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# Content Availability: Challenges for Media Regulators

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# Introduction

## THEN

- Media industry organized, legislated and regulated by infrastructure (radio, television, telephone, print etc.), which imposed clear boundaries.

## NOW

- Content flows across many different networks and technologies.
- Can provide media services without any local presence or owning infrastructure – just need internet access.
- Many different services can be handled on the same networks; different services can be transmitted on a number of competing networks using different and combined technology platforms (e.g. wired and wireless).

## WHICH MEANS THAT

- The flow of content is no longer controlled by infrastructure.
- Consumer expectations have changed.

# It's all about content

The Google logo is displayed in its characteristic multi-colored font: blue 'G', red 'o', yellow 'o', blue 'g', green 'l', and red 'e'.

Technology companies (Google, YouTube, Netflix, Amazon, Apple etc.) are now dominant providers of content. They dwarf most of the traditional media companies, but are not subject to same regulation.

**WHICH MEANS THAT**

Media firms now competing with tech firms rather than each other.

# Opportunities, threats and challenges

- The shift to non-traditional platforms has 'democratized' the media, as many people are now both consumers and providers of content. It has stimulated many new creative and business ideas.
- However, it has also brought new problems, including the ability to bypass conventional delivery models and systems of regulation.
- If regulatory systems do not adapt, there is a risk that they will bring increasingly disproportionate pressure to bear on dwindling band of established providers, which could encourage more consumers to abandon them and migrate to illegal/informal sources.

# We need a new model of regulation

- The playing field is not level – traditional media have shrinking market share and disproportionate share of regulatory obligations. So it is important to reduce the burden and cost of regulation.
- Governments must respond to the demand for seamless access to diverse content across platforms.
- Governments need to ensure free to air broadcasting. In Jamaica FTA is subsidized (exempted from regulatory and spectrum fees).

Future model of regulation? Streamlined; content-focused, technology-agnostic. Aimed at ensuring availability & quality of service.

## Example: access to cable channels in Jamaica

Cable television providers operate within a regulatory framework that requires that their output is legally acquired in keeping with the laws of Jamaica (esp. the Copyright (Amendment) Act, 2015).

This means that they are only allowed to transmit programming for which they have acquired licences.

The Broadcasting Commission takes its responsibilities to enforce the licensing rules very seriously and is unflinching in its commitment to copyright protection.

# Result: confusion, resentment, non-compliance

- This position has caused confusion and resentment amongst Jamaican consumers, particularly in relation to US-originated television content.
- They see no logic in shutting out content from licensed cable services that can easily be accessed via unregulated satellite and internet-based substitutes.
- Some US channel owners are unwilling/unable to license their products for the Caribbean. This drives up regulatory costs of copyright enforcement in small island nations and has unintended effect of encouraging copyright breaches.
- Copyright laws largely written in pre-internet era are increasingly ineffective in digitally converged environment in which many forms of information are effectively free and widely accessible. Some people are trying to protect their interests using increasingly inappropriate models.

# Conclusions

- This situation serves nobody's interest. The rights-holders are losing revenue, consumers are being forced into illegal behaviour, and regulators are obliged to expend scarce resources enforcing laws that are becoming less and less credible.
- We need to develop better solutions - which also have to comply with international trade law and bilateral agreements.
- We need a simpler and more practical licensing regime; one that will help us to achieve multiple goals: robust competition, vigorous innovation, an increase in the range and quality of digital services and delivery and distribution channels, a reduction in copyright infringement, and profitable creative industries.
- We think that the way forward is going to involve simplifying access and licensing regime for content, across geographical boundaries, devices and platforms.
- The media business model may also have to adapt to an era in which IPR controls can be readily bypassed. This could involve campaigns to increase media literacy and a move to a 'long tail' (low margin high volume) sales model.

# Thank You!

