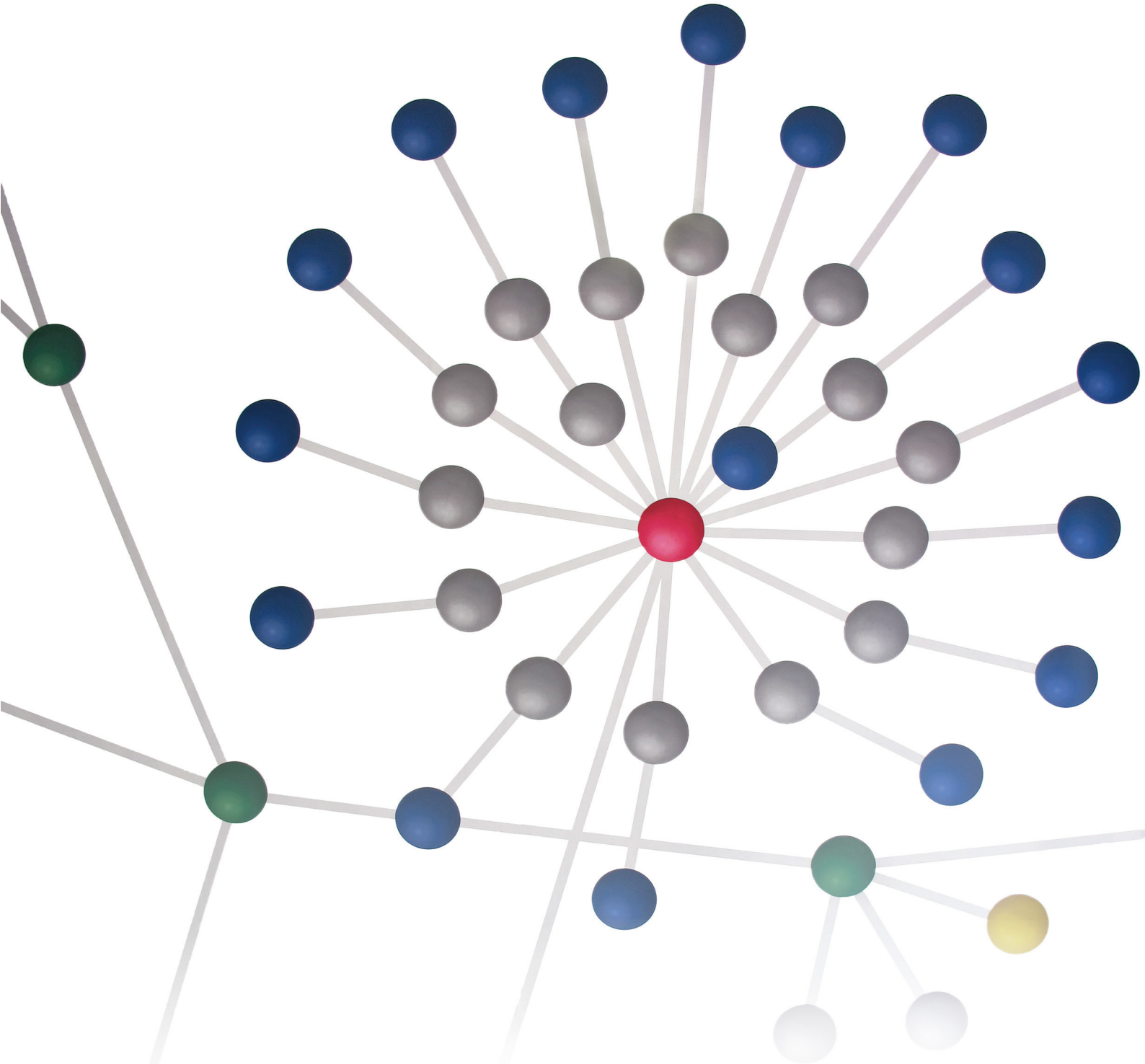

DOMESTIC CONTENT POLICIES IN THE BROADBAND AGE:
A FOUR-COUNTRY ANALYSIS

Sora Park, Charles H. Davis, Franco Papandrea, and Robert G. Picard

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Table of Contents

Tables

Figures

About the authors

Charles H. Davis

Charles H. Davis is a professor in the RTA School of Media at Ryerson University in Toronto, Canada. He also serves as Associate Dean for Scholarly Research and Creative Activities in the Faculty of Communication & Design. His current research and teaching interests have to do with audience analysis, media product development, and media labour. He earned his Ph.D. from the Université de Montréal.

Franco Papandrea

Franco Papandrea is Adjunct Professor in the News and Media Research Centre at the University of Canberra (formerly Professor of Communication and Director of the Communication and Media Policy Institute). His primary research interests are in communication and media policy and industrial organisation of media. As a well-established expert with decades of experience in those fields he has frequently been called to provide research and consultancy services to Australian and International regulatory authorities and other major clients. His appointment to advise the two foremost Australian public inquiries into newspapers (House of Representatives Select Committee on the Print Media – 1991, and the Independent Inquiry into Media and Media Regulation – 2011) twenty years apart has been a highlight in his career. He has a Ph.D in public Policy awarded by The Australian National University.

Sora Park

Sora Park is Associate Professor of Communication at the University of Canberra and a member of the News & Media Research Centre. Her research focuses on the digital media users, media markets and media policy and has written widely on the economics of television, newspaper markets and other information industries. She has extensive experience in policy research and consultancy regarding digital media in South Korea. Her previous positions include Research Fellow at Korea Press Foundation, Director of the Interdisciplinary Program of Women's Studies at Hanyang University, Chair of the School of Communication Arts at Kwangwoon University, and Visiting Scholar at the University of California, San Diego. She received her Ph.D in Communication Studies from Northwestern University.

Robert G. Picard

Robert G. Picard is North American Advisor for the Reuters Institute in the Department of Politics and International Relations at University of Oxford, a fellow of the Royal Society of Arts, and an adjunct professor at University of Canberra. He was formerly director of research for the Reuters Institute and a research fellow at Green Templeton College (Oxford) A specialist in media economics and policy, he is the author and editor of 30 books, including *Value Creation and the Future of News Organizations*, *The Economics and Financing of Media Companies*, *Media Clusters: Spatial Agglomeration and Content Capabilities*, *The Internet and the Mass Media*, and Media *Firms: Structure, Operations, and Performance*. He has been editor of the *Journal of Media Business Studies* and the *Journal of Media Economics*. Picard received his Ph.D. from the University of Missouri, Columbia, and has been a fellow at the Shorenstein Center at the John F. Kennedy School of Government at Harvard University.

Summary

Broadcasters in a number of nations and regions operate under content regulatory schemes designed to serve cultural and economic purposes. Most of these policies were put into place during the age of terrestrial broadcasting in which national policymakers could tightly control the availability of content in the country through their control over broadcasters. Today, satellite and broadband telecommunications provide audiences far wider access to content from across borders, calling into question the purpose and efficacy of domestic content policies. This report addresses these issues through an analysis of the rationales, policy approaches, operations, and effectiveness of domestic content policies in four countries (Australia, Canada, Ireland, and South Korea) through a cross-case comparison. It considers the implications of these approaches to the environment of a globally connected world.

Each country case study includes a brief market summary and principles of regulation. Domestic programming trends and how the changes are dealt with in the digital environment are examined.

Australia's domestic content policy primarily seeks to inhibit the erosion of national cultural values by both limiting the volume of imported programming that may be broadcast by commercial television stations and providing financial support to the domestic production of specific genre of programming (mainly longer form drama).. The emphasis of the related regulatory provision is the setting of minimum quotas for overall local content as well as for the broadcast of specific program genres during prime time viewing hours. While Australian broadcasters generally meet the overall content quota requirements without difficulty, compliance with some of the genre-specific quotas, such as the requirement for domestic first-release drama, are more burdensome. . In a multichannel environment, the policy challenges of ensuring the broadcast of Australian content are intensifying.

Canada has a highly concentrated media and telecommunications industry, the growth of which is mainly in the private sector. Though audiences strongly prefer Canadian news and sports content, the weakest link in domestic content is in scripted drama and comedy. Economics favour licensing of imported content over production of original Canadian fare, particularly in the entertainment genre which in English-speaking Canada is dominated by American imports. Cable-cutting by audiences and the attraction of over-the-top Internet services are creating yet another challenge that requires revisiting policies to promote and protect domestic content.

Ireland is situated in a unique environment where the influence of external television program production flowing from English-language producers is compounded by broadcasting directly from North Ireland and from the UK and US via satellite. This is complicated by the fact that due to its unique history, Ireland possesses a cultural and linguistic heritage that continues to be under pressure. Even with various domestic content policies in place, about half of the audience shares are accounted for by channels origination from outside of Ireland.

In contrast to the three other countries, South Korean broadcasters are shielded from larger Anglophone television markets. The highly concentrated broadcast market enabled heavy investment in television programs and this was reinforced by supportive domestic policy. While new channels and platforms as well as the changes in the world trade environment are posing a new threat, the policy is shifting towards the protection of content industries which enables producers to supply content to domestic platforms and also export to other Asian countries.

Common issues in the four country analyses were found. First, the development of national content industries does not necessarily imply the promotion or protection of national culture, especially in the smaller English-speaking markets examined here, where investments in expensive entertainment products are difficult to recoup. Second, in the broadcasting sector, the production companies and broadcasters do not have identical interests. The broadcasters are subject to national content regulations but creativity and talent reside with the producers. A national content

policy that is more sensitive to economic incentives than cultural factors may not necessarily address the goals of protecting or promoting national culture. Third, it is difficult to assess independently the relevance and quality of broadcast content with regards to domestic cultural programming. Therefore, it is problematic to assess the effectiveness of domestic content policies other than in terms of conventional standards: critical acclaim and audience share.

The main goal of this comparative study is to gain an understanding of the individual cases and to compare responses to the new challenges each country faces in the digital era. This can inform a broader discussion of how traditional broadcasting policy may be reformed in a media environment where the boundaries of markets and national borders are blurred. It is also intended to spark greater debate about how locality and local culture can be better assessed and how that can be used to improve domestic policy effectiveness.

Introduction

Due to the internet and other new television platforms including cable and satellite television and downloadable content, content increasingly crosses national borders. Widespread access to new distribution platforms is eroding the effectiveness of regulations adopted by many countries to assist production of domestic content and promote their national cultures. Domestic content requirements were typically imposed as a condition of the licences issued to broadcasters and were considered a quid pro quo for the exclusive right to use the broadcasting spectrum to access a specific geographic audience. New channels and distribution platforms enable access to an expanded range of service providers, including many beyond the reach of national regulation, and this weakens the capacity of policy makers to influence content through domestic regulation.

The fundamental economics of broadcasting have been altered through the development of digital broadcasting and connected television. Audiences are shifting viewing time from 'appointment' broadcasting to non-linear forms of consumption such as on-demand and catch-up television viewing and viewing on computers, tablets, and smartphones (Barwise & Picard, 2012). The rise of internet-based streams and downloads, and the development of original programming on some of the platforms, is driving more viewers to services such as Netflix, LoveFilm, Hulu, and Internet service providers with similar services.

This paper explores domestic content policies in this changing environment through a comparative analysis of domestic content policy in Australia, Canada, Ireland and South Korea—all of which have produced policies specifically to favour domestic content production, although they differ significantly in geographical, political, cultural, and marketplace conditions. They share commonalities of seeking to support domestic content production in relatively small national markets (Lowe & Nissen, 2011).

The detailed case studies on the four countries provided here, compare the changes in the broadcast policy environment, the rationale for supporting domestic content and the effectiveness of regulation in the convergent era. Because of their linguistic and cultural proximity to the world's largest Anglophone television markets, the U.S. and U.K, the Australian, Canadian, and Irish television broadcasters are disadvantaged in producing original programming due to the availability of less expensive and high quality American and British fare. While South Korea is also a small market, its linguistic protection has led to growth in the content sector as a means of serving domestic needs as well as supporting the economy through content exports to other Asian countries that share similar cultural values.

The development of content policies is influenced by four different policy domains: cultural policy, industrial policy, competition policy, and media-specific policy. Cultural policies are concerned with issues of fostering self-awareness and identity and tend to emphasize national uniqueness (Bennett, 1998). Industrial policies are designed to help support domestic industry to promote economic growth and employment (Karlsson & Picard, 2011). Competition policies are designed to ensure markets in goods—including content—operate efficiently (van Oranje-Nassau et al, 2008). Media-specific policies are designed to ensure specific media industries serve nationally determined objectives (O'Regan & Goldsmith, 2006). Countries tend to emphasize 1 or 2 of these more than others or attempt to balance these when audiovisual industries are involved. In recent years, economic approaches to media policymaking have played increasingly stronger roles in decisions (Picard, 2011).

The U.S. has long been the primary supplier in the international flow of cultural products, in part because of its longer commercial history. Its movies and television programs have long dominated the international market (Wildman & Siwek, 1988). With the spread of cable and satellite distribution channels, and now the Internet, renewed fears about U.S. entertainment's global

domination are being voiced. This domination entails not only a direct flow of American cultural products, but also an enormous influence on local programming strategies and product content (Banerjee, 2002; Straubhaar, 2008). The U.K. has also played a large role in the export of television programs because of the quality and stable funding for the BBC and several decades of commercial television that enjoyed limited competition for advertising funding. Its costume and police dramas, as well as comedies, have enjoyed widespread export success.

Other countries, particularly those with significant dependencies on imported content, have tended to respond by adopting policies to protect and promote national cultures. While accepting, a priori, the often-expressed cultural and national identity rationale to ensure that mass broadcast media devote substantial airtime to domestic content, it is noteworthy that the policy and regulatory instruments employed often tend to take the forms of broadcast quotas on foreign productions or support mechanisms for the domestic production industry. The link between protecting national culture and protecting or promoting the domestic content industry is not always clear because there is an apparent disconnection between the profit maximisation goals of the industry and the means used to maximise cultural benefits of the public at large.

Historic Western and U.S. control of content is breaking down because of the rise of large national and regional players globally (Steinbeck, 1995; Thussu, 2007; Tunstall, 2007), many of which are beneficiaries of quota requirements or support mechanisms. Concurrently, the effectiveness of protectionism in broadcast policy is being diminished by the greater availability and use of satellite and Internet audiovisual distribution by producers in countries worldwide.

Our four country case studies attempt to reveal the rationales behind domestic content protection, the effectiveness of the regulations and policies, and their outcomes. Our aim is to develop better understanding of domestic content policies of the four countries, what lessons to be learned from the four, and the implications of the changing audiovisual environment on their future efficacy.

Overview of the four countries

The main goal of this comparative study is to gain an understanding of the individual cases and to compare the specific historical processes each country faces in the digital era. This can inform a broader discussion of how traditional broadcasting policy may be reformed in a media environment where the boundaries of markets and national borders are blurred.

In this section, an overview of each country's development, size, and operations of the audio-visual systems is provided. Then the current rules regarding domestic content protection are compared by examining the broadcasting system as well as the level of competition among domestic broadcasters and multichannel programming distributors such as cable and satellite.

Australia

Broadcast television in Australia was established as a dual public-private system in 1956 and now has two public national broadcasters (ABC and SBS), three major metropolitan networks (Seven, Nine and Ten Networks), three smaller regional networks (WIN, Prime, Southern Cross) and two small entities controlling remote services. Terrestrial broadcasters have their main channels and supplementary digital channels. The commercial sector developed under strict entry licensing provisions and ownership of multiple licences in a single market is prohibited. A single operator may hold any number of licences, but the aggregate national reach cannot exceed 75 per cent of the population.

Cross-media ownership restrictions, which prohibited a controlling interest in more than one of the then main media of daily newspaper, commercial television or commercial radio in the same local

market and were in force between 1987 and 2006, and were instrumental in breaking-up pre-existing multimedia conglomerates. Although some instances of cross media-ownership have emerged since the abolition of the prohibitions in 2006, ownership of the commercial broadcasting sector continues to be relatively diverse. In 2012, revenues for the commercial television sector of the industry were slightly more than $4 billion of which almost 80 per cent accrued to the three metropolitan networks as follows: Seven network 31.3 per cent, Nine network 29.6 per cent and Ten network 18.6 per cent.

In terms of programming, the three regional networks are affiliated with their metropolitan counterparts and invariably retransmit the metropolitan programming with only minor local inputs. In 2014, approximately 2.4 million homes (28 per cent of all homes) subscribed to pay TV services (OzTAM, 2014). Foxtel, jointly owned by News Corp and Telstra Corporation, is the dominant, near-monopoly, service provider. With the completion of analog to digital conversion of terrestrial television in 2013 each broadcaster now distributes up to four separate channels of programming.

Canada

The major Canadian broadcasting groups are divisions of domestic media conglomerates with holdings in television, radio, publishing, cable, and telecommunications. The ten largest Canadian telecommunications companies in 2012 accounted for 93 per cent of telecom sector revenues of CAD$43.9 billion. Firms operating in all six telecom service industry segments (local and access, long distance, Internet, data, private line, and wireless) accounted for 87 per cent of revenues. In 2012 the five largest broadcasters (Bell Canada, Quebecor, Rogers, Telus, and Shaw) collectively accounted for 81 per cent of Canadian broadcasting revenues (CAD$16.8B). The sector experienced further ownership concentration in 2013 with Bell's acquisition of Astral, formerly among the top ten Canadian broadcasting firms (CRTC, 2013). In the English-language television broadcasting sector, three major ownership groups predominate: Bell (BCE with CTV and CTV Two), accounting for 48 per cent of the television sector's revenues; Shaw (Global) with 27 per cent of the sector's revenues, and Rogers (Citytv and Omni), with 17 per cent of revenues. The Canadian national public broadcaster (CBC-Radio Canada) operates 14 English-language stations and 13 French-language stations. In 2012, 744 Canadian and non-Canadian television services were authorized to broadcast in Canada: 468 English-language, 141 French-language, and 133 third-language (CRTC, 2013), accounting for CAD$6.9B in revenues.

Canadians spend on average CAD$185 per household per month on communications (CRTC, 2013). 86 per cent of Canadian households subscribe to a television service via cable or satellite; 78 per cent subscribe to a high-speed Internet service; and 81 per cent subscribe to a wireless service. Canadian households are slowly shifting from wireline to wireless telephone services and are more rapidly shifting content consumption from over-the-air television to specialty channels, the Internet, and wireless. Broadcasters are experiencing a decline in revenues from conventional television, but an increase in revenues from pay, pay-per-view, video-on-demand, and specialty services. Cable and satellite television services account for over half the broadcasting sector's revenues. In the telecommunications sector, revenues from wireless data and roaming services are driving growth. Recent rapid uptake of over-the-top (OTT) services such as Netflix by Canadian audiences has prompted a variety of responses from Canadian broadcasters.

Ireland

Ireland has three national public service television channels, 14 commercial channels, 4 national public service radio services, and 60 commercial radio services. These are anchored by RTÉ, the public service broadcaster funded by both license fees and advertising. It operates 4 radio services (RTÉ Radio 1, RTÉ 2FM RTÉ Lyric FM and Raidió na Gaeltachta), 2 television channels (RTÉ One, RTÉ Two), and an online service (www.rte.ie). TG4 provides television services in the Irish language. Cable services have provided multi-channel television to Ireland since the 1970s and serve about 40 per cent of households. The primary provider of digital and analogue services is UPC Ireland. Satellite

services began in the mid-1980s and after a series of mergers became Sky Ireland. About 80 per cent of all households have cable or satellite services and only about 20 per cent of those remain as analogue provision (Shaw, Picard & Spaink, 2010).

RTÉ is the dominant television broadcaster, accounting for about 70 per cent of the terrestrial broadcasting audience share (about 50 per cent for RTÉ 1 and 20 per cent for RTÉ 2). TV3 gets about one-quarter of the audience share and TG4 accounts for about 5 per cent. RTÉ remains dominant among those audiences that have cable and satellite services as well, but its audience share drops to about 25 per cent. In 2010, 51 per cent of the audience share was accounted for by channels origination from outside of Ireland, with the UK broadcast channels alone accounting for 25 per cent of the audience share.

South Korea

South Korea has 3 national public broadcast networks (KBS, MBC and EBS) and one national private network (Seoul Broadcasting System), which accounted for 63 per cent of the audience share in 2012. From a strictly regulated, government controlled broadcast environment in the 70s and 80s, deregulation and market competition was introduced in the 90s. The broadcast system has evolved into a dual private-public system. As of 2012, 69.1 per cent of the households subscribed to cable TV services, 8.1 per cent to satellite and 18.1 per cent to IPTV (KCC, 2012). Terrestrial broadcasters' market share was still dominant but decreasing, 39.4 per cent in revenues and 73.2 per cent in ratings share (Korean Competition Committee in Broadcasting Markets, 2012). South Korea has been experimenting with a diverse range of digital broadcasting technologies and introduced T-DMB (terrestrial digital multimedia broadcasting) and S-DMB (satellite digital multimedia broadcasting) in 2005. These services provide television content on mobile devices.

In the programming market, the government has aggressively implemented policies to support domestic television content since 1991. In 2011, 475 independent production companies supplied programming content to terrestrial and cable broadcasters, among which 56 were production companies specialising in drama production (Korean Competition Committee in Broadcasting Markets, 2012). The total television programming costs in 2011 was 2,166.8 billion KRW (approx. 2 billion USD) including terrestrial and cable broadcasters. 26.3 per cent was spent on purchasing independent production programming and 27.5 per cent on foreign program purchases.

Domestic content policies

The four countries all have a domestic quota regulation but vary in other methods of support for domestic content industries. The level of foreign content programming also varies by country, where South Korea has the highest domestic programming of an average of 90 per cent across all platforms exceeding the quota requirements of 20 to 80 per cent and domestic content comprising more than 50 per cent of the commercial broadcasters in Australia. Through in-depth case studies of the four countries, this paper uncovers the common logics of domestic content policies in the convergent era and identifies the uniqueness of addressing the issue in each country. The fundamental differences among the countries are described in Table 1.

Table 1 Characteristics of the four countries

	Australia	Canada	Ireland	South Korea
Linguistic market	English	English 56.9%/French 21.3%	Predominantly English/2% native Irish	Korean
Population	23.1 million	35.3 million	4.7 million	50.2 million
Domestic content fund	Screen Australia	Canadian Media Fund	Sound and Vision	Broadcast Development Fund
Definition of domestic content	Nationality of producer, director/writer, and cast or co-productions	Nationality of producer, director, writer, cinematographer, two most highly remunerated actors.	Nationality of producer or co-productions	Nationality of production crew and source of finance
Domestic programming quota	Free to air terrestrial 55% [incl. New Zealand programs]	Radio: 35-40% for musical selections (6am-midnight) French language radio: 65% Television: 55% yearly, 50% evenings	30% (TV3, national commercial TV)	Terrestrial 60~80%, satellite/cable operator 40-70%, cable networks 20~50%
Genre or specific program quota	Annual and triennial thresholds for free to air terrestrial prime time first-run drama, and documentary programs, and first-run and repeat children's drama and other programs	Categories of priority programming: drama, comedy, long-form documentary, and certain creative award shows, French language music/variety	Subtitles for hearing impaired	Animation, movies, and music
Expenditure requirements	Subscription TV drama channels required to 'invest' 10% of expenditure on domestic drama programs.	5% of gross revenues on Canadian programs of national interest (PNI)	None	None
Domestic production sector support	Financial support for independent drama and documentary production for television	75% of PNI must be produced by independent producers	10% of transmission time or 10% of program budget for independent producers	Independent production quota of up to 40%
Other support methods	Producers' tax rebate: movies 40%, TV shows 20% Location offset: 15% for movies above AUD$15 million, TV	Tax incentives via Canadian Film or Video Production Tax Credit (CPTC) program	Statutory requirements to help restore and nurture the Irish language since 1960, but not specific quotas	

	programs above AUD$1 million. Post-production and visual effects offset15% for work undertaken in Australia			

Elements of national systems and policies

Although all four case countries have policies for protecting domestic content, the rationales and approaches used are adapted to the context and histories of their television ecosystems. Each much first be understood individually before they can be considered collectively. For this purpose, the rationale, policies and regulations for domestic support as well as the outcome in each country were compared.

Australia

Rationale for domestic support

Quotas for Australian programs on commercial television have been in place for more than half a century. The first quotas were introduced in 1961 to give practical effect to a pre-existing legislated general obligation of stations to employ "Australians, as far as is possible, in the production and presentation of programs" (Australia Broadcasting and Television Act, 1942: S 114(1)) which had been in place since the introduction of television in 1956. The quotas required all commercial stations to broadcast at least one hour of Australian programs per week during prime time (defined as 7:30 p.m. – 9:30 p.m.). In addition stations that had been established for more than three years were required to broadcast Australian programs for more than 40 per cent of their total transmission time. The initially modest requirements were increased on several subsequent occasions. In 1967, for example, the prime time quota was increased to 12 hours for each 28 days (rising to 18 hours in 1969) with an added condition that at least two hours were to be drama. In 1972, the prime-time (redefined as 6:00p.m-10:00p.m.) drama quota was increased to 6 hours per 28 days; the overall transmission quota was increased to 50 per cent, and a children's program quota of 4 hours per 28 days was introduced. The system was overhauled in 1973 and again in the early 1990s. After many modifications over the past two decades, the current system has become a highly detailed regulatory standard.

One of the objectives of the *Broadcasting Services Act 1992 (BSA)* is "to promote the role of broadcasting services in developing and reflecting a sense of national identity, character and culture" (section 3(e)). According to the legislation's explanatory memorandum the aim of this objective is to support the broadcast of programming "which reflects the multicultural nature of Australia's population, promotes Australians' cultural identity and facilitates the development of the local production industry". The BSA also authorises the broadcasting regulator to determine program standards for commercial television (section 122) including the Australian content of programs (section 122(2)(b)). The *Australian Content Standard* (ACS) leaves no doubt that a principal element of its purpose is "to promote the role of commercial television in developing and reflecting a sense of Australian identity, character and cultural diversity by supporting the community's continued access to television programs produced under Australian creative control". Support of local content is deemed necessary to avert the risk of erosion of the national culture and identity likely to be caused by 'excessive' consumption of imported programs which reflect the culture and customs of the producing countries. The risk is aggravated by a station's ability to secure a financial

advantage from the replacement of locally-produced programs with less costly popular imported programs. Drama programs are the most affected as they can easily be replaced by imported alternatives. Other domestic programs, such as news and sports, are less susceptible to import substitution because consumer preferences for coverage of local events are generally much more intense than for coverage of events in other countries.

Several other non-cultural arguments including employment generation, assistance to the production industry, flow-on benefits to other activities (e.g. film and theatre) and contribution to foreign earnings have also been advanced in support of local content regulation. However, such justifications are much less plausible as reasons for regulation because in essence they are little more than a pleading for special on the basis that production of television programs is somehow more deserving of support than other activities making similar contributions to development and enhancement of national culture and identity.

Domestic content requirements

Australia has highly specific content and domestic content requirements for commercial television broadcasters. A system of transmission quotas is in place for both cultural and industry development purposes.

Primary channels of commercial free-to-air television licensees must broadcast Australian programming for at least 55 per cent of the transmission time between 6 am and midnight with specific minimum sub-quotas for first-release Australian (adult) drama, documentary and children's programs. Australia has highly specific content and domestic content policies. To comply with the Broadcasting Services (Australian Content) Standard 2005 (ACS, 2005) broadcasters must meet content formulas:

- Adult drama in prime time (6 pm - midnight) to accumulate at least 860 points[1] over a three-year period with at least 250 points in any year (points vary by program genres: serial, series, miniseries, movies). [Australian content quota of 730 hours rising to 1460 hours in 2015 on supplementary channels was introduced in 2013; first-release drama broadcast on supplementary channels is counted at twice its length]
- At least 96 hours of first release children's drama over three years with at least 25 hours in any year and at least 8 hours of non-first release children drama each year.
- At least 260 hours of children's programming per year of which at least 50 per cent of the must be first-release.
- At least 130 hours per year of pre-school children's programming which may be broadcast up to 3 occasions in a period of 5 years.
- At least 20 hours per year of first-release documentaries of not less than 30 minutes each.

Commercial broadcasters are also required to transmit a set minimum quantity of Australian content between 6 am and midnight on their supplementary digital channels, but are not required to broadcast additional genre-specific quotas on those channels. This requirement was set at 730 hours in 2013, increasing to 1,460 hours in 2015 and beyond.

[1] The point score for a program is equal its on-air duration in hours multiplied by the 'format factor' applying to the program. The format factor relates to the genre of programs broadcast and is: 1 for serials or series produced at the rate of more than 1 hour per week; 3 for serials or series produced at the rate of 1 hour or less per week earn acquired from an independent producer for a licence fee is at least AUD$300,000 and 2.5 otherwise; 4 for feature films acquired for a licence fee of at least AUD$150,00 2.5 points otherwise; 4 for telemovies, mini-series and self-contained drama of less than 90 minute duration (ACS, 2005).

For compliance programs must be produced in Australia. Under the provisions of the Australia New Zealand Closer Economic Relations Trade Agreement television programs are deemed to be 'Australian' for the purpose of the quota regime. Co-productions produced under an official co-production agreement qualify as Australian programs. All programs irrespective of whether produced in-house, commissioned from producers or independently produced qualify for quotas. There are no requirements for broadcasters to invest in motion pictures co-productions.

Subscription television channels that are predominantly drama are required to invest at least 10 per cent of their programming expenditure to fund the production of Australian drama programs. There are no specific requirements for own-productions or to broadcast funded programs. Consequently, requirement may be considered primarily an assistance mechanism for the domestic production industry.

Australian screen (film and TV) productions are eligible for both direct and indirect government funding support. The purpose of this assistance is to encourage greater private investment in the sector, improve production opportunities and build sustainable production companies, and attract large-scale productions in Australia to enhance economic, employment and skill development opportunities.

Screen Australia (government agency for sector) provides development support and direct investment in features, television drama and documentaries (AUD$60 million 2010-11). It provides production incentives through tax offsets (rebates) qualifying Australian production expenditure that include a producer offset of a 40 per cent rebate for feature film or 20 per cent for television or other media, a location offset of 15 per cent for large-budget foreign film with at least AUD$15 million Australian expenditure and for television projects with at least AUD$1 million Australian expenditure, and post digital and visual effects offset of 15 per cent for work undertaken in Australia of at least AUD$5 million irrespective of the project's shooting location.

The operations of the two national public broadcasters, the Australian Broadcasting Corporation (ABC) and the Special Broadcasting Service (SBS) are governed by the provisions of their charters which are set in their respective establishing legislation[2]. ABC is required to provide "broadcasting programs that contribute to a sense of national identity and inform and entertain, and reflect the cultural diversity of, the Australian community; and … broadcasting programs of an educational nature" S6(1) ABC Act (1983). Although it is not bound to conform to the requirements of the Australian content standard, it is required to "take account of" that standard in the provision of its broadcasting service. The charter of the SBS states that its principal function "is to provide multilingual and multicultural radio, television and digital media services that inform, educate and entertain all Australians, and, in doing so, reflect Australia's multicultural society" S6(1) SBS Act (1991) and unlike the ABC is not required to take account of the requirements of ruling Australian content standard.

Effectiveness of regulation

The history of the Australian content quotas regime is marked by two underlying features which have had significant implications for its operational effectiveness and efficiency. The first has been an accommodating disposition of successive regulators to 'adjust' the requirements to ensure relatively easy compliance by broadcasters. The aim of the regulation has often been referred to as providing a transmission 'safety net' for Australian programs. An extensive analysis of compliance with the regulation in the period 1987-1994 (Papandrea, 1997) concluded that the transmission quota had had little, if any impact on the behaviour of broadcasters. The second has been a not so successful series of attempts to encourage the broadcast of 'quality' drama (usually defined in terms of high production values).

[2] The *Australian Broadcasting Corporation Act 1983* and the *Special Broadcasting Service Act 1991*.

Traditionally broadcasters have had little difficulty in complying with the current 55 per cent Australian transmission quota for programs broadcast between 6:00 am and midnight. The popularity of news, current affairs and sports programs together with their natural protection from imports generally act to ensure the broadcast of a substantial proportion of locally produced programs. Another contributing factor in more recent times has been the popularity of locally produced 'reality' programs often based on imported programming formats. In any event, any shortfall in the local content requirement can be made up easily by screening repeats of previously-broadcast programs. Figure 1 provides details of the main commercial networks' compliance with the transmission quota in the period 2001-2012.

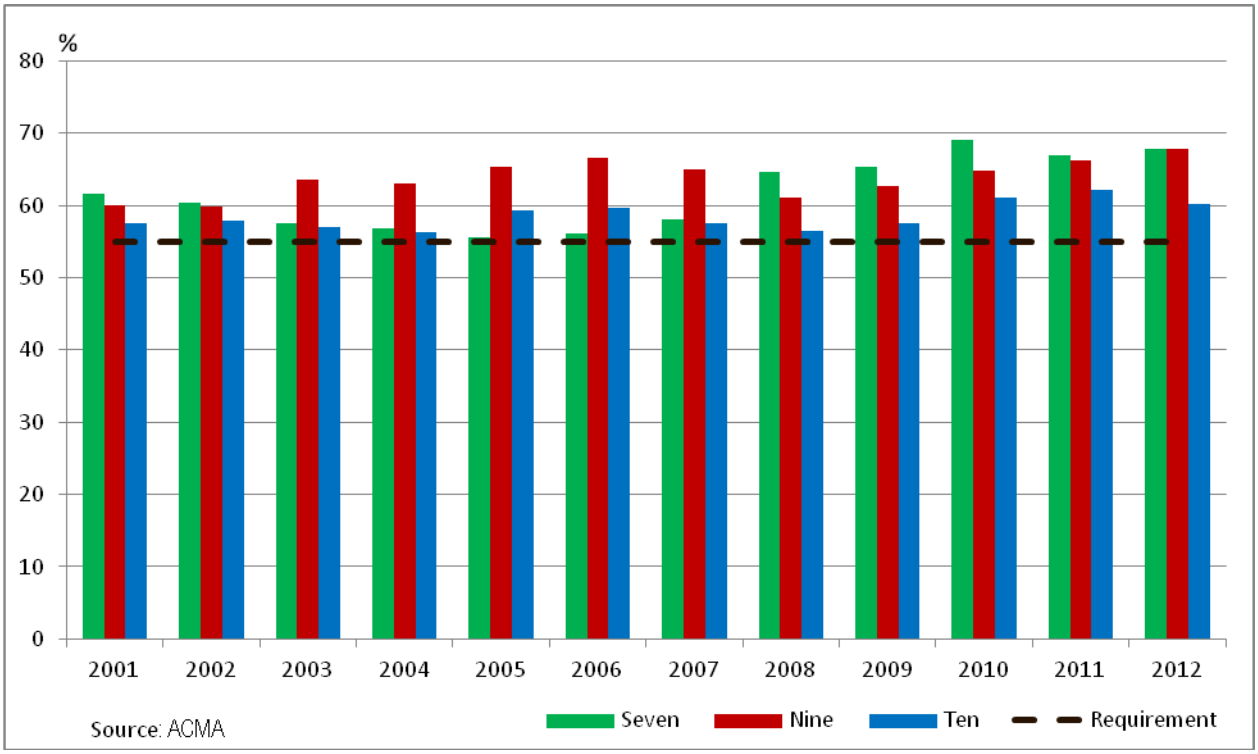

Figure 1 Transmission quota compliance (2001-2012)

Although drama generally is one of the main program genres broadcast by commercial television stations most of it is imported programming. First release Australian drama makes up a very small proportion of the more than 3600 hours of Australian programming each commercial broadcaster is required to transmit annually. In 2010, for example, the three commercial networks combined broadcasted a total of 430 hours of first release Australian drama equivalent to approximately 3.4 per cent of their aggregate Australian programming. The first release drama quota is prescribed in terms of 'points' which vary according to the duration and format of a program. Stations are required to broadcast programs to achieve a minimum score of 250 points each year (225 in 2002 and earlier years) and 860 points in each consecutive three-year period (830 for three years 2002-04 and 775 earlier). The available data (ACMA 2013 and earlier years) indicate that the three commercial networks stations have complied with both the annual and three-year requirements (see Figure 2 for details), but relied on different sets of programs to do so. For example, Seven predominantly relies on relatively low-scoring series and serial drama (151.5 hours equivalent to more than 91.5 per cent of the total in 2012) to comply with the quota whereas Nine relied on a much greater proportion of higher-scoring mini-series, telemovies and feature films (60.4 hours or 92.4 per cent in 2012). Ten has in recent years cut back its reliance on series and serial drama (typically above 90 per cent) to less than 40 per cent in 2012.

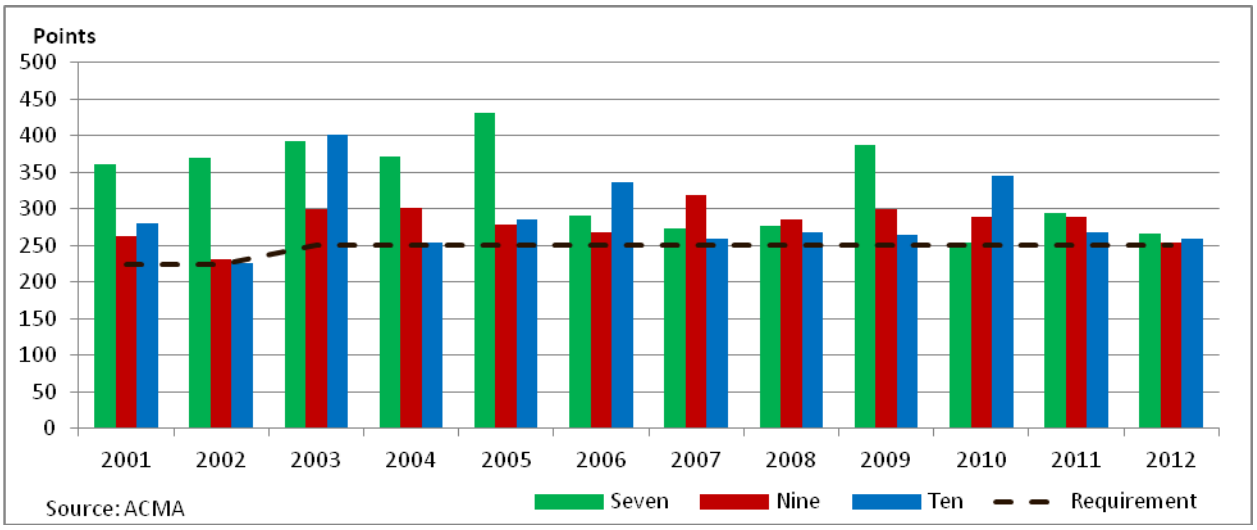

Figure 2 First release Australian drama yearly scores (2001-2012)

Only the Seven network has consistently performed above the requirement, with a three-year score significantly higher than the minimum requirement up to 2007. For the three years ending 2010 (last three-year period for which data are available) its performance is only slightly above the required minimum. The performance of the other two networks, on the other hand, is only slightly in excess of requirements throughout the whole period. Details are provided in Figure 3. This is a strong indication that the quota regime is the main driver for the performance of the Nine and Ten networks. Without the quota obligation, the first release Australian drama broadcast by those two networks would be likely to decline.

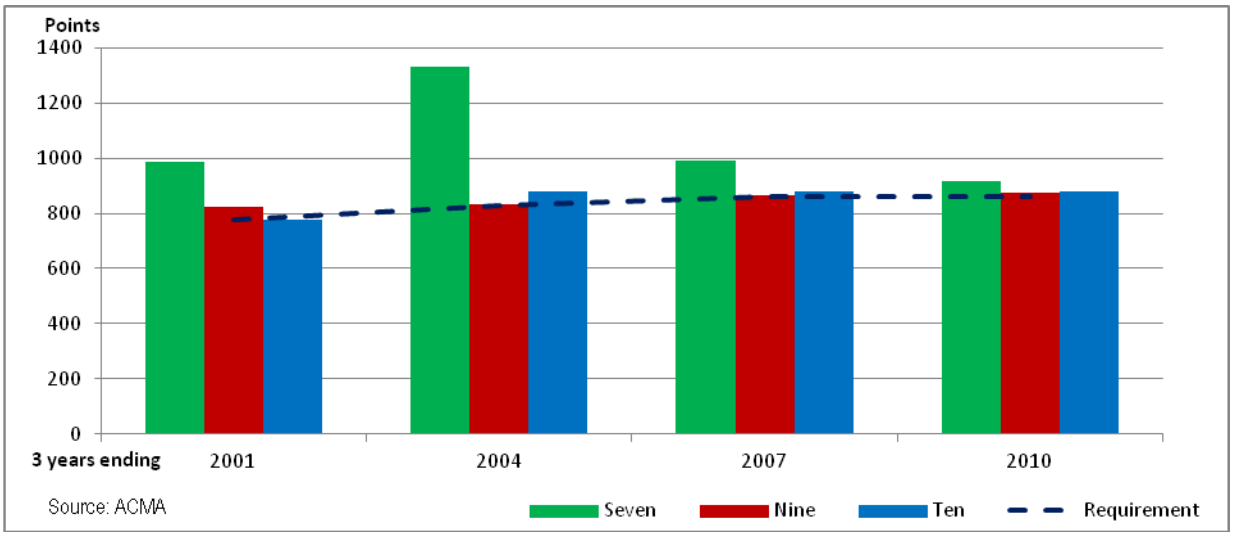

Figure 3 Three-year first release drama score (2001-2010)

The points system for first-release drama was introduced as an attempt to redress the networks' heavy reliance on low-cost, long-running serials and series ('soap operas') to comply the with the domestic drama quotas. To encourage a shift towards more preferred forms of drama, higher production value genres were given a higher weighting to reflect their higher cost to broadcasters. In essence, the purpose of the cost-related weights was to reduce or neutralise the incentive to choose lower cost programs to comply with the quota obligation. As noted by Papandrea (1997), although

the points system reduced the disincentive towards higher cost drama, it did not sufficiently compensate for the higher risk that not all the components of the bundle of higher-cost, short-run drama mini-series, needed to replace a long-running low cost serials with an established loyal audience, are assured a commensurate level of audience appeal. Indeed, until very recently, the networks continued to rely predominantly on low point scoring serials and series to comply with their quota obligations (see Figure 4 for details). However, there has been a noticeable shift towards short-run drama in more recent years which, on the basis of anecdotal evidence, appears to be driven by the short-term necessity to use short-run drama to comply with the quota obligations following several failed attempts to develop appealing long-running series. But there has also been an increased level assistance for the production of domestic drama for television.

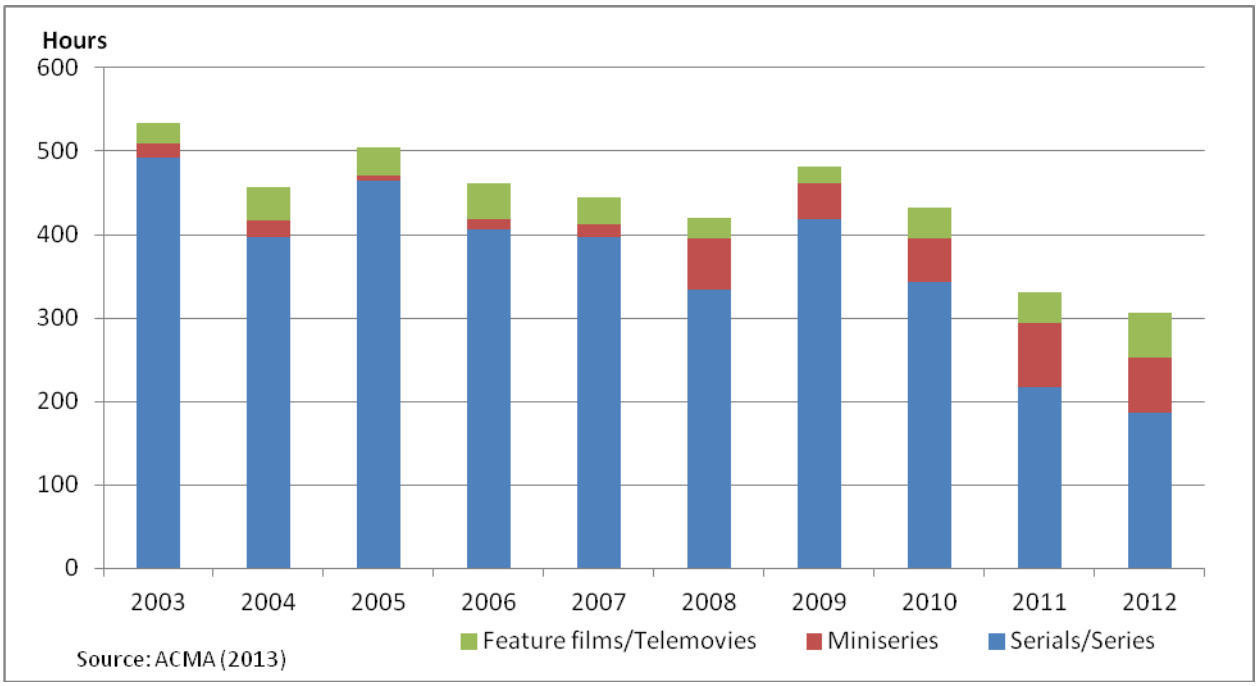

Figure 4 First release Australian drama genres on commercial television networks (2003-2012)

ACMA compliance data over the past decade show that first-release children program output (drama and general) of all three networks barely complies with the quota requirements. In the case of children programming, the combination of production costs and heavy restrictions on the amount of advertising that can be shown[3] with the programs, create a strong disincentive for networks to freely choose to broadcast children's programs.

Data on compliance with the documentaries quota (20 hours per annum) show that the requirement has been consistently exceeded each year since 2007. The Ten network's performance is slightly above the requirement, that of the Nine network has been above twice the requirement and that of the Seven network has varied from more than twice to more than five times the requirement.

The Australian film and television production industry benefits from the regulatory obligation of subscription television predominantly drama channels to 'invest' at least 10 per cent of their programming expenditure on Australian drama productions. A survey by the Australian Subscription Television and Radio Association (ASTRA, 2012) indicated that subscription television platforms and

[3] None with pre-school programs, 5 minutes with other general children programs, and 6 minutes with children drama.

channels had invested a total of AUD$667 million in Australian content in 2011–12. No details were provided on the proportion applied to the production of Australian drama programs. The annual amount required to be invested on drama productions because of the regulatory impost in that year was AUD$36.15 million. The average annual impost generated by the regulation over the five years ending 2012-13 is 29.4 million. Details of the aggregate expenditure on new Australian drama by subscription TV drama services are provided in Table 2.

Table 2 Aggregate expenditure on new Australian drama by subscription TV drama services (AUD$ mil)

	2012-13	2011-12	2010-11*	2009-10*	2008-09*
New eligible drama expenditure requirement	33.41	28.82	30.87	27.74	26.11
Expenditure on new eligible drama	13.70	24.38	34.63	36.15	28.56
Expenditure nominated to make-up previous year's shortfall	6.41	6.81	12.11**	11.32	13.88***
Expenditure nominated towards current year's 10 per cent requirement	6.42	22.53	24.05	15.59	14.79
Remaining obligation to be acquitted in the next financial year	25.76	6.41	6.81	12.15	11.32

*The ACMA released revised figures for compliance in January 2014, following a scheme participant's re-submission of annual returns for the periods 2007-08 to 2010-11.
** A licensee entered administration in January 2011 reducing the required shortfall obligation from 2009-10.
***A licensee failed to acquit $40,000 of the 2007-08 obligations in 2008-09. An amount equal to this was spent in 2009-10 to acquit the shortfall.
Source ACMA (2014)

Canada

Objectives of domestic content support in Canada

Public involvement in the promotion, protection, and regulation of cultural expression has a long history in Canada, going back to colonial times when governments invested in museums, archives, and public art, encouraged newspapers and book publishing through discounted postal rates, and passed legislation governing educational institutions, trade, intellectual property, and language rights. The concern to use policy to create and promote national culture emerged with Canadian nationalism in the latter part of the nineteenth century, reflecting the challenges posed to the creation of national identity by Canada's historical origins, its social composition, and its geographical location.

Edwardson (2008) identifies three phases of policy-led Canadianization of cultural activity. First, an "Anglophilic nationalism" originating in the period following the First World War, which "saw support for the arts and cultured mass-media content as a means of negotiating the colony-to-nation transition" in the first half of the century. Second, a 'new nationalism' that "sought to empower multi-brow cultural outlets and employ quotas, subsidies, and ownership regulations in the struggle against imperialism" (and the separatist threat to Canadian national unity) in the 1960s and 1970s. Third, "cultural industrialism and the commodification of Canadian content", with its ambiguous mix of cultural and commercial goals carried out under the general rubric of cultural sovereignty in the context of Canada's small national market, which is now dominated by a handful of domestic vertically integrated media and telecommunications conglomerates.

The above characterization perhaps does not sufficiently capture the range of cultural and commercial objectives currently pursued as media-related cultural policies by all three levels of government in Canada in such areas as third-language broadcasting, aboriginal media, Ontario's

promotion of clusters of creative and entertainment industries, Quebec's comprehensive approach to cultural industries, the services offered by metropolitan governments in support of the film and television industry, or the rush to promote interactive digital media. The digital shift raises complex political and economic issues since it affects all incumbent content-producing and content-distributing activities in Canada through changes in consumer behaviour, intellectual property rules, and business models. A central issue in this digital transition is the evolution of the domestic broadcasting and telecommunications sector which, to a much greater extent than film exhibition, magazine publishing, or book retailing, serves as an instrument of national policy regarding creation and distribution of domestic content.

Policies, programs, and regulations regarding domestic content

Canadian content (Cancon) requirements are based on the *Broadcasting Act* (1991), which provides that "Canadian broadcasting shall be effectively owned and controlled by Canadians"; that English and French broadcasting "operate under different conditions and may have different requirements"; and that the Canadian broadcasting system should "serve to safeguard, enrich and strengthen the cultural, political, social and economic fabric of Canada" by encouraging "the development of Canadian expression" by "displaying Canadian talent in entertainment programming" and by "offering information and analysis concerning Canada and other countries from a Canadian point of view". The Act states that broadcasting,

> “through its programming and the employment opportunities arising out of its operations, serve the needs and interests, and reflect the circumstances and aspirations, of Canadian men, women and children, including equal rights, the linguistic duality and multicultural and multiracial nature of Canadian society and the special place of aboriginal peoples within that society...” (s.3.1.d.iii)

Other stipulations in the *Broadcasting Act* germane to domestic content are that "each element of the Canadian broadcasting system shall contribute in an appropriate manner to the creation and presentation of Canadian programming" except where deemed impracticable under certain specified conditions, and that programming should "include a significant contribution from the Canadian independent production sector". Further specific requirements are outlined for the Canadian Broadcasting Corporation (the national public broadcaster), alternative television programming services, distribution undertakings, and private networks. The latter are required to "contribute significantly to the creation and presentation of Canadian programming" but only "to an extent consistent with the financial and other resources available to them."

Canada uses a point system to determine the national origin of audiovisual products. To qualify as Canadian television program, it is mandatory that the producers and executive producers be Canadian. For live action productions, two points are given for Canadian director, two points for Canadian writer, and one point each for production designer, picture editor, music composer, director of photography, and the two highest paid lead performers. Out of a possible ten points, six must be obtained for certification from the Canadian Audio-Visual Certification Office (CAVCO), in order to qualify for the production tax credit. Various genres are ineligible for this credit: news, current events, weather, talk, games, sports, gala awards, reality (surveillance) shows, advertising, pornography, and corporate or institutional productions.

Production and distribution of domestic audiovisual content are presently supported by a wide variety of Federal and provincial programs and institutions. These include direct support for content creators by such organizations as the Canadian Council for the Arts, Telefilm Canada, and several specialized content development funds, the largest of which is the Canadian Media Fund to which broadcasters must contribute specified amounts as a condition of licence, and indirect support for content creation through federal and provincial tax incentives for qualified spending on content

production. The principal Federal instrument is the Canadian Film or Video Production Tax Credit (CPTC) program.[4]

Federal regulations also address obligatory expenditures for, and exhibition of, Canadian content in the broadcasting sector, provide rules regarding satellite and cable carriage, and provide an intellectual property rights regime. Public broadcasters are operated by the Federal or provincial governments (Canadian Broadcasting Corporation-Société Radio-Canada, TV Ontario, Télé-Québec). The Federal government also funds certain specialized content-creation agencies such as the National Film Board, and restricts foreign ownership in the telecommunications, broadcasting, film distribution, and publishing sectors.

The broadcasting regulatory agency, the CRTC (Canadian Radio-television and Telecommunications Commission) has established general rules for Canadian content in the television broadcasting sector. Conventional television stations currently must broadcast 55 per cent Canadian content yearly and 50 per cent during the evening broadcast period. But these rules are often adjusted to take into account the circumstances of the particular licensee. For example, in some musical genres such as jazz or classical where sufficient Canadian content is not available, the requirement can be as low as 20 per cent. In the case of ethnic or third-language radio broadcasting, during ethnic programming periods licensees are required to play at least 7 per cent Canadian content musical selections.

In 2010 the CRTC, recognizing that the large broadcast ownership groups were expanding their portfolio of specialty channels (which in the aggregate have been more profitable than conventional television), approved a framework for group-based licensing of private commercial television. The framework, which applies to English-language broadcast groups with revenues greater than CAD$100M from conventional television and owning at least one specialty channel (Bell, Shaw, Corus, and Rogers), permits the groups to allocate their Canadian programming expenditures (CPEs) across their various licensed holdings, with certain exceptions. The CRTC imposes a minimum aggregate level of CPE for each group. Conventional television services, Category A specialty services (ones with obligatory carriage), and Category B services with more than one million subscribers, have individual CPE requirements determined as a percentage of the average of the three previous years' revenues. Currently this minimum CPE is set at 30 per cent for each group, except for Rogers. Minimum CPE levels for each group's conventional television services have also been set. A complex set of procedures to calculate required expenditures and measure them for reporting purposes has been established. Figure 5 provides an overview of funding and spending flows in 2011-2012.

[4] Direct and indirect supports for television program production in Canada are outlined in Le Goff et al. (2011).

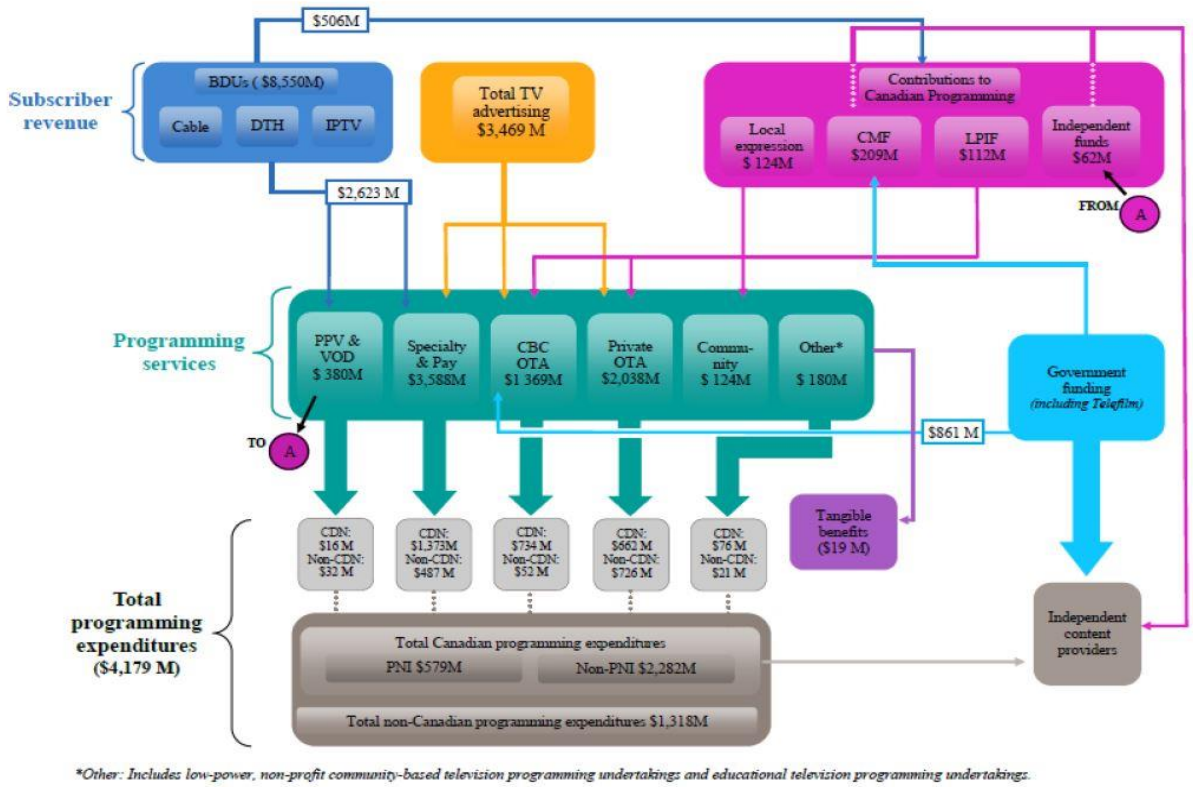

Figure 5 Funding and spending flows in the Canadian television system (2011-2012)

Source: CRTC (2013)

It has proven necessary to determine not only the nationality of programming and level of required expenditures on domestic content, but also to establish categories of priority programming. In 2010 the CRTC established the designation 'programs of national interest' (PNI) which for English-language broadcasters currently includes drama, comedy, long-form documentary, and certain creative award shows. Licensees are expected to spend at least 5 per cent of gross revenues on Canadian programs of national interest over the term of the license. Nordicity (2013) estimates that the PNI policy will yield over a billion dollars in production spending on PNI priority genres within a few years, representing almost a doubling of current PNI spending - depending, of course, on broadcasters' continued revenue growth.

Furthermore, English-language broadcast groups are expected to ensure that at least 75 per cent of priority programming they broadcast is produced by independent producers, although in the case of Category A specialty services, only 25 per cent of eligible programming must be produced by independent production companies. The major television groups are also expected to "commission programs of national interest from all regions of Canada, engaging in levels of production activity that are commensurate with their presence in their respective markets" (Broadcasting Regulatory Policy CRTC 2010-167).

A permanent feature of the Canadian media landscape is the attraction to broadcasters and their audiences of imported (mainly American) media content, especially entertainment. It is much less expensive and more profitable for broadcasters to import entertainment than to produce it domestically. As a sort of compensation for having to shoulder the burden of creating and distributing Canadian entertainment content, a manoeuvre called simultaneous program substitution (simsub) is permitted. Canadian broadcasters who license American programming for distribution in Canada broadcast the licensed programming in Canada, on their own signals, while it

is being simultaneously broadcast in the US, rather than retransmitting the American signal directly. But instead of including the advertising that comes with the American programming, the Canadian broadcasters strip it out and sell the slots to advertisers in Canada. This allows Canadian broadcasters to generate advertising revenues from exhibition of highly popular American shows in Canada while benefitting from spillovers from US networks' marketing efforts.

Snapshot of domestic content programming

Aggregate program expenditures for television content in Canada in 2011-2012 were nearly CAD$4.2 billion, of which CAD$1.32 billion was for imported (non-Canadian) programming (CRTC, 2013). Of the expenditures for Canadian programming, CAD$579 million was for programs of national interest (PNI), and CAD$2.3 billion was for non-PNI Canadian content. The former consists primarily of Category 7 programming (drama and comedy, and variety shows in the Francophone market). The latter consists of news, sports, weather, music and variety shows, game shows, talk shows, etc. In other words, programs of national interest (PNI) represent 14 per cent of Canadian television programming expenditures. For every revenue dollar, broadcasters spend twenty cents on non-Canadian programming, nine cents on PNI, and thirty-five cents on non PNI Canadian programming.

The strengths and weaknesses of Canada's screen-based industry as a creator of compelling domestic content show up clearly in the numbers on audience share (see Table 3). Canadian audiences strongly prefer Canadian content when it comes to news and sports, where the share for Canadian content exceeds 70 per cent of viewing hours among Anglophone and Francophone audiences. For documentaries, the share accorded to Canadian content is about 44 per cent by each group. For music and dance and variety, Anglophone audiences spend more than 70 per cent of viewing hours watching non Canadian content, while Francophone audiences spend less than 20 per cent on non-Canadian content. For drama and comedy, Anglophone audiences spend about 80 per cent of viewing hours watching imported content, and Francophone viewers, about 71 per cent (CRTC, 2013). Using data that measure audience share at peak viewing period rather than total number of hours of viewing, the Canadian Media Production Association reports similar results (CMPA, 2013).

Table 3 Average weekly viewing hours of Canadian programs distributed by Canadian English- and French-language television services, by program origin, genre, and region

	English-language services All of Canada excluding Quebec Francophone market				French-language services Quebec Francophone market			
Viewing hours (millions)	2008-2009	2009-2010[1]	2010-2011	2011-2012	2008-2009	2009-2010	2010-2011	2011-2012
News and analysis and interpretation	65.4	80.9	92.7	90.1	68.7	49.9	51.8	47.9
% Canadian	*95.0%*	*95.5%*	*95.8%*	*96.4%*	*99.5%*	*99.3%*	*99.2%*	*99.0%*
% of total	*17.2%*	*14.3%*	*16.3%*	*15.6%*	*32.8%*	*24.6%*	*25.3%*	*24.2%*
Long-form documentary	21.3	30.0	34.9	22.5	10.9	12.4	12.4	11.4
% Canadian	*51.1%*	*41.1%*	*40.8%*	*43.8%*	*48.8%*	*48.2%*	*50.5%*	*44.6%*
% of total	*5.6%*	*5.3%*	*6.2%*	*3.9%*	*5.2%*	*6.1%*	*6.1%*	*5.7%*
Sports	38.6	81.6	61.1	84.5	12.6	16.7	12.7	13.4
% Canadian	*67.8%*	*76.2%*	*70.7%*	*72.0%*	*77.4%*	*85.6%*	*81.8%*	*82.1%*
% of total	*10.2%*	*14.4%*	*10.9%*	*14.6%*	*6.0%*	*8.2%*	*6.2%*	*6.8%*
Drama and comedy	163.4	245.1	241.9	236.5	74.7	79.9	78.3	75.3
% Canadian	*21.3%*	*19.2%*	*19.2%*	*20.1%*	*31.9%*	*32.7%*	*30.2%*	*29.3%*
% of total	*43.1%*	*43.2%*	*42.6%*	*40.9%*	*35.7%*	*39.4%*	*38.2%*	*38.0%*
Music and dance and variety	9.3	12.0	10.6	9.7	5.1	3.5	4.4	3.5
% Canadian	*48.0%*	*46.4%*	*42.5%*	*27.4%*	*81.8%*	*74.5%*	*80.8%*	*80.8%*
% of total	*2.4%*	*2.1%*	*1.9%*	*1.7%*	*2.4%*	*1.7%*	*2.2%*	*1.8%*
Other	81.3	117.5	125.5	135.2	37.5	40.5	45.3	46.7
% Canadian	*37.7%*	*33.8%*	*32.4%*	*33.9%*	*78.8%*	*80.0%*	*79.3%*	*78.8%*
% of total	*21.4%*	*20.7%*	*22.1%*	*23.4%*	*17.9%*	*20%*	*22.1%*	*23.6%*
Total	379.3	567.1	567.4	578.6	209.5	202.9	205.0	198.2
% Canadian	*44.8%*	*43.0%*	*42.0%*	*43.8%*	*67.7%*	*64.5%*	*64.0%*	*63.2%*

- Based on Canadian services with available program level data that incorporates country of origin and program genre.
- Television seasons:
  - 1 September 2008 to 30 August 2009, includes all persons 2+, Monday to Sunday, 2 a.m. to 2 a.m.;
  - 31 August 2009 to 29 August 2010, includes all persons 2+, Monday to Sunday, 2 a.m. to 2 a.m;
  - 30 August 2010 to 28 August 2011, includes all persons 2+, Monday to Sunday, 2 a.m. to 2 a.m; and
  - 29 August 2011 to 26 August 2012, includes all persons 2+, Monday to Sunday, 2 a.m. to 2 a.m.
- English-language services include viewing of ethnic stations.

1. Starting with broadcast year 2009-2010, the data is based on the national PPM panel as Anglo Canada switched to PPM technology on 31August 2009. Previously the measurement technology for Anglo Canada was Mark II meters (set-top). Some fluctuations in the data may be attributed to this change in methodology.

Source: English-language services
- BBM Nielsen (2008-09)
- BBM Canada - PPM Data (2009-10, 2010-11, 2011-12)

French-language services:
- BBM Canada

Source: CRTC (2013)

Clearly the weakest link in Canadian domestic content is in scripted drama and comedy, the genres that are the most expensive to produce. It is of interest to note that of the top ten television series in English-speaking Canada in 2012, all were American. Even though the number of French speakers is less than half the number of native English-speakers in Canada, representing around a fifth of the Canadian population, domestic Canadian French-language television drama draws audiences that are comparable in size to the audiences drawn by Canadian English-language television drama.

The same pattern holds for feature films. While Francophone and Anglophone audiences are each interested in Hollywood films, French-speakers are much more interested in Canadian-produced French-language films than English-speakers are interested in Canadian-produced English-language films. The top ten feature films in the Canadian English-language and the French language markets in

2011 were largely American blockbusters. As a result of generally low interest in domestic feature films in English-speaking Canada, their audience share has hovered around 3 per cent since 2007. The audience share for domestic films in home video sales and rentals is scarcely better.

A further apparent weakening link in the Canadian broadcasting system is CBC Television (the English-language television arm of the national broadcaster). Despite the practically identical requirements of license among private and public broadcasters, the national public broadcaster, CBC Television, is expected to outperform private broadcasters in representing Canada to Canadian audiences with original programming. Yet CBC Television's audience share is currently among the lowest in its history (around 4 per cent of the market). CBC is suffering from ongoing cuts to its budget and has never been admired by private broadcasters or conservative governments. Media commentators are now suggesting that CBC Television be tasked especially with producing and communicating Canadian screen cultural products, whether popular or not, while leaving private broadcasters to concentrate on producing Canadian shows that will win wide audiences.

Broadcasters have responded to the Federal government's new populist consumer agenda by indicating cautious willingness to unbundle their cable packages so that consumers can select specialty channels à la carte. Analysts expect that unbundling would probably lengthen the already long tail of subscription distributions among specialty services, threatening the economic viability of the smaller ones, many of which have only a few thousand subscribers. By eventually decreasing the range of choice from speciality services, prices would rise and even greater domestic demand for over-the-top services will emerge.

Digital distribution and the incumbents

The CRTC has regularly reviewed new media since 1999, determining each time that new media did not pose "a threat to traditional broadcasting licensees' ability to meet their obligations," maintaining its order exempting new media from regulation, with only a few minor alterations (CRTC, 2009).

So-called over-the-top (OTT) programming services began to take off in a big way in 2010, when Netflix entered the Canadian market in its first international expansion. Although Netflix does not disclose its subscription numbers, surveys reported in the press that by September 2013, 25 per cent of people in English-speaking Canada were Netflix subscribers. Thus would put the number of subscribers at 8.8 million. This number, if it is accurate, shows that Netflix became the largest subscription-based specialty service in Canada, by far, in less than three years. Although the cost of a subscription is low compared to the cost of cable, Netflix Canada does not offer the range of products that are available via Netflix in the US, leading some Canadians to access Netflix in the US via a virtual private network with IP address camouflaging.

Canadian broadcasters are now claiming that Netflix and other potentially available video streaming services such as Hulu, Amazon TV, or Apple TV enjoy an artificial competitive advantage since they don't have to support the creation of Canadian content. It is feared that Netflix is siphoning away potential cable subscribers. Netflix has purchased exclusive Canadian territorial rights to some US media libraries, thwarting the possible expansion of some Canadian speciality services. Netflix executives have claimed in conferences in Canada that "Netflix supports Canadian content through lucrative licensing and that roughly 10 per cent of Netflix's offerings are Canadian", although a fact check found the proportion of Canadian content in Netflix to be closer to 3 per cent. Even many Canadian movies-of-the-week that are available on Netflix in the US are not available in Canada. Further, an attempt to review licensing deals between Canadian independent producers and Netflix turned up no deals. The main deals were between Netflix, CBC, and large Canadian distributors (Gratton, 2011).

In September 2014, the CRCT held a series of highly visible public hearings called "Let's Talk TV" to address issues of cost, channel proliferation, Canadian content, and OTT services. Many hundreds of

submissions were received. All Canadian stakeholders in TV as well as major foreign players such as Google and Netflix were invited to appear. Canadian content producers and broadcasters advocated imposing Canadian content requirements (production and distribution) on foreign OTTs. The Netflix representative very pointedly declined to provide audience information to the CRTC, precipitating a public showdown over whether the CRTC would enforce its jurisdiction over foreign OTTs. The incident made the hearings backfire badly in public opinion, where the CRTC was portrayed as a meddling policy relic from the 1960s. The CRTC chose to back down, deleting the Netflix submission from the proceedings. Shortly thereafter, a very high-profile original content deal between Netflix and a Canadian television production company was announced. Although this deal was probably in the works well before the CRTC hearings, it seems to have become part of a Netflix strategy to deflect domestic regulation of OTTs and demonstrate that OTTs are good for domestic content producers.

Ireland

The Republic of Ireland is a small country with 4.7 million inhabitants on an island that is divided between two states: the republic in the south and Northern Ireland (part of the United Kingdom) in the north.[5] It is a member of the European Union and its economic, social, and cultural policies are thus guided by European directives that proscribe and prescribe some national policies.

The contemporary history and population of Ireland are heavily influenced by Celtic invasions in the 1st century BC. The island remained divided until the 7th century when a high king was established to loosely rule over the tribes and smaller kingdoms. Much of Ireland came under English rule following the Norman invasion in 12th century, but was not fully controlled until the Tudor conquest in the 16th and 17th centuries. Its integration into the United Kingdom in 1801 was followed by a rise in nationalism and resistance that produced a war of independence and a division of the island into an autonomous Ireland in the south with Northern Ireland remaining part of the United Kingdom in 1921. The southern portion became a fully independent state in 1949.

Because of its history, Ireland possesses a cultural heritage that continues to be under pressure by the English language and the cultures of both the United Kingdom and the United States, with whom it shares significant economic, social, and linguistic bonds. Although Ireland's native language is Irish Gaelic, use of that language diminished until the late twentieth century when domestic language policies combined with European policies supporting minority languages to create support for its restoration (McDermott, 2011). Today about 100,000 persons (2 per cent of the population) use the Irish language in daily life and about 1.3 million (about 28 per cent) use it occasionally.

Issues of identity, culture, and independence are remain highly salient to contemporary policy and feature significantly in broadcasting policy in Ireland.

The broadcasting environment

Regular radio broadcasting began in 1925 with only public service and community radio stations existing until commercial radio was permitted in 1989. Regular broadcasts of television began with the establishment of BBC Northern Ireland in 1953. Television broadcasting in the Republic of Ireland began in 1961 with the establishment of Raidió Teilifís Éireann (RTÉ), which was specifically motivated by desire to reduce dependence on the BBC; its second channel, RTÉ Two, began broadcasting in 1978 (Savage, 1996). An Irish-language public service broadcaster, Teilifís na Gaeilge (TG4), began broadcasting in 1996 and commercial television was introduced in 1998 with the launch of TV3.

[5] The population of Northern Ireland is 1.8 million.

The Irish broadcasting today includes three national public service television channels, 14 commercial channels, 4 national public service radio services, and 60 commercial radio services. These are anchored by RTÉ, the public service broadcaster funded by both license fees and advertising. It operates 4 radio services (RTÉ Radio 1, RTÉ 2FM RTÉ Lyric FM and Raidió na Gaeltachta), 2 television channels (RTÉ One, RTÉ Two), and an online service (www.rte.ie). TG4 provides television services in the Irish language.

Supplementing public broadcasting television services are 1 national commercial terrestrial broadcast channel, 4 other national channels, and 3 regional and terrestrial channels. 542 foreign channels are available. The country has 6 national/quasi national radio channels, 5 regional/multicity radio services, 26 local radio stations, and 26 Community/special interest/ Institutional services (Shaw, Picard and Spaink, 2010) (Table 4).

News and information is also provided by 9 daily and evening newspapers, which are published in English in Dublin and Cork. The largest are the Irish Independent (113,000 circ.) and the Irish Times (77,000 circ.) and 2 national Irish-language weeklies. Local newspapers, primarily weeklies and fortnightlies are published in about two dozen communities. There is significant concentration in the Irish press, and television policy has also become one means overcoming issues created by that concentration and the influences of external culture through foreign ownership (Griswold, 1996).

Table 4 Irish Broadcasting Services (2010)

	Total	Public	Private
Television			
National channels (with terrestrial licences)	4	3	1
Other national channels (Cable, satellite, IPTV, mobile)	5	1	4
Regional or territorial channels	3	0	3
Local stations and community	4	4	
Total Domestic Channels	*16*		
Foreign Channels available	542		
Radio			
National / Quasi national stations	6		
Regional/Multi-City radio services	5		
Local Radio	26		
Community/special interest/ Institutional services	26		

Source: Shaw, Picard & Spaink (2010)

Irish television relies on a combination of revenue streams. Owners of television pay an annual television licence fee of €160 to finance public service broadcasting and a domestic content production fund, Sound and Vision. Half of the income of RTÉ is derived from the licence fee, with the remainder generated from sale of advertising. TG4 receives no license fee funding but relies on state grants and advertising income, as well as some daily programming provided by RTÉ. Private broadcasters rely upon income from advertising and pay TV channels depend on a combination of subscription fees and advertising.

In terms of audience shares, RTÉ is the dominant television broadcaster, accounting for about 70 per cent of the terrestrial broadcasting audience share (about 50 per cent for RTÉ 1 and 20 per cent for RTÉ 2). TV3 gets about one-quarter of the audience share and TG4 accounts for about 5 per cent. RTÉ remains dominant among those audiences that have cable and satellite services as well, but its audience share drops to about 25 per cent. In 2010, 51 per cent of the audience share was accounted for by channels origination from outside of Ireland, with the UK broadcast channels alone accounting for 25 of the audience share. RTÉ channels had a combined share of 27 per cent and TV 3 had 9.5 per cent. All other channels accounted for less than 10 per cent of total viewing (Table 5).

Table 5 Audience shares, cable and satellite services (2010)

Channel	Share
RTÉ 1	19.5
RTÉ 2	7.6
TV3	9.5
TG4	1.4
3e	1.5
Setanta Ireland	0.7
UTV	4.0
Channel 4	3.1
Comedy Central	1.0
Comedy Central +1	0.5
Discovery Ireland	0.7
E4	1.4
E4+1	0.5
E! Entertainment	0.5
Living	1.2
MTV	0.5
Nickelodeon	1.1
Nick Jr.	0.7
Sky 1	2.0
Sky News	1.1
Sky Sports 1	1.1
Sky Sports 2	0.5
Sky Sports News	0.7
BBC1	4.9
BBC2	2.8
Other	31.5

Source: Nielsen TV Audience Measurement

Multichannel and digital services

Cable services have provided multi-channel television to Ireland since the 1970s and serve about 40 per cent of households. The primary provider of digital and analogue services is UPC Ireland. Satellite services began in the mid-1980s and after a series of mergers became Sky Ireland. About 80 per cent of all households have cable or satellite services and only about 20 per cent of those remain as analogue provision (Shaw, Picard & Spaink, 2010).

Analogue terrestrial broadcasting ended in Ireland in 2012 as part of the switchover to digital television services provided as Saorview and a satellite based fill-in service for the digital terrestrial broadcasting call Saorsat.

Broadband penetration in Ireland has lagged behind those of other developed countries. Fixed broadband penetration is about 22 per cent of households, below the OECD household average of 25 per cent. Nevertheless, the penetration is sufficient for Netflix, Amazon Prime, iTunes video to operate in Ireland as alternative content sources.

Linguistic and external content challenges

Although some Irish-language radio and television broadcasts have been available since the beginning of broadcasting, there was a significant decline between 1970-1990, before a revival began in late 20th century, with the establishing of the Irish-language television channel (T4) and its multiplier effects on the Irish-language creative industry (Watson, 2002;2003).

The majority of broadcast programming, however, has remained in English. This factor has presented a cultural challenge because of the production issues facing small nations (Lowe & Nissen, 2011) and because Ireland is culturally squeezed between two major audio-visual producing countries—the United Kingdom and the United States—that provide English-language programming that is attractive to Irish audiences and other English-language producers in Australia and Canada.

The influence of external television programme production in Ireland is compounded by broadcasting directly from North Ireland and from the UK and US via satellite. Broadcasters in Northern Irelands were specifically established to link it closely to the United Kingdom and they have tended to downplay Irish nationalism and national interests (Hill & Hill, 2007; Cornell, 1997). Today cultural policy in Northern Ireland promotes domestic (N.I.) film and TV production (Department of Culture, Arts & Leisure, 2004) and use of the Irish language in many forms of communication and education (McDermott, 2011), but the Republic of Ireland has many policy concerns that do not overlap those of the north.

The political cultural environment has led to audio-visual policy of the Republic of Ireland placing great importance on maintaining the identity of the Irish people and the continued development of the Irish republic (Savage, 1996). Nevertheless, its policies are heavily influenced by its small size, liberal economic policies, European Union directives, and the competitive influence of UK broadcasters and satellite television operators. Digital television policy generally parallels that of other EU countries, but also contains rationales for preserving the fundamental position of Irish public service broadcasting and overall social objectives for broadcasting (Murphy, 2013).

Broadcast regulation and policy

Broadcast policy involves both broadcast regulation as well as cultural policy intervention and thus comes different aspects are under the oversight of the Department of Communications, Energy and Natural Resources and Department of Arts, Heritage and the Gaeltacht.

Broadcasting behaviour and content has been regulated by a combined regulator for public service and commercial broadcasters, the Broadcasting Authority of Ireland, since the passage and implementation of the Broadcasting Act (2009) that created BAI in place of the previous Broadcasting Commission of Ireland and the Broadcasting Complaints Commission. A second regulator, the Commission for Communications Regulation (ComReg), regulates the technology and infrastructure of communication under provisions of the Communications Act (2002). In addition, policy and funding grants related to issues of “Irishness” and the Irish language come under the remit of the Department of Arts, Heritage and the Gaeltacht.

Content requirements and support programs

Under the EU’s Audiovisual Media Services Directive and Irish implementing statute, a majority of its transmission time must be reserved for European works, which includes Irish production (Ireland, Minister for Communications, Energy and Natural Resources, 2010). TV3, the national commercial television channel, is required to devote 30 per cent of its programming to domestically produced programmes and has well exceeded that minimum in recent years.

Ireland also adopts an independent production budgetary requirement. Irish broadcasters face both European Union and national policies relative to independent production requirements. Under the EU’s Audiovisual Media Services Directive and Irish implementing statute, 10 per cent of a broadcaster’s transmission time or 10 per cent of its programme budget must be allocated for works produced by independent producers (Ireland, Minister for Communications, Energy and Natural Resources, 2010). Under the *Broadcasting Act 2009*, RTÉ is required have a separate independent production account and to spend a designated amount annually from that fund to meet independent production requirements. For 2012, that amount was €38.5 million (RTE Independent Productions Annual Report 2009).

To provide services to hearing impaired persons, the Broadcasting Commission of Ireland quotas for RTÉ subtitles, requiring that 75 per cent of programmes on RTÉ One and 42 per cent on RTÉ Two by 2008. (RTÉ Subtitling Guidelines, 2008). RTE has now exceeded that quota and provides subtitles on 90 per cent of the RTÉ one programmes and 60 per cent of the RTÉ Two programmes.

Preserving Irish language and culture is supported by support programs. The national public service broadcaster had specific statutory requirements to help restore and nurture the Irish language since 1960, but not specific quotas. Broadcasting acts have consistently created obligations to provide programming in both Irish and English (RTÉ Programme Standards and Guidelines, p. 70).

The "Sound and Vision Funding Program" which was launched in 2005 has a specific objective of increasing audio-visual and audio programming reflecting Irish heritage and culture on public service and commercial broadcasters, as well as improving national literacy. The programme is funded by 7 per cent of the television licence fee and any broadcaster or television producer working in concert with a broadcaster can apply for funding to support programmes within the genres of history, arts, culture, children's programming, sports and the Irish language, and literacy.

Overall about three-quarters of the television funding has gone to projects suggested by the public service broadcasters RTÉ and TG4 and about half of the radio funding has gone to community radio stations. About 700 radio projects and 300 television projects have received funding from the scheme.

South Korea

Brief market summary

The first television broadcaster HLKZ was launched in 1958 as a commercial broadcaster, which in 1961 shut down after a fire in 1959. In 1961 KBS-TV, a government owned broadcaster opened and became a national network in 1966. HLKV, which started out as a commercial radio began television broadcasting in 1970. From a strictly regulated, government controlled broadcast environment in the 70s and 80s, market competition was introduced in the 90s. The broadcast system has evolved into a dual private-public system where there are currently two major national public broadcast networks, one private national network affiliated with nine local private broadcasters and 1 local private broadcaster with no network affiliation. As of 2012, 69.1 per cent of the households subscribed to cable TV services, 8.1 per cent to satellite and 18.1 per cent to IPTV (KISDI, 2012).

According to the *Broadcasting Act* Article 2, broadcasting is defined as "the planning, programming or producing broadcast programs, and transmitting them to the general public through telecommunication facilities". This includes television broadcasting, radio broadcasting, data broadcasting and digital multimedia broadcasting (DMB). In 2011, the total revenue of broadcasters was increased by 13.6 per cent from the previous year (KCC, 2012). Terrestrial broadcasters' market share was still dominant but decreasing, 39.4 per cent in revenues and 73.2 per cent in ratings share (Competition Committee in Broadcasting Markets, 2012).

In 2011, 475 independent production companies supplied programming content to terrestrial and cable broadcasters, of which 56 were drama companies (Competition Committee in Broadcasting Markets, 2012). The total television programming costs in 2011 were 2,166.8 billion KRW (approx. 2 billion USD) including terrestrial and cable broadcasters. 26.3 per cent was spent on purchasing independent production programming and 27.5 per cent on foreign program purchases. The independent programming quota is currently set at 20-40 per cent depending on the type of broadcaster.

The government has adopted a de-regulatory policy in the new media sector since 2005. This was to facilitate a fair and competitive market acknowledging that in the convergent environment, there

will be new competition from telecommunication service providers such as KT and Hanaro Telecom, who provides the majority of broadband services in the country.

Broadcast policy overview

The public trustee model of broadcasting rests upon two assumptions; that broadcasters have a significant social impact on audiences and that the broadcast spectrum is a limited resource. The policy paradigm after the economic crisis in the late 1990s shifted towards a converged model of an industry-focused drive where the broadcast sector was regarded as a subset of a broader ICT policy. Therefore the regulation of broadcasting in the 2000s was based on the framework of building competitive markets (Korea Communications Commission, 2011). This was reflected in the merging of the three laws, *Broadcasting Act, Composite Cable Broadcasting Act, Management of Cable Broadcasting Act* and *Korean Broadcasting System Act*, into the *Broadcasting Act* in 2000. In effect, terrestrial, cable, satellite, billboard, data, and digital multimedia broadcasting (DMB) all came under one overarching regime.

On the side of governmental support for the industry, the *Telecommunications Basic Act* was enacted in 2010 by merging the rules that were scattered across the *Broadcast Act, Telecommunications Act* and *Internet Multimedia Broadcasting Business Act*, in order to better develop emerging content industries and support them with consistent funding. In Article 12 of *the Act*, the government's support for broadcast and telecommunication media in content production and distribution is specified.

Regulation of the broadcast industry still heavily focuses on ensuring the public interest goals but throughout the recent changes in legislation, new components regarding industry support have been added. New policies to support the domestic content industry was added to the existing rationales for regulating content such as diversity, balance, cultural identity.

Pursuit of the diversity rationale has resulted in quotas that cap the amount of entertainment programming, require independent production, and impose limits on the amount of programming that can come from one foreign country. To maintain a balanced growth among national and local broadcasters, the government limits the proportion of relayed broadcast content from other stations. Finally, in order to preserve the cultural identity as well as enable growth of the domestic content industry, there are minimum quota requirements for domestic movies, animation, and music programs (Joo & Kim, 2012).

Supporting domestic content

The first law to regulate broadcasters was established in 1964. Much of the regulation was around public interest, fairness and providing the public with quality information. Regulation regarding the business operations and management such as limiting cross-ownership and foreign ownership were introduced two decades later in 1987. This was when the Korea Broadcast Commission was launched to ensure the public interest obligations of broadcasters and to implement effective policies.

Domestic content quota was introduced in 1990, limiting imported programs to less than 20 per cent of the television broadcasting schedule. In addition to this quota, broadcasters had to acquire approval from the Ministry of Information before importing any foreign programs. Prior to 2000, the main rationale for protecting domestic content was to preserve the national culture. Cultural products such as television, movies and music convey a country's national identity, values and meanings, thus playing an important role in its socio-cultural community. This rationale of domestic requirements has evolved over time from emphasizing the preservation of the national identity to protection of the domestic content industry. The *Broadcasting Act of 2000* included a more detailed rules governing foreign content programming. In the Decree, the quota for terrestrial broadcasters and multichannel video programming distributors (MVPD) was differentiated, with a more rigid standard for terrestrial broadcasters.

While some of the clauses in the *Broadcasting Act of 2000* addressed industry growth and fair competition, the traditional role of the public interest was still explicit. The Article 6 of the *Act* states that broadcasters should reflect interests of minority groups, be impartial, and contribute to enhancing local communities and promote national cultures.

More recently, KCC announced a new Decree that puts more weight on participation of domestic production companies. This was to "facilitate the development of the domestic production industry" (KCC, 2012, p17). Since 2011, KCC has been operating the Competition Committee in Broadcasting Markets in order to minimise policy failure and encourage fair competition, which is a clear indicator of how the South Korean government perceives of the broadcast industry as a significant contributor to the national economy.

Nature of support and types of programs covered by policies

Since 1991, three programming requirements were imposed on broadcasters by the government; a balance in entertainment, information and news programs, a limit on foreign content, and a minimum of programs produced by independent producers. After the reform of the *Broadcasting Act of 2000*, further quota requirements for domestic movies, animation, music programs were added as well as a clause that limits relaying of programs from other stations.

Broadcasters are licensed either as a general or specialized channel. According to the *Broadcasting Act,* television programs are classified into news, cultural and entertainment program types. The Decree determines how much of each program type a broadcaster must provide. For general television and radio broadcasters a cap of 50 per cent is placed on the number of programming hours of entertainment programs.

In the Decree, the range of domestic quota is specified as 60-80 per cent for terrestrial broadcasters and terrestrial rerun cable networks, 40-70 per cent for satellite and cable operators, and 20-50 per cent for cable networks. The clause on domestic programming includes specific genres such as movies, animation and music as well as the total programming quota. KCC set the quota requirement for domestic movies between 20-40 per cent, animation programs 30-50 per cent and popular music programs 50-80 per cent. Korea Communication Commission announces the quota for overall domestic programming and genre-specific quotas for movies, animation and music programs. This is to limit the repeats and encourage ongoing investments in programs. Major terrestrial broadcasters must have at least 1 per cent of new animation programming. KCC sets the minimum quota of first-run animation for all other broadcasters within 1.5 per cent. Finally, amongst the imported programs, in order to ensure diversity, one-country quota of 80 per cent is imposed. This is applied to movies, animation and music programs (Table 6).

Table 6 Domestic program quota (2012)

Program type	Terrestrial	Terrestrial DMB	Cable/Satellite	Cable networks	Terrestrial owned cable networks
domestic TV programs (biannual)	80% education channel 70%	80% (major) 60% (non major)	50%	40%	60%
domestic movies (annual)	25% religion channel 4%	25%	20%	20%	20%
domestic animation (annual)	45% education channel 8% religion channel 4%	35%	30%	30%	30%
new domestic animation (annual)	1% education channel 0.3% local broadcasters are exempt	0.1%	n/a	0.03~0.1% depending on revenues	
domestic music	60%	60%	60%	60%	60%
one-country programming cap	80%	80%	80%	80%	80%

Free trade agreement (FTA) with the US passed national assembly on Nov 22, 2011 and is effective as of March 15, 2012. This has caused some changes in the genre-specific quota. Animation quota was reduced from 35 per cent to 30 per cent, movie quota from 25 per cent to 20 per cent. One country quota cap was increased to 80 per cent from 60 per cent (The Korean Government, 2012). Kang & Park (2011) predicts that the FTA agreement will decrease domestic programming and increase concentration in selected imported countries such as United States and Japan.

The third type of quota limits the programming supply of the major broadcast networks. Each broadcaster must allocate a certain time for programs produced by independent production companies. A portion of that must be in prime time. While this has increased the number of independent producers, there has been criticism that it has not improved the quality nor resulted in the growth of the television production industry. There has been discussions about converting the independent programming quota into expenditure quota but the policy framework has not been further developed (Kwon, 2013).

In South Korea there is no funding or investment quota in terms of programming costs. The only quota that is enforced is the hours of programming per week dedicated to certain types of content. The quota is applied according to the different market environment a broadcaster is situated in. For example, terrestrial broadcasters are required to program at least 80 per cent of domestic content whereas cable networks are only required 50 per cent. Some local broadcasters are exempt of original programming in animation. The rationale applied here is from the broadcasters-point-of-view rather than the audiences, which confirms he industry-focused nature of broadcast policies in South Korea.

Consistent with the domestic industry support, a Broadcast and Telecommunication Development Fund (BTDF) was established in March 2010, merging the Broadcast Development Fund and Telecommunication Development Fund. With the enactment of the *Telecommunications Basic Act*, this Fund has been supporting the converged media industries as well as the cultural and arts sector.

Direct government funding support for broadcasters is mainly available through the Ministry of Science, ICT and Future Planning (MSIF) and the Ministry of Culture, Sports and Tourism (MCST).

MSIF directly supports, through BTDF, a range of digital content including holograms, apps, content solutions, smart content and converged broadcast content. MCST mainly supports print media, games, music, movies and television content through a governmental agency, Korea Creative Content Agency (KOCCA). In 2012, the total funding was approximately KRW 40.2 billion from KCC and KRW 56.1 billion from KOCCA.

Effectiveness and performance of existing measures

The domestic quota was met by all broadcasters and in most cases substantially exceeded the required quota. In 2010, there were two cases of not fulfilling the domestic quota requirement, by two cable networks. One was EBS English that had not met the required 8 per cent of domestic animation by 0.5 per cent. Another cable network, Living TV, did not program any domestic movies and did not meet the quota of 25 per cent. There were two cable networks, three terrestrial DMB providers that did not meet the one country proportion of movies. All of them over programmed US imports (Table 7).

Table 7 Required quota and actual programming of broadcasters (2011)

	Terrestrial			DMB		Cable operators	Satellite	Cable networks	
	Networks	Local	Educational	Major	Non-major			Terrestrial owned	Non-terrestrial
Actual (%)	97.8	96.8	82.4	99.3	98.6	99.9	76.6	89.7	75.3
Required (%)	80	80	70	80	60	50	50	60	40

Major broadcasters programmed 64.4 per cent of domestic movies which is considerably higher than the quota of 25 per cent. Local broadcasters and cable networks programmed 58.2 per cent and 46 per cent respectively. In the second half of 2012, two of the four major networks did not program any foreign movies. The average proportion of imports from one country was 44.4 per cent, which is lower than the required 80 per cent. Among the major broadcast networks, only KBS2 had imported animation in their programming line-up of 25 per cent in the second half of 2012. The educational network, EBS allocated 50.8 per cent. All other major networks only programmed domestic animation, reflecting the popularity of domestic fare. Cable networks scheduled 53 per cent of domestic animation. The new clause of investing in new animation programs was also abided by. All terrestrial broadcasters exceeded the required 1 per cent. Popular music programs among terrestrial broadcasters both national and local were 100 per cent domestic (Joo & Kim, 2012:18). In case of local broadcasters all animation programs were also domestic.

Programming expenditure varied across major terrestrial and cable networks. In 2011, among the total programming costs of the major terrestrial networks, only 0.7 per cent was spent on purchasing foreign content. In case of cable networks, the proportion was 28 per cent (KCC, 2012). The difference in the strategy adopted between the two sectors is reflected in the program import and export figures. Major terrestrial broadcasters exported 158 million USD of programs while importing 4.25 million USD in 2011. Cable networks, on the other hand, imported 1,236 million USD of programs and exported 108 million USD in total.

Emerging issues in the digital environment including changes in the market

With the change of the government, there has been a reshuffling of government departments overseeing the broadcast sector since 2013. Most of the converged broadcast media including cable, satellite and IPTV are now under the umbrella of the Ministry of Science, ICT and Future Planning (MSIF), Office of Broadcasting and Communications Convergence Policy. Korea Communications

Commission is now more focused on ensuring diversity and quality programming was well as protecting consumer rights. According to MSIF's Annual Plan 2013, the Office of Broad Office of Broadcasting and Communications Convergence Policy have set two goals; (1) Developing converged content industries and supporting small and mid-sized enterprises in incubating content; (2) Enhance competitiveness of the broadcast sector through deregulation and consistent re-regulation of all types of converged media.

Cross Case Comparison

How are the country policies alike and different?

The rationale for regulating television program imports in the four countries were very similar in that they aimed to protect the domestic broadcast and production industries in order to preserve and promote the national culture. There are two underlying assumptions of such regulatory policies. First is the assumption is that domestically produced content will reflect and reinforce national identities. Second, the provision of domestic programming will lead to consumption and that audiences will be appreciative of the domestic fare.

However, domestic content is preferred over imported content only if it is comparable in terms of quality after applying the cultural discount. This results in a strong preference for imported dramas and movies, but less so for news, sports, and game show genres. Patterns of audience behaviour are amplified in the digital environment where there are more choices.

Broadcasters play a major role in providing content in the language and culture that can easily be understood by the audiences. While the linguistic element is straightforward, the other cultural elements of television programs are more complex.

Furthermore, cultural affinity and the quality of television programs are important elements of viewership. The main problem facing domestic content producers is that imported programs are much less expensive to acquire than domestic content, while often enjoying an advantage in terms of superior production value. All else being equal, the cultural discount applies in both directions. However, because of the higher production values involved is less obvious in transfers from a large to a smaller market.

The four country cases reveal that the rationale to protect domestic culture and language is not equivalent to supporting domestic content industries. Domestic content industries are comprised of a variety of industry players including traditional terrestrial broadcasters, multichannel video distributors, new digital platforms, and independent production companies. Conflicting interests among these stakeholders make it complex to elaborate national policies to everyone's satisfaction.

The policies are ill-adapted to non-broadcast audiovisual content. This will need to be reconsidered as viewers increasingly shift to non-linear viewing, and the percentage of audiovisual content not originally produced or broadcast increases. We must also consider streaming services and over-the-top services that are increasingly accessible to broadband subscribers can get easy access to. While copyright laws are in place to configure national boundaries of services, there are various solutions to override these arrangements such as VPN or unblocking apps that are in use. Therefore, the scope and meaning of domestic content may not coincide with country-specific national borders.

Discussion

The efficacy of content policies in the broadband age requires reconsideration of fundamental issues that led to their establishment and whether they promote consumption of domestic content when greater choice is available. This will require rethinking the underlying concepts and rationales for existing policy and discovering ways to adjust them to the new realities.

Generating domestic content consumption vs. providing access

In the past, limited channels and national control over availability of audiovisual content gave policymakers the ability to determine the amount of domestic programming available and, thus, influence consumption. Because of the contemporary abundance of platforms, channels, and programming, domestic content polices are no longer able to oblige consumption of domestic content, so policymakers will have to adjust to the idea that domestic policy influence will be limited to making such content available, accessible, and retrievable, while recognizing that audiences will do so only if it attractive.

Quality vs. quantity of domestic content

Content policies have traditionally perceived benefit from the existence of domestic content *per se* and not been highly concerned about its quality, partly because audiovisual products are goods of uncertain quality when they are produced. Although this has increased domestic content available, the policies have often produced large quantities of low cost productions such as talk shows, games, and reality-based programmes, with a rising number of repeat airings. While much of their faire may reflect locality, the extent to which it promotes domestic culture is debatable. In most countries the amount of high quality, high impact programming is limited to a few programmes a week.

As choice of viewing increasing because of satellite and broadband options, it is appropriate to consider whether and the extent to which policy might be altered to increase quality and promote consumption of domestic programming that compete more effectively with higher quality foreign content while pursuing domestic social and cultural goals. This, of course, raises questions of how to define and assess quality and who will make those determinations.

The allocation of different compliance points to Australian domestic drama on the basis of genre and cost is an attempt to foster quality productions. In the regulation 'quality' is not determined per se but genre and production values are used as proxies for quality. High production values series, miniseries and feature films (above specified thresholds) earn 2.5 to 4 times the number of compliance points per hour than lower cost serials and series which are generally thought to be at the low quality end of television drama. Public support to the independent television production industry has also used a genre proxy to focus primarily on the production of 'high quality' adult drama—miniseries of up to 13 hours in length and telemovies with AUD$400,000 per hour minimum threshold screening rights fee. In 2011 the distinction between series and miniseries was removed with support available to series of up to 26 hours in length with a screening rights fee of at least AUD$440,000 per broadcast hour (Screen Australia, 2011).

A similar approach is also taken in Canadian regulation. Broadcasters are required to broadcast a quota of 'Programs of national interest' which are defined by the regulator as higher-cost genres such as drama, comedy, and long-form documentary. In other words, this is not an attempt to measure quality of domestic content per se, but rather an attempt to ensure domestic programming in the more expensive genres. The assumption is that these genres are more culturally significant, valuable, and impactful than game shows or cheap reality shows.

In South Korea, there are special clauses for protecting fictional programming such as movies, animation and dramas. The main reason is because these genres are competing with high quality international programs but also because they are anticipated to be a source of potential export revenues for production companies and broadcasters. The logic of protecting the domestic content industry is simultaneously applied with the rationale to preserve national culture.

On the other hand, the Irish Sound and Vision programme makes some quality determinations in determining what productions to fund, but the definition of quality is primarily the extent to which proposals are expected to meet the programme's objectives.

Protecting national culture vs. protecting domestic industries

Most rhetoric surrounding content policy is enthusiastically based in protecting national culture, but policy is often constructed primarily to protect domestic broadcasters and production companies against foreign broadcasters and producers. This is problematic because the profits of broadcasters are often not correlated with the provision of 'local' content, but with content they import. If policy is to be effective it must consider interventions and instruments that are better able to deliver cultural and national objectives whether the producers or distributors are domestic or foreign. Policy incentives for foreign distributors may be considered in form of subsidy, tax incentives or other measures in order to ensure a balance in domestic and foreign content.

Issues of domestic content policy are consequently multifaceted and growing more complex as audiovisual distribution systems increase. Existing policies have only promoted domestic culture in limited ways and their effectiveness will continue to decline as audience access to foreign content through the rising number of distribution platforms enlarges. Even the fundamental domestic production benefits of existing policy will decline rapidly in this environment.

Policy makers are thus faced with the significant challenge of coming to terms with what their objectives should be in this new environment and what policies can actually promote those objectives. Policies will clearly have to be enlarged to accommodate new platforms. Incentive and subvention-based policies will need greater attention and mechanism that support quality productions of many genres will need to be fashioned.

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