TRENDS IN AUDIOVISUAL MARKETS:

PERSPECTIVES FROM ASIA

A Report Prepared for UNESCO by
The Asian Media Information and Communication Centre (AMIC)
Singapore

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I. INTRODUCTION

India, Thailand and the Philippines represent some of the most creative and prolific audiovisual markets in Asia, and each of them have unique challenges and assets for the evolving mediascape of the 21st century. This document identifies key trends in these three Asian markets in terms of market dynamics, revenue share, regulatory climate, trade, competitiveness, and global prospects. Specific topics include audiovisual infrastructure diffusion, financial investments and new media. This section of the document profiles the key learnings from the three individual country profiles and identifies notable future trends.

I.1 RESEARCH METHOD

In mid-2004, three key researchers were identified in India, Thailand and the Philippines. Each of them is highly regarded in their respective domestic environments, and each has also been involved in previous research projects of AMIC on media economics in the region. They were sent a suggested outline of each country profile based on project specifications sent by UNESCO to AMIC. They were given three months to come up with a first draft of the profile; after editorial feedback they were given another month to submit the final version. Subsequent feedback from UNESCO led to two more rounds of edits and revisions over the early part of 2005 (unfortunately, the researcher from the Philippines passed away in March 2005, but the rest of her research team pulled together the required material).

Special attention was paid to selection and citation of authoritative sources of market statistics, and to the scope of the various regulatory bodies involved. Care was taken to ensure that the material was compiled in such a way as to identify overall trends and long-term impacts, and not just details of the immediate present or the coming year. Some of the core references used in the project are cited in each section; it is recommended that an online companion also be created to host updates and new resources on these topical matters.

I.2 PROFILE : INDIA

The Indian entertainment industry is on the threshold of emerging as a big market internationally with an expected growth rate of close to 20% per year. Entertainment in India is evolving into a big business and the regulatory and legal mechanisms are evolving rapidly to keep pace. Indian TV content producers have already made inroads into Asia-Pacific markets. Further, there is a growing interest among broadcasters and distributors in the US and UK to look at India specific content (films and TV shows).

India has significant potential for expanding exports to countries with large NRI (non-resident Indian) and South Asian population.

The Indian Entertainment industry has not only withstood the liberalized import norms but is trying to adopt the strategies of Hollywood in marketing and distribution of its products and services. The Indian Entertainment industry is on verge of metamorphic change from an industry run by enthusiasts and individuals, to an organized industry that runs like any other industry. The best thing that happened to the industry was the granting of "industry" status by the Government of India in year 2001, which has helped the industry to move into more organized and business like approach to financing, production and other allied activities.

Entertainment tax is the major tax payable by the movie industry. More multiplexes continue to be built in urban areas. TV broadcasting is the fastest-growing segment in the Indian entertainment industry, reaching out to over 80 million Indian households. The number of operators who are formally registered under the Cable TV Network Regulation Act, 1995 is about 16,000. The Indian cable industry began its existence without any laws in place and mushroomed thanks to the energy and vision of local entrepreneurs who put up the entire infrastructure and expanded the market to what it is today.

The music industry derives its income mainly through the sale of cassettes that roughly constitute nearly 95 per cent of sales; CDs still have a long way in the catch-up game. The most promising sign for the music industry is the rapid growth of purchases of consumer electronics products in India – especially CDs/VCDs/DVDs and car audio systems.

Piracy is one of the biggest problems facing the industry. Though the Copyright Act 1957 is stringent on rights violations, the implementation of the law lacks teeth. The government has brought the broadcasting industry under an autonomous regulator, the Telecom Regulatory Authority of India (TRAI) to facilitate policy making and dispute resolution. The major initiative in the radio segment has been the opening up of FM broadcasting to the private sector.

The rules regarding foreign direct investment (FDI) vary from segment to segment in the Entertainment sector. For instance, FDI is not allowed in FM Radio, it is allowed up to 20% in direct-to-home (DTH) and 49% in the cable industry. While theoretically, foreign news broadcasters can beam their signals into India (CNN, BBC), the policy does not allow them to uplink news from India unless the local ownership norms are met; this limits their capability to provide India-specific news in a timely manner. This has led to anomalies in entertainment policy – viewers can watch foreign news channels broadcast from overseas, but FDI is not permitted even for pure entertainment FM radio. It is therefore necessary for the Government to review the policy in a holistic manner and bring about a greater degree of consistency in the rules for various segments in the Entertainment industry.

I.3 PROFILE: THAILAND

Thailand has passed two important Acts: the Telecommunication Act of 2001 and Broadcasting Act which came into force in March 2000. The limitation on foreign ownership to a maximum of 25% caused considerable controversy. After public pressure, the Government announcement that the foreign ownership limit would be increased to 49%, but formal amendment of the Act has yet to be effected. The Thai movie industry is moving toward long-term growth due to the fact that many Thai movies have become more widely accepted abroad.

Up until recently, the Thai movie industry has drawn relatively less attention from government compared with other sectors, which had been supported with tax incentives and other kinds of supports. With the ambitions of the existing government (of Thaksin Shinawatra) to transform the Thai local movie industry into a regional hub for movie production and post-production, its two newly established ministries – Tourism and Sport Ministry and Cultural Ministry are working together with representatives from the movie industry as well as relevant ministries to establish a central Motion Pictures Councils to oversee Thai movie industry and set a clearer direction for it.

Currently Thailand has approximately 300 cinema screens. Thailand was the first country in Southeast Asia to begin regular TV transmissions, but analysts complain that the quality of the content on Thailand's free TV stations is heading downhill due to the absence of a broadcasting regulatory body. On the news front, independent operators like ITV are adopting a more investigative style of news. A key challenge will be to transform the Thai market from purely a price-driven market to a value-driven market, and to overcome piracy. Thailand in the 1980s was identified as one of the world's worst pirate countries, but since the 1990s the Thai government has made a number of commitments to crack down on audiovisual pirates.

The music industry in Thailand is run by two major companies: GMM Grammy and RS Promotion. Thailand has 524 local and national radio stations, 211 of them are on AM while the rest are on FM. The biggest operators are the Public Relations Department (PRD) with 147 radio stations, followed by the Royal Thai Army with 127 stations and the Mass Communication Organization of Thailand with 62 stations.

I.4 PROFILE: THE PHILIPPINES

The audiovisual media landscape in the Philippines consists of contrasts. The incomes of the movie companies are measly compared with those of the television networks; this has led the movie producers to further limit their film outputs. The decline can be attributed to high taxes, censorship, competition from the US and Hong Kong, television, video and even lottery. Despite this slump, the Philippine movie industry ranks Number 9 in Feature Film Production worldwide.

The most significant development in the communication sector after the EDSA Revolution was the adoption of the 1987 Constitution. In the constitution, mass media assume primary importance; and the Medium-Term Philippine Development Plan (MTPDP), 2005-2010, has several media-related themes including capacity building, development of a network of digital infrastructure to interconnect the entire country, and an enabling legal and regulatory environment.

There is 39% cinema attendance in Metro Manila and 27 percent for urban Philippines, but serious challenges are faced in curbing piracy. TV ownership is 88% in the whole country. However, ownership is nearing saturation levels in Metro Manila (95%), Region 4 (93%), and Region 3 (90%). Cable ownership is 20%; ownership is highest in Metro Manila (31%).

The Philippines had 599 radio stations in 2000, subdivided into 270 AM stations and 329 FM stations. Although geographically, the Philippines belong to the East, its music has been heavily influenced by the West owing to 333 years of Spanish rule and 45 years of American domination. Filipino composers are prolific and talented, many of them have won awards in foreign competitions. Mobile data services may save the music industry, in terms of financial gains, thanks to ringtone downloads and an avid user base.

I.5 SIMILARITIES AND DIFFERENCES

The three countries profiled obviously have huge differences in terms of overall population, media penetration, cultural habits, audiovisual trade, and global prospects for local media industries. Neither of them has a perfect policy for the audiovisual industries: for instance, the Philippines is ambiguous in its treatment of foreign film-makers who want to shoot in the country, Thailand has been dragging its feet in terms of level of foreign investments in local media, and India has a stunted FM radio market due to policies that loosened up only recently.

Piracy is widespread in all three markets. Piracy of audiovisual material adversely affects revenues and growth prospects of the local audiovisual industry in the Philippines; the level of piracy in Thailand has led to severe condemnation from the International Intellectual Property Alliance. India has a low penetration of optical media (cassette tapes dominate over audio CDs), but piracy is still present in the cassette tapes segment.

Local entertainment industries in countries like India are successfully showing how it is possible to move up the value chain in terms of sophisticated production and editing, in keeping with international benchmarks set by popular Hollywood movies. This of course calls for continuous capacity building and learning curves for the creative communities.

Overt government support and intervention in audiovisual production in domains like cinema has not been widespread among these countries, though Thailand is particularly unusual in the high profile of the current Prime Minister Thaksin Shinawatra who has a significant stake in a number of media groups.

I.6 FUTURE TRENDS

Trends which will continue to affect the audiovisual markets in these countries include the growth of the Internet and mobile phones, new technologies of digital cinema, outsourcing of media work from the West, regulatory changes, and the Asian diaspora markets scattered across the world.

- ***The Internet, Intranet and Mobile Media***

As evinced by trends in Asian countries like Japan and South Korea, the Internet and mobile communications have huge disruptive potential to create new revenue streams, destroy old ones, and open up new users and channels for audiovisual content players. Internet penetration in relative terms is not as high in India, Thailand or the Philippines, and "Napster" like phenomena of unbridled person-to-person Web-based sharing of copyrighted digital content have not threatened the local creative industries as much as in markets like the US.

The Internet is being increasingly used, however, for B2B[1] collaboration (eg. in media buying) and international marketing via Web sites and email newsletters. Intranet-based operational techniques like collaborative product development and knowledge management have a huge potential for increasing the productivity and scale of operations of audiovisual content players.

The explosion of mobile phones in these countries is quite notable: subscribers in the Philippines are the world's heaviest users of SMS, and India is the fastest growing cellphone market in the world. Both open up new revenue opportunities in the form of musical ringtone downloads and movie-based screensavers.

- ***New technologies of digital cinema***

New techniques of digital production as well as digital projection in cinema halls are having end-to-end impacts along the audiovisual content value chain. The growth of multiplexes with sophisticated digital projection technologies are changing the viewing habits of cinema-goers across Asia, and are also opening up the market for niche productions. The proliferation of increasingly affordable digital recording and editing cameras is sparking off a new wave of cottage industries in the audiovisual segment.

- ***Diaspora markets***

[1] Business to business

All three Asian countries have significant diaspora populations in the US, and to some extent in Europe. These have been useful target markets for the local audiovisual industries of each country. The Asian diaspora have in some cases also integrated successfully in cultural industries of their new home countries, this opening up new mainstream audiences while also paving the way for new kinds of "fusion" entertainment and cultural fare.

- ***Media Outsourcing***

As with earlier waves of outsourcing of manufacturing and software work to Asia, we are now witnessing an increase in the outsourcing of audiovisual work processes and projects to Asia from the US and Europe. These range from computer graphics and animation to editing and dubbing, particularly to the Philippines and India.

In sum, the prospects for the audiovisual industries in all three countries look promising, provided the regulatory environment becomes more supportive and the creative communities stay at the cutting edge of the innovation curve. With proper planning and execution, the local creative industries will continue to succeed in local markets; challenging established players like Hollywood on the global scale will be a distant dream, but the local audiovisual players will certainly be able to find and exploit significant niches abroad, particularly in areas where they have a diaspora presence.

II. INDIA

The Indian entertainment industry is on the threshold of emerging as a big market internationally with an expected growth rate of close to 20% per year, according to estimates by the Confederation of Indian Industry (CII). Apart from growth in the domestic markets, Indian TV content producers have already made inroads into Asia-Pacific markets. Further, there is a growing interest among broadcasters and distributors in the US and UK to look at India specific content (films and TV shows).

The industry had a turnover of 166 billion indian Rupees (Rs)[2] in 2002, which grew to Rs 190 billion in 2003. 2002-03 showed a 15% growth rate, while the industry was expected to grow at 20% until 2007, by CII.

[2] Exchange rate (as of May 05) : 1 US $ = 43.6 Rs

Table 1: Growth of Indian Entertainment Sector

Year	2000	2001	2002	2003
Amounts in Rs Bn	100	130	166	190
YoY Growth		30.0%	27.7%	14.5%

Sources: ValueNotes Research and CII

II.1 REGULATORY AND POLICY OVERVIEW

Entertainment in India is evolving into a big business and the regulatory and legal mechanisms are evolving rapidly to keep pace. The focus of the Government for developing the industry center on the use of regional and national tax incentives for improving production and exhibition infrastructure, and improving the flow of investment to the industry, especially in content creation and human capital. The Government of Indian has opened up the Entertainment industry to external investment, but there are segment specific limits on foreign direct investment (FDI). There is no uniform policy for investments.

II.1.1 Central Board of Film Certification

The Central Board of Film Certification (CBFC), also known as Censor Board, certifies/censors films. In addition, each state in India has its own Censor Board. The Censor Board(s) pre-views the movies that are to be released in theaters and suggests the changes to be incorporated in the movie. The State Censor Board’s main function is to rate the movie’s genre, from common viewing to adult movie (Adult, Universal, Parental Guidance).

The Censor Boards are empowered to ban a movie / theater when the recommended changes are not effected in the movie. There is a big protest from liberal and creative section of the society about the way CBFC’s functioning in particular and censoring in general.

Table 2: Segment-wise FDI limit

Industry / Category	Foreign Equity in %	Comment
Film Production, Exhibition and Distribution	100%	Venture capital is also allowed to participate. FDI up to 100% allowed on the automatic route with no entry-level condition.
Multiplexes	49%	
Broadcasting	100%	
News Broadcasting (24 hour news channels)	26%	
Music / Record Companies	100%	
Cable Operations	49%	Inclusive of both FDI and portfolio investment
DTH	49%	Of the foreign equity, the FDI component cannot exceed 20 per cent.
TV Software Production	100%	
Setting up hardware facilities, such as uplinking, HUB, etc.	49%	Private companies incorporated in India with permissible FII/NRI/OCB/PIO equity within the limits (as in the case of telecom sector FDI limit up to 49% inclusive of both FDI and portfolio investment) to set up uplinking hub (teleports) for leasing or hiring out their facilities to broadcasters.
FM Radio	20%	Only wholly owned Indian company can own a license. The foreign investment is permissible to the extent of 20% portfolio investment. As of now FDI is not allowed.
Terrestrial Telecast	0%	No private operator is allowed in terrestrial TV / Radio transmission.

Sources: TRAI and ValueNotes Research

While theoretically, foreign news broadcasters can beam their signals into India (CNN, BBC), the policy does not allow them to uplink news from India unless the local ownership norms are met. This limits their capability to provide India-specific news in a timely manner.

The Ministry of Information & Broadcasting (Ministry of I&B) is the apex body for formulation and administration of the rules and regulations and laws relating to information, broadcasting, the press and films. The Ministry is responsible for international co-operation in the field of mass media, films and broadcasting and interacts with its foreign counterparts on behalf of the Government of India. The Telecom Regulatory Authority of India (TRAI) is the regulator and adjudicator of rules and disputes in telecom industry. In addition TRAI also administers Television, Cable & Satellite and the FM Radio industry.

II.1.2 Major Regulatory Issues

Piracy is one of the biggest problems facing the industry. Though the Copyright Act 1957 is stringent on rights violations, the implementation of the law lacks teeth. This has led to continuous loss of revenue in movies and music sales. The estimates range from 25 – 60 percent of revenue lost due to piracy.

On the cable front, the Indian cable industry began its existence without any laws in place and mushroomed thanks to the energy and vision of local entrepreneurs who put up the entire infrastructure and expanded the market to what it is today. In 1995 Government of India belatedly issued the Cable TV Network Regulation Act. In the year 2003, CAS or Conditional Access System was introduced. This was expected to solve the long-standing dispute over revenue sharing between the broadcasters and cable operators. Though at the moment this is implemented only in Chennai (formerly Madras), Tamil Nadu, it is expected to be implemented in a phased manner after solving the issues like compatible Set Top Boxes from one LCO / MSO to the other.

TV Channels in India must undertake to comply with the broadcast (programme and advertising) code. This restricts the broadcast of pornography and other objectionable material. However, in practice, apart from the ban on pornographic/sexually explicit material, there are very few restrictions. There is however, a prohibition on cigarette and alcoholic advertisements till 9.00 pm on the TV, while these advertisements are totally banned on Doordarshan (the State owned broadcaster).

II.1.3 Recent Policy Initiatives of Government of India

Since the beginning of reform measures by the Indian government in the mid-nineties, there has been significant liberalization of the film sector. In 2001, the Film industry was given "industry" status. This was an extremely significant move as "industry" status allows them to access funds from the formal banking sector (largely controlled by government owned banks). 100% FDI has been allowed in movie production, exhibition and distribution of movies, and 49 per cent in multiplexes. Entertainment tax has been capped at 60%

The Television and Cable industry has also seen a number of policy changes since 1990. The Government has not placed any restriction on the number of DTH operators in India. However, for getting a DTH license, only Indian companies with no more than 49 per cent foreign equity are permitted. Within the overall cap on foreign equity, the FDI component cannot exceed 20 per cent. The license fee has been set at Rs 100 million

(US$ 2.3 million). The licensee is also required to pay an annual revenue share license fee of 10 per cent of gross revenue and a royalty for the use of spectrum.

The government has recently decided to rework the policy regarding direct-to-home telecast, including a review of the norms on foreign direct investment, cross-media holding, government regulation of content and sharing of content by companies. The major items in the agenda are content regulation following complaints that viewers are accessing pornographic material through DTH services; refusal by some companies to offer their channels to the country's sole private DTH operator, the Subhash Chandra (Zee) promoted by the Essel group.

The Telecom Regulatory Authority of India has been created in order to facilitate policy making and dispute resolution in the sector. In the radio segment, the major initiative has been opening FM broadcasting to the private sector. During the 10th five-year plan (2002-2007), the government’s targets for the segments include increasing FM coverage from 30% of the population to cover 60% of the population along with efforts to consolidate the MW transmission network.

The Indian government does not record foreign private equity or venture capital investments as FDI. Neither does it include the retained earnings from foreign subsidiaries' as FDI. This leads to massive undercounting of FDI. This is illustrated by the fact that Star TV’s Murdochs’ investment of approximately $200 million in its Indian cable TV operations are not shown in the Indian FDI statistics. This is as much as the entire FDI recorded in 2002 in the entertainment sector. An Economic Times Intelligence Group (ETIG) study estimated that between 1999-2001 about $35 million were poured in by foreign VCs into Indian media firms.

II.2 GATS AND INDIA

II.2.1 India’s Commitments in Audio-visual Services

In the Uruguay Round, India’s commitments only included motion picture and videotape distribution services and excluded all other sub-categories of audio-visual services. Within this sub-category, India scheduled partial commitments in commercial presence and left all other modes unbound. India imposed both quantitative and qualitative restrictions on film imports.

The import of foreign films was restricted to 100 titles per year. The national treatment limitation stipulates that foreign films should be certified before displayed in Indian theatres. There were certain conditions for such certification. The film has to either win an award or participate in any international film festival notified by the Ministry of Information and Broadcasting, or receive good reviews in prestigious film journals. The determination of the film festivals and journals was left to the discretion of the Ministry of Information and Broadcasting.

Foreign distributors in India were only allowed to set up representative offices to function as branches of companies incorporated outside India. India had listed a Most Favoured Nation (MFN) exemption that allows it to accord preferential treatment to motion pictures and television programmes from countries with which it has co-production agreements. This exemption was undertaken to promote cultural exchange and was applicable for an unspecified period of time.

On the whole, India's commitments in audio-visual services were very limited. A copy of the schedule of commitments is provided in Appendix A at the end of this chapter.

However, India has gone much further than the commitments made by her under GATS. Today India is one of the least restrictive countries and foreign players are allowed to operate in many segments of the audio-visual industry. The Indian industry is largely concentrated in private hands and the Government primarily acts as a facilitator. The restrictions imposed by India on trade in audio-visual services are given below.

II.2.2 Restrictions on trade in audio-visual services

- ***Films***

The Indian film industry is largely concentrated in private hands and the Government does not provide any major subsidies or support programmes, as in the case of the European film industry.

In the past, India had quantitative restrictions on film imports and the total number of titles imported was restricted to 100 per year. This restriction has now been removed. In the year 2002, government removed the qualitative and quantitative restriction on film imports, as under:

- Import of cinematograph feature films and other films (including film on videotape, compact video disc, laser video or digital video disc) shall be allowed without a license.
- The importer of films should comply with the provisions of all applicable Indian laws governing the distribution and exhibition of films and would have to obtain a certificate for public exhibition from the Central Board of Film Certification that was set up under the Cinematographic Act of 1952.
- Import of any unauthorized/pirated films shall be prohibited.
- Import of foreign reprints of Indian films shall not be permitted without the prior permission in writing from the Ministry of Information and Broadcasting, Government of India.

- Import of foreign reprints of Indian films shall not be permitted without the prior permission in writing from the Ministry of Information and Broadcasting, Government of India.
- The Ministry of Information and Broadcasting, on being satisfied that it is necessary or expedient in public interest to do so, may waive or relax the above requirements.

Although foreign players have welcomed the liberalization measures, they still face certain barriers.

- The Motion Picture Association of America (MPAA) has pointed out that its member companies have to pay a custom duty on remittances.
- They have also pointed out that although import licenses are no longer required, the Indian Customs often imposes various restrictions. For example, the film importing company has to provide a declaration on a stamped paper that the film imported does not contain any illegal/pornographic material together with a synopsis of the film.
- All foreign films imported and exhibited in India have to pay a scrutiny fee of Rs 5,000.
- There are some restrictions on co-productions. These include the requirement to get the script approved by the Ministry of Information and Broadcasting so as to ensure that the project does not hurt the sentiment of any segment of the society or is not against the national security interest.

The range of activities where foreign direct investment is allowed up to 100% go from film financing, to production, distribution, exhibition, marketing and associated activities through the automatic route.

There are also restrictions on the import of publicity materials, posters, sample T-shirts, electronic press kits that are required for the promotion of the foreign film in India. On import of any of these items there is a penalty of 100% of the value of the materials.

Every year India imports about 25-30 movies produced by "independent" producers. Independent producers refer to business generated by the non-Hollywood studio majors. Indian importers are estimated to be paying up between $25,000 and $150,000 as royalties for every movie sourced from Hollywood/Europe.

- ***Broadcasting Segment***

India does not have any major restrictions on television broadcasting (except for news channels) but FDI is not allowed in private FM channels. Private players are not allowed to enter the terrestrial broadcasting sector, since India has allowed foreign satellite channels to operate in this country and has significantly liberalized its broadcasting policies.

- ***Music Industry***

India has opened up sound recording services for foreign investment. India can offer liberal commitments under Mode 1 (cross-border supply). There are no FDI restrictions, and imports are free.

- ***Restrictions on Indian Audio-Video Industry***

Some countries have imposed restrictions that are specific to content of Indian origin. For instance, Pakistan has imposed a ban on Indian films and Egypt has a fixed quota for Indian films but it has not imposed a similar quota for Hollywood (US) films.

Countries such as Brazil prohibit the importation of colour prints for television and theatrical display. Many countries of export interest to India such as the EU and Canada have imposed various restrictions on broadcasting such as broadcasting quotas and local content requirements. Since India has not imposed similar restrictions, India should negotiate with these countries for removal of such restrictions.

Although there are no major restrictions on the movement of persons for shooting a film abroad, Indian technicians (cameramen, editors, music directors etc.,) sometimes find it difficult to take up temporary employment in the developed countries (such as the USA and UK) due to the strong union pressures. Workforces in the audio-visual sector of these countries are members of unions that insist on using local skills.

II.3 THE FILM INDUSTRY

The Indian Film industry is highly unorganised and fragmented, consisting of over 6,000 producers and employing over three million men and women. Movies constitute the major part of the Indian Entertainment industry. Even after arrival of Cable and Satellite (C&S) television, and video compact disc (VCDs), the film industry has a lion’s share of audience’s attention and money. India is the largest producer of movies in the world; with a cumulative movie production number of close to 70,000 movies, the Indian film industry produces over 1,000 commercial movies every year. With low ticket fees (Rs 5 or $ 0.10), easy access to theatres and established movie-going social habits, movies have an assured future in India.

Table 3: Films Produced in India

** No. of films for 2003 are estimates.*

Language	**1999**	**2000**	**2001**	**2002**	**2003**
Hindi	166	243	230	222	245
Teleugu	132	143	206	167	95
Tamil	153	157	196	100	97
Malayalam	65	87	135	107	76
Kannada*	87	76	93	113	100
Bengali*	51	43	48	47	40
Others*	110	106	105	300**	347
Total*	**764**	**855**	**1,013**	**1,056**	**1,000**

*** Estimates.*

Sources: E&Y – FICCI Report and ValueNotes Research

Within the Film industry in India, Bollywood (colloquial term for Hindi movies made in Mumbai) dominates the national market due to reach and big budgets. However, regional movies have their own vibrant and growing markets. The major regional movie producing states are Andhra Pradesh (Telugu), Tamil Nadu (Tamil), Kerala (Malayalam) and West Bengal (Bengali).

II.3.1 Structure of the Industry

Formerly all the production was done by unincorporated entities like partnership firms or individuals. These entities were typically small, financially weak and had little or no access to formal finance.

However, since the early 1990's, the Indian entertainment industry gone through a lot of structural changes.

- The most important and vital change is the corporatisation of movie production companies. This has been facilitated by formal lending to the sector by banks, as well as the availability of venture capital/private equity.
- Arrival of multiplex theatres in the Indian entertainment scene.
- Business Focus: Corporates and modern producers are increasingly viewing movie making as a business, leading to increased focus on benchmarks like profitability, return on capital etc. This has led to better planning of resources and implementation issues, which is helping in reducing wastages, avoidable costs, shooting delays etc.
- Scale Economies: Production companies now work on two or three movies simultaneously, as this helps in reducing equipment charges, recycling of sets, food expenses and film processing charges. The saving is estimated to be 10 to 15%.

- The best thing that happened to the industry was the granting of "industry" status by the Government of India in year 2001, which has helped the industry to move into more organized and business like approach to financing, production and other allied activities. Now producers' are able borrow at reasonable rates of interest and able to get insurance cover for the risks involved in producing the movies.

In the last few years the film industry has been forced to restructure itself. A bad year (2002) combined with several policy initiatives from the government as well as the entry of new investors has finally forced some permanent changes in the film industry.

Filmmaking, distribution and exhibition are now being increasingly controlled by a smaller number of rapidly integrating companies, and not 6,000 producers and hundreds of distributors. Of the 600-odd films in 2003 (till Nov, 2003), about half were made, released and shown by organised film companies.

The result is a more efficient and profitable industry. For instance, average costs are down to Rs 20 - 50 million from Rs 100 – 150 million (US$459,000 – US$1.14 million from US$2.3 – 3.4 million) thanks to a host of cost-cutting measures across the chain of production, distribution and exhibition.

Add to this better revenue declaration by organised multiplex and distribution firms and new revenue streams like in-film advertising, are helping make film-making a profitable industry. A larger number of films now make money - about 70% compared to the 50% or so earlier.

II.3.2 Revenue

The film industry derives income from the sale of tickets in theaters (box office), music, TV/satellite, video and overseas rights. Domestic box office income was the major source of income in the 1990s, as it constituted nearly 80% of the total income. In 2002, the income came down to 63%, as the contribution from music rights, export income, and the like has grown substantially. Box office collections for the last three years have fluctuated wildly. In 2002, the industry produced more flops than hits and this resulted in a reduction of gross collections by 13.3%.

Table 4: Revenue Break-Down for Films

Source	**1999 (in %)**	**2002 (in %)**	**2002 (in US $ millions)**
Theatre viewership - Overseas	7.0	11.0	151.8
Theatre viewership – Indian	79.5	65.0	897.5
Music	8.0	6.0	41.4
DVD / VCD	1.0	2.0	27.6
Satellite	4.0	14.0	322.2

In-film ads	0.5	2.0	27.6
Total	**100.0**	**100.0**	**1.4**

Sources: KPMG and FICCI Report - Indian Entertainment Sector in the Spotlight; ValueNotes Research

Movies are sold in India mostly on outright basis and the theaters are owned by individual businessmen, so there are no authoritative figures available about the collection made by theaters. Nor there is a nodal agency that monitors the box office collections; these are at best industry's guesstimates. In 2003, the total box office revenue of the Indian film industry was estimated at Rs 45 billion (US$1.03 billion). It is expected to grow at a CAGR of 18 per cent to cross Rs 101 billion (US$2.3 billion) by 2008 (according to the CII, Confederation of Indian Industry).

II.3.3 Music Rights

In the pre 1990 era, ticket collection contributed nearly 90% of film income. However, the arrival of multinational and large-scale national music distribution companies has helped the industry to exploit new streams of income. Even when a movie flops in the box office, if the music and songs are good, this could generate significant income. Further, music rights income can generate revenues for several years in the future, even after the movie is no longer playing in theaters.

Music rights typically cover 15% – 20% of the cost of the movie. A few years ago, music rights were being sold at astronomical sums, but the market has settled down now. Music rights could further be divided into export and domestic market. Music rights exports contribute nearly 40% of the revenues and the rest are from the domestic market. Music rights are typically sold for a specific number of years and at the end of the contract period, the producer could again auction the rights.

II.3.4 Overseas Rights

Other overseas rights include theatrical and video rights. The traditional markets are the US, UK, Canada, the Gulf, New Zealand, Australia, Sri Lanka (and other South Asian countries), Mauritius, Thailand, Kenya and Singapore among others. Today the exports are reaching new shores and small markets have opened up in countries like China, Japan and South Korea, as well as Africa and the Americas.

To exploit these new opportunities, Indian producers have started distribution operations in regions like, US, UK, EU and the Far East. The companies are now increasingly opting for shared revenue models, as against the old outright sale model. Exports earnings have increased from Rs 4 billion (US$91.8 million) in 1999 to Rs 12 billion (US$275.4 million) in 2003, an estimated compounded annual growth rate (CAGR) of around 30%.

II.3.5 TV/Satellite Rights

Movies are an important part of Indian television entertainment on weekends, festival days and national holidays. This helps the movies recover 10 – 15 per cent of the cost, as all the major movies are bought by the TV channels for such shows. The rights are given to the channels typically with a restriction on the number of times the movie can be played. At the end of the contract, the rights can be re-sold.

II.3.6 Trade in Films

Despite a former limit of 100 films as per India's commitment under GATS (Appendix A & section II.2), India has typically allowed far higher imports. In 2001, India imported 248 films, including 189 from the United States and 18 from Hong Kong. In addition, since the liberalization of import policies India has accepted far more foreign films than China, which still maintains a strict quota system, even after joining the World Trade Organisation (WTO).

In addition to Hollywood's breakthrough in dubbed films (in Indian languages), there has been a significant increase in the success of Hollywood films in English in recent years. For example, English-language import value has grown by more than 900%, from US$840,000 in 1992 to US$81 million in 2000. Attendance at these films has shot up more than ten times since 1992.

Even after the larger number of imports, imported movies capture only 10% of the admissions. However, there are signs that this is changing, particularly as more multiplexes continue to be built. Recent Hollywood successes in India – including *Spider-Man, Ocean's Eleven, The Mummy Returns, Shrek, Lord of the Rings, Harry Potter, and Men in Black II* – have encouraged Indian filmmakers to begin to make local movies in English, to cater to a growing middle class of urban viewers that is also Hollywood's demographic target. This trend has led to new genre of Hinglish (movies talking a mix of Hindi and English) movies. The arrival of multiplexes has helped in making off-beat movies and full length (Indian made) English movie like *Joggers Park* much more successful. Movie producers today are making movies to cater special interest niches like horror movies. This trend is here to stay and grow.

After the recent success of *Bend It Like Beckham* – which was made by an Indian filmmaker based in London and was India's second biggest hit, after Devdas in 2002 – this trend should accelerate. Since India has a large English-speaking population, this strategy would not be viable in most other Asian markets. Another important economic reason why theaters prefer to run Hollywood films is, their length. They run for an average of 90 minutes or two hours, while Hindi films typically run for well over three hours. Hollywood films can be screened five or six times a day, compared to three showings for Hindi films.

II.3.7 Legal/Regulatory Issues

Allowing of FDI to the tune of 49% in multiplexes is helping the consumers and the industry by bringing in much need capital and transparency. The current policy of providing a five-year tax holidays to multiplexes has created a major controversy and resentment from the traditional single screen theater owners, as they fear that the modern multiplexes (usually coupled with malls, food courts, or other entertainment) will drive them out of the business.

Entertainment tax is the major tax payable by the industry. In the year 2002, the Government of India capped the entertainment tax at 60 per cent. Most of the states now understand the benefit of lower tax rates and are reducing the tax rates from a high of 110% to 40 – 60 per cent. However, even these rates are very high, and India is still one of the most highly taxed countries, with respect to entertainment.

II.4 TELEVISION AND CABLE & SATELLITE INDUSTRY

TV broadcasting is the fastest-growing segment in the Indian entertainment industry, reaching out to over 80 million Indian households. Cable TV reaches more than 44 million of the total TV households and there are more than 100 satellite channels. Television is perhaps the cheapest and most popular entertainment in the country. India’s cable penetration rate stood at 51%, the fifth highest amongst the global media markets. Revenue from the television industry is expected to grow at a compounded annual growth rate (CAGR) of 17% over the next five years to cross Rs 28.85 billion by 2008. A significant portion of the growth is expected to come from subscriptions.

Presently, India is one of the fastest growing markets for the cable & satellite industry. From a subscriber base of 31 million households in 2000, it reached 44 million households in March 2003. India is the third largest producer of original entertainment software with over 40,000 hours of original programming (as of early 2001).

Cable TV in India started in the late seventies. At that time, cable services offered by small entrepreneurs showing movies, pirated versions of western comedies, music, game shows etc. emerged as the only option to the state-owned Doordarshan. This was, however, restricted to the major metros, large towns and the upper crust of society.

The Indian Cable Industry is extremely fragmented with little economies of scale. There are two main types of players: local cable operators (LCO) and multi-system operators (MSO). The LCOs own the last mile and control subscriber distribution and management. LCOs typically provide a bouquet of channels in a package at a uniform flat rate of subscription. India is estimated to have upwards of 30,000 cable operators, who control approximately 6,800 head-ends. The number of operators who are formally registered under the Cable TV Network Regulation Act, 1995 is about 16,000. Today, cable television consumers typically have access to up to 100 diverse channels and pay an average of Rs 157 per month.

Table 5: India Cable TV - Industry Data

(Y/E March)		**2000**	**2001**	**2002**	**2003**
Total Households (HH)	(Mn.)	184	188	192	195
Total TV Households (TVHH)	**(Mn.)**	**70**	**79**	**82**	**87**
TVHH Penetration of HH	(%)	38%	42%	43%	45%
Rural Cable TV Subscribers	(Mn.)	9	13	14	15
Urban Cable TV Subscribers	(Mn.)	22	25	27	29
Total Cable TV Subscribers	(Mn.)	**31**	**38**	**41**	**44**
Cable TV Penetration of TVHH	(%)	**44%**	**48%**	**50%**	**51%**
Average Total Cable TV Subscribers	(Mn.)	28	35	40	43
Average Monthly Cable TV Subscription Fee	(Rs)	105	116	132	157
% Change	(%)		10%	14%	19%
Total Cable TV Subscription Revenue	(Rs Mn.)	**35,280**	**48,024**	**62,568**	**80,070**
% Change	(%)		36%	30%	28%
Total Cable TV Advertising Revenue	(Rs Mn.)	**13,950**	**20,610**	**24,150**	**26,680**
% Change	(%)		48%	17%	10%
Total Cable Industry Revenue	(Rs Mn.)	**49,230**	**68,634**	**86,718**	**106,750**
% Change	(%)		**39%**	**26%**	**23%**

Sources: Media Partners Asia; Goldman Sachs Research; Economic Times, ValueNotes Research

Revenues from advertising on TV are estimated to have gone up to Rs 43 billion. Interestingly, subscription revenues are growing faster than advertising revenues thanks to better compliance from cable operators and higher charges. According to industry estimates advertising revenues are expected to increase from Rs 39 billion in 2002 to Rs 65 billion by 2007. Due to the fragmentation of the industry, there is likely to be intense competition for a share of the advertising pie. For instance, there are already around 212 channels in India, and more are being added on a regular basis. The table of pay and free-to-air channels with the details on channel ownership and country of origin (along with much more data) has been added (table 11 – pasted after conclusion). Of the 212 channels 161 are operated by organized players and rest of the channels are operated by local cable operators in their operating regions.

Table 6: List of Top Broadcasters

Broadcaster	**2002 - 2003 Revenues (Rs Bn)**	**Nationality**
Star	12.00	US / Australia
Zee	11.99	India
Sony	8.00	US
Sun	5.00	India

Eenadu	4.00	India
ESPN	4.00	US
Doordarshan	3.50	India
Sahara	1.27	India
TV Today	1.09	India
Asianet	0.50	India
TV 18 - CNBC	0.40	India and US
Maa TV	0.10	India
SS Music	8.00	India

Source: Business World and ValueNotes Research

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Sources: Media Partners Asia; Goldman Sachs Research; Economic Times, ValueNotes Research

A key problem faced by the broadcasters is that of under-reporting of connected households by the local cable operators. As the cable operators have to pay the channels per connection, they tend to under-report the number of subscribers (even while collecting subscriptions from customers). This has led to numerous disputes between cable operations (LCOs), MSOs and broadcasters.

At end-March 2003, cable operators retained in excess of Rs 73 billion (US$1.5 billion) in subscription revenue (the bulk retained by LCOs) with up to Rs7 billion remitted to broadcasters. This effectively meant that broadcasters had only a 9% share of the Rs 80 billion subscription market, while cable operators commanded 91%.

According to industry estimates, by 2007, revenues from subscribers will account for 69% of the revenues for the television segment and the broadcasters' dependence on advertisements is likely to be reduced gradually. Of course, this depends on the pace of adoption of conditional access systems (CAS), as this is the only way to ensure compliance by cable operators.

Table 8: Major TV Software (TV programmes) producers

Company	2002 - 2003 Revenue (in Rs Bn)	2002-2003 Revenue (in USD million)
Balaji Telefilms	1.86	42.68
Padmaja Telefilms	0.88	20.19
UTV	0.65	14.92
TV 18 – CNBC	0.40	9.18
In-house Productions*	0.35	8.03
Contiloe Films	0.30	6.85
Radaan	0.25	5.74
Hansa Vision	0.23	5.28
Optymystix	0.20	4.59
Cinevistas	0.19	4.36

Source: Business World

II.4.1 Direct-to-home (DTH)

As an alternative to existing distribution systems, the "Direct-to-home" (DTH) service distributes multi channel TV programs on Ku-Band by using a satellite system that transmits the programs and provides TV signals directly to subscribers.

II.4.2 Taxes

The Cable industry is subjected to entertainment and service tax. Entertainment tax differs from state to state. Generally the entertainment tax structure varies from fixed rate to tax per connection or a combination of both. Cable operators are demanding a standardized tax pattern throughout the country. Service tax is 10% of the cable charges.

II.5 THE MUSIC INDUSTRY

Till 1990 Indian music lovers were limited to music from All India Radio (AIR) or a limited selection of cassettes available in the market. However, this has changed with the entry of international music companies in India as well as de-licensing of FM radio. Based on listening preferences, music in India can broadly be classified in to the following interest groups – Hindi film music, Indipop, international music, classical music, devotional music, regional film music, and so on. Hindi film music has the dominant share 67% followed by Indipop with 15 per cent share.

Music companies that had acquired rights for big banner films at astronomical costs in earlier years are under enormous pressure, as sales have fallen and the film music business is currently going through a rationalization. In line with the general outlook for the global music industry and as a result of increasing digital piracy that is difficult to police, no dramatic turnarounds are expected in the short term.

II.5.1 Revenue

The music industry derives its income mainly through the sale of cassettes that roughly constitute nearly 95% of sales, but CDs still have a long way to go in the catch-up game. The price range for a cassette ranges from Rs 65 to 95 (US$1.49 to US$2.17), while the CD prices could be from Rs 150 to 350 (US$3.44 to US$8.03). The prices differ based on the genre and popularity of the content.

The Indian music industry, whose fortunes are closely interlinked with the film industry, also suffered heavy losses in 2002. Total revenues fell from Rs 12.6 billion to Rs 10.04 billion (US$289.16 billion to US$230.4 billion), while piracy continued to increase. The legitimate revenues of music companies were Rs 6.20 billion (US$142.3 million), or 60% of total revenues. The Music industry has started sliding over the last three years, with losses estimated at about Rs 18 billion (revenue loss) (US$413 million). This loss not only because of piracy, but also bad business decisions primarily that of over-paying for film music rights.

However, certain key shifts like a reduction in piracy levels and increased music CD penetration are taking place, and the positive impact will be felt in the medium term. The industry is likely to grow to approximately Rs 16.4 billion (US$376.4 million) by 2007, according to industry estimates.

The Indian music industry depends significantly on film music. This is the reason major record companies are vying for film rights. This is a high risk bet, as music sales depend on the success of the film, and hardly 3 – 4 per cent of movies become hits in any given year.

Table 9: Major Music Companies

Record Company	**Market Share**
T-Series	22%
Tips	11%
Saregama	15%
Universal Music	7%
Sony	7%
Others	38%
Total	100%

Source: E&Y – FICCI Entertainment Report 2002

There are no restrictions on foreign firms in the music business, nor on imports and distribution of music. India made no commitments under GATS for the music sector.

After burning their fingers, the record industry has learnt its lessons and has become reasonable in bidding prices for the rights. Also, to improve profitability, companies in the industry are focusing on evolving new mechanisms to avoid huge losses, by partnering with producers, Internet sales, new talent scouting, re-mixes, and organized retail.

The arrival of FM radios in India has further complicated the music industry's fortune. As the FM channels play film music round the clock, this has affected the sale of cassettes and CDs. One estimate puts the loss of sales to tune of 15 to 20 per cent.

The most promising sign for the music industry is the rapid growth of purchases of consumer electronics products in India – especially VCDs/DVDs and car audio systems. This is being fuelled by falling product prices and easy availability of finance.

Further, the improved penetration of CDs is good news for the industry, as more consumers purchase CDs and cassettes are replaced. This will help in higher realization per sale, as CDs are typically priced higher than cassettes, despite lower manufacturing costs.

II.6 RADIO

Till recently radio in India was synonymous with All India Radio or AIR. Since its first broadcast in 1952, AIR has expanded geographically and has achieved a reach of 99% of the population. Due to poor programming and a shrinking listener base, the radio industry currently receives less than 5% of total advertising share. There are restrictions on FDI in FM Investment. India has not made any commitments for the Radio sector.

II.6.1 Revenues

Advertisement is the main source of income for Radio industry. The Indian radio market only manages to attract 4-5 per cent of the total advertising spend as compared to Sri Lanka, which gets 20%. In more mature Radio markets the ad-spend on radio is 10-15 per cent of the total advertising in mass media. In 2003, private FM Radio managed to attract only Rs 1.16 billion (US$26.6 million) in revenues.

Currently FM channels can only broadcast entertainment programmes. Given the small number of channels, they all tend to cater normally to the mass market, i.e. Hindi film songs. It is expected that over time more niche channels will serve the different segments of the market. Industry players are also lobbying to be allowed to broadcast current affairs and news - which they cannot do currently.

II.6.2 FM Radio Licensing

In May 2000, FM radio licenses for 108 frequencies for 40 cities were auctioned by the Government. The licenses were issued for 10 years. In the initial euphoria, players bid exorbitant amounts for licenses which also had an annual escalating clause (Fee for year one was X, in year two, it was 1.15X, etc). This has rendered the industry unviable. The industry has made representation to TRAI and the Government, to switch the license fee system from the current fixed fee to revenue sharing model. TRAI in its recent consultation paper (August 2004) has made few suggestions for development of the industry, such as revenue sharing, multiple licensing, increased FDI, and longer license terms. (Please refer to Table 10 below Technology section for the licenses issued and in operation)

II.6.3 Technology

The US-based WorldSpace Corp. recently launched direct to home digital satellite radio in India. Hi-fi radio programming is broadcast through satellite directly to small, portable audio receivers. Though current numbers are small, this segment is likely to grow rapidly in the near future.

Besides, the reach of FM radio is increasing, FM radio is now available on mobile phones. Cable operators are also joining hands with radio companies in offering hi-fi digital music in their cables. International organizations like BBC World Service have joined hands with cable operators in providing real time news. Not to be left behind, AIR has launched a digital radio service in year 2000.

II.7 CONCLUSION

The Indian Entertainment industry is on verge of metamorphic change from an industry run by enthusiasts and individuals, to an organized industry that runs like any other. The new "mantra" of the Indian media and entertainment industry is to capture audience attention by focusing attention on new and emerging niches, which in turn are fuelled by rising aspirations and changing lifestyles among young Indians.

This is a big change from the 'one size fits all' attitude, where the moviemakers tried to satisfy the largest number of people at the same time, which led to a formulaic approach to film-making.

More importantly, the explosion of television channels, coupled with the more recent mushrooming of multiplexes across urban India has meant new audiences, revenue streams and opportunities for the industry.

In the Uruguay Round, India's commitments were limited and included only motion picture and videotape distribution services and excluded all other sub-categories of audiovisual services. The import of foreign films was restricted to 100 titles per year, and these were subject to certification.

However, India has gone much further than the commitments made by her under GATS. In actual practice, today India is one of the least restrictive countries. The domestic industry is largely concentrated in private hands, and the Government does not provide any major subsidies, unlike in Europe.

Despite committing to only 100 imported films per year, in 2002, the government removed all qualitative and quantitative restriction on film imports, subject to certification (censorship). However, foreign players still face some barriers, primarily due to petty bureaucracy and administrative hurdles on the ground.

The government however, needs to further enhance the transition to seamless and transparent regulations for the industry. The rules regarding FDI vary from segment to segment in the Entertainment sector, FDI is not allowed in FM Radio, it is allowed up to 20% in DTH and 49% in the cable industry. This has led to anomalies in Entertainment policy – viewers can watch foreign news channels broadcast from overseas, but FDI is not permitted even for pure entertainment FM radio. It is therefore necessary for the Government to review the policy in a holistic manner and bring about a greater degree of consistency in the rules for various segments in the Entertainment industry.

TABLE 10: INDIA'S COMMITMENTS UNDER GATS FOR AUDIOVISUAL SERVICES

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence 4) Presence of natural persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
D. Audiovisual Services (a) Motion picture or video tape distribution services (CPC 96113)	1) Unbound 2) Unbound* 3) (i) Only through representative offices which will be allowed to function as branches of companies incorporated outside India. (ii) Import of titles restricted to 100 per year 4) Unbound except as indicated in the horizontal section.	1) Unbound 2) Unbound* 3) Subject to the prescribed authority having certified that the motion picture has: (a) won an award in any of the international film festivals notified by the Ministry of Information & Broadcasting, Government of India; or (b) participated in any of the official sections of the notified international film festivals; or (c) received good reviews in prestigious film journals notified by the Ministry of Information & Broadcasting, Government of India 4) Unbound except as indicated in the horizontal section	

Source: WTO

TABLE 11: INDIA – FINAL LIST OF ARTICLE II (MFN) EXEMPTIONS

Sector or Sub-sector	Description of measure indicating its inconsistency with Article II	Countries to which the measure applies	Intended duration	Conditions creating the need for the exemption
Audiovisual Services	Measures which define norms for co-production of motion pictures and television programmes with foreign countries and grant national treatment to motion pictures and television programmes co-produced with foreign countries which maintain a co-production agreement with India	All countries	Indefinite	The agreements aim at the promotion of cultural exchange.

III. THE THAI ENTERTAINMENT INDUSTRY

III.1 REGULATORY AND POLICY OVERVIEW

Thailand is a member of the World Trade Organisation. By virtue of its WTO obligations, Thailand is obligated to liberalize its telecommunications industry by 2006. Thailand has passed two important Acts: the Telecommunication Act on October 10, 2001 and Broadcasting Act which come into force in March 2000. These acts are compatible with GATS and will continue to be in force after 2006.

III.1.1 The Telecommunication Act

It covers five issues ranging from telecom business and regulation to license processing and application. The Act sets out general qualifications for license applicants:

a) The applicant may not be a foreigner, as defined in the Foreign Business Act (broadly speaking, this means it must not be a foreign individual or company, or a Thai company that is majority owned by foreigners).
b) Thai nationals must own at least 75% of the capital of the applicant company.
c) Three quarters of the applicant's directors must be Thai nationals, and
d) The applicant's authorised director(s) who have power to bind the company must be Thai nationals.

The limitation on foreign ownership to a maximum of 25% caused considerable controversy. After public pressure, the Government announcement that the foreign ownership limit would be increased to 49%, but formal amendment of the Act has yet to be effected.

III.1.2 The Broadcasting Act

It was passed and came into force in March 2000. The Act sets up two regulatory committees:

a) The National Broadcasting Committee (NBC)
The NBC will formulate policy and a national plan with regard to broadcasting, television and radio frequencies. It will prescribe the nature and types of broadcasting activities. It will grant licenses for the use of radio and television frequencies. An office will be set up for the Committee to deal with claims arising from broadcasting activities. Practically no progress has been made toward media reform since Mr Thaksin Shinawatra took office in early 2001 despite the provision under the 1997 Constitution for the establishment of the NBC to pave the way for the change.

b) The National Telecommunication Committee (NTC)
The NTC will formulate and set policy and prepare the model plan for telecommunications and radio frequencies, and prescribe the nature of

telecommunications activities. Two committees will be established to assess the activities of the NBC and the NTC. The members of the NBC and the NTC have not yet been appointed. Accordingly, the power to grant any new licenses currently lies with the Ministry of Information and Technology (MICT).

III.1.3 Rules for Foreign Direct Investment

Thai government has Foreign Business Act (1999) which places restrictions on foreign participation on 43 categories of business activities, grouped into three schedules. The restrictions that apply depend on which schedule the business falls under. The business of newspaper publishing, radio and television broadcasting is listed in Schedule 1. This means that foreign involvement in such businesses is limited to minority ownership only, with no possibility of applying for majority foreign ownership.

III.1.4 Restrictions

The new Alien Business Law, announced in December 1999 and effective in March 2000, prohibits "aliens" from conducting telecommunication business and radio and television business. However, it also has a grandfather clause which offers relief for those who previously had no limitation on foreign ownership and now do.

III.1.5 Major Regulatory Issues

1) World Trade Organization Obligations:
As mentioned above, Thailand is obligated to liberalize its telecommunications industry by 2006, accordingly with the agreements it has signed. As part of this aim, a Government committee set up in 1997 approved the draft Telecommunications Master Plan prepared by the Ministry and established a committee selected from the private and public sectors to oversee its implementation.

2) Telecommunications Master Plan:
A Telecommunications Master Plan was formulated and approved by the Cabinet in 1997. This is to be a guide to liberalization and privatization of the industry. The Master Plan deals with four areas of concern: liberalization of the industry; establishment of an independent regulatory body called the National Communications Committee; privatisation of the Communication Authority of Thailand (CAT) and the Telephone Organization of Thailand (TOT); and conversion of the revenue sharing agreements between concessionaires and state enterprises.

3) Relevant Laws:
Thailand has many laws designed to regulate all businesses that engage in telecommunications, in addition to the Broadcasting Act of 2000.

<u>Foreign Business Act (1999)</u>
The Foreign Business Act places restrictions on foreign participation on 43 categories of business activities, grouped into three schedules. The business of newspaper publishing,

radio and television broadcasting is listed in Schedule 1.This means that foreign involvement in such businesses is limited to minority ownership only, with no possibility of applying for majority foreign ownership.

Trade Competition Act (1999)

The Trade Competition Act came into force on 30 April 1999. It contains provisions regarding monopolies and unfair competition restricting business operators with a dominant market position from using their market positions to prevent competition, prevailing collusion between dominant market leaders and preventing mergers and acquisitions that would lead to the creation of a monopoly.

Price of Goods and Services Act (1999)

This Act came into force on 1 April 1999. It is intended to protect consumers and enable them to obtain fair prices for goods and services, and to prevent excessive increases in the price of goods and services. The Act establishes a committee to enforce the Act. The categories of goods and services which are subject to regulation are to be formulated in ministerial regulations.

III.2 GATT AND GATS IN THAILAND

The International Intellectual Property Alliance (IIPA) first identified Thailand as one of the world's worst pirate countries in 1985. In June 1987, IIPA filed a petition to deny preferential trade benefits under the Generalized System of Preferences (GSP) program to Thailand for its failure to provide "adequate and effective" copyright protection and enforcement. In April 1992, Thailand was named a Priority Foreign Country under Special 301. On February 1, 1993, IIPA again sought immediate retaliation for Thailand's continuing unwillingness to take effective action: no prosecution against a pirate manufacturer or wholesaler had been completed, no major pirate had ever gone to jail, and the copyright industries had lost $560 million since 1984.

After lengthy negotiations, the Thai government signed letters on August 24 and 25, 1993, reiterating its commitment to: continue aggressive raiding that had begun in earnest earlier that year; amend the copyright law to bring it up to Berne and TRIPS standards; create an IPR Court and authorize it to give improved remedies; and reduce its tariff rate on film prints. On the basis of these letters and continued enforcement, United States Trade Representative (USTR) removed Thailand from its status as a Priority Foreign Country and placed it on the Priority Watch List effective September 21, 1993. On August 1, 1995, USTR partially restored Thailand's GSP benefits, citing the "considerable progress" that had been made in protecting intellectual property rights (source: Excerpt from the IIPA Special 301 Recommendations, February 20, 1996).

Back in 1992, Thailand proposed the creation of the ASEAN Free Trade Area (AFTA). AFTA was officially launched in 1993. The decision was taken in response to significant developments in the World at the time, including the enlargement of the European Union and the launching of the North American Free Trade Agreement (NAFTA). 13 years after its creation, AFTA has contributed significantly to ASEAN integration.

Thailand has been pushing for various Free trade Agreements (FTAs) with major trading partners such as Japan, China, Australia, New Zealand, and India along with AFTA. Two-way trade between Thailand-US stood at $21 billion and is projected to continue to grow in the future with substantial growth likely to come from the implementation of the FTA agreements. But the key stumbling block for Thailand and US on the negotiations is likely to be intellectual property rights (IPR).

In the 11th Asia-Pacific Economic Cooperation (APEC) Economic Leaders' meeting held in October 2003 Bangkok, Thailand declared that in order to promote trade and investment liberalization, it agrees that the Doha Development Agenda (DDA) offers the potential for real gains for all economies, particularly developing countries. To advance the DDA and the Bogor Goals of free and open trade and investment, Thailand agreed to instruct concerned Ministers to take concrete steps to make APEC's trade agenda more supportive of the work of the WTO and report on their progress in 2004, advance all pathfinder initiatives, including the APEC Sectoral Food MRA and Digital Economy Statement (for instance, to stop optical disk piracy and allow technology choice for business), and pursue anti-corruption and transparency measures.

As for GATS, Thailands views it as a framework to set guidelines for service business transactions amogst member countries so as to achieve transparency and progressive liberalisation. Since GATS has not specified the nature of services, the secretariat of WTO has prepared MTN.GNS/W120 to be used as a guideline to classify nature of service products into 12 sectors. They are 1) business services covering professional services such as a computer, research and advertising related, 2) communication services covering mails, parcels and telecommunication services, 3) construction and related engineering services, 4) distribution services including franchising services, 5) education services covering all nature of education (primary to adult and short-term education), 6) environmental services covering all kinds of pollution controls and treatments, 7) financial services covering insurances services, banking services, security services and all other types of financial services, 8) health related and social services covering hospital and healthcare, 9) tourism and travel related services covering hotel services, restaurant services, tour business services and guide services, 10) recreational, cultural and sporting services covering all kind of entertainment services, libraries and museums, 11) transport services covering all kind of transportation, i.e., marine, air and pipe, and 12) other services not included elsewhere such as beauty services, funeral services and the like (source: Department of Trade Negotiation, Ministry of Commerce, Thailand).

A study by Sumalee W., a lecturer from Ramkhamhaeng University regarding the readiness of Thailand on adjusting its policy to conform to GATS, reveals that the policy of GATS on the liberalization on trade in services is likely to impact negatively on

Thailand. Sumalee mentioned telecommunications services which require high cash investment and specialised professionals. She said that this could constitute a natural obstacle preventing small firms from competing in the business, giving opportunities for well-off companies to dominate and monopolise the sector. Worse yet, Thailand has not yet prepared itself to cope with the likely monopolistic situation.

III.3 THE MOVIE INDUSTRY

The Thai movie industry is moving toward long-term growth due to the fact that many Thai movies have become more widely accepted abroad. Among the most successful films of the year was Sud Pralad (Tropical Malady), directed by Apichatpong Weerasethakul, which won the Jury Prizes at the 57th Cannes Film Festival, the first Thai film to receive a global recognition.

Up until recently, Thai movie industry has drawn relatively less attention from government compared with other sectors, which had been supported with tax incentives and other kinds of supports. With the ambitious of the existing government (Thaksin government) to transform Thai local movie industry into a regional hub for movie production and post-production, its two newly established ministries – Tourism and Sport Ministry and Cultural Ministry are working together with representatives from the movie industry as well as relevant ministries to establish a central Motion Pictures Councils to oversee Thai movie industry and set a clearer direction for it.

The Councils' main tasks are to ensure sustainable growth for the industry, provide financial aid for producers, facilitate content exports and help deal with copyright violation problems. As well, the 74-year-old law governing the movie industry will be revised.

III.3.1 Structure of the movie industry

Formerly Thai movies have been made by local producers. However, a turning point is witnessed in 2004 when three film production houses – GMM Grammy Plc, Tai Entertainment Co, and Hub Ho Hin Bangkok Co, decided to form a joint venture, GMM Tai Hub Co (GTH), to produce 10 films a year.

Kantana Group Plc, the country's leading entertainment group, meanwhile, is preparing to list on the Stock Exchange of Thailand. Early in 2004, the company also announced its first big-budget animated film, Khan Kluay, in collaboration with the Information Communications Technology (ICT) ministry and some Hollywood talent, with a budget of more than 100 million Baht (US$2.43 million). The movie is scheduled to debut locally and in other markets in Asia in 2005.

Kantana is currently constructing its Movie Town to comprise of an outdoor sound stage, pre- and pos-production studios and Kantana University will offer courses such as movie production and broadcasting.

III.3.2 Revenue

The movie industry gets income from ticket sales and advertising. For ticket sale, the industry is expected to reach US$96.6 million in 2004, an 11-per-cent rise from US$88.7 million in 2003, despite negative economic factors as well as the early closing measure to save energy of the Thai government, which kicked off on September 9, 2004. In 2004, 244 films are scheduled for screening, up from 225 last year. About 50 are Thai movies- the same number as in 2003. Total ticket sales in the first three quarters have reached US$67.9 million, higher than US$65.3 million in 2003.

The average drop in ticket sales from the first week of showing to the second week is 56%. The first two weeks account for 85% of total ticket sales for particular movies on average. Apart from the ticket revenue, the movie industry derives incomes from the sale of tickets in theatres and advertising. A cost of one ticket ranks from US$2-13 up to seat design up to the theatre's location and seat design.

Table 12: Cinema ads from 1993-2004

Unit: US$

	Cinema Ad (US$)	Change	% Change
1993	491,517		
1994	473,223	- 18,294	-4%
1995	503,069	29,846	6%
1996	2,130,570	1,627,501	324%
1997	4,580,811	2,450,241	115%
1998	4,218,777	- 362,034	-8%
1999	5,208,289	989,512	23%
2000	5,859,352	651,063	13%
2001	9,985,596	4,126,244	70%
2002	13,375,592	3,389,996	34%
2003	21,652,972	8,277,380	62%
2004	31,464,475	9,811,503	45%

Source: Media Industry spending report

III.3.3 Legal/Regulatory Issues

Despite the enactment of the new copyright law, and despite sporadic efforts to enforce it, the motion picture piracy problem in Thailand is getting worse. Trade losses for 1995 are estimated at $29 million, up more than 10% from 1994.

The most serious video piracy problem in Thailand continues to be back-to-back copying of video product. Pirate vendors can be found in all of the major markets in Bangkok and video outlets keep supplies of pirated product. Thailand has a number of "night markets" which cater to both foreign tourists and Thais, where vendors openly sell pirated product. Although sales are now primarily from catalogs or photo spreads and pirate videos are not displayed openly, pirate product remains readily available. Prices are low (Baht 150-200, or US$6-8) and are getting lower. Disturbingly, Thai video pirates have begun to export their product to European countries, such as Switzerland, where there are large populations of Thai nationals, and to other Asian markets.

When the new copyright law first went into effect in March, 1995, some pirates began to package their product as counterfeits, hoping to pass off their wares as legitimate and seeking to hide the fact that the product was pirated. When it became clear that there would be little sustained enforcement of the law, pirates realized there was no need to hide the fact of piracy, and went back to their old product lines. Thus, the decline in the incidence of counterfeit videos is an indicator of weakness, not strength, in Thailand's enforcement efforts.

Public performance piracy remains a serious problem in Thailand. Many of the major hotels still use unauthorized product for in-house movie systems and the majority of the bars in the major cities use illegal product for public performances. In addition, recently a growing number of bars and restaurants have been adding private rooms to illegally screen MPA member company product. There have also been unauthorized transmissions of U.S. motion pictures on cable television systems outside Bangkok.

Compared to the aggressive enforcement programs the Thais initiated under U.S. pressure in 1993, the current level of enforcement activity is sluggish and sporadic. But on a more positive note, in 1995, the American Film Marketing Association (AFMA) succeeded in establishing a relationship with the Thai Department of Intellectual Property (DIP), under which the DIP is able to verify with AFMA's Rights Verification Service asserted licenses for distribution of foreign motion pictures in Thailand. This system is now operational, and, if backed up by tough enforcement, should help detect and prevent distribution of movies in Thailand under fraudulent licenses.

During the Uruguay Round tariff negotiations, Thailand undertook a bound commitment to reduce its film import duty by one Baht per meter for the next five years, dropping the tariff from 10 Baht to 5 Baht per meter by January 1999. By failing to implement the scheduled reductions in January 1995 and again in January 1996, Thailand is in direct violation of its GATT tariff obligations. This violation should be corrected immediately. (source: Excerpt from the IIPA Special 301 Recommendations, February 20, 1996)

III.3.4 Infrastructure

- ***Theaters***

Currently Thailand has approximately 300 cinema screens. Industry experts said the screens are expected to increase to between 700 and 800 over the next three years. The total market value will increase to 10 billion Baht from approximately 4 billion in 2004. Major Cineplex Group is the country's largest cinema operator. Currently it has 135 screens at 16 locations, with 34,200 seats. The group plans to spend about one billion baht to open 80 more new screens. Recently, Major has merged with EGV, another movie entrepreneur, and that will give the combined entity an estimated 70% share of the local cinema market. EGV, which will continue to operate under its own brand, has 99 screens at 11 locations, with 21,059 seats. Its total sales in 2004 are projected to reach 1.5 billion baht.

- ***Production proposal***

As a result of the government ambition to promote the movie industry, in June 2004, a good sign emerged. Thai Board of Investment (BOI) backed a movie production proposal worth US$200 million by RGM Holdings from Austria by offering tax incentives to produce 22 movies in Thailand over the next seven years. Most of them are financed by companies who make the films; none of them is by government.

III.4 THE TV INDUSTRY. TELEVISION AND SUBSCRIPTION

III.4.1 Background

In 1955, a government enterprise put Thailand's first TV station into operation in Bangkok. Thailand became the first country in Southeast Asia to begin regular TV transmissions. There are now six free television stations in Bangkok, namely Channels 3, 5, 7, 9, 11 and ITV. All of them are government-owned with their own affiliated stations in the provinces. However, the private sector is provided concessions by the Government to run Channels 3, 7 and ITV.

By 1980, TV had become the dominant news medium among urban Thai. Household television set ownership (about 3.3 million set in 1984) was as widespread as radio in all urban areas of the country. As of 1984, TV exceeded radio ownership in the Center and South and was about even with radio ownership in the North and North East. Nine out of ten Bangkok household had at least one TV set. Ownership of color TV was also widespread among urban Thai in the South (58%), Bangkok (54%), the North East (49%), the Centre (47%) and the North (43%).

The Public Relations Department handles the National Broadcasting Services of Thailand which operates TV Channel 11 with its broadcast programmes emphasizing education and public services. Channel 11 serves as the parent station of eight TV station networks in the provinces across the country.

In addition, there are 86 cable television companies operating throughout Thailand. Two major networks which operate on a 24--hits basis in Bangkok are UBC and Thaistar TV. They feature popular UBC-licensed programmes such as HBO, Discovery, MTV, CNN and CNBC. Television in Thailand is mostly commercialized and generally appeals to popular taste. Each free television channel produces its own programmes ranging from news to soap operas. Entertainment broadcasts may be Chinese, Japanese, British and American but usually with Thai soundtrack dubbed in. Foreign viewers can tune into the original soundtracks on FM radios.

III.4.2. Regulatory Organizations

(1) The Mass Communications Organization of Thailand (MCOT)

The MCOT operate mass media business both internally and externally of the Kingdom of Thailand. It is responsible for licensing free to air, MMDS and pay television. Currently the MCOT owns Channel 9, a free to air terrestrial service. Other roles of the MCOT include:

a) Regulate and monitor the Pay television business activities, e.g. pricing of programming bouquets, advertising on channels
b) Granting, renewal, termination of licenses known as BTO (Build Transfer Operate) concessions to allow operation of Pay television business
c) Other decisions, e.g. change in the interpretation of existing regulations by courts or regulators

(2) The Public Relations Department of Thailand (PRD)

The PRD is controlled by the Prime Minister's Offices. It has similar responsibilities to MCOT including responsible for licensing pay television. Currently the PRD owns Channel 11 - a center for disseminating news and information for the government of Thailand, national institutions and state enterprises. Its roles can be concluded as follows:

a) License fee structure differs from MCOT's but licenses normally run on annual cycles
b) Run the National Broadcasting Commission of Thailand (NBC)
c) Issued Thailand's first UHF license to Independent Television (ITV)
d) Promote the Democratic form of government with the King as the Head of State, and contribute to the maintenance of national security.
e) Present news about Thailand to the world to create a good image for the country
f) Assist other government agencies on public relations programs and provide non-formal education through radio and television broadcasting.
g) Operate national radio and television networks called "Radio Thailand" and "Television Thailand ". These two national networks are collectively called "National Broadcasting Services of Thailand" or "NBT".

(3) The National Broadcasting Commission of Thailand (NBC)

The NBC is responsible for monitoring terrestrial stations as well as the following:
a) Issue licenses for new commercial free to air and satellite stations.
b) Permit to operate radio and television broadcasting business both cable and/or non-cable.
c) Regulate and control according to technical license condition.

The formation of NBC is still in progress; currently, nobody has been appointed to work for NBC.

Table 13: Television Operators in Thailand

Station	Owners/Responsible Agency	Status
Channel 3	Mass Communication Organisation of Thailand	Operated by concessionaire
Channel 5	Royal Thai Army	Army managed commercial TV station
Channel 7	Royal Thai Army	Operated by concessionaire
Channel 9	Mass Communication Organisation of Thailand	Used to be state enterprise and become a public company listed in Stock Market of Thailand in November 2004
Channel 11	Public Relations Department	Non-commercial
ITV	ITV Public Company Limited	Operated by Concessionaire
UBC	United Broadcasting Corporation Plc.	Subscription TV

III.4.3 Quality of Contents of Thailand's free TV

Dr Somkiat Tangkitvanich of the Thailand Development Research Institute (TDRI), who recently released an in-depth study of Thai broadcast media revealed that while most of the free TV are airing more entertainment and have introduced some new technology, little has been done to improve program quality. He further said that the quality of the content on Thailand's free TV stations is heading downhill due to the absence of a broadcasting regulatory body (the long-delayed National Broadcasting Commission to go operational).

III.4.4 Interactive TV

As the number of broadband Internet subscribers is dramatically increasing rising from some 12,000 users in 2003 to an estimated 250,000 by the end of 2004, the interactive and on-demand services that content providers and telecom operators are introducing will drive the growth of the market.

Currently Shin, a stakeholder in CS Loxinfo and iPSTAR satellite services delivering high-speed Internet connections, recently introduced interactive TV via its IPTV Channel at http://www.ip-tv.tv.

III.4.5 ITV

Due to the lack of progress of the establishment of the National Broadcasting Commission (NBC), ITV, a legacy of the Black May struggle in Thailand in 1992 is said to be under the control of the existing government.

The failure of Thai government-controlled TV stations to report fairly on the street demonstrations and brutal suppression of May 1992 eventually led to the creation of a non-governmental broadcaster known as Independent TV, or ITV, in 1997.

For a period of time, ITV led other channels in adopting a more investigative style of news and current affairs. ITV hidden cameras, for instance, exposed corrupt traffic police activities. Its hard-hitting approach to political reporting has had substantial influence on the other channels.

But the station created specifically to withstand political interference fell apart financially. Quality news production notwithstanding, ITV bled heavily and fought for its life. To the rescue came Shin Corporation Plc, the telecommunications empire owned by Mr Thaksin's family members, which bought a controlling stake in ITV and became the major shareholder. (source: Bangkok Post)

III.4.6 Channel 11

Television of Thailand (TVT.CH.11) is a state run television network under the administration of the Public Relations Department, Prime Minister’s Office. It was established by the Cabinet approval on 15 January 1985 to be a national television with its main objectives of presenting programs on education, information and general knowledge, news and current affairs, government policies, art and culture plus entertainment to the public.

Although TVT.CH.11 was limited with the budget allocated by the government, there was a need for a fully equipped station so that broadcasting function could be successfully performed and the channel could cover most area of the country. The construction and the installation of equipment took nine months to complete (13 July 1987 – 28 March 1988). The experimental broadcast commenced on 1 May 1998 with programs of morning news, evening news, and documentaries. Programs had reached viewers all over the country though the nationwide network TV stations.

III.4.7 UBC: The major subscription TV player in Thailand

On April 17, 1989, Mass Communication Organisation of Thailand (“MCOT”) and UBC (formerly International Broadcasting Corporation Public Company Limited or IBC) entered into a joint venture agreement for the provision of subscription television service that was subsequently amended on May 19, 1994 and April 17, 1998, or the UBC Concession. Under the UBC Concession, UBC is permitted to operate subscription television on behalf of MCOT until September 30, 2014.

UBC launched South East Asia’s first subscriber-based television network in Bangkok in October 1989 using a MMDS transmission platform. UBC was listed on the Stock Exchange of Thailand on February 3, 1994 with a registered share capital of Baht 180 million. UBC began serving viewers in major cities in all areas of Thailand in 1994 by transmitting programs using Thaicom 1 satellite. The satellite was used to relay signals to

MMDS transmitters in the provinces. In 1995, UBC launched its DSTV service using Ku-band transmission and MPEGII video compression.

Up to October 1996 the MMDS service was offered on an un-encrypted basis, with attempts to control unauthorized access to the service by trying to control the distribution of MMDS reception equipment. Late in 1997 it became apparent that despite full encryption of MMDS in October 1996, pirate decoders UBC being imported in significant quantities and MMDS piracy escalated. This is why UBC proceeded with the shut down in March 1999 of the analogue MMDS service.

On October 15, 2003 UBC launched a digital cable product into the market. Subscribers making use of digital cable decoders to receive their services will receive exactly the same services, features and functions as a digital satellite subscriber.

- ***Subscription Rates***

Subscription rates in Thailand remain comparatively low when compared to other markets in the region. One of the key reasons for this has been the unruly competitive techniques employed resulting in sales being price rather than product focused and also resulting in the quality programming being split across 2 companies. As Thailand recovers from the impacts of the recession and consumer confidence returns UBC Group believes it will be poised to envisage consumer discretionary spending to be directed towards its products and services.

- ***Market Entry Considerations***

In order to provide high quality of services, a pay television TV platform requires significant investment in infrastructure e.g. transmission platforms, encryption technology, decoder hardware, programming, marketing, customer care hardware and systems. UBC has made these investments and can afford the opportunity to creators of quality content to utilize this platform for transmission of services if the relationship is mutually beneficial. Thai pay television market size is possibly not large enough to sustain multiple operators. This has been the case in most smaller international markets. This phenomenon is directly related to critical mass of subscribers discussed above.

- ***Direct Competition***

Presently, UBC is the only nationwide provider of pay television services in Thailand. However, its position as the principal provider of pay television services is not secured by a regulatory dispensation and UBC will continue to face threats of new entrants. For example, World Star Television has announced plans to launch a three-channel, MMDS service in Thailand. Another pay television service previously operated by Thai Sky discontinued operations in 1997. The Mass Communications Organization of Thailand (MCOT) granted pay television licenses to two other companies in 1996, but those companies have not launched, or announced an intention to launch, pay television services. The Public Relations Department of Thailand (PRD) grants annual operating licenses, and has licensed several regional cable pay television operators of which 78 are presently operating.

- ***Indirect Competition***

UBC view itself as a provider of entertainment services. UBC therefore face competition from many entertainment alternatives such as cinemas, video, music and other options. In addition, UBC compete indirectly with the national free-to-air television stations in Thailand. UBC believe that its unique programming, including popular first-run movies and sporting events, gives it a distinct advantage over its free-to-air television competitors. The national free-to-air television stations are uplinked to the same satellite used by its service and consequently form part of the bouquet available to its subscribers.

- ***Market Potential***

The following analysis provides a picture of pay television market potential in Thailand. It details UBC strengths and weakness of UBC target customer group.

- ***UBC Strengths and Weakness***

➢ **Strong Programming**

Further, the programming offered is among the strongest available in the region and is offered at an extremely competitive price. When compared to possible alternatives such as video rental, cinema attendance etc. the UBC product compares extremely favorably in terms of value for money offering 37+ channels for as little as Baht 47 per day **(US$1.14)**

➢ **Strong Representation**

Strong representation by accredited agents who support sales, service and collection efforts of the group are also considered an important element of UBC Groups' success.

➢ **High Quality After Sales Service**

UBC provide customer service through customer care and billing centers in fits cities, including Bangkok. These centers use the Mindport IBS subscriber management system, or IBS, supplied by Irdeto B.V., a subsidiary of MIH Limited. IBS provides advanced billing capabilities and allows customer-specific information to be accessed and acted upon quickly by its customer service representatives. UBC's call center customer service representatives utilize the IBS system to route customers to Thai, English or Japanese-speaking representatives, who then handle queries ranging from technical and service support to programming information.

III.4.8 The Market from Price Driven to Value Driven

A further challenge will be to transform the Thai market from purely a price-driven market to a value-driven market. Pre-merger, uncontrolled competition resulted in consumers being conditioned purely on price rather than the comparative value brought into the home. This value flows from the merger and is one of many advantages derived, as the group focuses on defining and identifying the value UBC brings into the home.

There are many factors involving buying decision of pay television services. The most important include interest, product awareness and income level, as well as lifestyle. Total household income exceeding Baht 20,000 per month is the core focus for UBC's future growth. It is important to note that UBC's focus is on household rather than individual incomes, as the service appeals to the household as a whole, given the extensive variety and depth of programming.

Table 14: TV ad revenues

Unit: US$

	TV Ad (US$)	Change	% Change
1993	321,906,935		
1994	401,261,333	79,354,398	25%
1995	447,306,379	46,045,046	11%
1996	496,408,119	49,101,740	11%
1997	591,900,048	95,491,929	19%
1998	613,814,040	21,913,992	4%
1999	650,547,027	36,732,987	6%
2000	780,526,582	129,979,555	20%
2001	824,478,298	43,951,716	6%
2002	1,005,258,965	180,780,667	22%
2003	1,159,450,362	154,191,397	15%
2004	1,139,971,000	- 19,479,362	-2%

III.5 THE MUSIC INDUSTRY

III.5.1 Introduction

Music industry in Thailand is run by two major companies: GMM Grammy and RS Promotion, both local Thai companies. GMM Grammy's business line includes music recording, artist management and TV-program production. Recently it decided to shift its overseas headquarters from Taiwan to Hong Kong - a move the company hopes will provide it with a gateway to the lucrative Chinese market. One of the reasons to move to Hong Kong is the high number of pirated goods in Taiwan where young people are prone to download music illegally.

Similar to GMM Grammy, RS Promotion wants to explore more business line and that also cover movie business. However, as of 2004, RS Promotion announced that it plan to take the focus off its movie business, after recording a loss of Bt137 million (US$3.33) in the first half of the year. The company's total revenues for the first half of 2004 were recorded at Bt1.04 billion(US$25.3 million). For 2005, the company plans to turn a significant proportion of its investments and resources towards other media businesses. That would include television programmes and operating radio stations. The company hopes to gain more time slots on local free-TV channels, while its radio business is expected to garner significant returns next year.

RS Promotion and ModerNine Television (Channel 9) has recently announced an alliance, allowing RS Promotion to manage the weekend time slots after the evening news. Under the venture, which is based on a revenue-sharing agreement, RS Promotion will supply soap operas to the channel.

III.5.2 Legal Issues

Over the years, enforcement efforts have succeeded in dramatically reducing the levels of audio piracy of international repertoire from 90 % to about 7 to 10 % for audiocassettes and 10-15% for compact discs. U.S. trade losses due to piracy have also declined, to an estimated $5 million in 1995. The Recording Industry Association of America (RIAA) wishes to acknowledge the extraordinary efforts undertaken by the Thai government, while joining with other copyright industries in pressing for further improvements. (source: Excerpt from the IIPA Special 301 Recommendations, February 20, 1996)

III.6 RADIO

III.6.1 Introduction

Thailand has 524 local and national radio stations, 211 of them are on AM while the rest are on FM. The biggest operators are the Public Relations Department (PRD) with 147 radio stations, followed by the Royal Thai Army with 127 stations and the Mass Communication Organization of Thailand with 62 stations. AM radio tends to appeal to popular taste, especially with rural listeners, while FM radio offers more popular music, as jazz and classical music, English-language newscasts, and original soundtracks of certain foreign films shown on local television.

AM songs of popular taste generally include Thai local songs. Most of the songs are about Thai rural life, and may include instruments; they are popular among rural people. Popular FM music consists of Thai songs whose style and tone of music are like Western pop, the lyrics are about urban life, and the musicians generally have urban looks.

Public service programs are broadcast by the National Broadcasting Services of Thailand (NBT). The NBT provides news two times a day: 07:00-07:30 and 18:00-18:30 hrs. The programmes are about activities of the royal families, government news, weather forecast and the like.

All radio stations with the exception of a small number of specialist stations such as those dedicated to traffic reports, hook up with Radio Thailand, the national radio under the Public Relations Department, for official newscasts which are transmitted daily at 07.00 and 19.00 hrs. Outside these hits, all radio stations enjoy the freedom to produce their own news programs for independent broadcasting.

Table 15: Broadcast penetration in Thailand

			Unit: '000 households
	2003 TV Viewers & Radio Listeners		
	No.of Household	%	% of Total Households in Thailand (16,877.2 households)
Bangkok	2,071.6	12.6%	12.3%
Central of Thailand	3,742.5	22.7%	22.2%
North of Thailand	3,187.6	19.4%	18.9%
North East of Thailand	5,299.3	32.2%	31.4%
South of Thailand	2,169.0	13.2%	12.9%
Total	16,470.0	100.0%	97.6%

Source: National Statistic of Thailand

III.6.2 The National Broadcasting Services of Thailand (NBT)

The National Broadcasting Services of Thailand (NBT), operating under the supervision of the Public Relations Department, has served as an official channel of communication between the Government and the public. News and information on government policies and administration are disseminated by means of the NBT's television and AM/FM radio stations which are located in every region of Thailand.

Everyday, NBT's official half-an-hits radio newscast in transmitted mandatorily on all stations nationwide at 07.00 a.m. and 19.00 p.m. Apart from newscasts, the other broadcast programmes are designed to impart information, general education and entertainment, as well as provide vocational guidelines to the public. In addition to the domestic service, the NBT operates and external service, offering overseas listeners news, current affairs and entertainment programmes.

The NBT began its external service in 1938 in only French and English. Radio Thailand's world service now broadcasts in 12 languages, namely English, French, German, Lao, Mandarin, Vietnamese, Khmer, Malay, Indonesian, Japanese, Burmese and Thai for a total transmission time of 10-15 minutes a day. Radio Thailand broadcasts on short-wave 9.665 and 11.905 megahertz on the 25 and 31 metre bands. The broadcasts are transmitted from Bang Phun, Pathum Thani Province in central Thailand, and relayed over transmitters in Bang Dung, Udon Thani Province in northeastern Thailand, on frequencies shared with the Voice of America. Radio Thailand offers English language programmes 4.15 hours a day. Its newscasts can be heard locally on FM 95.5 and FM 105 Mhz at 07.00, 12.30 and 19.00 hits.

Table 16: Top ten radio operators

Operator	AM stations	FM stations	Total
1. The Public Relations Department	60	87	147
2. Royal Thai Army	78	49	127
3. Mass Communication Organisation of Thailand	2	60	62
4. Police Department	7	37	44
5. Royal Thai Air Force	18	18	36
6. Royal Thai Navy	7	14	21

7. Ministry of University Affairs	5	7	12
8. Post and Telegraph Department	6	6	12
9. Meteorological Department	1	5	6
10. Fisheries Department	1	3	4
11. Office of the Permanent Secretary, Ministry of Defense	2	1	3
12. Ministry of Education	1	2	3

Table 17: Radio ad revenues

	Radio Ads (US$)	Difference from the previous year US$	%
1993	39,425		
1994	55,918	16,494	41.8%
1995	74,294	18,376	32.9%
1996	77,438	3,144	4.2%
1997	89,519	12,081	15.6%
1998	88,313	- 1,206	-1.3%
1999	93,500	5,187	5.9%
2000	122,008	28,508	30.5%
2001	120,945	- 1,063	-0.9%
2002	133,246	12,301	10.2%
2003	173,822	40,575	30.5%
2004	175,935	2,113	1.2%

IV. THE PHILIPPINES

The audiovisual media landscape in the Philippines consists of contrasts. The incomes of the movie companies are measly compared with those of the television networks; this has led the movie producers to further limit their film outputs. Despite this slump, the Philippine movie industry ranks Number 9 in Feature Film Production, according to Newsweek (December 2003: the top 10 countries and the number of films they produce each year are: India – 1,200, United States – 543, Japan – 293, France – 200, Spain – 137, Italy – 130, Germany – 116, China – 100, Philippines – 96, and Hong Kong – 92.

IV.1 POLICY ENVIRONMENT

The most significant development in the communication sector after the EDSA Revolution was the adoption of the 1987 Constitution. In the constitution, "mass media assume primary importance, mass media being among the major means by which the flow of information between government and governed may be realized" (Teodoro & Kabatay, 1998).

According to the flagship provision is Section 24, Article II: "The state recognizes the vital role of communication and information in nation-building." The 1987 Constitution retained the provision on 100 percent ownership of mass media by Filipinos but allowed foreign equity in advertising entities through its 70:30 provision.

There are laws that apply specifically to the audiovisual media. One of these is Presidential Decree (PD) Number 1986. The PD created the Movie and Television Review and Classification Board (MTRCB) on 05 October 1985. As mandated, the Board's task is to safeguard the moral values and character of people without negating the services that motion picture and television render to the community.

Meanwhile, PD 1987 created the Videogram Regulatory Board (VRB) on 05 October 1985. The rationale was that the unregulated showing of obscene videogram features constituted a clear and present danger to the moral and spiritual well-being of the youth. These features also impaired the mandate of the constitution to support the rearing of the youth for civil efficiency and development of moral character.

On 10 February 2004, RA No. 9239 or the Optical Media Act was passed. It changed the VRB into the Optical Media Board (OMB), and declared that the policy of the State was to ensure the protection and promotion of intellectual property rights. RA 9171 is known as the Muslim Radio Act. Issued on 22 July 2002, it granted the Muslim Development Multipurpose Cooperative a franchise to construct, install, establish, operate, and maintain radio broadcasting stations in the Philippines.

IV.1.1 MTPDP: Mobilizing Knowledge for Development

The Medium-Term Philippine Development Plan (MTPDP), 2005-2010, has several themes. The strategies of the Plan relevant to media, such as audiovisual media, include capacity building, development of a network of digital infrastructure to interconnect the entire country, and an enabling legal and regulatory environment that would promote knowledge creating and sharing, innovation, investment, and entrepreneurship.

IV.1.2 Regulatory Agencies

(1) Department of Transportation and Communication (DOTC)

The DOTC is mandated to develop, promote, implement, or cause to implement and maintain integrated and strategic transportation and communication systems that will ensure safe, reliable, responsive, and viable services to enhance the socio-political integration and to help accelerate the economic development of the country.Its mandate is ti develop an integrated plan for a nationwide transmission system in accordance with national and international telecommunications services requirements including, among others, radio and television broadcast relaying, leased channel services, and data transmission.

(2) Department of Science and Technology (DOST)

The DOST is mandated to provide, formulate, and adopt a comprehensive National Science and Technology Plan, and monitor and coordinate its funding and implementation.

(3) National Telecommunications Communication (NTC)

It is the sole body that exercises jurisdiction over the supervision, adjudication, and control over all telecommunications services throughout the country. It remains under the administrative supervision of the DOTC. However, on its quasi-judicial functions, NTC's decisions are appealable only and directly to the Supreme Court.

(4) Optical Media Board (OMB)

Its powers and functions are to evaluate the qualifications of any individual, establishment, or other entity to engage in the mastering, manufacture, or replication of optical media. act as complainant in the criminal prosecution of violators of this Act.

(5) Movie and Television Review and Classification Board (MTRCB)

One of the powers of the Board is to approve or disapprove, delete objectionable portions from and/or prohibit the importation, exportation, production, copying, distribution, sale, lease exhibition and/or television broadcast of the motion pictures, television programs, and publicity materials. The Board applies contemporary Filipino cultural values as standard to what are objectionable for being immoral, indecent, contrary to law and/or good customs, injurious to the prestige of the Philippines or its people, or with a dangerous tendency to encourage the commission of violence or of a wrong crime.

(6) National Computer Center (NCC)

The NCC is mandated to formulate policies, policy guidelines, and standards for the development, direction, and control of computer technology as a national resource, as well as to develop, disseminate, and interpret the policies and guidelines on ICT applications, procurement, and programs.

IV.1.3 Industry Organizations : Watchdogs and stakeholders

(1) Kapisanan ng mga Brodkaster ng Pilipinas (KBP) was established in April 1973 as a private association of broadcast operators; it has developed industry codes for the broadcast industry. It has a Radio Code for radio stations and a Television Code for television stations.

(2) The Association of Accredited Advertising Agencies (4 A's) was set up in 1977 and has been a moving force in the setting up of the Advertising Board of the Philippines and the development of the Advertising Code.

(3) The Advertising Board of the Philippines (AdBoard) adopted in 1975 a Code of Ethics, and Rules and Regulations of Advertising and Sales Promotion.

(4) The Philippine Association of the Record Industry (PARI) was set up in 1976 to protect its members from record privacy and to improve local talents by producing more local music.

IV.2 AUDIOVISUAL MEDIA: OWNERSHIP AND USE

This section presents five audiovisual media in the Philippines: cinema, Internet, television, radio, and music.

IV.2.1 Cinema: Struggling but Surviving

The early Filipino film audiences probably saw films of "a laborer felling a wall, workers leaving a factory, a baby eating breakfast in the garden" (Knight, 1957). Not until 1908 did Filipinos see a complete feature film (Leonardia, 1988, p. 238).

In a country which delights in entertainment, the motion picture soon overshadowed the **zarzuela**, the popular theater form of the 1930s. By 1939, the Philippine movie industry was fifth in the world in number of talkies produced (Leonardia, 1988, p. 239).

During World War II, the Japanese found that the films were American-oriented. So, the Japanese revived the **zarzuela** and discouraged film production. After the war, "the first company to resume operations was Sampaguita, which formally opened in June 1945. LVN released the first popular picture in 1945 – Orasang Ginto (Lent, 1964, p.115).

Today, there is 39% cinema attendance in Metro Manila; and 27% for urban Philippines (4A's, 2004). The industry also struggles against piracy. While an original VCD or DVD of a new movie costs from 350 to 400 pesos (US$6.23 to US$7.19), a pirated copy usually costs 35 pesos (US$0.63) only. To compete, movie houses, especially in Metro Manila, have installed new and improved equipment and facilities. Likewise, "movie schedules can now be accessed on the net and on mobile phones. Moviegoers can also reserve cinema seats through Sureseats.com" (Abrera, 2004).

"By the 1990s, it was clear that three major companies were dominating the industry – Regal, Viva, and Seiko. From 1990 to 1995, statistics show, the average number of active production companies went down to an average of 38 per year from an average of 68 active companies in the preceding decade. Moreover, from a high of 134 movies in 1990, the output of the industry slumped into 111 movies in 1994. The industry, however, rebounded to 129 movies in the following year" (del Mundo, 2000, p.116). The decline can be attributed to high taxes, censorship, competition from the United States and Hong Kong, television, video and even lottery.

The industry continues to be in a slump up to the present. According to Internet Movie Database, of the 344 films shown in the Philippines in 2003, only 55 were produced locally. Thus, the market share of the Philippine movie industry in its own country is about 15% only. There has been little effort by the government to help the industry. One tangible action was done by the Marcos government more than two decades ago. It set up a Film Ratings Board (FRB). Lately, this was transformed into the Cinema Evaluation Board (CEB).

The local and foreign films are shown in 936 cinema houses with a total seating capacity of 539, 777.

IV.2.2 Internet

In the Philippines, total Internet population is 1.5 million. This total is sub-divided into: Metro Manila – 0.75 million, Mindanao – 0.41 million, Visayas – 0.2 million, and the rest of Luzon – 0.15 million. The Internet may partially displace print as an information medium. An ARD Nationwide Readership Survey showed reactions like: "I download news from the Internet "and "For the local newspapers, I just read them in the Internet."

IV.2.3 Television: Steadily Increasing in Popularity

The first television station was DZAQ-TV3 in Manila. It started its operations in 1953. "It catered primarily to high income groups. Access was limited by cost (a set cost US $ 600). This was due to high import duties. It was not until 1960 that locally assembled sets were made available. By that time, there were already four television stations in the country. The first provincial television stations were established in 1968 in Cebu, Bacolod, and Dagupan.

Canned programs from the United States were cheaper than producing local live shows which were perceived as inferior in quality. In 1960, only 10% of the television programs were local productions. Today there are seven VHF national channels and seven UHF channels as well. The leaders are ABS-CBN and GMA-7 (VHF) and ST 23 (UHF). TV ownership is 88% in the whole country. However, ownership is nearing saturation levels in Metro Manila (95%), Region 4 (93%), and Region 3 (90%). Most households (76%) in the country still own only one television set. Only 19% have two sets; and five percent, three sets. In terms of content, only three out of the 25 programs are foreign shows.

Table 18. Viewing "Shape of the Day," Mega Manila, top 3 channels, January-September 2003.

TIME	TOTAL HOUSEHOLDS	CHANNEL RATINGS (%)		
		Channel 2	Channel 7	Channel 13
12:00-2:00 p.m.	44.7	15.1	19.2	0.5
2:00-6:00 p.m.	36.3	15.0	12.8	0.9
6:00-10:30 p.m.	57.6	25.7	17.6	2.9
10:30 p.m. +	34.8	12.5	11.9	1.1
All day	29.1	11.6	9.8	0.9

Table 19. Top 25 (all local) programs, October 2004.

RANK	PROGRAM	CHANNEL	RATING (%)
1	Mulawin	GMA	29.8
2	Extra Challenge (M – F)	GMA	29.4
3	Extra Challenge (Sat.)	GMA	26.7
4	Bitoy's Funniest Videos	GMA	26.4
5	24 Oras	GMA	25.6
6	Starstruck	GMA	25.5
7	Imbestigador	GMA	24.5
8	Slamdunk Returns	GMA	23.6
9	Marina	ABS – CBN	23.1
10	Marinara	GMA	22.9
11	Naks	GMA	22.7
12	Krystala	ABS – CBN	22.1
13	Hunter X Hunter	GMA	22.1
14	Forever In My Heart	GMA	21.3
15	All Star K	GMA	20.6
16	Hiram	ABS – CBN	20.4
17	Mel and Joey	GMA	20.3
18	It Might Be You	ABS – CBN	20.0
19	Undercover	ABS – CBN	20.0
20	Magpakailanman	GMA	19.8

21	Rune Soldier	GMA	19.5
22	Pinoy Pop Superstar	GMA	19.4
23	Eat Bulaga (Sat.)	GMA	19.4
24	Daddy Di Do Du	GMA	19.0
25	Eat Bulaga (M – F)	GMA	18.7

Source: Nielsen Media Philippines

Cable ownership is steadily increasing. In the Philippines, cable ownership is 20 percent. Ownership is highest in Metro Manila (31%), and Region 1 (29%).It is lowest in Region 11 (8%) and Region 4 (12%). "Cable television evolved from the Community Antenna Television (CATV)… The first CATV in the country, and in Asia, was established in 1969 in Baguio City" (PIA, 2000, p. B – 13).

Table 10 shows the television satellite transmissions received by the cable stations. The data show that most of the transmissions come from the US, 11 out of 31 sources. Eight sources are Asian countries.

Table 20. TV satellite transmission received.

COUNTRY	**SOURCE**	**LANGUAGE**	**HOURS PER MONTH**	**% SHARE OF TOTAL PROGRAMMING**
USA	CNN	English	480	6
USA	ESPN	English	480	6
USA	HBO	English	480	6
USA	Cinemax	English	480	6
USA	Discovery	English	480	6
USA	Disney Channel	English	480	6
USA	Hallmark	English	480	6
USA	National Geographic	English	480	6
USA	Cartoon Network	English	480	6
USA	Fox News	English	480	6
USA	Entertainment Channel	English	480	6
UK	BBC	English	480	6
France	Monde	French	240	3
Australia	ABC	English	240	3
Australia	AXN	English	240	3
Singapore	MTV	English	240	3
Singapore	ABN	English	240	3
Japan	NHK	Niponggo/English	240	3
China	CCTV 4	Chinese	240	3
Hong Kong	Channel V	Chinese/English	480	6

Hong Kong	Star Sports	English	480	6
Hong Kong	Star World	English	480	6
Hong Kong	Star Movies	English	480	6
Taiwan		Chinese	240	3
Indonesia	RCTI	Bahasa Indonesia	480	6
India	Sahara	Bengali	240	3
Korea	CN TV	Korean	240	3
Korea	Arirang	Korean/English	240	3
Italy	RAI	Italian	240	3
Germany	DW	German	240	3
Spain		Spanish	240	3

Souce: Community Cable TV Programming, 2002 cited by Flor and Flor, 2003.

IV.2.4 Radio: Mobile Medium

Broadcasting was introduced in 1922 when three radio stations were established by an American national. When World War II broke out in 1941, there were only four radio stations in the country. The first radio stations were either owned by department stores or were part of a newspaper-radio chain. In 1929, KZRC, the first provincial radio station was established in Cebu City. However, it merely relayed programs originally aired by KZRM in Manila.

According to the PIA Media Factbook (PIA, 2000), the Philippines has 599 radio stations in 2000. This was subdivided into 270 AM stations and 329 stations (Table 11). The 4A's Media Factbook also shows that there are 644 commercial radio stations. Thus, about 90% of the stations in the country are commercial ones. There are 5.8 million households in the country that own radios. The people in these households make up 82% of the population in the country. Out of the total, 2.1 million households can be found in Metro Manila.

Table 21. Number of radio stations by region, 2004.

REGION	**TYPE OF STATION**		**TOTAL**
	AM	**FM**	
NCR	25	25	50
1	38	41	79
2	14	19	33
3	9	10	19
4	20	39	59
5	26	36	62
6	29	44	73
7	23	38	61
8	14	17	31
9	18	26	44
10	27	38	65

11	35	55	90
12	11	18	29
TOTAL	289	406	695

Source: 4 A's Media Factbook, 2004

IV.2.5 Music: World Class Quality

"Although geographically, the Philippines belongs to the East, its music has been heavily influenced by the West owing to 333 years of Spanish rule and 45 years of American domination. Music in the highland and lowland hamlets, where indigenous culture continues to thrive, has strong Asian elements. Spanish and American influences are highly evident in the music of the urban areas… Three main divisions are apparent: (1) an old Asian-influenced music referred to as the indigenous; (2) a religious and secular music influenced by Spanish and other European forms; and (3) an American/European-inspired classical, semi-classical, and popular music" (Dioquino, 1998, p. 1).

The Philippine recording industry marks its 91st year in 2004. The industry started in 1913 when Major William Anderson started to record Filipino talents at a makeshift studio. The studio was found at the second floor of Manila Hotel. In the 1920s, kundiman (love songs) and jazz were the favorite materials for recording. In the 1930s to 1940s, songs from the movies became the more popular repertoire for recording. In the late 1940s to the early 1950s, danceable tunes like rhumba and chacha performed by orchestras and combos were in vogue.

The major international recording companies today are: BMG Records; MCA Universal, Inc.; EMI Philippines, Inc.; Sony Music Entertainment (Phils.), Inc; and Warner Music Philippines, Inc. The independent recording companies are Alpha Music Corporation, Dyna Music Products, Ivory Records, Star Recording, Inc., Universal Records, Vicor Music Corporation, Viva Records, and GMA Records.

The Filipino composers are prolific and talented. Many of them have won in foreign competitions. In 1989 and in 1990, for instance, the grand prize winners in the Asian Children Song Festival were Filipinos. The Filipino composers have also won in the Seoul Songfest, Asia Song Festival, Shanghai Music Festival, and Asean Songfest, among others.

According to Ayson (2003), mobile data services may save the music industry. Ringtones are downloaded at 15 pesos (US$0.27) each. The revenue is divided between the telco (it gets the lion's share), the content packaging company, and the music publishing company. The latter collects the royalties on behalf of the songwriter. As the number of mobile phones in the Philippines nears 20 million, about 25% of the population, the revenues are sure to increase.

IV.2.6 Advertising: Media Options and Expenses

According to AdBoard (2004), the estimated expenses for advertising rose from 7,649 million pesos (US$137.47 million) in 1993 to 31,300 million pesos (US$562.54 million) in 2002. In 2002, the expenses were divided into 59% – television, 16% – radio, 19% – print, and 6% – others. Thus, the biggest change in percentage was in the print media: from 25% in 1993 to 19% in 2002. The print media include 105 newspapers (15 national, 5 Chinese, and 85 provincial) and 104 magazines (75 general interest, 25 comics, and 4 vernacular).

Nielsen Media Research Monitoring reports the top spenders in 2001: hair shampoos, rinses, and treatment products; communications/telecommunications; and detergents and laundry preparations (Table 16). The top two spenders in 2002 were the same as those in 2001. However, in third rank was government agencies and public utilities. Meanwhile, the data for the first six months of 2003 show that communications/telecommunication reached Rank 1. One probable reason for this can be the fact that mobile phones are now the latest craze in the country. For instance, with 210 million messages daily nationwide sent by about 15 million subscribers, the Philippines is rightly known as the text capital of the world.

IV.3 TRADE AND INDUSTRY: THREE-PRONGED DIRECTION

The audiovisual media industry in the country is affected by the trade and industry direction of the country. Under the Arroyo Administration, the Department of Trade and Industry (DTI) has a three-pronged direction: diversifying products and markets and increasing aid to investors; intensifying and coordinating aid to Small and Medium Enterprises (SMEs); and capacity development.

IV.3.1 External Focus: Changing Product and Market Mixes

The export mix has dramatically changed with the dominance of non-traditional manufactured products over the last decade (Purisima, 2004, p.606).

Filipinos speak good English, the country is well connected to major cities of Asia, and local companies are boosting electronics production under the ASEAN Priority Integration Program (PIP). The Philippines is also pushing information technology – enabled services; there are an estimated 40,000 seats of contact/call centers, as well as numerous hubs for cartoon animation and software development.

IV.3.2 Pressing Issues: Piracy, Protectionism, and Morality

The International Intellectual Property Alliance (IIPA), in its Special 301 Report, estimated that losses due to copyright violations of motion pictures in 2002 amounted to $30 million. This amount meant an increase of seven percent over the $28 million total in 2001.

For both years, the level of piracy was 80%. This means that four out of five film discs sold in the Philippines in these years were pirated copies. In 2001, losses in the music industry amounted to $23 million. This amount is 13% higher than the $20 million losses in 2002. But, piracy level increased from 36% in 2001 to 40% in 2002.

Table 17 shows the trade losses due to piracy. The numbers are estimated based on displaced sales. They do not include tax losses and the potential revenue of legitimate distributors.

In an interview by The Manila Times, Richard O'Neill, Director of the Motion Picture Association International (MPAI), said that the local film industry is collapsing. He blamed this collapse on the influx of pirated materials. He added that the slowdown has led to foregone tax revenues of 1.7 billion pesos (US$30.5 million). It has affected about 110,000 jobs.

Table 22. Trade losses due to piracy (in million US dollars).

COPYRIGHT INDUSTRIES	**YEARS**					
	1996	**1997**	**1998**	**1999**	**2000**	**2001**
Motion pictures	22.0	18.0	18.0	18.0	25.0	28.0
Music/Sound recordings	3.0	4.0	3.0	2.0	1.4	23.9
Business software	58.7	36.0	25.4	26.7	21.8	24.2
Entertainment software	26.0	21.3	24.7	23.8	41.0	-
Books	70.0	50.0	39.0	44.0	44.0	44.0
TOTAL	177.7	129.3	110.1	114.5	133.2	120.1

Source: IIPA

Meanwhile, the Executive Director of the Association of Video Distribution of the Philippines said that the government would lose 400 million pesos in tax revenues if the video industry would collapse. The industry includes the neighborhood video rental business. He added that the film distribution industry stands to lose over a billion pesos (US$17.9 million)

Piracy also affects the software industry. For instance, in the October raid by the OMB, one of the establishments raided was selling pirated copies of "Anito: Defend a Land Enraged." This is the first interactive game software produced and developed by a Filipino-owned company, Anino Entertainment. The programmers of the company spent two years developing the game. The game won the Innovation in Audio Award in this year's Independent Games Festival in San Francisco, California. An article by Dennis Ladaw (2004) said that the game is now getting rave reviews from game websites. It is selling well in several European countries.

A Global Piracy Study by the Business Software Alliance said that the software piracy rate in the Philippines currently stands at 72% with losses to the industry amounting to more than three billion pesos (Pinaroc, 2004, p. B9).

Meanwhile, in the same report, Carmen Peralta stressed that IPR violations in the Philippines have largely been confined to trademark infringement and copyright or piracy. This involves mostly the sale of CD, VCD, DVD, and other optical media.

In 30 October 2002, the IIPA released its findings on the Philippines. It listed four complaints:

- Intellectual piracy in the Philippines has exploded due to:
  - the entry of criminal syndicates that established production facilities of pirated optical discs for the local and export markets;
  - the smuggling in of pirated software, audiovisual materials, sound recordings, and books; and
  - continuing end-user piracy because of weak border controls.

- The Philippines has failed to pass an optical disc law. The law should ensure licensing and control over optical media production, including controls of production, equipment, and raw materials.

- The country has failed to amend the Intellectual Property Code. It should include measures against on-line piracy in the Code.

- The judicial system needs reform, so that it can be more effective in dealing with IPR cases.

The IIPA also stressed that Philippine exports, amounting to about $700 million, enjoy Generalized Systems of Preferences (GSP) privileges in the US market. Goods with GSP preferences enjoy privileges including lower or free tariffs in the US. The IIPA urged the US Trade Representative (USTR) to reconsider the trade benefit for the Philippines.

If the USTR decides negatively, the country's exports will suffer. Likewise, the decision can create the reputation of the Philippines as an importer and exporter of counterfeit products. This could turn off investors in knowledge-intensive industries.

But the new legal framework for IPR protection is in place. The Optical Media Act has been approved. Industry groups are also doing their part to help stop piracy. For instance, Tarun Sawney, Business Software Alliance (BSA) Asia Director, said that the BSA will start an anti-Internet piracy campaign in the Philippines.

On the other hand, on 26 August 2004, the Bureau of Immigration's Director Alipio Fernandez, Jr. signed an agreement with the Film Academy of the Philippines (FAP) which will not give work permits to a foreign film company or actor unless there is a favorable endorsement from the FAP. Cities like New York and San Francisco have fully staffed offices that sell the cities to movie directors and scriptwriters. But in the Philippines, the BI places obstacles in the path of foreign filmmakers.

Meanwhile, the management of Shoemart (SM) has decided to ban R-rated or R-18 movies in its cinema houses. SM is one of the largest, if not the largest, networks of movie houses in the country. The movie houses are in the SM megamalls in Metro

Manila and in most of the cities in the country. Senator Ramon Revilla, Jr. said that the sweeping ban could end the life of the country's dying film industry.

IV.3.3 Liberalization Commitments

According to a Department of Trade report, the impact of the Philippines' membership to the WTO has been assessed as positive in economic terms. It states:

> "The membership of the Philippines in the World Trade Organization (WTO) can be stated to have qualitatively contributed to overall economic reforms, which in turn have had consequential profound effects on Philippine trade and industrial structure and performance. On balance, the impact of the WTO treaty on the Philippine economy can be assessed as being positive as it has largely introduced, and will continue based on momentum to foster, a more open, predictable and competitive environment".
> (Accessed March 29, 2005 ,http://www.dti.gov.ph/contentment/9/62/127/467.jsp)

Although it lends itself to much placard-bearing in street protests, the Philippine commitments to the WTO are in the public domain and are transparent. However, there is a need for everyone to do serious analytical work to be able to agree on definitions of winners and losers.

The Philippine Congress, since 1995, has put in place several laws regarding the shift in customs valuation to the transaction value system; the trade defence measures (anti-dumping, countervail and safeguards); and intellectual property rights protection.

The Philippine Government has also requested for amendatory legislation and has asked for legislation on the protection of layout designs of integrated circuits. In addition, the Philippine Congress has also ratified the Patent Cooperation Treaty and deposited its instrument of ratification with the World Intellectual Property Organization in Geneva last June 28, 2001. However, the work is far from complete; Congress has yet to conclude work on the protection of plant varieties, and ratify the WTO/GATS protocols on telecommunications and financial services.
(Accessed March 29, 2005 http://www.dti.gov.ph/contentment/9/62/127/588.jsp)

The Philippines has signed 38 bilateral trade agreements and three memoranda of understanding to develop and strengthen direct trade and economic agreements with other countries. Of the 38 trade agreements, two are agreements on trade and economic cooperation. As stated by the Department of Trade, the Agreements take into consideration respective development and trade needs and objectives and are made on equitable and mutually beneficial bases. The agreements bind the parties concerned to undertake measures that will promote and expand bilateral and economic relations. The agreements therefore serve as the framework for the conduct of trade relations between the Philippines and other countries.
(Accessed March 29, 2005 http://www.dti.gov.ph/contentment/9/62/127/588.jsp)

As part of ASEAN Vision 2020, which ASEAN Heads of States and Government signed

in Kuala Lumpur on December 15, 1997, the Philippines showed its bonding with ASEAN as a stable and highly competitive region in which there is a "free flow of goods, services and investments, a freer flow of capital, equitable economic development and reduced poverty and socio-economic disparities.
(Accessed March 29, 2005 http://www.dti.gov.ph/contentment/9/62/129/594.jsp).

ASEAN Vision 2020 includes the integration of telecommunication networks through greater interconnectivity, coordination of frequencies and mutual recognition of equipment-type approval procedure, providing an infrastructure for the ongoing coordination to develop cross-border electronic commerce in ASEAN. To eliminate technical barriers to trade, a Framework Agreement on Mutual Recognition Arrangements or MRAs was signed in December 1998. MRAs allow countries to recognize one another's product standards or regulations and make it easier for trade to occur. Efforts are currently under way to formulate specific MRAs in three important areas - telecommunication equipment, pharmaceutical products and cosmetics.
(Accessed March 29, 2005 http://www.dti.gov.ph/contentment/9/62/129/594.jsp).

In joining these agreements and trade liberalization efforts, the Philippine recognizes the fact that such agreements may be seen as two-edged swords. However, the Philippine Government does look at the positive sides, without discounting any negative effects of such agreements. For example, the Philippines has signed into law in January 1998 the Intellectual Property Code (R. A. No. 8293), two years of the transitory period for compliance with the agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

The law generally improves the legal framework for intellectual property rights (IPR) protection in the Philippines. It provides enhanced copyright, patent, and trademark protection, and increased penalties for infringement and counterfeiting, and relaxes provisions requiring the registration of licensing agreements.
(Accessed March 29, 2005, http://www.dti.gov.ph/contentment/9/62/127/588.jsp)

Despite the promulgation of the law, there are observations about its provisions on decompilation of software programs as fair use that the law allows, the lack of clear provisions on search and seizure action (inaudita altera parte) in civil cases, ambiguous provisions on the rights of copyright holders over broadcast transmissions, and burdensome restrictions affecting licensing contracts. On top of these, resource and personnel limitations plague the proper implementation of the law.
(Accessed March 29, 2005, http://www.dti.gov.ph/contentment/9/62/127/588.jsp)

Compliance is under strict watch by the government although effort still needs to be exerted in fully implementing the law, especially in terms of the allocation of resources to fund the operations of concerned government authorities in both the executive and judicial branches of government.

IV.3.4 Direction: Opportunities and Challenges

Current trends to watch in the Philippines include media convergence (for instance, GMA-Channel 7 and Philippine Daily Inquirer have joined forces to create the online venture INQ7.net), home shopping via TV, mergers and acquisitions, and overseas expansions of local channels.

For instance, ABS-CBN Channel 2 broadcasts internationally through The Filipino Channel (TFC) in Mainland US, Hawaii, and Guam. Aside from the US, it also broadcasts in other countries. The latest country covered by the network is Turkey.

The challenge for the Philippines is to think global to be competitive, but to also support local content and culture. The local television stations may find it cheaper to import chinovelas (literally, Chinese novels) and dub these in Filipino. Yet these stations should continue to produce local shows to give the audiences a wider choice of media fare.

Meanwhile, after the May 2004 elections, a lot of uncertainties have set in the Philippines. Will the government be able to attain its MTPDP? Will the government be able to honor its commitment in pursuing the Millennium Development Goals (MDG)? Can the government rally to its side the various sectors of society?

Under this situation, the demand and the need for a free and responsible media remains strong. Media organizations must temper their profit motivation with social responsibility. Thus, work in media is both value-added and value-laden.