Streaming Legal Issues in Asia

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>> Introduction

Technology continues to revolutionise the delivery and communication of entertainment content. New online streaming platforms have drastically changed how we are entertained. In Asia, digital consumption of content has been widely embraced by the region, which at the same time continues to experience growth in traditional media platforms. As a geographically large market, I have picked key Asian territories for discussion and analysis.

>> Music Streaming in Asia

As with the rest of the world, streaming services have become Asian consumers' media of choice for music consumption – streaming is a faster way to enjoy new music and one can sync across multiple devices with offline access for paid users.

While online music streaming providers such as Spotify, Pandora and Deezer are already enjoying broad popularity in the West, their expansions into Asia have not been smooth sailing, requiring that they adapt to the various languages, cultures and musical tastes in the region, along with not insignificant regulatory and licensing hurdles.

a) Current Status of the Market

1) Overview of the Market and Existing Players in the Region

I identify in the table below the most popular music streaming service providers in the key territories of the region.

Territory	Major Music Streaming Service Providers
China	Baidu, QQ Music, TTPOD, Xiami, Kuwo, Kugou, Douban, Duomi
Hong Kong	1010, 3Music, KKBox, Moov, SmartToneiN, JOOX, Soliton, Spotify, Rdio
Japan	Sony Music, RecoChoku
Malaysia	Spotify, Deezer, Guvera, Rdio, KKBox, Maxis Music, rara.com
Singapore	Spotify, Deezer, KKBox, Singtel AMPed, Singtel Ideas
South Korea	MelOn, Milk Music, Deezer, Hyundai Card Music, Mnet
Taiwan	KKBox, Spotify
Thailand	Deezer, KKBox, Spotify, Indie Shuffle, Music Combo, Music One, Qikplay
The Philippines	Spotify, Deezer, Spinnr, Amplify, Ndfy, Radio Republic

Looking at a few of the major music streaming providers in the region, their main features are as follows:

Service Providers	Major Territories	Features
KKBox	Taiwan, Hong Kong, Macau, Japan, Singapore, Malaysia, Thailand	**Membership** • KKBox Free: advertising-supported online streaming with daily limit • KKBox Free: advertising-supported online streaming with daily limit **Other Special Features** • Built-in rolling lyrics according to the rhythm and tempo of the music for the ultimate karaoke experience • "Discovery Mode": hit the "discovery" button and launch into auto-pilot mode to explore similar-taste music • Tune into the people one wants to listen with and chat with others while listening to the same song • Integration with Facebook account • Holds live events on its platform allowing users to interact with singers by listening to their tracks and chatting with them via text

Service Providers	Major Territories	Features
QQ Music	China	**Membership** • QQ free users: free on mobile, tablet and computer but only available in Chinese language in mainland China • Green Diamond subscribers: music downloads, more music videos available, large cloud storage space, advance bookings and discounts for QQ Music concerts, special features on QQ games, shopping privilege **Other Special Features** • Synch instantly on all devices through the same QQ account • Intelligent recommendation based on users' listening history • Karaoke style lyrics presentation; optimization for desktop; translation of lyrics available • Many new song premieres • Numerous music pop charts from around the world

Service Providers	Major Territories	Features
MelOn	Korea, Indonesia	Membership • Free users: Streaming limited to 1 minute per song; use of interactive website even without subscription • Purchase of Music Streaming Pass: paid subscriptions for unlimited access and downloads to devices Other Special Features • Sharing on social networking media • Integration with iTunes • Annual MelOn Music Awards – a major Korean music awards show giving out awards to most popular artists chosen based on online sales and votes
Spotify	Hong Kong, Malaysia, Singapore, Taiwan, and the Philippines	Membership • Spotify Free: advertising-supported; only allowed to skip five tracks per hour • Spotify Premium: no advertisements; unlimited streaming to devices; offline mode; top sound quality at 320Kbps; access to Spotify Connect which lets users control music between different devices on the same Wi-Fi network; access to Connect which lets users play Spotify through computer and use one's phone or tablet as a remote.

Service Providers	Major Territories	Features
Spotify	Hong Kong, Malaysia, Singapore, Taiwan, and the Philippines	**Other Special Features** • Create and share playlists or edit them together with other users. A playlist link can directly be dragged into an email or an instant messaging window. • Allows users to integrate their account with existing Facebook and Twitter accounts • Internet Radio based on playlists
Deezer	Indonesia, Malaysia, Pakistan, the Philippines, Singapore, Thailand, Korea	**Membership** • Deezer Discovery: advertising-supported; unlimited streaming • Deezer Unlimited: no advertisements; unlimited streaming; offline mode; TV, Hi-Fi, radio & in car support; higher audio quality (up to 320 kb/s) **Other Special Features** • Subscription available while travelling • SmartRadio feature - an artist based radio channel • Integrate account with existing Facebook and Twitter accounts

Service Providers	Major Territories	Features
Rdio	Hong Kong, India, Indonesia, Malaysia, Singapore, the Philippines, Thailand	**Membership** • Rdio Free: advertising-supported; unlimited streaming • Rdio Unlimited: no advertisements; unlimited streaming; offline mode **Other special features** • Multi-Select favourite tracks • "Play favorite songs" option

2) **Business Features and Trends**

As can be seen from the table above, the norm is that most service providers offer free membership which mostly comprises advertising-supported streaming offering; with premium upgrades to subscribers without/with limited advertisements, unlimited streaming to all devices. One can download to the devices for offline listening.

The battleground is now about creating a user-friendly experience tailor-made for the local populations with the best catalogues for consumers. Whilst the current two-tier (free-to-consumer and paid-for tiers) business models are fairly standard, the key players seek to provide "special" features in an attempt to distinguish themselves from others. These features including access to millions of songs, easy browsing by artist, album, or record label created by playlists, direct searches, and personal recommendation facility etc... The competition seems to have evolved from battling over the mere volume of catalogue, to offering user-friendly music recommendation features and discovery of new music.

In this regard, a few music streaming services stand out in the region.

a) Greater China

KKBox (being one of the oldest and pioneering streaming music services in Asia) is an influential service in Greater China with over 10 million users and featuring over 10 million music tracks from more than 500 local and major music labels and publishers. It is the most popular service in Taiwan, and well known in Hong Kong, Singapore, Malaysia and Thailand. It has a strong library of Asian songs, with an especially impressive song library of Mandarin and Cantonese songs. It is easy for Chinese users to access with a good Chinese search engine. Built-in lyrics are another strong feature so that users do not need a third party app and is perfect for those who enjoy singing along. Western repertoire is also well represented and it even provides music videos of popular artists.

In mainland China, the domestic apps are the top players – KuGou, TTPOD, QQ Music, Kuwo, Duomi and Baidu Music are the leading service providers with a combined market share of about 80%. There is no clear frontrunner; all Chinese service providers have a powerful search engine with global songs downloads. Users differ in opinions as to which service offers the best user interface design, highest quality of music and best trend charts. Some of these services are in fact controlled by the country's biggest Internet and mobile service companies, including Tencent, Alibaba and China Mobile. Tencent's QQ Music is part of a service offering by QQ instant messaging software service with more than 800 million active accounts. Alibaba also controls a share of the digital music industry through its acquisition of Xiami.

b) South Korea

In South Korea where the most popular music is almost always home-grown, Samsung's Milk Music and MelOn are the frontrunners. Being one of the first Asian territories to embrace the digital age, arguably there is still room for international service providers in the market.

MelOn, the top Korean online music store, has been widely adopted by Korean music fans with popular features such as social networking service sharing, music video playback and download, mobile phone music transfer and iTunes integration. An interesting feature of this MelOn service is its MelOn Music Awards, held annually in South Korea. It is an award-giving body which judges winners by calculating digital sales and online votes. MelOn uses this Awards event as a marketing tool to consolidate fan bases by providing a platform for artists to perform and for fans to enjoy extra music content. There are benefits available to subscribers of MelOn such as admission tickets to events and exclusive contents delivered by winning artists of the Awards.

Milk Music, newly launched by Samsung last year, is now gaining in popularity. One aspect of its increasing popularity is its new user interface, most notably its onscreen jog wheel-style control which is fast and flexible. There is an outer wheel for fast-shuttling among station blocks and an inner wheel for fine-tuning to a specific station.

c) Japan

The Japanese market has been rather conservative in adopting streaming services and relied heavily on physical sales for revenues - compact discs still make up 85 percent of the country's music sales. With a slow rate of physical-to-digital transition, international streaming services are still yet to penetrate the Japanese market (Spotify still has not launched in Japan despite years of negotiations with labels). This may be attributed to cultural factors, namely:

i) music licensing is a very complex process in Japan making it difficult for international service providers to either launch or offer a large-enough domestic catalogue to attract users; and
ii) the Japanese music consumers have traditionally placed a very heavy emphasis on discs as promotional tools which are valued as collectibles by consumers – they play a major role in marketing concerts and celebrity products to J-pop fans.

RecoChoku is the incumbent service provider in the Japanese mobile music market. Co-owned by major Japanese music labels, it comes as no surprise that they are reluctant to open up the local market to international service providers.

"In terms of ongoing developments in business models, collaborations between mobile operators and music streaming services are stronger than ever before"

The landscape may change gradually with the pending launch of Line Music – a joint venture between Line Corporation Japan, Sony Music Entertainment and Avex Digital record labels. Line, the leading Japanese messaging social network app, plans to launch a music streaming service for smartphones in Japan in 2015. Sony and Avex reportedly hold 40 and 20 percent with the remaining 40 percent with Line Corporation Japan. The service has not been launched yet as discussion for the three-way partnership is still ongoing; Line says that it will announce further details at a later date.

Outside of Japan, Line is hoping to utilise its MixRadio music streaming service (acquired from Microsoft in December 2014) which holds contracts with the major record companies. The MixRadio service has millions of users in 31 countries. It streams music for free over the Internet and users can create their own "channels" that cater to their preferences. Line Music will sit separately to MixRadio, with the former focusing more on Japan, while the latter continues as a global service.

In terms of ongoing developments in business models, collaborations between mobile operators and music streaming services are stronger than ever before. Most music streaming providers offer their services on mobile phones and tablets. Roughly half of the world's 7 billion mobile services subscribers are in Asia. There is global shift of music consumption to smart phone-based mobile platforms and digital music has moved from desktop PC to on-the-go mode on smart phones and tablet devices. Against such backdrop, carrier partnerships seem to be the preferred way in Asia. Music streaming services seek to gain more users by collaborating with carriers to attract new customers. Mobile carriers pay the music streaming services while gaining an additional value-added music streaming service that will differentiate themselves from other carriers. Examples of these collaborations include Deezer, who has three such partnerships in Asia currently — with Digi in Malaysia, DTAC in Thailand and M1 in Singapore. Spotify partners with Maxis in Malaysia and has also teamed up with Globe Telecom as its exclusive telecommunications partner in the Philippines.

For Korea's Samsung, it has adopted a notable marketing practice of its own – it has made its own Milk Music only available for certain of its own devices, including the Galaxy S5, the S4 Mini, S3, the Galaxy Note 4, the Note Edge, the Note 3, the Note 2, the Galaxy Mega, and the Galaxy S4. Other users can listen to Milk Music on a desktop browser with a Samsung account but not on their mobile devices.

Another interesting business model development is the synergy between instant messaging apps and international music services such as the Line joint venture – Line is capitalising on the content and music services possessed by the music labels while the music labels are tapping into the global instant messaging user base of more than 170 million boasted by Line.

b) Legal Issues

The regulatory frameworks in Asian territories are rarely straightforward. Hurdles that a new service provider needs to overcome before landing in a new market in the region are two-folded – regulatory licensing issues, and commercial licensing issues.

1) Regulatory Licensing Issues

a) China

In the PRC, the regulatory framework for online music and cultural activities in the PRC is overseen by the Ministry of Culture ("MOC"). Any company looking to engage in an internet cultural activity must secure an Online Culture Permit ("OCP") from the MOC. As per the MOC's Opinions on the Development and Regulation of Online Music issued 11 December 2006, online music refers to "digital music products that are circulated on wired Internet or wireless mobile communication networks". A permit with online music coverage must be obtained from the MOC in order for service providers to engage in all online music business. To secure an OCP, a company must apply to the local MOC in the specific province which will issue a written acceptance or rejection within 20 days.

Recently, the MOC appears to be loosening its scrutiny of imported online music by giving local industry players the power of self-censorship and review. On the other hand, there does not appear to be any loosening of the OCP permit system needed to operate a streaming music service. Further, among the various relevant ministries the MOC is seen as one of the more aggressive in terms of its approach to offshore mobile applications. For example, the MOC has put offshore-hosted mobile game app stores on their penalty list.

With regards international service providers, there are often foreign investment constraints imposed by the Chinese government in the Internet space. Censorship approval is needed for any imported foreign music before it can be licensed to an online cultural service provider. Online music originating domestically is only required to undergo filing procedures and not approval procedures.

One possible way for international service providers to mitigate the regulatory hurdles is by resorting to a so-called "offshore model", under which the providers may be able to tap into the customer base without too much of a local presence (such as local servers and marketing) by offering the service from outside the country whereby consumers will use the Internet to access a foreign website hosted entirely overseas by a foreign entity. To make the offshore operations workable, these international service providers would need to have stable contractual arrangements with local music services providers (for operations and payment) and with individual customers (i.e. if the service is via a free online or mobile app). The regulatory authorities do not exercise any extraterritorial jurisdiction on overseas companies providing such services through the Internet to Chinese consumers and have not required them to obtain licenses. However, there is still a certain extent of regulatory restrictions over the content delivered, and such foreign websites are not immune to shutdown (or blockage by the Great Firewall) imposed by the Chinese authorities. Therefore, practically many offshore services choose to self-censor to avoid blocking and choose to deploy content delivery network services in China to improve traffic and user experience.

b) South Korea

The Ministry of Culture, Sports and Tourism ("MCST") and the Korea Copyright Commission are the main authorities regulating licensing and collection of royalties. MCST plays a more active role than its counterparts in other territories across the region by dictating the licensing terms imposed by KOMCA and KOSCAP (the PROs of Korea) through the Collection Regulations.

Whilst the country's Collection Regulations (which specify minima, rates and retail prices etc) are in the nature of internal guidance directed at the PROs of Korea and not law as such, in practice the PROs of Korea do not depart from the Regulations and would insist that they be incorporated into licence agreements. The PROs of Korea can operate their businesses only with the approval of MCST, and MCST may issue a suspension order against them if they are in breach of the Collection Regulations. Accordingly they are inclined to strictly comply with the Regulations, to the extent that they will seek to revise the Regulations to accommodate any deviation (for example, where a music service wants to charge its customers at discounted prices), if any. Such a request by the PROs to MCST for review could be a long and costly process.

As a result, whilst service providers in theory might be able to negotiate their own terms, this may not be practical given the practice and policy adopted by the PROs, which in turn has a great impact on the way international music service providers run their businesses in Korea.

Against such rigidity, music service providers might find the PROs of Korea a little sclerotic and uncreative when presented with business models which appears to differ from the norms of the Korean market.

2) **Commercial licensing issues**

I summarise the basics of the commercial licensing regimes in the region in the table below:

Territory	Local Licensors of Musical Works^ (Mechanical and Communication to the Public)
China	Music Copyright Society of China ("MCSC")*
Hong Kong	The Composers and Authors Society of Hong Kong Limited ("CASH")
Japan	• Japanese Society for Rights of Authors • Composers and Publishers ("JASRAC") • e-License • Japan Rights Clearance ("JRC") [Note: Performer's rights licensed by Center for Performers' Rights Administration ("CPRA")]
Malaysia	Music Authors Copyright Protection ("MACP") Berhad
Singapore	• The Composers and Authors Society of Singapore ("COMPASS") • Individual publishers#

Territory	Local Licensors of Musical Works^ (Mechanical and Communication to the Public)
South Korea	• Korea Music Copyright Association ("KOMCA") • The Korean Society of Composers, Authors and Publishers ("KOSCAP")[Note: Performer's rights licensed by Federation of Korean Music Producers ("FKMP")]
Taiwan	• Music Copyright Intermediary Society of Chinese Taipei ("MUST") • Music Copyright Association Taiwan ("MCAT") • Music Copyright Intermediary Society of Taiwan ("TMCS") • Individual publishers#
Thailand	• Music Copyright Thailand Limited ("MCT")@ • Grammy@ • RS@
The Philippines	• Filipino Society of Composers, Authors and Publishers, Inc. ("FILSCAP") • Music Copyright Administrators of the Philippines ("MCAP") [Note: Performer's rights licensed by Performers Rights Society of the Philippines ("PRSP")

Notes to the Table

^ The above table only summarises the licensing landscape with regard to musical works. Licences from labels are normally necessary as master tracks are often used by service providers. Generally speaking, labels license the rights in the master recordings to service providers directly.

** The scope of rights licensed by MCSC remains unclear. Whilst it claims to be a "one-stop" licensor entitled to license mechanical and communication to the public rights, major international publishers do not necessarily recognise MCSC's jurisdiction in the same way. In fact, as far as digital music licensing is concerned, the position appears that major international publishers prefer to license to service providers directly. Potential entrants to the market are therefore encouraged to check with the publishers in advance; as the licensing landscape in China is, perhaps unsurprisingly, far from straight forward.*

 # Wherever the performance rights organisations ("PROs") are not "one-stops" in nature, service providers should clear mechanical rights with individual publishers directly. That said, however, we are seeing some of the PROs start to pick up mechanical rights from major international publishers from across the region, thereby expanding the scope of licence issued by these PROs. For instance, in addition to licensing mechanical and communication to the public rights for exploitation in Hong Kong, CASH is now entitled to license on behalf of Sony/ATV (possibly EMI Music Publishing too?) and Fujipacific in some of the territories across East Asia. APRA/AMCOS, the PRO of Australia and New Zealand, is also in the process of aggregating the mechanical rights and communication to the public rights in the Anglo-American repertoire of Universal Music Publishing and Peermusic across some territories across East Asia.

@ MCT licenses communication to the public rights in international repertoire; and licenses mechanical and communication to the public rights in some local repertoire. Please, however, note that the major local publishers in Thailand (which are also major local labels), GMM and RS, license mechanical rights in their repertoire to licensees directly.

Clearing all necessary licences can be a time-consuming and costly exercise; largely thanks to the multiplicity of rights owners across the region.

However, the clearance process appears to be improving (albeit very slowly and unevenly) by initiatives taken by some of the PROs in the region, notably CASH of Hong Kong, and APRA/AMCOS of Australia and New Zealand. Signs of an increasing degree of aggregation of mechanical and performance rights in territories with "one-stop" PRO have been discussed at note # to the table above.

While the commercial licensing landscape of the region as a whole appears to be improving, new challenges arise due to the ever-changing technologies deployed by music services to enhance user experience, and the fact that local rights owners do not necessarily keep abreast of the latest technologies, which could at times make the negotiations with the local rights owners for new services more difficult than negotiations with their Western counterparts.

The Following Issues Often Come to Light During Copyrights Negotiations

a) Mode of delivery: It seems that traditional pay streaming and download services are best received by local rights owners. Other modes of delivery (in particular ad-supported service, radio service, cloud service) are often viewed with scepticism by rights owners, especially when such modes are new to the region (although they might not be regarded as new in the West) and which have not been "tested" in the local market. Rights owners in the region are in general conservative and averse to risks.

b) "Disruption" of the market: Rights owners' conservatism extends beyond the mode of delivery, to the consequences of the entrance of new players into the market. Any innovations in business operation, or the mere existence of a new competitor (especially foreign-based music services with deep pockets), might be worrying to some local rights owners for the potential to cannibalise the revenues of existing market players. For example, given the popularity of KKBox across the region, the dominance of local music service providers in Korea (which are affiliated with major local label-publishers), and the substantial revenues generated by these well-established music services, it has been rather difficult persuading local rights owners as to how a new music service would succeed in these markets. Apart from the perceptions of rights owners, they might also be restricted by existing deals with current market players. For example, a dominant local music service might have concluded exclusive deals with major local content owners under which new repertoire released are reserved for the exclusive exploitation by that dominant local music service for a fixed period of time.

>> TV Streaming in Asia

a) Current Status of the Market

1) Overview

Everyone wants a slice of the audio-visual streaming market in APAC. In fact, the region is swarming with TV streaming services seeking out the "cord cutter" generation.
The major TV streaming services in the APAC markets are summarised as follows:-

Territory	Service Providers	Local Licensors	Foreign Direct Investment ("FDI") Permissible?
China	LeTV, PPTV, iQiYi, Youku, Tudou, Sohu, Tencent	Individual TV channels/studios	Prohibited
Hong Kong	Apple TV, myTV, HKTV, Youtube	Self-produced programmes	No restrictions
Japan	Apple TV, BBTV, Hulu, Amazon Instant Video, YouTube	Individual TV channels/studios	No restrictions

Territory	Service Providers	Local Licensors	Foreign Direct Investment ("FDI") Permissible?
Malaysia	Apple TV, Astro On-The-Go, Hypp TV, Tonton, YouTube	Individual TV channels/ studios / Self-produced programmes	No restrictions
Singapore	Apple TV, Spuul, HOOQ (to be launched), Toggle, YouTube	Individual TV channels/ studios / Self-produced programmes	No restrictions
South Korea	Btv mobile, Olleh TV Mobile, U+ HDTV, Pooq, and Tving, and YouTube	Individual TV channels/ studios/ Self-produced programmes	No restrictions
Taiwan	Apple TV, udn TV, Huada, kbro, CatchPlay, LiTV, Elta TV, YouTube	Individual TV channels/ studios/ Self-produced programmes	No restrictions
Thailand	Apple TV, PrimeTime Entertainment, Hollywood HDTV, Doonung, DooDee, YouTube	Individual TV channels/studios	No restrictions if not located in Thailand; if so only 25% FDI allowed
The Philippines	Apple TV, Cignal TV-TO-GO, iWantv!, ABS-CBNmobile, YouTube	Individual TV channels/ studios/ Self-produced programmes	No restrictions

2. Existing Players in the Region

The basic features of the key TV streaming services are as follows:-

Brands	Pay Service?	Payment Method	Content	Support Device
Amazon Instant Video	✓	Rental/ purchase	Series and films from local and international studios	Desktop, Mobile operation system ("OS"); Set-top boxes, Consoles and Smart TVs
Apple TV	✓	Rental/ purchase	Receives digital content from the iTunes app using AirPlay or directly from iTunes Store, which is then streamed to the TV.	Apple Set-top box, items purchased in iTunes store can be played in Apple devices

Brands	Pay Service?	Payment Method	Content	Support Device
Astro On-The-Go	✓	Monthly subscription of channels/ Purchase	Live TV Channels, Live Sporting and Entertainment Events, TV Shows, Movies	Desktop and Mobile OS
Hulu	Hybrid	Monthly subscription	Hollywood and Japanese films and dramas and popular television programming. Nippon TV's popular shows and original exclusive content launched on Hulu.	Desktop, Mobile OS, Set-top boxes, Consoles and Smart TVs
Toggle	Hybrid	Monthly subscription	Live TV Channels, Live Sporting and Entertainment Events, TV Shows, Movies	Desktop, Mobile OS, Set-top boxes
TVB - GOTV/ myTV	myTV free; GOTV paid	Monthly subscription of channels/ rental	elevision programmes broadcasted by TVB	Desktop, Mobile OS

Brands	Pay Service?	Payment method	Content	Support Device
YouTube	Hybrid	Monthly subscription of channels/ purchase/ rental	User-generated and corporate media video, including video clips, TV clips, music videos, and other content such as video blogging, short original videos, educational videos	Desktop, Mobile OS, Set-top boxes, Consoles and Smart TVs
Youku/ Sohu/ PPTV/ iQiyi/ Tencent	Hybrid	Monthly subscription of channels/rental	Series and films from local and international studios so long as user-generated and corporate media video, including video clips, TV clips, music videos, other content such as video blogging, short original videos, and educational videos	Desktop, Mobile OS, Set-top boxes

Brands	Pay Service?	Payment method	Content	Support Device
YouTube	Hybrid	Monthly subscription of channels/ purchase/ rental	User-generated and corporate media video, including video clips, TV clips, music videos, and other content such as video blogging, short original videos, educational videos	Desktop, Mobile OS, Set-top boxes, Consoles and Smart TVs
Youku/ Sohu/ PPTV/ iQiyi/ Tencent	Hybrid	Monthly subscription of channels/rental	Series and films from local and international studios so long as user-generated and corporate media video, including video clips, TV clips, music videos, other content such as video blogging, short original videos, and educational videos	Desktop, Mobile OS, Set-top boxes

3) Business Features and Trends

As at January 2015, there were 1.3 billion internet users in APAC. The number of net increase in mobile subscriptions in Q1 2014 as compared to Q1 2013 totalled some 120 million, the top 5 countries by net additions are: (1) India +28 million; (2) China +19 million; (3) Indonesia +7 million; (4) Thailand +6 million; and (5) Bangladesh +4 million . Consumers nowadays have expectations of being able to enjoy "TV anywhere, anytime", given the proliferation of mobile connectivity.

Streaming is now a feature on almost every connectable device, including smart TVs, smart Blu-ray players, gaming consoles and microconsoles, tablets, and smartphones. Broadcasters, content producers, and pay-TV providers are all expecting over-the-top ("OTT") services to help capture new revenues and new consumers. OTT video is mostly advertising-funded across APAC markets, but paid models are gaining traction within hybrid business models, e.g. Youku/Tudou; LeTV; YouTube, whereby services offer free content to expand the user base, but at the same time position premium transactional video on demand ("TVoD") and subscription video on demand ("SVoD") content to generate additional revenue. I will focus on the market growth and latest developments in China, Hong Kong and Singapore:

a) China

The Chinese market has been embracing OTT services. According to consulting firm iResearch, revenue generated by the Chinese online video market reached RMB23.97 billion in 2014 which was a jump of 76.4 per cent from the year before.

According to Pyramid Research, SVoD revenues are forecast to top $1.2 billion by 2016 which accounts for about 6% of overall pay-TV revenue in the country with subscriber numbers climbing to 28.3 million.

The proliferation of hybrid models in China combining advertising-funded video on demand ("AVoD") and SVoD will be a major driver for growth, with 4G, fiber broadband and e-commerce supporting the growth of OTT.

It is an interesting fact that Chinese OTT service providers are now playing a bigger role in securing exclusive rights for paid sports content. Key OTT players LeTV and PPTV now broadcast more English Premier League (EPL) games in China than traditional broadcast channels such as free-to-air ("FTA") platforms.

OTT services seem set to continue to grow, with service providers offering exclusive access to a wide range of content for example premium sports like English Premier League, and increasing user interactivity with features such as real-time interaction during popular sports games.

b) Hong Kong

The Hong Kong market is certainly not new to OTT. Television Broadcasts Limited ("TVB"), Hong Kong's largest broadcaster, has been offering its myTV service since 2008 which allows users to watch the latest TVB programs of full version and high quality through the Internet or mobile devices.

The major pay-TV service providers, Now TV and Hong Kong Cable Television (HKCTV), also offer OTT services. Now TV has evolved to be the largest pay TV station in Hong Kong since its launch in 2003, featuring almost 200 channels. HKCTV has traditionally been a popular pay-TV service with more than 100 channels including 10,000 hours of its own production such as self produced professional news, in-depth reports sharing unique perspective of current affairs and is the official broadcaster for many sports events. They both deliver OTT contents to users over the Internet and mobile devices. Some contents are open to non-subscribers for free, including sports highlights, some local and western drama, news and entertainment programs.

The most recent significant development in OTT in the territory is the launch of Hong Kong Television Network ("HKTV"). The ad-supported live streaming TV service kicked off in November 2014 after its application for a free-to-air TV licence was controversially rejected by the government the previous year. HKTV can be viewed on mobile phones, computers and smart TVs with the app installed and other TVs with a set-top box. The service also has an online eCommerce platform called HKTV mall which was launched in February this year after its trial run in December 2014. Products from over 300 stores are available and HKTV shows are run on the site simultaneously which demonstrates an integration of entertainment and shopping. It derives income from advertisements, licensing fee from overseas TV channels and the HKTV Mall, its online shopping channel targeted towards home shoppers consumers.

In terms of content, HKTV produces its own dramas, current affairs news programmes and a number of variety shows. It also purchases content from Korea.

In view of the strong competition posed by HKTV, TVB has just announced a new OTT broadcast service in collaboration with Hutchison Global Communications and 3 Hong Kong, a major telecommunications company, for stable transmission. The new service is essentially a continuation of the existing myTV platform split into free and pay models. A total of 13 paid channels will be launched to carry a range of local and international TV shows from Japan, Korea, Taiwan, mainland China and some Western markets with a nominal monthly subscription fee. Subscription packages can also be tailor-made to match users' preference.

It is hard to compare HKTV with TVB's myTV at this stage. Whilst both offer real-time streaming of their TV programmes, TVB's myTV has a more comprehensive content offering as it uploads original content ranging from news report to beauty pageant shows. One, however, must not underestimate HKTV's potential given its innovative HKTV Mall model.

c) Singapore

OTT streaming in Singapore continues its rapid growth. Singapore is uniquely placed in the region to support digital media growth with "its advanced infrastructure, regional access to high growth markets and ability to test-bed new technologies" according to PwC Singapore.

"The pay-TV services providers in the West are scratching their heads to keep their customers from cutting the cord"

Most notable development in the nation is the launch of HOOQ, formed by Warner Bros, Sony Pictures Television together with Singapore's Singtel. This streaming video service offers more than 10,000 Hollywood films and TV shows, as well as local-language content via streams or downloads on a variety of platforms. It is rolling out across Singtel's network in Indonesia, the Philippines, India and Thailand during the first quarter this year.

OTT business models entirely reliant on advertising revenue streams would appear difficult to sustain, given the high cost of content .The opportunity to position SVoD and TVoD services successfully is stronger for local companies for their ability to pitch licences from local and international studios and their edge to understand the market to deploy sustainable business models for paid content. One has therefore seen mergers of local telecom giants with international studios, such as HOOQ, in launching OTT TV services in APAC, which partnerships give international studios a gateway to capture viewers in a region without having the need to invest too much in making a local presence, whilst allowing local telecoms access to licences with much less hassle.

The pay-TV services providers in the West are scratching their heads to keep their customers from cutting the cord when their traditional TV services are losing ground to OTT services. They have to actively aggregate third-party OTT services in order to reinforce their market position. Nevertheless, APAC service providers seem not face the same challenges as their Western counterparts as there seems little evidence that Asian consumers are rushing to cut the cord. The OTT services seem to be growing in parallel, and as complementary with, the traditional Pay-TV offerings. This could be due to the competitively low pricing of pay-TV offerings and the ever-increasing urbanization rate in Asia, which contribute to the growth of viewership for both pay-TV and OTT in general. Pay-TV services continue to be viable and profitable in the region – as regards non-terrestrial TV connections, 61% of homes in Asia receive multichannel TV and the region is poised to strengthen its leadership as the largest multichannel video market globally in terms of subscribers .

b) Legal Issues

1) Varying Degrees of Regulations on Content

The level of content regulation of Asian online television environments varies greatly from country to country.

a) China

China exercises tight control over all media platforms. OTT-TV services and their content is closely monitored and censored. China's State Administration of Press, Publication, Radio, Film, and Television ("SAPPRFT") recently issued a circular on strengthening control over foreign movies and TV shows on online Chinese video streaming sites. By 31st March 2015, video streaming websites in China are required to obtain licenses for foreign movies and TV shows. As a result of which, online video providers such as Baidu and Alibaba, which jointly spent US$1 billion on foreign content acquisition in 2012 – 2014, are moving into original content creation .

Materials on the Chinese video sites are required to be "healthy in content" and in compliance with a 2004 SAPPRFT order on introducing and broadcasting foreign TV programs. Foreign TV programs to be introduced in China must not contain content that may jeopardize national unity, sovereignty, or the territorial integrity of the State; disclose State secrets, endanger national security, or damage the honour and interests of the State; incite ethnic hatred or discrimination, destroy inter-ethnic unity, or harm the customs or habits of the ethnic groups; disturb social order or social stability; propagate obscenity, gambling, or violence, or incite crimes; or jeopardize social morality or good cultural traditions.

b) Hong Kong

As for Hong Kong, videos that contain any solicitation of betting via any unauthorized website, whether domestic or foreign, are illegal. Operators of foreign websites containing such content could be arrested if they are within the jurisdiction.

Obscene content are controlled as well and Hong Kong ISPs are responsible for ensuring their services do not host obscene material. Such content, however, remains available on foreign websites.

c) Taiwan
In Taiwan, OTT TV contents are subject to regulations which restrict depictions of pornography or criminal acts. The National Communications Commission has yet to implement any regulation specific to OTT service providers.

d) South Korea
While South Korea is a democratic nation and is among the world's most electronically connected countries, strict media censorship practices are in place. The Korea Communications Standards Commission acts as a censorship body. It has much discretion and has shown inconsistent and less predictable standards when it comes to banning certain contents.

General online regulations apply to an OTT-TV service. In particular, content harmful to children such as immoral, obscene, violent, speculative and antisocial information cannot be transmitted without access restrictions.

e) Malaysia
Malaysian Communications and Multimedia Commission (MCMC) is the relevant regulator, but OTT TV services are exempt from the general licensing regime and hence are subject to very little regulation in Malaysia.

The government has shown willingness to disable egregious offender websites for its supplying pirated contents.

f) Singapore
The Media Development Authority (MDA) is the regulator for domestic OTT TV via its Broadcasting Class Licence. The licensing regime for OTT TV

seems to be more relaxed than that of traditional pay TV. A content provider registered as a Singapore company but providing content from outside the country is also subject to a lighter licensing regime under the MDA.

Whilst domestic OTT TV service providers must be licensed, OTT-TV providers operating from outside of the country are not regulated. There is some extent of content controls for pay-OTT contents, as the government would block access to foreign websites in its discretion.

g) Indonesia
As OTT operators are not required to be licensed, there is little regulation of OTT TV services in the country except that Indonesian ISPs are required to block pornographic content.

There seems to be a growing disparity between the regulatory regimes for traditional pay TV and OTT TV.

2) Piracy
With the borderless nature of the Internet and the uneven distribution of legitimate streaming TV content across the region, netizens have utilized different techniques to access TV shows of their own choice. Real-time streaming of pirated TV channels has become an unfortunate reality, leading to job reduction in the legitimate content creation, syndication and distribution sectors. Cheap streaming media circumvention boxes coupled with illicit pirate "apps" bring this content to millions of audience with payment to multinational piracy syndicates, denying fair compensation to the many thousands of people actually working to create the content. Legal OTT offerings in countries such as Singapore are abundant but people still pirate anyway. They do so because it is free, not because of a lack of access to lawful TV services. Looking ahead, pricing may be the major challenge for companies who offer legitimate contents (e.g. HOOQ).

One has seen the rise of BT and since the dawn of OTT TV, users have the choice of renting Virtual Private Networks ("VPNs") to mask their location. With VPNs, one may circumvent geolocation blocks of streaming websites to their liking.

Millions of Chinese people use commercial VPNs to circumvent the country's internet censorship system, known as the "Great Firewall", for around US$8 per month. Up to early 2015, the Chinese government has upgraded its web filters to automatically detect and block VPNs, by spotting VPN traffic during transit using signatures such as its obvious encryption, and then blocking the source automatically. This new censorship move by the Chinese government makes it hard for VPN providers to stay one step ahead, and for users to keep up with the latest techniques .

As of January 2015, Netflix has started to take action against people who use certain circumvention tools. DNS based location unblockers and several VPN IP-ranges were targeted by the service. Netflix is reportedly testing a variety of blocking methods, from querying the user's time zone through the web browser or mobile device GPS and comparing it to the time zone of their IP-address . It remains to be seen whether other service providers shall follow suit to actively enforce the geolocation blocks.

With increasing availability of blocking methods to combat pirated contents, OTT TV operators should take this chance to expand their services. After all, subscribing to legitimate services is always more attractive than having to keep up with the ever changing technology - as one is just seeking enjoyment, not to bring stress to oneself by having to research over and over again for complicated Internet settings.

>> Conclusion

In the words of Heraclitus – "The Only Thing That Is Constant Is Change". In face of the technological advancement in bringing entertainment to the masses, traditional service providers are going to have to raise their game to earn their seats in the arena. With a relatively loose regulatory control on the streaming industry, existing players must review their respective business models and evolve to remain competitive. APAC is still a new market for the streaming industry when compared to North America. One must seize the opportunity when the window is open and consider ways of overcoming the challenge of locality issues in licensing/regulatory approval and actively seek out practical solutions to tackle issues like piracy and the possible problem of technological support regionally.

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[2] *Pyramid Research; "OTT Video in Emerging Markets : Monetization Strategies and 5-Year Revenue Opportunity"; Feb 2015; http://marketreportsstore.com/ott-video-in-emerging-markets-monetization-strategies-and-5-year-revenue-opportunity/*

[3] *CASBAA; "CASBAA Research Reveals Over 500 Million Multichannel TV Homes in Asia Pacific"; accessed on 19th March 2015; http://www.casbaa.com/advertising/news/latest-news/7673-casbaa-research-reveals-over-500-million-multichannel-tv-homes-in-asia-pacific*

[4] *Asia Briefing; "Over-the-Top (OTT) Streaming Services in Asia: Opportunities and Challenges for Foreign Investors"; 11 February 2015; http://www.asiabriefing.com/news/2015/02/top-ott-streaming-services-asia-opportunities-challenges-foreign-investors/#sthash.1KNmmqH6.dpuf"*

[5] *Forbes; "China Says It Wants 'Downwards Trend' In Censorship - While Blocking VPNs"; 30th January 2015; http://www.forbes.com/sites/emmawoollacott/2015/01/30/china-says-it-wants-downwards-trend-in-censorship-while-blocking-vpns/*

[6] *TorrentFreak; "Netflix Cracks Down on VPN and Proxy "Pirates""; 3rd January 2015; http://torrentfreak.com/netflix-cracks-down-on-vpn-and-proxy-pirates-150103/*