



W H I T E P A P E R

# **POLICY REGULATION FOR A SUSTAINED GROWTH OF BANGLADESH'S ENTERTAINMENT INDUSTRY**

**Jude William Genilo  
Sarkar Barbaq Quarmal and  
Muhammad Abdul Kader**

Media Studies and Journalism Department  
University of Liberal Arts Bangladesh

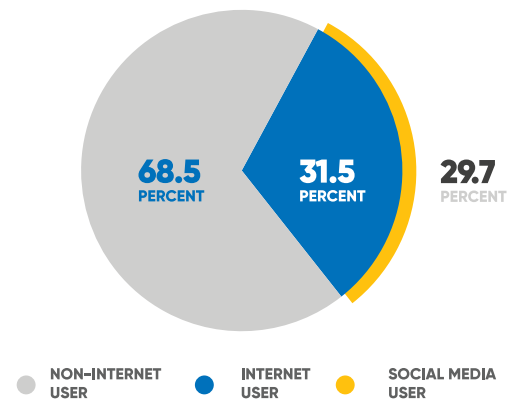
## Objectives of the White Paper

The main objectives of this white paper are to discuss the trends relating to Bangladesh’s entertainment industry and to provide a range of approaches that may be utilized to regulate the said sector. In this manner, stakeholders would be in the best position to decide what regulatory measures should be set in place to ensure the industry’s sustained growth.

## State of the Entertainment Industry

Cinema, radio, and television have traditionally been the most popular forms of entertainment in Bangladesh. In the 1970s and 1980s, even with the ban on Indian movies, cinema halls were jam-packed with moviegoers. Bangladesh Television (BTV) and Bangladesh Betar, with their monopoly over the airwaves, provided several very popular entertainment programs. Actors had thousands of adoring fans, transcending into heroes and cultural icons. In the 1990s and 2000s, with market liberalization, the broadcast media expanded drastically with the establishment of several FM radio stations and private satellite television channels. However, with intense competition, most broadcasting companies have a hard time keeping afloat. The film industry, on the other hand, experienced a lot of downs due to circumstances such as predictable storylines, rise of VCRs, lack of financing, poor production values and censorship of acclaimed films. Without patronage, cinema halls started closing down. Moviegoing no longer remained the national pastime, especially for the urban middle class.

fast-growing economy, it has one of the largest media markets in Asia. In 2020, the country had close to 50 television channels, 28 FM stations, more than a thousand newspapers and hundreds of online news portals (International Media Support, 2021). The sales of television sets and home entertainment systems, according to Statista (October 2021), are projected to increase steadily in the next five years. In 2022, the country experienced a measure of success in its film industry with the release of more than 50 movies. Blockbuster movies such as “Hawa,” “Poran” and a few others brought audiences back to cinema halls. There were also an increasing number of film directors gaining global recognition.



Hootsuite, 2022

With increased accessibility to the Internet, the entertainment industry has expanded to digital platforms. In 2022, Hootsuite reported that 31.5 percent of the population were Internet users and 29.7 percent were social media users. The Bangladesh Telecommunication Regulatory Commission (BTRC) estimated roughly 129 million active mobile and broadband Internet connections. The Bangladesh



International Media Support, 2021

Starting in 2010s, the entertainment industry in Bangladesh is getting back its vigour. It is now full of promise. With more than 160 million people and a



Local OTT Platforms in Bangladesh

National ICT Household Survey 2021 indicated that Internet users were more likely to be urban dwellers between 15 to 34 years old with relatively higher education. Under this environment, several local OTT platforms have emerged such as Binge, Bioscope, Chorki, Deepto Play and iScreen. In February 2022, the Business Post estimated the market size of video

streaming platforms in the country to be BDT 300 billion per year with an annual growth of 20 percent. The shifts in media consumption patterns have brought about new production trends as well. The International Media Support (IMS) in 2021 mapped several innovative media initiatives in the country. These emerging models included individual-led community-based media start-ups, public interest media, non-profit independent journalism, issue-focused journalism, local and hyperlocal media, and subscription-based revenue approaches.

With these developments, it is no surprise that the A2I (Aspire to Innovate) program of the Prime Minister's Office projected in 2020 an optimistic future of jobs in Bangladesh, particularly in the entertainment sector. It recounted that one of the sectors that was resilient to the pandemic was the creative industry. Instead of decreasing, 20,000 new jobs were added to this occupational segment. For 2021, the report projected 90,000 new jobs in the said sector. The demand for creative workers is only expected to increase in the future.

## Importance of an Enabling Environment

Although the prospects of the entertainment industry are bright, many stakeholders have expressed concerns that heavy-handed regulations may affect the growth of the sector. On one hand, government needs to exercise its role to safeguard national and public interests. But, on the other hand, it should create an enabling environment that allows market players to feasibly operate, satisfy the entertainment needs of its citizens, and ensure the advancement of the entire industry. Regulations need to be tailored, effective and fit for purpose. Otherwise, it can break the entertainment industry and all its promise to impact the social, cultural and economic realms of the country.

Bangladesh needs to negotiate a balance in its regulatory approach in order to provide an enabling environment for the industry. Therefore, it may be wise to observe Asia's leaders - China, Japan and India - in terms of their strategies in providing cultural services. After all, these countries account for most box office revenues in the Asian film market and almost a third of the global market. India's competitive advantage lies in the agility of its entertainment industry. With its capacity for speed and precision, it is able to continuously upgrade its advantages and sustain its competitive position in the market.

To ensure its competitiveness, the Indian government's regulation is focused on film facilitation (including ease

of filming, ease of shooting and issuance of clearances). Such a policy is necessary given the short period of time Indian films remain popular and the rapidity with which films are pirated. The country's Competition Commission is likewise conducting a market study on film distribution with the larger intention of exploring self-regulatory mechanisms within the industry.

Bangladesh may also observe regulations relating to the cultural industry of the United Kingdom, which has experienced sustained growth over the years. According to wales247.co.uk, in 2023, the revenue from the entertainment and media sector is expected to reach GBP 83 billion. The country is close to overtaking its main competitors. In terms of regulation, the UK's Office of Communication (Ofcom) since 2005-06 has followed the least intrusive regulatory mechanisms. After all, its principle duty is to further the interests of citizens and consumers. There are six main areas that Ofcom has been tasked to undertake :

Ensure the optimal use for the electro-magnetic spectrum;

Ensure that a wide range of electronic communications services-including high speed data services - is available throughout the UK;

Ensure a wide range of TV and radio services of high quality and wide appeal, throughout the UK;

Maintain plurality in the provision of broadcasting;

Provide audiences with adequate protection against offensive and harmful material; and

Provide audiences with adequate protection against unfairness or unwarranted infringements of privacy.

In many ways, the Ofcom regulatory principles dictate a light touch policy orientation for OTT directives in the UK. Bangladesh should do a deep dive into its entertainment sector and then, ascertain what measures to undertake to enhance its market edge.

## Threat of Heavy-Handed Policy Regulation

One regulation that is of great concern nowadays are the draft guidelines for over-the-top (OTT) media platforms drafted by the Bangladesh Ministry of Information and Broadcasting (MOIB) and the BTRC. The draft regulations caused concern among certain quarters given their hard stance - rules regarding content relating to obscenity, defamation, religion, social harmony, foreign relations and national security



as well as the requirements to address complaints against content hosted in the said platforms. Stakeholders are concerned that these instructions are not in cadence with the best practices surrounding OTT platform in the Asia-Pacific region and elsewhere.

A heavy-handed approach (or state control orientation) may even violate the country's constitutional guarantees, particularly Article 39 on freedom of thought, conscience, speech and press. Stakeholders cited the Universal Declaration of Human Rights, specifically Article 19, providing for the freedom of opinion and expression. This right includes the freedom to hold opinions, and seek, receive, and impart information and idea through any media. However, several provisions in the regulation may result in the violation of such freedoms. One example was the traceability requirement where OTT platforms need to store information in order to ascertain content of users' messages. Such a provision compromises the guarantees of privacy and encryption, infringing upon privacy in private communications.

In 2018, the Asia Video Industry Association (AVIA) enumerated a spectrum of OTT regulations in the Asia-Pacific region - light touch policy, light touch by default, traditional broadcasting and state control orientations. The light touch policy orientation seeks industry cooperation via a self-regulatory framework in meeting basic content and decency standards. The light touch by default happens in countries where broadband development is far behind and policymakers do not see the need to grapple with OTT policy yet. The traditional broadcasting orientation envisions OTT services to be regulated by the same rules in place for traditional broadcasting (radio and television). State control orientation prioritizes state power over all other goals and cuts its citizens off from international interactions. Among these orientations, AVIA identified the light touch policy as being the best in sustaining the growth and development of OTT platforms such as the cases of Japan, Hong Kong, and New Zealand.

## The Way Forward

### Understanding OTT Platforms

There is a need to have a consensus regarding the definition of OTT and an understanding of the Internet value chain. To be able to do this, it is required that all stakeholders understand the technology. OTTs mean different things to different stakeholders. The confusion surrounding how to regulate OTTs is partly due to the lack

of a common definition. Bangladesh needs to construct a socially-acceptable definition of OTT for its own context.

### Having Clear Objectives

The regulations covering OTT platforms should have clearly stated objectives. Who should determine what is to be done with OTT platforms? Should the regulation be applicable to all OTT platforms despite their differences? Who are to say what entertainment should be for all Bangladeshis? Who speaks on behalf of the public?

### Having a Centralized Body

At present, there are two bodies that are creating separate regulations regarding OTT platforms. This is causing more confusion. For example, the OTT guidelines drafted by the two agencies conflict in terms of registration authority, duration of registration and amount required for registration. It would be better to have only one body looking into the matter. At the moment, Bangladesh has two draft regulations on OTT :

- (1) Over the Top Content Based Services Provision and Management Policy 2021 from the Ministry of Information and Broadcasting; and
- (2) Regulation for Digital and Social Media Platforms 2021 from the Bangladesh Telecommunication Regulatory Commission.

### Studying Existing Laws

Are the new regulations necessary? Are these new regulations just being redundant? OTT applications already have laws and guidelines covering them; implemented by different institutions. These include the Digital Security Act 2018 of the Ministry of Law, Justice and Parliamentary Affairs, National Broadcasting Act 2014 from the Ministry of Information and Broadcasting and Official Secrets Act 1923 of the Ministry of Law, Justice and Parliamentary Affairs.

### Using a Multi-stakeholder Approach

Bangladesh should determine the best policy for its own context. To achieve this, several players in the entertainment industry have advocated for the multi-stakeholder approach, which is the practice of governance that employs a variety of participants to partake in dialogue, decision-making, and implementation of the responses to jointly conceived problems. In the end, the country will have a regulation that is transparent, accountable and predictable with clearly communicated desired outcomes.

## OTT DEFINITIONS

2015



A range of services, including messaging services, voice services (VoIP) and TV content services.

2016



Content, a service or an application that is provided to the end-users over the public Internet.

2019



An application accessed and delivered over the public internet that may be a direct technical/functional substitute for traditional international telecommunication services.

2020 **Stork, Nwana, Esselaar and Koyabe**

A content, a service or an application that is provided to the end-user over the public internet, whether electronic communication services (OTT-ECS), those that potentially compete with electronic communication services (OTT-Com), those that potentially compete with broadcasting services (OTT-Content) and those that neither compete with electronic communication services nor broadcasting services (OTT-Other).

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**UNIVERSITY OF LIBERAL ARTS BANGLADESH**

688 Beribadh Road, Mohammadpur, Dhaka - 1207, Bangladesh  
Phone: +88-02-223328001-6, +88-02-223361301, +88-02-223361255  
Fax: +88-02-223360610 Web: [www.ulab.edu.bd](http://www.ulab.edu.bd)