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Blocktiming Practices in the Philippine Free TV Industry

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PHILIPPINE COMPETITION COMMISSION

Ensuring businesses compete and consumers benefit

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EXECUTIVE SUMMARY

The Philippine free TV industry has faced challenges in recent years that have altered its competition environment. These challenges include the nonrenewal of ABS-CBN's franchise and increased regulatory scrutiny of the industry.

ABS-CBN’s exit from the free TV market has resulted in increased market concentration, making GMA Network the dominant player with a 93% market share. This concentration raises concerns about competition, access to broadcasting frequencies, and content diversity. The exercise of market power may harm competition by curbing viewer choices and restricting the entry of content producers. This sector brief explores the tendency of a dominant network to engage in input foreclosure in the free TV industry.

In addition to these issues, the National Telecommunications Commission (NTC) has also directed regulatory attention toward blocktime agreements. Blocktime agreements are contracts between content producers and broadcasters in which the former pays the latter for a certain amount of airtime to broadcast its own programs. While blocktime agreements have been declining in popularity, the NTC issued a memorandum order, which aims to regulate these agreements. Met with criticism by stakeholders, the memorandum requires NTC approval for all blocktime agreements and limits the amount of airtime that can be allocated to blocktime programming to 50%.

During a strategic policy dialogue (SPD), the NTC mentioned that the memorandum aligns with their authority to exercise considerable control over public services and franchise equipment. The NTC similarly highlighted that the memorandum is designed to monitor the leasing of parts of its Certificate of Public Convenience (CPC) to ensure that the grantee itself is the one utilizing the CPC.

Requiring prior approval before firms can enter blocktime agreements could make it more difficult and expensive for firms to enter the market, raise prices, create regulatory uncertainty, and distort competition. Furthermore, the NTC's approval power could be used by TV networks to discriminate against certain firms or to favor certain types of content. Conceptually, given smaller TV networks’ limitations to produce most of their content in-house, the 50% limitation on airtime allocation could prevent them from gaining a foothold in the free TV market.

Even before the NTC imposed the 50% limit, however, most TV networks did not allocate more than half of their airtime to such deals. TV networks typically prioritize airing their own content as a business decision. However, the new rules on prior approval before the consummation of blocktime agreements may have further discouraged such agreements, as no applications have been submitted to NTC since the issuance of the memorandum.

Nonetheless, the impact of the two issues on competition is mitigated by various factors. The availability of substitutes for free TV, such as over-the-top (OTT) platforms (e.g., Netflix, iWantTFC, YouTube) provides producers with alternative modes of distribution and allows viewers to access a variety of program selections. These services have adapted to cater to different viewers and offer diverse value propositions for content producers.

Indeed, the media landscape in the Philippines is undergoing a significant shift towards internet-based content delivery. Factors such as market concentration, regulation on blocktime agreements, the possibility of input foreclosure, and the rise of OTT platforms are reshaping competition, content variety, and viewer preferences. To thrive in this evolving landscape, industry stakeholders must grasp how these elements impact the sector and tackle competition issues effectively.

Ultimately, the success of free TV as a content distribution medium relies on robust competition and a supportive regulatory framework. Enforcing regulations that foster fair access to airtime, prevent discrimination, and encourage diversity and innovation can address these competition concerns and protect consumer interests.

TABLE OF CONTENTS

EXECUTIVE SUMMARY 1
I. INTRODUCTION 5
A. Motivation and PCC mandate 5
B. Objectives 5
C. Data and methodology 6
D. Scope and limitations 6
II. INDUSTRY BACKGROUND 6
A. Free TV 6
B. Pay TV 7
C. Other forms of media 7
III. VALUE CHAIN 8
A. Creation/production 9
1. Own production 9
2. Line production 9
3. Co-production or joint production 9
4. Acquiring content 10
B. Distribution/aggregation 10
C. Delivery or transmission 10
1. Blocktime Agreements 11
2. Advertisements under blocktime 12
IV. MARKET DEFINITION 13
A. Free TV vs. pay TV 13
1. Supply-side substitutability between free TV and pay TV 13
2. Demand-side substitutability between free TV and pay TV 13
3. Conclusion on the substitutability of free TV and pay TV 14
B. Free TV vs. OTT platforms 14
1. Supply-side substitutability between free TV and OTT platforms 14
2. Demand-side substitutability between free TV and OTT platforms 14
3. Conclusion on the substitutability between free TV and OTT platforms 15
V. COMPETITION LANDSCAPE 15
A. Free TV broadcast 15
VI. REGULATORY FRAMEWORK 18
A. National Telecommunications Commission (NTC) 19
B. Movie and Television Review and Classification Board (MTRCB) 19
C. National Council for Children's Television (NCCT) 19
D. Ad Standards Council (ASC) 20
E. Kapisanan ng mga Brodkaster sa Pilipinas (KBP) 20
VII. COMPETITION ISSUES AND REGULATORY CONSTRAINTS 20
A. Input foreclosure on the supply of blocktime slots 20
B. NTC Memorandum Order 004-06-2022 21
1. NTC's approval of blocktime agreements 21
2. Fifty percent airtime limit on blocktime agreements 21
VIII. CONCLUSION 22
IX. RECOMMENDATIONS 23
REFERENCES 25
ANNEX: NTC Memorandum Order No. 004-06-2022 dated June 23, 2022 29

LIST OF TABLES

Table 1: Supply- and demand-side substitutability of free TV by pay TV and by OTT platform. 15
Table 2: Channel by ratings and by market shares (6 AM-12 MN), Philippines: 2019..... 16
Table 3: Free TV broadcast networks channels (without ABS-CBN) by total revenue and by market shares, Philippines: 2020..... 17
Table 4: Free TV broadcast networks channels (with ABS-CBN) by total revenue and by market shares, Philippines: 2020..... 17

LIST OF FIGURES

Figure 1: Proportion of population 10 to 30 years old in urban areas who are currently attending school by exposure to various forms of mass media, Philippines: 2019 8
Figure 2: Value chain of free TV programming..... 8
Figure 3: Simplified relationship between TV networks and blocktimers 12

I. INTRODUCTION

A. Motivation and PCC mandate

The Philippine Competition Commission (PCC) is an independent quasi-judicial body mandated to implement Republic Act No. 10667, otherwise known as the Philippine Competition Act (PCA). The PCC is tasked to monitor and analyze the practice of competition in markets that affect the Philippine economy and to undertake, publish, and disseminate studies and reports on anti-competitive conduct and agreements to inform and guide industry players and consumers.

For decades, the Philippine television market had been highly concentrated and dominated by two media conglomerates: GMA and ABS-CBN. ABS-CBN, however, did not succeed in renewing its legislative franchise prior to its expiration on May 4, 2020 (ABS-CBN News, 2020). As a result, GMA gained more viewership share and became the leading television network in the country, making the TV industry more concentrated. Higher concentration in the broadcast industry raises competition concerns on content producers' access to broadcasting frequencies and consumers' choice of a wider variety of content.

Without a franchise to operate, ABS-CBN sought deals and partnerships with other television networks to help them continue their broadcast operations. In 2022, the PCC Mergers and Acquisitions Office (MAO) and Economics Office (EO) assessed the proposed Acquisition of ABS-CBN Corporation of shares in TV5 Network, Inc.[1] ABS-CBN and TV5 eventually signed a memorandum of agreement to formally terminate the proposed transaction following several resolutions filed by lawmakers to investigate alleged franchise violations arising from the said deal (Cervantes, 2020). Consequently, the MAO recommended that no further action should be taken in line with the terminated agreement. After the initial termination of the proposed transaction, MAO and EO were instructed by the Commission to conduct a study that further explores the possible anti-competitive effects of blocktime agreements in the Philippine television broadcast industry.[2]

Blocktime agreements refer to the sale or lease of airtime utilized to broadcast programs not owned or produced by the network operator (CFMR, n.d.). In June 2022, the National Telecommunications Commission (NTC) issued a memorandum order (NTC memorandum) which aimed to limit the allowed leasable airtime to up to 50% of a network's airtime and directed blocktimers to submit such agreements to the Commission for approval.[3] While there is not enough literature to discuss the prevalence, relevant regulations, and effects of such agreements on market competition in the television industry, the NTC memorandum raises competition concerns as it is deemed by stakeholders to bar access to media frequencies.

B. Objectives

This study tackles the competition impacts of two main issues: i) the nonrenewal of ABS-CBN franchise and ii) the NTC memorandum which limits the allowed leasable blocktime. Along with this main objective, this sector brief aims to: i) provide a background of the broadcast industry; ii) understand the value chain, competition landscape, dynamics, and characteristics of blocktiming practices in the Philippines; iii) briefly assess the substitutability of free TV content with pay TV and over-the-top (OTT) platforms; and iv) discuss the regulations and procedures governing blocktime agreements. The insights offered in this paper are intended to assist the PCC in advocating for and maintaining a level playing field in the television industry.

[1] The transaction between the ABS-CBN and TV5 also involves the proposed acquisition of Cignal Cable Corporation of shares in Sky Cable Corporation.
[2] 519th Regular Meeting of the Commission held on October 4, 2022.
[3] NTC Memorandum Order No. 004-06-2022.

C. Data and methodology

The team conducted a thorough industry analysis through desk research, scrutinizing publicly available information. Nonetheless, the research revealed a paucity of literature on the subject. We have complemented the desk research by interviewing different stakeholders in the entertainment and television industry, including representatives from the NTC. The study team further conducted key-informant interviews (KIIs) with an industry expert and representatives from regulators, two TV networks, and a TV network association. Lastly, the team conducted a strategic policy dialogue (SPD) with the NTC to validate and update the initial findings and assessment of the study.[4]

D. Scope and limitations

The blocktime agreements covered in this study only pertain to programs aired on free TV. The study also briefly assesses OTT platforms and pay TV to describe and determine the extent of content distribution beyond free TV.

While the study team invited several blocktimers for an interview through a formal letter, the blocktimers have not been responsive to the team's request. Nonetheless, the team was able to interview stakeholders with relevant experience in blocktiming.

II. INDUSTRY BACKGROUND

The manner and means by which consumers access content have undergone significant transformations, evident in the evolving Philippine television landscape. Technological breakthroughs, such as satellite and cable technologies, have streamlined content acquisition, making it easier for viewers to access television programs.

Based on the Annual Survey of Philippine Business and Industry (ASPBI) data in 2019, television programming and broadcasting services had a revenue of PhP 72.3 billion (PSA, 2022). In the same year, the information and communication industry comprised 2.8% of the total gross domestic product (GDP), while its subsector, the television industry, represented 0.3% of the total GDP (PSA, 2022).

In the Philippines, the television industry is divided into two categories: i) free TV and ii) pay TV.

A. Free TV

Free TV, also known as free-to-air or terrestrial television, describes television channels that viewers can access free of subscription costs or payment (OECD, 2013). As such, content is viewable by anyone with a television that can pick up radio frequency. These channels transmit content via ultra high frequency (UHF) or very high frequency (VHF) radio waves—the frequency allotments provided by the NTC. The radio frequency spectrum, which is used for wireless communication, is a finite resource (Davis, 2018). Simultaneous transmission on the same frequency leads to interference and degradation of the

[4] Strategic policy dialogues (SPDs) are conducted by the PCC to validate the initial findings and assessment of studies. The SPD with the NTC was conducted on May 24, 2024 at the PCC Board Room. The PCC was represented by Executive Director Kenneth V. Tanate, joined by EO Acting Director IV Kirsten Dela Cruz, Acting Director III Carlos L. Tolentino II, and staff from EO, Office of the Chairperson (OTC), Office of Commissioner Marah Victoria S. Querol (OCMSQ), Office of the Executive Director (OED), and Communications and Knowledge Management Office (CKMO). The NTC was represented by Atty. Andres Castelar, Director II of the Legal Services Division and Engr. Anna Liza Buenviaje, Chief of the Broadcast Services Division.

communication quality. Therefore, allocating specific frequency bands to different services is important to reduce interference and improve overall system performance.[5]

At present, there are two major broadcast networks in the country while there are 415 TV stations that operate on analog frequencies nationwide (Keysight, n.d.).[6] The market shares of TV stations with nationwide operations are discussed further in **Section V**.

B. Pay TV

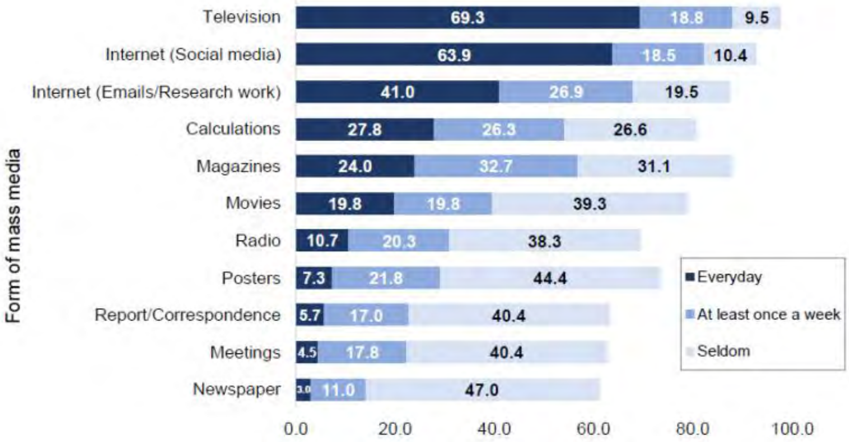
Pay TV, also known as multi-channel video programming distributor (MPVD), requires prepaid or ongoing subscription fees to view a selection of channels (OECD, 2013). Pay TV includes fixed-line cable television (CATV), direct broadcast satellite (DBS), and the paid portions of digital terrestrial television (DTTV) (AppsFlyer, n.d.).[7] Cable companies typically offer pay TV services directly to customers through customized subscription agreements and use a network infrastructure that utilizes fiber optic cables to transfer radio frequency signals to the television.

C. Other forms of media

In the Philippines, other forms of media include radio, digital media, and social networks. In 2019, the Functional Literacy, Education, and Mass Media Survey reported that 97.2% of the covered demographic are exposed to television while 92.9% are exposed to social media **(Figure 1)**.[8] Furthermore, almost 69.3% of Filipinos consumed television content every day, making it the most widespread type of mass media, followed by social media consumption with 63.9% of Filipinos reporting daily usage (PSA, 2020). From the same survey, it can also be gleaned that the relevance of radio and newspapers has continuously decreased over the years.

[5] There are only specific frequency bands available for different types of wireless services such as television broadcasting, mobile communications, satellite communications. Different wireless services operate at different frequencies.
[6] Namely, GMA Network, Inc. and TV5 Network, Inc.
[7] The spectrum is divided into different frequency bands to prevent interference between different services, and these bands need to be carefully allocated to different users and applications.
[8] Population 10 to 30 years old in urban areas who are currently attending school. The survey aims to measure the basic literacy of the population, which is typically acquired during the school years. Therefore, the most appropriate age group to survey is 10-30 years old.

Figure 1: Proportion of population 10 to 30 years old in urban areas who are currently attending school by exposure to various forms of mass media, Philippines: 2019



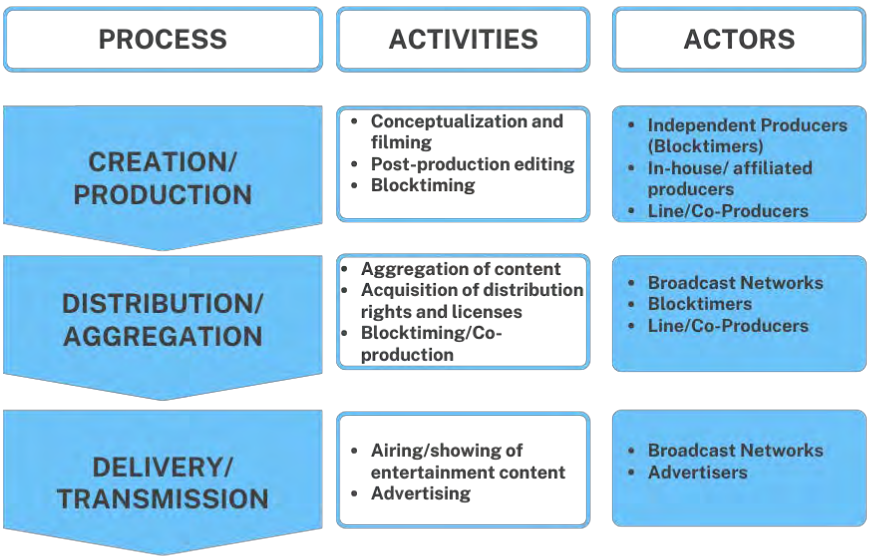
Source: Functional Literacy, Education and Mass Media Survey, PSA (2019).

The advent of web-based and cloud-based platforms has catalyzed a substantial shift in the industry toward digital content consumption. Consequently, consumers now have a plethora of options when it comes to engaging with audio-visual material, as many television stations have utilized online platforms for content dissemination. We note that the rapid changes in technology may have affected the consumption patterns of Filipinos since 2019—with an observable shift from television to social media (e.g., Facebook, YouTube). The sharing of information becomes more effective through technological advancements enabling traditional media and digital media to become complementary in reaching a wider audience (Shabir et al., 2015).

III. VALUE CHAIN

This section discusses the process by which viewers consume broadcast content. It also contextualizes blocktime agreements in the television broadcast industry by establishing the link between content producers and television network operators.

Figure 2: Value chain of free TV programming



Source: Authors' illustration of the Philippine free TV programming value chain based on Chalaby (2016) and Skot (2014).

A. Creation/production

Television content production involves four phases: conceptualization, pre-production, production, and post-production (Encyclopedia.com, n.d.). In the conceptualization phase, ideas are generated and organized into a scriptable proposal. Pre-production includes hiring personnel, developing the script, and creating a production schedule. The production phase involves rehearsals and shoots, with careful logging of footage. Post-production consists of editing, incorporating graphics and audio, and conducting publicity efforts.

Content production is usually done through i) own production, ii) hiring a third-party or line producer for line production, iii) partnering for co-production or joint production, and iv) acquisition of content (TV Network #2, 2023; TV Network Association, 2023).

1. Own production

TV networks usually have their own production arm composed of house producers, house writers, in-house artists/talents, and other production staff (Industry Expert, 2023).[9] TV networks having their own production arm is advantageous as this gives them full control of the production process wherein they can optimize revenue from their own content (Industry Expert, 2023; TV Network #1, 2023). Established networks that can sustain and finance their own production generally prefer house-production; hence, the majority of their program line-up is house-produced.[10] Some examples of house-produced programs are *Ang Probinsyano* and *Pepito Manaloto*. [11]

2. Line production

In line production, the TV network provides a lump-sum budget to a line producer and specifies the number of episodes or shows to be delivered (Industry Expert, 2023). The line producer then decides on how the budget will be spent and any cost savings would accrue to them as profit. In this arrangement, however, the network takes control of some production matters such as the composition of casts and talents. The line producer also has no rights over the content after its turnover to the network. This precludes them from distributing the same show on a secondary platform. Further, this scheme is only done when a network needs fillers as networks usually prioritize in-house production (Industry Expert, 2023). An example of a content production firm that engages in line production is APT Entertainment which produced *GMA Telesine Specials: Sugat ng Inakay*.

3. Co-production or joint production

Co-production involves sharing resources, expertise, and costs in content creation. In some cases, the content production firm spends everything on the production. Instead of paying a fixed amount to the TV network, the content producer pays a fixed percentage of their advertising revenues. TV networks usually allot non-premium timeslots for co-produced content since house-produced content will have to occupy timeslots with higher audience share and higher advertising rates. An example of co-production is the partnership between Regal Entertainment and GMA for the *Mano Po Legacy* series and other *Regal Studio Presents* shows which are usually aired in the afternoon block (Industry Expert, 2023).[12]

[9] House writers are paid a basic monthly fee and an additional fee for every project that they work on. House producers work exclusively with the network or studio.
[10] According to PCC's interview with a sector expert, GMA does not need line production and co-production as it is stable enough to support its house production.
[11] Produced by Dreamscape Productions, the production arm of ABS-CBN and by the GMA Entertainment Group, the production arm of GMA Network, respectively.
[12] *Regal Studio Presents* is a collection of weekly specials aired on free TV through GMA.

4. *Acquiring content*

TV networks may acquire the rights to broadcast existing shows or dramas through distribution deals. These deals involve purchasing the rights to air the same program without doing a remake or an adaptation.[13] The network then handles the localization, translation, and marketing of the show to suit the preferences of the target audience (Osur, 2016).[14]

Similarly, TV networks can acquire the rights to make a remake or adaptation of an entertainment piece by obtaining a license from the original intellectual property (IP) holder or production company (OECD, 2013). These processes involve a licensing agreement to grant the network the right to recreate the piece, permitting alterations to the original storyline (FCC, 2021). The agreement should outline the duration, territorial rights, and any specific requirements or applicable broadcasting restrictions in the new location where it will be aired (Bloomenthal, 2024).

In general, acquiring IP rights involves negotiations, legal agreements, and financial transactions to ensure that the original creators or rights holders are compensated for their work and that the adaptations adhere to copyright laws and regulations in each respective country (WIPO, 2016).

B. Distribution/aggregation

The process of distribution and aggregation refers to the i) acquisition of distribution rights and licenses and ii) aggregation of content by broadcast networks. A typical production contract between a TV network and a production company includes a distribution clause stating that the network will gain an exclusive right to distribute the produced content in exchange for a license fee paid to the producer (Ogboye, 2021). This precludes other networks from showing the same content for an initial period. After the exclusive distribution period has lapsed, an ancillary right can be granted to another platform in exchange for a royalty payment paid to the original producer or creator of the piece (Ogboye, 2021).[15]

The aggregation stage is the process of bringing together different pieces of content and marketing them in a way that is consistent with the channel's branding. Operational strategies of a TV network demand that aggregation be cohesively done to assure that timeslots are filled and that shows are strategically placed (Sridharan, 2020; Chalaby, 2016).[16] For instance, externally produced TV shows are usually placed in non-prime airtime to ensure that they will not compete with the in-house produced shows of the network (TV Network #1, 2023). This process also encompasses making additional deals or agreements with co-producers or blocktimers as a network gauge of which programs are aligned with their branding (TV Network #1, 2023).

C. Delivery or transmission

Content delivery or transmission refers to the provision or airing of a program through a broadcast medium for the benefit of a target market or audience (Nensee, 2023).[17] Generally, TV networks must know and address their audience's demands because networks utilize a

[13] A remake is a program, film, or any form of entertainment that is based on an earlier version aired/published in the same medium. On the other hand, an adaptation refers to the transfer a piece from a non-cinematic material to a cinematic form.
[14] Multimedia localization is the process of adapting multimedia content from one language to another and to localize it to accommodate cultural references of the target language.
[15] Ancillary rights allow a content to be sold to a secondary platform after the initial exclusive distribution period has lapsed. Royalty rates, also called royalty payments, refer to the portion of the total revenue generated for the streaming of a program in all distribution channels which are paid to the producer.
[16] Operational strategies refer to the system to realize a firm's objectives.
[17] Includes television, radio, over-the-top platforms, etc.

viewership rating system as an indicator of performance. It can be inferred that the higher the rating the network gains, the more attractive it becomes for advertisers.[18]

Free TV networks primarily earn revenue through selling timeslots to advertisers who wish to promote their products or services on air (NTC, 2023; Industry Expert, 2023; TV Network #1, 2023; Nensee, 2023). Advertisements aired are usually diverse but should still essentially cater to the needs of their viewers (NTC, 2023; Industry Expert, 2023; TV Network #1, 2023; Nensee, 2023). The determination of which advertisements will be shown during leased timeslots is outlined in detail in the following discussions.

Gaining relatively high viewership ratings also makes a network a better prospect for content production partnership schemes, including blocktime agreements, as the popularity of the network translates to the success of the blocktimer (Industry Expert, 2023). Ultimately, ratings affect revenue-generating opportunities which are essential in establishing a foothold in the TV broadcasting industry (TV Network #2, 2023; TV Network Association, 2023; Industry Expert, 2023).

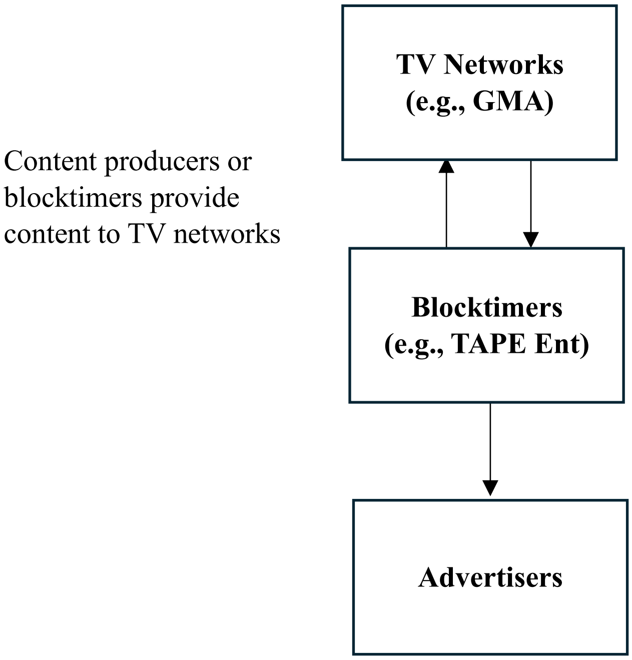
1. Blocktime Agreements

The practice of "blocktiming" is purchasing "blocks" of time from a radio station or television network to air one's own content (CFMR, n.d.). The term “blocktimer” may refer to a “natural or juridical person that buys or contracts for or is given the broadcast airtime.”[19] The Kapisanan ng mga Brodkaster ng Pilipinas (KBP) Broadcast Code defines blocktime as “a contract where a blocktimer buys airtime from the broadcaster” (KBP, n.d.). **Figure 3** illustrates the relationship between TV networks, blocktimers, and advertisers.

Blocktiming is typically utilized to fill non-primetime slots and to augment revenue from spot ad sales during regular programming (Industry Expert, 2023). Television viewership peaks around certain times, particularly at noon and in the evening (i.e., primetime). The value of different time blocks differs as the size of viewership varies on different times of the day (TV Network #2, 2023; TV Network Association, 2023; TV Network #1, 2023; Regulator #1, 2023; NTC, 2023; Industry Expert, 2023).

[18] Viewership ratings are usually monitored by third-party firms such as Kantar and Nielsen to assure that the results are unbiased.
[19] Some content producers also act as blocktimers.

Figure 3: Simplified relationship between TV networks and blocktimers



Note: Author's illustration based on industry practice.

Blocktime agreements are more popular with networks that are relatively new or starting out. As a network becomes more stable and popular, they tend to ease out blocktimers and produce more in-house programs (Industry Expert, 2023). For TV networks, blocktimers may not be hired unless the program or content is aligned with the network's values (Industry Expert, 2023). In other countries, blocktimers are usually entities with special interests such as religious, political, or sports. Entities that buy blocktime from TV networks want their interest to reach a greater audience but they do not have the capacity or incentive to obtain a television franchise themselves (TV Network #1, 2023; Regulator #1, 2023). For instance, after its operating franchise expired in 2020, ABS-CBN signed agreements with Zoe Broadcasting Network and TV5 to air its shows on free television (Mercurio, 2022).[20]

There are a couple of considerations that a content producer takes into account in choosing which television network it would buy blocktime from. Some factors include the network's signal strength, geographic coverage, number of viewers, and terms of cost-revenue sharing (Mercurio, 2022). As highlighted previously, the success of blocktimers depends on the success of the network (Industry Expert, 2023). If the network is not stable in terms of its viewership ratings, there will be fewer advertisements and revenue (Industry Expert, 2023).

Blocktiming is considered a distinct and separate market from broadcast syndication. While blocktiming refers to the sale or lease of airtime to broadcast third-party content, syndication refers to the act of renting the right to broadcast programs to television or radio stations directly (Campbell et al., 2021). In blocktime agreements, the product is the blocktime in which the seller is the TV network and the customer is the content producer. In syndications, on the other hand, the product is the right to broadcast programs in which the seller is the content producer and the customer is the TV network.

2. Advertisements under blocktime

According to an industry expert (2023), blocktimers sell commercial time to sponsors and/or advertisers in two types of arrangements. The more common practice is that TV networks collect a variable advertising fee as part of the blocktimer's total charges. TV networks and

[20] NTC moves to review broadcast block time deals.

blocktimers agree on the percentage of advertising payment which depends on the total value of advertisements.

Alternatively, a fixed fee may be paid by the blocktimer to the network in exchange for the complete control of the airtime acquired. In this arrangement, the blocktimer gets the revenues from all of the advertisements during the airtime. An example of this is the blocktime agreement between Television and Production Exponents Inc. (TAPE) Inc. and GMA to air the noontime show *Eat Bulaga!* This practice, however, is unusual and just stems from the good working relationship between the owners of the production firm and the TV network.

IV. MARKET DEFINITION

To recall, this study aims to assess the competition concerns arising from i) the nonrenewal of the ABS-CBN franchise and ii) the NTC memorandum which limits the allowed leasable airtime. Discussion and analysis of the competition landscape in **Section V** will focus on free TV since ABS-CBN is a player in the free TV market and because blocktime agreements only occur in free TV.

In this section, the team discusses the substitutability of free TV relative to both pay TV and OTT platforms to properly assess the market conditions for both businesses and consumers. This section will establish that there are sufficient competitive constraints in the broadcasting industry that will mitigate possible anti-competitive effects from the aforementioned issues.

Supply-side substitutability refers to the ability of different products or services to be produced or supplied by the same set of firms or resources. Conversely, demand-side substitutability refers to the extent to which consumers view two products or services as interchangeable options to satisfy their needs or preferences.

A. Free TV vs. pay TV

1. *Supply-side substitutability between free TV and pay TV*

On the supply side, free TV and pay TV operate under different business models, confirming that there is a weak substitutability between the two.

a. *Business model.* Free TV is provided to viewers without any form of payment or subscription fees. It is typically financed through advertising revenue from selling advertising slots in-between programs. On the other hand, pay TV refers to television services that require a subscription fee to access a broader range of content. Cable and satellite TV providers are examples of pay TV services, offering viewers a variety of channels and programs in exchange for a monthly or annual fee (OEDC, 2013; Peitz & Valleti, 2008).

b. *Installed equipment.* Free TV is accessible to anyone with a television and an antenna or a digital receiver. It does not require installation of any special equipment for TV broadcasting. On the other hand, pay TV may require installation of specific equipment for cable or satellite programming (Newman, 2012).

2. *Demand-side substitutability between free TV and pay TV*

On the demand side, the differences in quality, content variety, and costs between free TV and pay TV suggest that there is a weak substitutability between the two (Peitz & Valleti, 2008).

a. *Quality and content variety.* Free TV has a limited selection of channels and does not offer a high-definition (HD) resolution for a better viewing experience. On the other hand, pay TV offers additional features, such as on-demand content, exclusive channels, and higher-quality audio and video that attract customers (Peitz & Valleti, 2008; Baccarne et al., 2013).

b. *Costs.* Free TV is virtually accessible to anyone with a capable television and antenna while pay TV offers premium channels in exchange for a subscription fee.

3. Conclusion on the substitutability of free TV and pay TV

Based on the discussion above, the authors find that there is weak demand- and supply-side substitutability between free TV and pay TV.

B. Free TV vs. OTT platforms

1. Supply-side substitutability between free TV and OTT platforms

On the supply side, the authors find that there is a strong substitutability between free TV and OTT platforms. The emergence of the internet and the migration of viewers to online media have provided additional opportunities for television and video content distributors (Gunter, 2010). Likewise, a lot of production companies are already servicing streaming platforms (TV Network #1, 2023; Industry Expert, 2023).

The two media are similar with respect to content production and advertising.

a. *Content production.* Both free TV and OTTs produce in-house content and acquire content or licenses from various sources (TV Network #2, 2023; TV Network Association, 2023; TV Network #1, 2023; Industry Expert, 2023). This enables both media to offer a diverse selection of content to viewers. Free TV and OTT platform producers must identify their target audience as it will determine which content and platform to air (TV Network #2, 2023; TV Network Association, 2023; TV Network #1, 2023; Industry Expert, 2023).

b. *Advertising.* Both free TV and OTT platforms offer advertising slots for revenue generation (PwC, n.d.). While advertising revenue from OTT platforms may be relatively smaller, both platforms integrate advertisements within the broadcasted content.

Moreover, an industry expert perceives that commercial television will eventually cease to exist since streaming is becoming increasingly popular and that opportunities on television are limited (Industry Expert, 2023). Movie producers also prefer to work with streaming platforms rather than producing movies for cinema since Filipinos prefer Hollywood movies over local films (Industry Expert, 2023). Thus, this may signal a continuous shift in the country's broadcasting industry landscape.

2. Demand-side substitutability between free TV and OTT platforms

While free TV and OTT platforms may be considered as different markets in the current landscape of broadcasting, the evolving trends in media consumption have made the distinction between the two media less apparent. For instance, an increasing number of OTTs have been offering free tiers to their platforms, making them more aligned with free TV's business model. This option attracts more consumers who prefer free access to entertainment and news content (Barton & Tucker, 2021).[21] Likewise, networks are starting

[21] Some OTT platforms, such as YouTube, use a hybrid business model where they have a free tier option. This option is ad-supported where viewers can watch content free of charge in exchange for watching ads.

to integrate OTTs into their broadcast operations, making programs more accessible to viewers.[22] As this trend continues, free TV and OTT platforms are becoming more substitutable with each other.

While the team recognizes that free TV and OTTs may have different target clientele and may attract different market segments, the two media already overlap in terms of the provision of diverse content to cater to wider audiences. Given the foregoing discussion, the team expects that this overlap may eventually extend to the accessibility of both platforms to viewers, regardless of demographic characteristics (Barton & Tucker, 2019).[23]

3. Conclusion on the substitutability between free TV and OTT platforms

Based on the above discussion, both the supply-side and demand-side substitutability between free TV and OTT platforms are stronger relative to that of free TV and pay TV. **Table 1** summarizes the degree of substitutability across various forms of media.

Table 1: Supply- and demand-side substitutability of free TV by pay TV and by OTT platform.

Consideration	Degree of substitutability		
		Pay TV	OTT platform
Supply-side	Free TV	Weak	Strong
Demand-side		Weak	Limited[24]

Note: Authors' analysis.

V. COMPETITION LANDSCAPE

In the previous section, we have established that free TV could be treated as part of a larger market of broadcasting including OTT platforms as they are substitutable. However, since blocktime agreements are only executed in free TV and due to existing market data limitations, we look at the competition landscape of free TV only.

A. Free TV broadcast

Before the nonrenewal of its franchise, ABS-CBN had almost half of the TV viewership market and was regarded as the top broadcaster in the Philippines. Currently, ABS-CBN is a full-time content producer and distributor (TV Network #2, 2023; TV Network Association, 2023). The channels that ABS-CBN used to own and run occupied 53.4% of the market, with the main channel having 44.2% (**Table 2**).

[22] For instance, ABS-CBN has iWantTV or iWantTFC
[23] Demographic characteristics include age, gender, and income level among others.
[24] Limited substitutability since currently, the two are only substitutable up to a certain degree. However, the current market trend and the shift viewers' preference towards digital content show that the two may become strongly substitutable in the future.

Table 2: Channel by ratings and by market shares (6 AM-12 MN), Philippines: 2019[25]

Channel	January – December	
	Rating (%)	Share (%)
ABS-CBN	14.9	44.2
GMA7	10.3	30.6
TV5	1.0	3.0
GMA News TV	0.6	1.7
Other ABS-CBN channels		
Sports + Action	0.5	1.7
Cinemo	1.4	4.0
Yey	1.2	3.5
CNN Philippines	1.2	0.1
OTHER		
Free-to-air/Digital Terrestrial Television	1.2	3.3
TOTAL	-	92.1

Source: ABS-CBN Corporation (2020)

Depending on whether we treat owned and operated channels as the same as the main channels (i.e., Sports + Action, Cinemo, Yey as part of ABS-CBN), the Herfindahl–Hirschman Indices (HHIs) calculated from channel ratings range from 2,944 to 3,915. These figures are in a highly concentrated range.[26] A highly concentrated HHI is evident as ABS-CBN and GMA dominated the market, with other players having relatively insignificant shares.

Table 3 presents the active broadcasters as of the end of 2020 and their respective market shares using the most recent revenue data available.[27] The table shows that GMA dominates the free TV market with a market share of 92.8%. Consequently, it can be inferred that the free TV market is highly concentrated with an HHI of 8,636.

Alternatively, if we look at the market landscape only until May 2020 in which the ABS-CBN TV network still exists, the market shares become more dispersed with ABS-CBN having 51% of the market and GMA having 45.5% (see **Table 4**). The calculated HHI in this case would be 4,674.

[25] Excluding Holy Week.
[26] Channel ratings refer to the audience share of each network. As such, it pertains to the value relative to total audience tuned in to the television. According to US-DOJ & FTC Horizontal Merger Guidelines (2010), HHI of <1500 is "unconcentrated"; 1500-2500 is "moderately concentrated"; and >2500 is "highly concentrated."
[27] This means that ABS-CBN, which ceased operations in May of the same year, is not included in the calculations.

Table 3: Free TV broadcast networks channels (without ABS-CBN) by total revenue and by market shares, Philippines: 2020

Channels	Total revenue (in PhP)	Market share (in %)
ALLTV[a] [Test Broadcast]	3,088,899	0.02
PTV4[b]	-	-
TV5	838, 278, 861	4.07
GMA7	19,106,532,265	92.82
CNN Philippines	441,293,650	2.14
ZOETV/A2Z	61,434,481	0.30
IBC13	15,377,720	0.07
NET 25	35,715,305	0.17
GTV[c]	14,000,000	0.07
UNTV[d]	14, 704,875	0.07
SMNI	- 1,810,436	0.00
One Sports[e]	42,964,331	0.21
INC TV	11,835,000	0.06
TOTAL	**20,585,225,387**	**100.00**

[a] Provisional authority until 2023 where thereafter, the full shift to digital TV/broadcasting is targeted.
[b] No data
[c] Affiliated with GMA Network, Inc.
[d] Based on 2019 data
[e] Affiliated with Cignal TV, Inc. and GV Broadcasting System.

Source: Authors' computation based on TV Networks' Audited Financial Statements for year ending 2020

Table 4: Free TV broadcast networks channels (with ABS-CBN) by total revenue and by market shares, Philippines: 2020

Channels	Total revenue (in PhP)	Market share (in %)
ABS-CBN and Subsidiaries	21,420,000,000	51.00
ALLTV[a] [Test Broadcast]	3,088,899	0.01
PTV4[b]	-	-
TV5	838, 278, 861	2.00
GMA7	19,106,532,265	45.49
CNN Philippines	441,293,650	1.05
ZOETV/A2Z	61,434,481	0.15
IBC13	15,377,720	0.04
NET 25	35,715,305	0.09
GTV[c]	14,000,000	0.03
UNTV [d]	14,704,875	0.04
SMNI	- 1,810,436	0.00
One Sports[e]	42,964,331	0.10
INC TV	11,835,000	0.03
TOTAL	**42,003,414,951**	**100.00**

[a] Provisional authority until 2023 where thereafter, the full shift to digital TV/broadcasting is targeted.
[b] No data
[c] Affiliated with GMA Network, Inc.
[d] Based on 2019 data
[e] Affiliated with Cignal TV, Inc. and GV Broadcasting System.

Source: Authors' computation based on TV Networks' Audited Financial Statements for year ending 2020

While high concentration could be expected in this market due to high capital requirements, technological constraints (i.e., limited frequency), and regulation (i.e., franchising), an HHI near 10,000 (near to monopoly) can be quite alarming.

Most recently, according to Nielsen TV Audience Measurement statistics for 2022, GMA Network and GTV have a combined audience reach of 96%, or 78 million viewers, across all of its digital channels, I Heart Movies, Heart of Asia, and Hallypop (Manila Bulletin Entertainment, 2023). In the same period, the second free-to-air channel of GMA, GTV, maintained its advantage over rivals namely TV5, A2Z, and the Kapamilya Channel.

GTV outperformed its rival channels with a 10.5% share of the total Filipino audience, while TV5 received 9.8%. The nonrenewal of ABS-CBN's franchise has led to a significant increase in market concentration in the Philippine free TV industry with only GMA network remaining as a major player. As will be discussed in **Section VII**, this dominance could pose competition concerns for other TV networks, blocktimers, and the general viewing public. However, as previously discussed, OTT platforms can be considered as substitutes for free TV, both on the supply side and the demand side to a certain extent. This could mitigate the effects of the increased market concentration on both blocktimers and consumers.

The succeeding sections assess the competition concerns that have arisen from the nonrenewal of ABS-CBN's franchise more extensively, as well as potential regulatory bottlenecks posed by the new policies imposed by the NTC.

VI. REGULATORY FRAMEWORK

The government is responsible for managing and allocating the radio spectrum to ensure its efficient and fair use. According to the Radio Control Law of the Philippines (Republic Act No. 3846), the government should regulate and control the allocation of scarce spectrum resources and assign licenses.[28] Subject to certain exemptions, the law also mandates that a franchise is required to construct and operate a radio station.

In the Philippines, the sale or lease of airtime does not violate any existing franchise regulations (CFMR, n.d.). Hence, a separate franchise is no longer necessary in leasing airtime as long as the control of a network remains with the owner (CFMR, n.d.). The standard on ownership control aims to reinforce the provision of the Constitution which seeks to prohibit the foreign ownership of media networks in the Philippines.[29] Accordingly, the management, operations, and control of any mass media network are limited only to the citizens of the Philippines (Communications Act of 1934, 1934; Lewyn, 1995).[30] The market concentration in information-heavy markets should be monitored to ensure diversity and plurality of views (OECD, 2013).[31]

[28] Radio frequencies, to which television signals are carried, are heavily regulated to implement efficient allocation. Thus, no firm shall operate without obtaining a franchise from the Congress.
[29] Article XVI, Section 11 of the 1987 Constitution states that "[t]he ownership and management of mass media shall be limited to citizens of the Philippines, or to corporations, cooperatives or associations, wholly-owned and managed by such citizens." The prohibition of foreign media ownerships aims to prevent the dissemination of information and ideas that are influenced by foreign standards which could be misaligned with the best interest of the country.
[30] To preserve owners' control over their networks in the United States, the Federal Communications Commission (FCC) reviews and monitors agreements to limit excessive brokers' control under the Communications Act of 1934. Section 310 (b) of the Act provides that a broadcast station's substantial transfer of control or ownership should be duly filed to the FCC. One concern arising from this provision stems from the failure of the FCC to define the scope of influence that would constitute a transfer of control. The FCC, therefore, reviews blocktime agreements and obligates licensees to upload a copy of the relevant documents in the Online Public Inspection Files (OPIF) where information about licensed stations' operations, active applications to the Commission, and other transactions including the lease of airtime are made available.
[31] Ownership control measures include "rules on the maximum level of ownership within particular media platforms (concentration limit) and/or across different media platforms (cross-ownership limits)."

The Philippine television broadcast industry is regulated by the following agencies:

A. National Telecommunications Commission (NTC)

The NTC's mandate extends to regulating and managing radio and television operations. The NTC is tasked to regulate and supervise radio and television broadcast stations, cable television (CATV), and pay television (Executive Order No. 205 s. 1987; Executive Order No. 546, s. 1979). Additionally, NTC's mandate includes the administration of radio frequency spectrum (Act No. 3846).

An enfranchised television broadcasting network duly registered to the Securities and Exchange Commission (SEC) would have to obtain principal licenses for broadcasting. Among these are the Certificate of Public Convenience (CPC), Provisional Authority (PA), and frequency allocation (Abot & King-Dominguez, 2020).

1. Certificate of Public Convenience

The CPC is issued to broadcast networks whose operations are consistent with the broadcast policies and objectives, after due notice and hearing of a final authority to own, operation, and maintain a broadcasting facility service by the NTC.

2. Provisional Authority

A PA is the initial authority issued by the NTC which allows the entity to start operations even if the application for CPC is still pending. PAs have an initial 18-month term and are renewable for a three-year term.

3. Frequency allocation

Frequency allocation, also known as spectrum allocation, is the process of regulating and allocating electromagnetic spectrum among broadcast entities to ensure that there is no interference arising from the usage of the same frequency. This process entails the identification of the technical specifications of a broadcast network. Upon verification and assignment of frequency bands, channels, and coverage, the entity will be subject to an annual spectrum user fee (SUF) (Pateña, 2018).[32] However, free TV operations do not charge the viewing public since they are not operating on a subscription-based model. Thus, the operation of broadcast networks is not subjected to the annual SUF.

B. Movie and Television Review and Classification Board (MTRCB)

The Movie and Television Review and Classification Board (MTRCB) is mandated to review and classify television programs, and covers any medium of exhibition, so long as there is motion picture content (MTRCB, n.d.; US Copyright Office, n.d.)[33]. The purpose of motion picture classification is anchored to the determination of appropriate content for viewers, especially children and teenagers.

C. National Council for Children's Television (NCCT)

The National Council for Children's Television (NCCT) is an agency under the Department of Education tasked to formulate media plans and policies on educational programming (NCCT, n.d.). They are tasked to oversee television programs to ascertain their quality, thus promoting the development of children's thinking and communication skills and moral values (DBM, 2010).

[32] SUFs are paid to cover for spectrum management. Spectrum management is a key function of government's communications authority to promote efficient use and maximize social benefits derived from wireless services.
[33] Examples of motion pictures are films, television programs, video games, etc.

According to NCCT's Child-Friendly Content Standards (CFCS), television networks should allocate at least 15% of their airtime to child-friendly programs. The NCCT monitors the networks' compliance through monthly reports and validates the same using a compliance scorecard.[34]

D. Ad Standards Council (ASC)

The Ad Standards Council (ASC) is a self-regulating, non-stock, and non-profit organization established for screening advertising content across all media. Only Philippine nationals and corporations may showcase advertisements on Philippine mass media and no special license or requirement needs to be secured. Advertising content is subject to the KBP Broadcast Code of the Philippines and the Consumer Act of the Philippines (Republic Act No. 7394) (ASC, n.d.).

E. Kapisanan ng mga Brodkaster sa Pilipinas (KBP)

The KBP is an association that established its own standards for radio and television stations in the country. The KBP's Broadcast Code highlights that blocktimers and on-air performers should sign an undertaking that both parties will be liable for penalties that may be imposed for any violation of the Code (KBP, n.d.).

VII. COMPETITION ISSUES AND REGULATORY CONSTRAINTS

The main objective of this sector brief is to examine the effect of the following issues on competition: i) the nonrenewal of ABS-CBN's franchise that resulted in a near monopoly power of GMA and the possibility of input foreclosure, and ii) the NTC memorandum which requires NTC's prior approval of blocktime agreements and limits blocktime agreements to up to 50% of a network's airtime. Noting that there is a high concentration in the Free TV industry, this section aims to assess the possible anti-competitive conduct of firms and the memorandum's possible effects on competition.

A. Input foreclosure on the supply of blocktime slots

Input foreclosure occurs when an upstream supplier of an input restricts the supply of a product or service to downstream competitors.[35] In the context of the television industry, this occurs when a TV network refuses to offer time slots to content producers that are not affiliated with the network, or when it charges exorbitant prices for time slots, making it difficult for non-affiliated content producers to secure them. This can potentially harm competition by making it more difficult for new content producers to enter the market and by limiting the number of program choices available to viewers. The dominance of a TV network in the free TV industry, as reflected in its viewership ratings and revenue, gives it the ability and incentive to engage in input foreclosure.

Generally, a production company would buy blocktime from a well-established network to generate revenue from the network's large audience base (Regulator #1, 2023). This gives large TV networks greater ability to refuse content producers that are not affiliated with them, forcing the latter to secure airtime from other networks with a smaller audience base. Smaller networks, on the other hand, do not have the same ability to engage in input foreclosure, with them not being able to charge as high a price for time slots. Doing so would also entail that they will have to produce their own programs which require larger production costs, compromising the profitability of their operations.

[34] NCCT's scorecard is a tool developed by the agency used to assess compliance to the CFCS.
[35] The relationship between TV networks and blocktimers can be seen in Figure 3, illustrating that TV networks sell blocktime slots to blocktimers, and blocktimers in turn providing content for the TV network.

Nonetheless, television networks must showcase diverse programs that will cater to a wider set of audience to attract both advertisers and viewers (TV Network #1, 2023; Industry Expert, 2023). A network can leverage its operations over its competitors by airing differentiated content (TV Network #1, 2023; Industry Expert, 2023). Therefore, despite larger networks having more ability to foreclose other content producers, they do not have an incentive to secure their content from a sole producer. By engaging in an input foreclosure strategy, large and small networks alike will be limiting the range of television content that they air, decreasing audience reach and engagement.

B. NTC Memorandum Order 004-06-2022

The NTC issued Memorandum Order 004-06-2022 on June 23, 2022 which directs broadcast networks to submit blocktime agreements to the Commission for approval, prior to the consummation of these agreements. The memorandum further restricts blocktime agreements to only up to 50% of a network's daily airtime. Note that until 2022, there had been no established rule governing blocktime agreements.

1. NTC's approval of blocktime agreements

As previously elaborated, the policy objective of granting a congressional franchise over a scarce spectrum resource is to provide an efficient and organized allocation of frequency band, and to avoid interference and disturbances in free TV programming (TV Network #2, 2023; TV Network Association, 2023; NTC, 2023). The KBP believes that the rationale behind leasing airtime is to provide an avenue for other producers and programming entities to air their content since there is only a limited number of congressional franchises granted (TV Network #2, 2023; TV Network Association, 2023). The requirement for firms to obtain prior approval from the NTC before engaging in blocktime agreements could potentially influence market competition in several ways.

First, the NTC's approval process could create uncertainty for firms, making it difficult for them to plan their businesses. Upon discussion with the NTC, it was revealed that no additional guidelines have been developed to specify the documents that TV networks and blocktimers must submit when seeking approval for blocktime agreements (NTC, 2024b).

Moreover, it adds another layer of regulation, potentially leading to a more complex and costly process for entering into these agreements. This could discourage some firms from entering the market altogether, or it could force them to raise the prices they charge to advertisers, making it harder for them to compete.

Due to the foregoing, the memorandum may be perceived by stakeholders as a challenge to the democratization of access to broadcasting frequencies. It could potentially discourage TV networks and blocktimers from entering the market, thus posing a barrier to preventing monopolization in the free TV industry. With fewer players in the market, the industry would remain highly concentrated.

2. Fifty percent airtime limit on blocktime agreements

The NTC memorandum sets a 50% limitation on airtime allocation which could prevent smaller networks from gaining a foothold in the market by limiting their modes of acquiring programs. Such limitation will force them to produce their own content to fill in the vacant timeslots (TV Network #1, 2023; Regulator #1, 2023; Industry Expert, 2023).

Despite the 50% limit on the airtime that a network should put on lease, industry players assert that there are barely any blocktime agreements in the current television broadcasting industry, rendering the same limitations unnecessary timeslots (TV Network #1, 2023; Regulator #1, 2023; Industry Expert, 2023). To date, no network has leased more than half of its airtime timeslots (TV Network #2, 2023; TV Network Association, 2023; TV

Network #1, 2023; Industry Expert, 2023). The standard practice is to lease airtime slots for four to six weeks, to temporarily fill in vacant timeslots reserved for regular in-house programming. As verified during the interviews, long-term blocktime contracts are unusual in the industry such that when a network gains a higher viewership rating and establishes a more stable foothold in the market, they will start producing more in-house content, eventually easing out the blocktimers (De Castro Jr., 2023).

The NTC's memorandum has been criticized by some stakeholders, arguing that the NTC does not have jurisdiction over blocktime agreements, which are commercial contracts between private entities. The KBP opines that the NTC does not have the power to interfere in blocktime transactions, as its mandate does not extend to the supervision of broadcasting content as a result, the effectiveness and need for the memorandum remain uncertain (TV Network #2, 2023; TV Network Association, 2023).

During the SPD with NTC, it was clarified that the memorandum aligns with the NTC's authority to exercise considerable control over public services and franchise equipment (NTC, 2024b). Furthermore, the NTC clarified that pursuant to Section 15(e) of Executive Order No. 546 s. 1979, the NTC has broad powers under, to establish and prescribe rules, regulations, standards, specifications in all cases related to the issued CPCs and administer and enforce the same (NTC, 2024a). In addition, Section 20(g) of the Commonwealth Act No. 146, as amended by the Republic Act No. 11659, declares as unlawful, without prior Commission approval and authorization, for a public service entity to lease, among others, its privileges or rights, or any part thereof (NTC, 2024b). Any applicant-grantee of PA or CPC files its sworn written acceptance of such terms and conditions in its authorities, among which is that it shall not lease or assign its right and privilege acquired (NTC, 2024a). Finally, each legislative franchise granted by Congress uniformly provides the same tenor requiring its approval of sale, lease, usufruct of its rights and privileges acquired to any person or entity (NTC, 2024a).

To summarize, the 50% threshold for blocktime agreements is designed to monitor the leasing of parts of its CPC to ensure that the grantee itself is the one utilizing the CPC (NTC, 2024a). It is noteworthy that regulating media ownership is crucial in the television industry to ensure that network ownership remains with the franchisee. Consequently, the NTC memorandum exists primarily due to the NTC’s mandate to oversee the TV media industry and prevent any breaches in media ownership.

However, while the NTC memorandum's applies to all networks seeking to engage in blocktime agreements, no applications for agreements have been submitted to the NTC since its issuance (NTC, 2024b). Hence, as of writing, the NTC have not yet obtained data to track ownership within the current media landscape (NTC, 2024b). Additionally, as noted in the previous section, no further instructions to guide potential applications are issued following the NTC memorandum. The NTC noted that the lack of follow-up issuances might have led to confusion among entities, as none of them have submitted their agreements for review as of date (NTC, 2024b). It is likely that there is a misunderstanding, with stakeholders believing the NTC memorandum apply only if the 50% threshold is exceeded (NTC, 2024b). In summary, this scenario validates the initial assessment that the need for the memorandum is uncertain.

VIII. CONCLUSION

In conclusion, the television industry in the Philippines, particularly the free TV sector, has experienced significant changes and challenges in recent years due to the exit of a major player and due to a newly implemented regulatory policy.

The nonrenewal of ABS-CBN's franchise has led to a substantial increase in market concentration, with GMA Network emerging as the dominant player. This concentration raised concerns about competition and access to broadcasting frequencies, as well as potential limitations on content diversity and audience choice.

Despite the ability of dominant networks like GMA to limit airtime access, it can be inferred from the standard industry practice that TV networks would not be incentivized in foreclosing airtime. Larger networks recognize the value of diverse content, making it unlikely for them to solely secure shows from one producer. Engaging in foreclosure strategies limits the range of aired television content, which may decrease audience reach—a crucial factor in attracting potential advertisers and revenue-generating opportunities. Despite this, TV networks may prioritize airing their own programs as a business decision to take full control of the production process and realize operational efficiency.

On the content production segment, on the other hand, the presence of substitutes for free TV such as OTT services offers both content producers and consumers greater variety. Content producers can distribute their content through alternative media such as social media and OTT platforms. Likewise, viewers have a wider range of options through free TV and OTT content, which they can access depending on their availability and preference.

Blocktiming practices have been the subject of regulatory attention. The NTC memorandum was released to regulate blocktime agreements by requiring prior approval and imposing limitations on their duration and airtime allocation. This memorandum has been the subject of considerable debate, with some private stakeholders suggesting that it may extend beyond the NTC's jurisdiction by granting it the power to regulate content. They argue that these are commercial contracts between private entities. Furthermore, the question on the necessity of the regulation becomes even more pronounced as blocktime agreements have always been limited by the players in terms of duration and scope.

Overall, requiring prior approval of the NTC before engaging in blocktime agreements could potentially pose significant negative impacts on market competition. The memorandum may raise barriers to entry of blocktimers, unnecessarily raise costs, create regulatory uncertainty, and distort competition. Nonetheless, during the SPD, the NTC stated that the memorandum is consistent with the NTC's authority to exercise significant control over public services and franchise equipment. The primary goal of the NTC memorandum is to establish a monitoring mechanism for the utilization of CPCs, which aligns with the broader objective of ensuring that CPCs are utilized by the grantee.

Nevertheless, the NTC assured that recent public hearings have shown the NTC's commitment to not imposing ruinous penalties, especially under the Public Service Act (Act No. 146, as amended by Republic Act No. 11659), which grants the agency broad supervisory and monitoring powers.[36] This is part of a broader effort to address unauthorized activities, such as the use of illegal frequencies and unregistered internet service providers (ISPs,) reflecting the NTC's proactive stance in maintaining industry compliance.

Upon assessing the competition landscape and the relevant regulations, the team finds that the possible anti-competitive impact of the two issues discussed is mitigated by several factors. The shift in viewers' preference for digital media opened more avenues for distributing content. This addresses the concerns on content diversity and limited access to broadcast frequencies.

IX. RECOMMENDATIONS

[36] This is particularly critical for micro, small, and medium enterprises (MSMEs) that could face significant challenges from hefty fines, with even daily penalties proving detrimental. Further, the NTC's mandate includes rigorous responsibilities such as performance audits, where failure for three consecutive years could lead to operation cancellations.

To promote a competitive and dynamic television industry in the Philippines, it is crucial to consider the following recommendations:

A. Promoting competition from a viable firm

Due to the current lack of rivalry in the free TV Sector, the government could promote competition by awarding licenses to new TV stations, making it easier for new stations to start up. Likewise, relevant authorities may reconsider the renewal of ABS-CBN's franchise upon satisfying other regulatory requirements.

B. Regulatory oversight

The jurisdiction of NTC on blocktime agreements must be confirmed before it regulates the specific segment of the industry. Since the rationale for the issuance of the memorandum has already been discussed during the SPD, the PCC recommends that this information be effectively communicated to the concerned stakeholders. By doing so, the NTC would ensure effective oversight of the industry, particularly in terms of implementing rules that may affect market competition. This will also clarify any misunderstanding that may arise from the interpretation of and compliance to the subject memorandum. A predictable regulatory environment can help foster a level playing field among players in the industry.

On another note, since blocktime agreements are always limited in duration and scope, it is crucial to evaluate whether the prior approval and limitations imposed by the NTC memorandum are effective in fulfilling its objectives. The potential impact of the NTC memorandum on content diversity and the ability of content producers to access airtime should be carefully considered. Rules and guidelines should be crafted to facilitate easier compliance for blocktimers to get access to broadcasting frequencies.

While content aired by blocktimers can give content producers a disproportionate amount of control over what is aired on free TV networks, bodies such as MTRCB and NCCT can regulate the content aired to ensure that content shown on TV is appropriate and is in line with consumer choice.

C. Promote consumer choice

Policymakers should support policies that promote consumer choice and accessibility to content. Encouraging competition among TV networks and alternative platforms such as OTT services can empower viewers to select their preferred content sources and drive innovation in the industry. Consumer choice can be improved by investing in infrastructure that supports the growth of OTT services. This could include upgrading broadband networks and expanding access to high-speed internet.

D. Suggested course of action for PCC

While the telecommunications sector is a priority sector for the PCC, the television industry only comprises a small part of this. Other forms of media, such as social media and streaming platforms, can be treated as substitutes for free TV both on the supply side and the demand side. Therefore, it is suggested that the PCC should take no further action on the free TV sector, aside from advocating for the entry of new viable competitors and monitoring possible abuses of the dominance of the remaining TV network. The PCC can then allocate its resources to other more important sectors that have a larger impact on consumer welfare.

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ANNEX: NTC Memorandum Order No. 004-06-2022 dated June 23, 2022

REPUBLIC OF THE PHILIPPINES
NATIONAL TELECOMMUNICATIONS COMMISSION
NTC Building, BIR Road, East Triangle, Diliman, Quezon City
Email: ntc@ntc.gov.ph; website: http://www.ntc.gov.ph

MEMORANDUM ORDER NO. 004-06-2022

TO:	**ALL AUTHORIZED RADIO AND TELEVISION BROADCAST STATION/ENTITIES**
SUBJECT:	**BLOCK TIME AGREEMENTS**
DATE:	**23 June 2022**

In the interest of the service and pursuant to the mandate of the National Telecommunications Commission (NTC) to supervise and regulate, among others, radio and television broadcast stations, and to establish and prescribe rules, regulations, standards specifications related to the same, as provided under Executive Order (EO) No. 546, series of 1979, and other applicable laws, ALL holders/grantees of Certificate of Public Convenience (CPC) and/or Provisional Authorities (PA) to install, operate and maintain radio and/or television broadcast stations are hereby directed to:

1. Submit block time agreements for the Commission's approval prior to the consummation of implementation of such agreements.

   Block time agreements shall not be more than fifty percent (50%) of the daily airtime broadcast of the radio and/or television station.

2. Authorized radio and television broadcast entities, its management and board of directors shall be solidary liable with the block timer for any violation committed by the block timer arising from the content or programs under the block time agreements.

3. Comply with current and future rules and regulations covering block time and other related agreements.

For strict compliance.

GAMALIEL A. CORDOBA
Commissioner

PHILIPPINE COMPETITION COMMISSION

Ensuring businesses compete and consumers benefit

Contact Us

The Philippine Competition Commission is open Mondays through Fridays, from 8:00 a.m. to 5:00 p.m. Submissions of notifications and complaints are accepted during these hours.

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