all forms of TV programming, rather than any areas where specific competition problems could be identified.
- Indonesia has improved some aspects of its regulatory environment (steadiness and cooperation among the main regulators, efforts to curtail cable piracy), while other areas have become less favorable (constraints on advertising and non-rules-based policymaking on competition in program distribution).

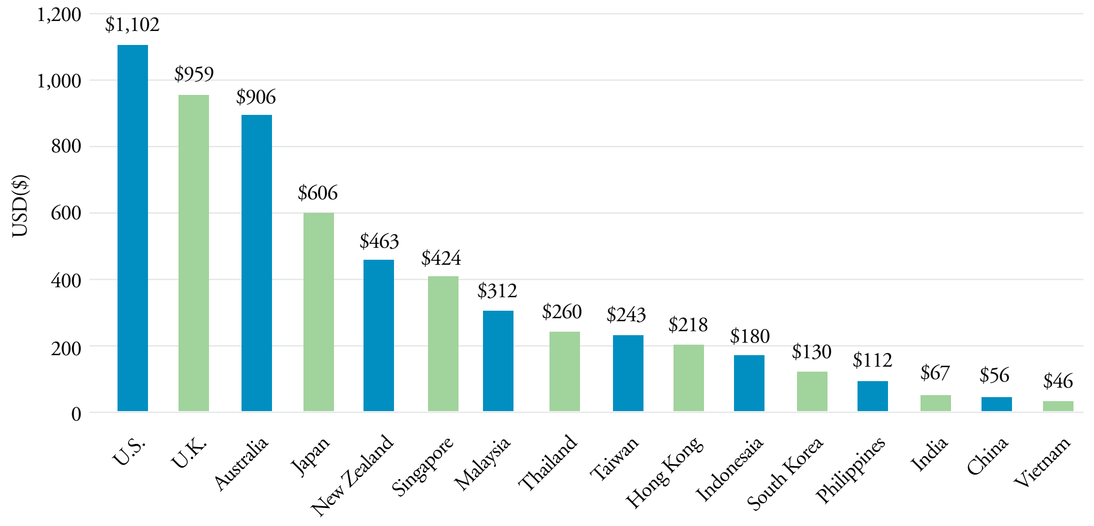
Economic Impact

A successful pay-TV industry produces large economic benefits. Expenditures by customers support employment, growth of ancillary industries and technological development. With data from consultancy Media Partners Asia, our study looked at pay-TV industry revenues and investments over a three-year period (2008-2010). Investments were broken down into infrastructure/technology and programming/marketing. All data were analyzed across markets in a common framework, placing revenues, expenditures, investments, etc. on a "per pay-TV household" basis to adjust for differences in market size.

The timeframe of the data we use has to be borne in mind. 2008-2010 was a period of great volatility in the Asian macroeconomic environment, and while the pay-TV industry was somewhat insulated from the 2009 global economic recession, uncertainty undermined investment in some markets.

With respect to individual markets, some results are counter-intuitive: Hong Kong's infrastructure investment seems to have been unusually low – a

Avg Annual Revenue Levels Per Avg Pay TV HH (3 yr to Y/E Dec. 10)



Source: MPA

function no doubt of the low revenues in a highly competitive sector, but also of the fact that major investments on network build-out were completed in the years just prior to our sample, with what seems to have been an investment pause in 2008-2010.

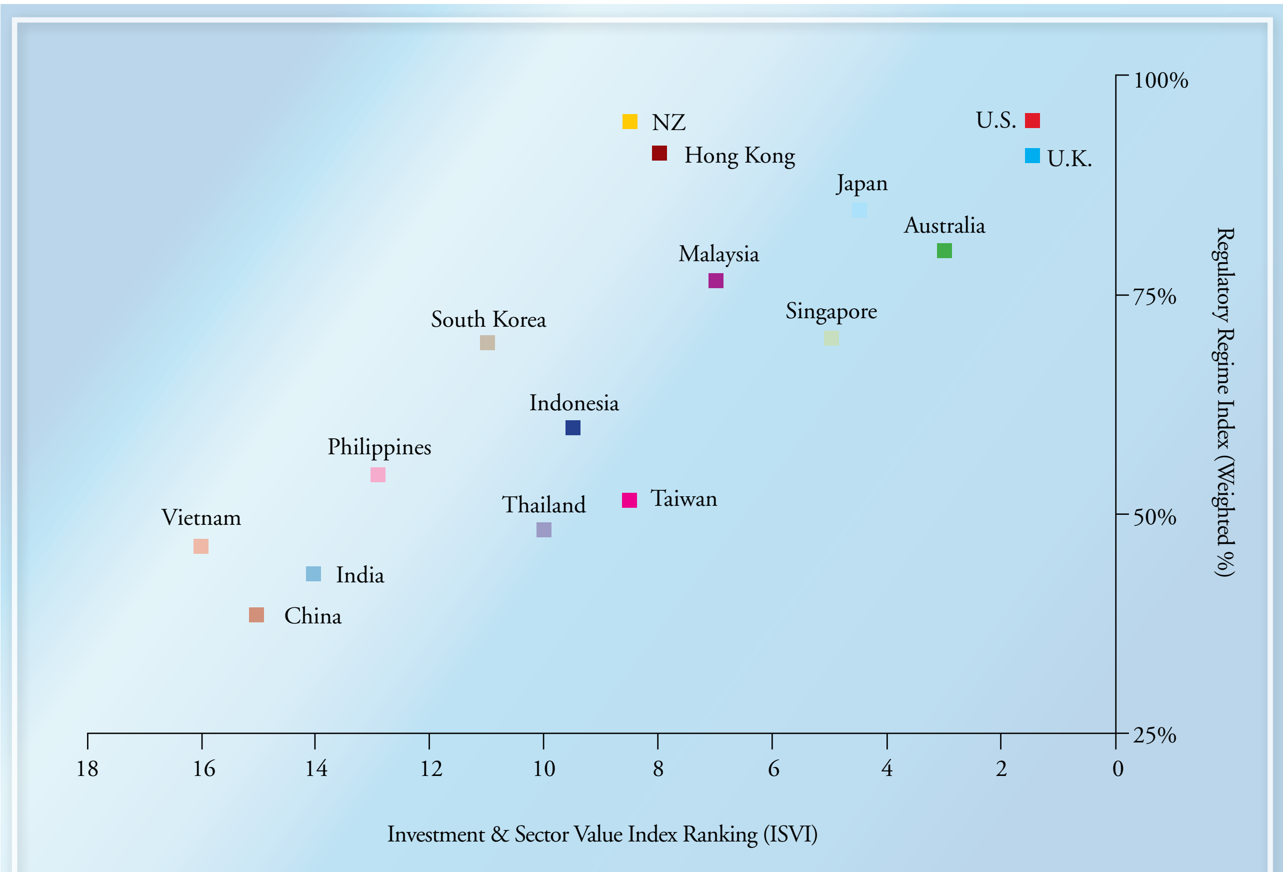
Singapore, on the other hand, shows a relatively high level of investment in both infrastructure and programming. That activity took place while new operator Singtel was entering the market, and (significantly) before the cross-carriage mandate came into force. (Therefore any dampening effect from those regulations would not be shown by this data.)

Reported revenue levels and investment levels in Australia remained the highest in the region, with absolute numbers boosted in US dollar terms by the ongoing rise in the value of the Australian dollar. Chinese infrastructure investments are relatively higher than might be expected, a result of the ongoing state-mandated build-out of digital cable systems. (Programming investment in China remains very low.)

Regulatory Environment and Economic Value

The following chart shows the relationship between effective regulation and economic growth. The regulatory scores have been placed on a common basis, and reduced to a single index number. Similarly, indices of industry sector value have been constructed, based on the revenue and investment averages described above. The results are clear: in general, markets with better regulation have stronger industries, which make a larger contribution to national economies.

Regulatory Effectiveness 2011 vs. Investment & Sector Value Index



Source: CASBAA, MPA

The Regulatory Challenge

The CASBAA regulatory survey 2011 produced some notable insights:

- Regulatory bodies in many markets are becoming more transparent and more rules-based in their approach. There is also an apparent consensus on the desirability of "convergent" regulatory policies that treat different means of delivery (and the associated business models) in similar ways. However, there is still a long way to go in implementing even-handed regulation throughout Asia.
- Many regulators face pressures to exercise more control over the pay-TV sector, treating it as if it were traditional FTA broadcasting. Whether rooted in national politics, consumerism, or morality, such pressures often produce unhappy results and reduce economic benefits through regulatory initiatives that run counter to the market reality of an international industry. (Examples include South Korea's content labeling rules, and Vietnam's censorship/language rules.)
- The long-standing broadcast industry practice of program exclusivity has come under frequent attack, and such attacks are likely to continue. Key sports events are often the focus of popular concern, but some governments have imposed broad regulatory restraints affecting the entire pay-TV industry. There are well-established international practices when examining the nature and extent of competition problems. Thus if damage to economic development is to be avoided, Asian governments are encouraged to use them and limit the scope of any regulatory interventions to the minimum needed.
- In the digital age, protection of intellectual property in broadcasting is a major challenge to all governments. The problem of online distribution of pirate broadcast streams is growing as broadband infrastructure develops. A few governments in the region have begun serious efforts to deal with the problem, but most have not. Much more needs to be done, including educating consumers and imposing real roadblocks on repeat infringers, as well as constraining the ability of piracy promoters to profit from the misuse of broadcast works.
- The largest "convergence" challenge is one that most Asian governments are ill-equipped to confront: the advent of numerous Internet-based broadcasting services (dubbed "OTT" for the "over-the-top" business model). Such services can provide content on a subscription or ad-supported basis, delivering legitimate or pirated content to consumers in many countries. They are rarely licensed and sometimes compete directly with heavily-regulated pay-TV operations. Their rise in other parts of the world has produced regulatory debates which are only now beginning in Asia.

CASBAA's Objectives

Our goal in publishing this third edition of "Regulating for Growth" is to shed light on the details of regulatory policy that are well-known to industry participants, but little examined in an Asian international context. We hope to make it possible for regulators focused on one market to see more clearly what is going on around them, in the rest of Asia and the world. We hope to underline for Asian governments and others that effective regulation does beget growth and to point to some of the directions in which governments should move. Lastly, we hope to counteract some of the pressure felt in all markets for closing doors, for bringing in price controls for this one range of entertainment products, or for advantaging one set of domestic players with a particular technological model.